

BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK

LICENSING AND APPEALS BOARD – PANEL HEARING

**Minutes of a Meeting of a Panel on
Tuesday 17th October 2012 at 11.30am
in the Committee Suite, King's Court, Chapel Street, King's Lynn**

PRESENT:

Councillor Roy Groom (Chairman), Councillor John Loveless
and Councillor Tony Lovett.

OFFICERS PRESENT:

Rachael Edwards - Senior Democratic Services Officer
John Gilbraith - Licensing Manager

LEGAL ADVISOR: - Emma Duncan

CASE NUMBER – LAB006/12

1. Exclusion of Press and Public

RESOLVED "That under Section 100(A)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A to the Act."

2. Renewal of Combined Drivers Licence

The Chairman welcomed everyone to the meeting and introduced the Panel, Officers and the Legal Advisor. The licensed driver was present at the hearing and was represented by a fellow taxi driver.

The Legal Advisor outlined the procedure that would be followed at the hearing. There were no questions in relation to the procedure.

At the invitation of the Chairman, the Licensing Manager presented his report and explained that the driver had held a Borough Council of King's Lynn & West Norfolk Combined Drivers Licence since September 2009. Their current licence would expire on the 9th September 2013 and they had held a DVLA licence since 1987.

The report was for Members to review the drivers continued suitability to hold a combined driver's licence as a result of them accruing a number of penalty points on their DVLA driving licence. Condition 7.7 of the Borough

Council's Hackney Carriage & Private Hire Licensing Procedures and Conditions stated:

"If a Driver accrues 9 or more points in a 3 year period on his/her DVLA driving licence, they will be required to appear before a Panel of the Licensing & Appeals Board in order for their continued suitability to hold a driver's licence to be assessed".

The Licensing Manager explained that the driver had advised the Licensing Team on the 10th September 2012, that their DVLA driving licence had been endorsed with a further 3 points following an offence of speeding. He outlined details on the driver's DVLA Drivers Licence.

The Licensing Manager advised that under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Borough Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle on any of the following grounds:

- (a) That he has since the grant of the licence
 - (i) Been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of the Act of 1976; or
- (b) Any reasonable cause.

Section 52 of The Road Safety Act 2006 also gave licensing authorities the power to suspend or revoke a hackney carriage or private hire drivers licence with immediate effect when they were of the opinion that the interests of public safety required such action.

The Council had previously adopted guidelines relating to the relevance of convictions (attached at Appendix 1). The convictions could, individually be considered as 'minor' but the Panel may wish to evaluate the cumulative nature of these convictions. Additionally, whilst the guidelines were aimed at the grant of driver's licences it was considered appropriate that the same guidance was used when reviewing driver's licences.

The Licensing Manager advised that the reason for the licensing of hackney carriage and private hire drivers was that the driver is in a position of trust and responsibility for their passengers. Consequently, it was generally accepted that such professional drivers should have a standard of care and driving that exceeded that of a private motorist.

The Borough Council should only authorise hackney and private hire licences when they were satisfied that the applicant was "fit and proper" to hold such a licence. The Panel should be aware that any matter can be taken into consideration when determining 'fit and proper'. Whilst there is no judicially approved test for fitness and propriety the Panel may find the following test useful:

'Would you (as a member of the Licensing & Appeals Board charged with the ability to authorise a combined driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or grand-daughter or any other person for whom you care, to get into a vehicle with this person alone?'

If the answer to the question was an unqualified 'yes', then the test was probably satisfied. If there were any doubts, then further consideration should be given as to whether the person was a fit and proper person to hold a Combined Driver's Licence.

The Licensing Manager requested that the Panel review the driver's continued suitability to hold a combined driver's licence and dispose of the matter using the following options:

- a) Do nothing;
- b) Issue a warning;
- c) Suspend his Driver's licence;
- d) Revoke his Driver's licence;
- e) Require the driver to complete the Driver Standards Agency (DSA) test and/or the Borough Council's Knowledge Test.

The Panel were reminded that grounds for their decision must be given as there was provision for appeal to the Magistrates' Court against that decision.

The licensed driver's representative presented his case.

The licensed driver's representative responded to a number of questions from the Licensing Manager and Members of the Panel.

The Licensing Manager summed up his case and reiterated that the hearing was to determine the suitability of the licensed driver to continue to hold his Combined Driver's Licence.

The licensed driver's representative summed up their case,

The Legal Advisor addressed the Panel to advise on the law, its practice and procedures.

The Chairman advised that the Panel would retire to consider their decision, with the Legal Advisor and Senior Democratic Services Officer (for administrative purposes) only. On returning to the room, the Legal Advisor would announce any advice she had given in closed session.

The Panel retired and considered its decision in private. On returning, the Legal Advisor confirmed that she had assisted with the formulation of the wording for the Panel's reasons.

DECISION

The decision of the Panel was read out.

REASONS FOR DECISION

The reasons for the decision of the Panel were read out.

The meeting closed at 12.30pm