

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

**LICENSING AND APPEALS BOARD – PANEL HEARING**

**Minutes of a Meeting of a Panel on  
Tuesday 6<sup>th</sup> November 2012 at 10am  
in the Wembley Room, Lynnsport & Leisure Park,  
Greenacre Park, King's Lynn**

**PRESENT:**

Councillor Roy Groom (Chairman), Councillor John Loveless  
and Councillor Colin Manning.

**OFFICERS PRESENT:**

Rachael Edwards - Senior Democratic Services Officer  
Vicki Hopps - Environmental Health Manager (Commercial)

**LEGAL ADVISOR:** - Emma Duncan

**CASE NUMBER – LAB009/12**

**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. Review of Combined Drivers Licence**

The Chairman welcomed everyone to the meeting. The licensed driver was not present at the hearing.

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

At the invitation of the Chairman, the Environmental Health Manager (Commercial) presented the report and explained that the driver had held a Borough Council of King's Lynn & West Norfolk drivers licence since 2002. Their current licence was due to expire on the 10 January 2013.

The report was for Members to review the driver's continued suitability to hold a Combined Driver's Licence as a result of them submitting false information in connection with a private hire vehicle application. The Environmental Health Manager outlined details in relation to the application. Condition 3.11

of the Hackney Carriage and Private Hire Licensing Procedures & Conditions stated:

*'All Hackney Carriage and Private Hire Vehicles will not normally be considered for licensing unless they are under 5 years of age from date of first registration (date as shown on DVLA registration document) and accrued less than 60,000 miles.'*

Condition 2.18 of the Hackney Carriage and Private Hire Licensing Procedures & Conditions required that all vehicles must be inspected by one of the Borough Council's approved testing stations prior to licensing. The vehicle was inspected by AVR, Hardwick Narrows, King's Lynn on the 15<sup>th</sup> October 2012.

The Environmental Health Manager outlined details in relation to the vehicle and subsequent discussions with the driver.

Appendix 1 attached to the report was a statement dated the 25<sup>th</sup> October 2012 made by the Senior Licensing Enforcement Officer covering her dealings with the matter.

The Environmental Health Manager called the Senior Licensing Enforcement Officer as a witness. She gave Panel Members an overview of her statement.

The Senior Licensing Enforcement Officer responded to questions from the Environmental Health Manager and Members of the Panel. The Legal Advisor offered advice to the Panel in terms of the paperwork in relation to the purchase of the vehicle. She also explained that the driver had indicated that he was going to surrender his licence but as yet the licence had not been returned to the Council.

The Environmental Health Manager summed up her case and advised that the Borough Council's hackney carriage and private hire application forms contained the following declaration which was signed by applicants:

*'I have received, read and understood the Borough Council's Licensing Conditions. I understand that I may be liable to prosecution if I have knowingly or recklessly made a false statement or omitted any material particular from this application.'*

Under Section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976, a person commits an offence if he knowingly or recklessly makes a false statement in connection with an application for a hackney carriage or private hire licence. A person guilty of an offence under this section was liable on summary conviction to a fine not exceeding level 2 (currently £1,000) on the standard scale.

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.

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 was 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 Environmental Health 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) Suspension; or
- c) Revocation.

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 Legal Advisor addressed the Panel and highlighted that the driver had clearly lied to the Senior Enforcement Officer/Council and it was for the Panel to determine what, if any, sanctions they should impose.

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 10.55am**