

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 7 April 2015 at 4.00pm
in the Committee Suite, King's Court, Chapel Street, King's Lynn**

PRESENT:

Councillor D Tyler (Chairman), Councillor T White
and Councillor S Young.

OFFICERS PRESENT:

John Gilbraith - Senior Licensing Enforcement Officer
Rebecca Parker - Democratic Services Officer

LEGAL ADVISOR: - Peter Cox

OBSERVING: Councillors C Crofts
Councillor Miss S Sandell
Vicki Hopps – Environmental Health Manager

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 Drivers 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 Drivers Licence. He introduced the Panel Members, Officers and the Legal Advisor. The Chairman informed the Licence Holder that two Councillors and an officer were observing the

Hearing. The Licence Holder confirmed that he had no objections to the observers remaining in the Hearing. The Licence Holder introduced himself and his character witness who was also present at the Hearing.

5.2 The Procedure

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

6. The Licensing Manager's Report/Questions

At the invitation of the Chairman, the Licensing Manager presented his report.

The report was for Members of the Licensing and Appeals Board to review the Licence Holders continued suitability to hold a combined drivers licence following the receipt of a complaint against him.

The Licensing Manager provided the Panel with details of the complaint received and correspondence sent and received by the Licensing Department.

The Licence Holder confirmed that he had read and understood the documents referred to by the Licensing Manager.

The Licensing Manager advised the Panel that the Licence Holder had admitted the allegations as set out in the report.

The Licensing Manager referred to the relevant Borough Council Hackney Carriage and Private Hire Licensing Procedures and Conditions as set out in the report and information from the Highway Code regarding legal requirements.

There were no questions from the Licence Holder to the Licensing Manager.

There were no questions from the Panel to the Licensing Manager.

7. The Licence Holder's Case/Questions

At the invitation of the Chairman, the Licence Holder presented his case. He explained the circumstances of what had happened. He accepted that he had breached the Regulations but had not done so intentionally at the outset of the journey. It was only during the course of the journey that he had become aware of the true position which led to the breach. The Licence Holder explained that he was an experienced driver and had experience with dealing with the public. He stated that he would not contradict the Law intentionally.

The Licence Holder accepted that he had done wrong and apologised to the Panel. He stated that he would be more vigilant in the future.

The Licence Holder's representative addressed the Panel and explained that he felt the Licence Holder had made a genuine mistake and it was not done intentionally. The Licence Holder's representative referred to a letter received from another driver in support of the Licence Holder's case, which had been circulated to the Panel in advance of the Hearing.

The Licence Holder and the Licence Holder's representative responded to questions from the Licensing Manager.

There were no questions from the Panel to the Licence Holder.

8. Summing Up

8.1 Summing Up – The Senior Licensing Enforcement Officer

The Licensing Manager summed up his case. He reminded the Panel that the Licence Holder had admitted his mistake and the Panel needed to decide if it was a genuine mistake or deliberate. The Licensing Manager explained that in his opinion there were discrepancies in the evidence provided by the Licence Holder compared to the complainants.

The Licensing Manager requested that the Panel consider the contents of his report, including the submissions put forward by the Licence Holder at the Hearing and dispose of the matter by using the options as set out in the report.

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.

8.2 Summing Up - The Licence Holder

The Licence Holder summed up his case. He stated that he had made a genuine mistake and promised that it would not happen again and he would be more vigilant in the future.

The Licence Holder outlined the implications a suspension would have on him financially and personally.

9 Legal Advice

The Legal Representative addressed the Panel on outstanding matters and provided his legal assessment. He explained that the Panel would need to make a decision, based on the evidence heard, as to whether they believed the Licence Holder's version of events and believed that a genuine, rather than deliberate, mistake had been made. He explained that there was no supporting evidence (in terms of attendance of witnesses) to confirm one way or the other what had happened but the Licence Holder had admitted he had made a mistake. He had explained the circumstances in which this mistake had arisen.

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 5.45pm