

**BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK**

**LICENSING AND APPEALS BOARD – PANEL HEARING**

**Minutes of a Meeting of a Panel of the Licensing and Appeals Board  
held on Tuesday 10 February 2015 at 10.00am  
in the Committee Suite, King's Court, Chapel Street, King's Lynn**

**PRESENT:**

Councillor D Tyler (Chairman), Councillor C Crofts  
and Councillor A White.

**OFFICERS PRESENT:**

Vicki Hopps - Environmental Health Manager (Commercial)  
Rebecca Parker - Democratic Services Officer

**LEGAL ADVISOR:** - Jo Furner

**1. Apologies for Absence**

There were no apologies for absence.

**2. Items of Urgent Business**

There were no items of urgent business.

**3. Declarations of Interest**

There were no declarations of interest.

**4. 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."

**5. Review of Combined Driver's Licence**

**5.1 Introductions**

The Chairman welcomed everyone to the meeting and stated that the purpose of the Hearing was to consider a review of a Combined Driver's Licence. He introduced the Panel Members, Officers and the Legal Advisor. The Licence Holder introduced himself and two people who were present at the Hearing to support him.

## **5.2 The Procedure**

The Legal Advisor outlined the procedure that would be followed at the Hearing.

## **6. The Environmental Health Manager's Report/Questions**

At the invitation of the Chairman, the Environmental Health Manager presented her report.

The report was for Members of the Licensing and Appeals Board to review the Licence Holders continued suitability to hold his combined driver's licence following the receipt of a complaint against him. A complaint had been received from another Licensed Driver regarding the Licence Holder's conduct whilst plying for hire at King's Lynn Railway Station. The complainant alleged that the Licence Holder ignored a customer for a more lucrative fare.

The Environmental Health Manager provided the Panel with details of the incident and referred to the appendices which had been included with her report.

The Environmental Health Manager referred the Panel to the Senior Licensing Enforcement Officer's dealings of the complaint as set out in the report and appendices. She explained that the Senior Licensing Enforcement Officer had considered the Licence Holder's conduct unacceptable and had explained that a formal warning would be added to his Licence. The Licence Holder did not accept the formal warning and instead had requested that the matter be brought before the Licensing and Appeals Board Panel for consideration.

The Environmental Health Manager outlined the options available to the Panel as set out in the report. The Panel was reminded that grounds for their decision must be given as there was provision for appeal to the Magistrates' Court against that decision.

The Environmental Health Manager responded to questions from the Licence Holder.

The Environmental Health Manager called her first Witness, the Senior Licensing Enforcement Officer. The Senior Licensing Enforcement Officer provided an overview of her dealings on the matter referring to the statement and complaint received.

The Senior Licensing Enforcement Officer explained that after investigating the incident she had contacted the Licence Holder to inform him that she would be issuing him with a warning. She explained that the Licence Holder had indicated that he would instead prefer the matter to be brought before a Panel of the Licensing and Appeals Board for consideration. The Senior Licensing Enforcement Officer had informed the Licence Holder of the powers that the Panel had when considering a review of a Combined Drivers Licence.

At the request of the Environmental Health Manager, the Senior Licensing Enforcement Officer provided the Panel with her understanding of the 'first car rule'.

The Senior Licensing Enforcement Officer responded to a question from the Licence Holder.

The Senior Licensing Enforcement Officer responded to a question from Councillor Crofts explaining that vehicles should not be left unattended on the rank, however, it was reasonable that the vehicle be left safely whilst the driver took a comfort break.

The Environmental Health Manager called her second witness. The Legal Advisor explained the procedure to the witness. The second witness provided the Panel with an overview of his dealings on the matter and the reasons why he had made a complaint against the Licence Holder. The second witness provided an explanation of his understanding of the 'first car rule'.

The second witness responded to questions from the Licence Holder.

There were no questions to the second witness from Members of the Panel.

The second witness left the Hearing.

The Environmental Health Manager called her third witness. The Legal Advisor explained the procedure to the witness. The third witness provided the Panel with an overview of his dealings on the matter. The third witness explained that the Licence Holder was in the Railway Station Office at the time when the 'white ticket' job came through. The third witness explained that he had taken a passenger to the rank and asked who was the first car. He explained that the Licence Holder had indicated that he was the first car and proceeded to load the passenger onto the vehicle. The third witness explained that another member of the trade who was second on the rank then said that the Licence Holder was already engaged with another fare. The third witness explained that due to the urgency of the 'white ticket' job he did not get involved with the dispute between the taxi drivers.

In response to a question from the Environmental Health Manager, the third witness explained that 'white ticket' jobs were not a priority job. The job was always offered to the first taxi on the rank, but could be refused and in this case it would be offered to the next available taxi.

The third witness responded to questions from the Licence Holder. The third witness explained that he did not get involved in the dispute as his priority was to get the passenger to the airport in time to catch his flight. The third witness explained that he was the only member of staff at the railway station at the time and had other passengers to deal with.

The third witness explained that it was station policy to provide a statement of any incidents which may be of later investigation which is why the statement was produced and a copy provided to the Council.

In response to a question from Councillor Crofts, the third witness explained that it was not unusual for taxi drivers to come into the office at the railway station for social reasons.

The third witness left the Hearing.

## **7. The Licence Holder's Case/Questions**

The Licence Holder presented his case and explained that he had been in the trade for over twelve years and had built up a good reputation and dealt with corporate clients.

The Licence Holder explained that he operated a large MPV which some people did not like using and would sometimes wait for another taxi of more preferable size to become available. The Licence Holder assumed that this was what had happened when he had been approached by a member of the public to ask if he was the first on the rank. He explained that he had indicated that he was first on the rank, but the member of the public did not engage with him further and did not make any attempt to board the vehicle. The Licence Holder explained that the 'white ticket' job then became available to him as first on the rank.

The Licence Holder stated that he did not feel he was being rude and questioned why no evidence had been provided by the member of the public who he was apparently being rude to.

The Licence Holder explained that he had brought to the Hearing three customer references and a reference from his accountant. He also had available a copy of the Borough Council's Hackney Carriage and Private Hire rules and a definition of the work 'importune'.

The Environmental Health Manager asked the Licence Holder for his understanding of the rules of the rank. The Licence Holder explained that a member of the public should ask to be taken somewhere, and just because they approached the vehicle it did not necessarily mean that they were requiring a taxi. The Licence Holder explained that he always waited for the member of the public to ask to be taken somewhere before assuming a fare.

In response to a question from Councillor Crofts, the Licence Holder confirmed that he was aware of the 'white ticket' job in advance but at the time he was fourth or fifth on the rank, so there was no way of knowing which taxi would be first on the rank when the job came through.

In response to a question from the Chairman, the Licence Holder explained that it was not mandatory to accept 'white ticket' jobs and some taxi drivers did not accept 'white ticket' jobs because they would have to wait three months for payment.

The Legal Advisor accepted the supporting documents provided by the Licence Holder and explained that the Panel would take them into consideration when making their decision.

## **8. Summing Up**

### **8.1 Summing Up – The Environmental Health Manager**

The Environmental Health Manager summed up her case and reminded the Panel that they had heard from two independent witnesses who had both explained how they felt that the Licence Holder had ignored the potential passenger for a more lucrative fare. Both witnesses had indicated that they felt that the Licence Holder's behaviour was unacceptable.

The Environmental Health Manager referred to Section 53 of the Town Police Clauses Act 1847 and the "fit and proper" test.

The Environmental Health Manager requested that the Panel consider her report and the submissions put forward at the Hearing and dispose of the matter by using the following options:

- a) take no action
- b) issue a warning
- c) suspension
- d) revocation
- e) Any other action deemed appropriate, which may include the requirement for the Licence Holder to undertake a Driver Standards Agency (DSA) test and/or the Borough Council's knowledge test.

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

## **8.2 Summing Up - The Licence Holder**

The Licence Holder summed up his case. He stated that he felt he always adhered to rules and regulations. He explained that he would have taken the member of the public if he had asked to go somewhere. The Licence Holder explained that the member of the public did not ask to be taken anywhere so the Licence Holder took the next available job which was the 'white ticket' job.

## **9 Legal Advice**

The Legal Advisor confirmed that she had nothing further to address the Panel on.

## **10. Determination**

The Chairman advised that the Panel would retire to consider their decision accompanied by the Legal Advisor and the Democratic Services Officer (for legal and administrative purposes only and neither would take any part in the decision making process).

The Panel retired and considered its decision in private having regard to what it had heard and the requirements of the public interest. On reconvening, the Chairman read out the Panel's decision and reasons for their decision.

## **DECISION**

The decision of the Panel was read out.

**REASONS FOR DECISION**

The reasons for the decision were read out.

**The meeting closed at 12.02pm**