

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 & Appeals Board
held on Wednesday 14 January 2015 at 1.00pm
in the Committee Suite, King's Court, Chapel Street, King's Lynn**

PRESENT:

Councillor D Tyler (Chairman), Councillor M Hopkins
and Councillor C Manning.

OFFICERS PRESENT:

Rebecca Parker - Democratic Services Officer
John Gilbraith - Licensing Manager

LEGAL ADVISOR:

- Jo Furner

CASE NUMBER – LAB022/14

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, Private Hire Vehicle Licences (x3), Hackney Carriage Proprietors Licence and Private Hire Operators 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, Private Hire Vehicle Licences and Private Hire Operators Licence. He introduced the Panel Members, Officers and the Legal Advisor.

The Licence Holder introduced herself, her Representative and another representative who would be accompanying them at the meeting, but would not be called as a witness.

5.2 The Procedure

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

In response to a question from the Licence Holders representative, the Licensing Manager confirmed that he would be calling the Investigating Officer as a Witness.

6. The Licensing Manager's Report/Questions

At the invitation of the Chairman, the Licensing Manager presented his report. He reminded those present that the Hearing had originally been scheduled to take place on 12 December 2014, but had been rescheduled at the request of the Licence Holder. The Licensing Manager explained that because the Hearing had been rescheduled a representative from the Passenger Transport Unit from Norfolk County Council, who he had originally wanted to call as a Witness, was unavailable to attend the Hearing. The representative had instead provided information in writing. The Licensing Manager circulated the information from Norfolk County Council Passenger Transport Unit to all those present at the Hearing.

The Licensing Manager explained that the information related to Appendix Six of his report.

The Licence Holder's representative asked if the document would be brought in for cross-examination and what was its evidential value. The Legal Advisor explained that they would have the opportunity to make representations on the content of the information which had been circulated by the Licensing Manager and the Panel would determine how much weight they would give to it and take into consideration that the evidence was untested.

The Licence Holder's representative confirmed that he had had time to briefly read the additional information circulated by the Licensing Manager. The Chairman confirmed that the Panel had had time to read the information circulated and instructed the Licensing Manager to continue.

Marie Malt, the Senior Licensing Enforcement Officer left the meeting at 1.06pm.

The Licensing Manager presented his report and explained that the report was for members of the Licensing & Appeals Board to review the Licence Holder's continued suitability to hold the licences mentioned above following the receipt of a complaint.

The Licensing Manager provided the Panel with details of a complaint received from a member of the public.

The Licensing Manager called the Senior Licensing Enforcement Officer as his first Witness.

The Senior Licensing Enforcement Officer returned to the meeting at 1.12pm.

The Licensing Manager asked the Senior Licensing Enforcement Officer to provide an overview of her dealings with the complaint.

The Senior Licensing Enforcement Officer explained that once a decision had been made to bring this matter before a Panel of the Licensing and Appeals Board, she had spoken to the complainant to ask if she was prepared to attend the Hearing as a witness. The complainant had decided that because she was an elderly lady, living on her own, she would not attend the Hearing as she did not want any repercussions.

The Senior Licensing Enforcement Officer informed those present that she had had a telephone conversation with the complainant the day before the hearing and had made a file note of that conversation. She circulated it to all those present.

The Licence Holders representative requested an adjournment so that he could be instructed by his client on the contents of the file note.

The Chairman adjourned the meeting at 1.20pm.

The Chairman reconvened the meeting at 1.26pm.

The Licence Holder's representative stated that no notice of the additional evidence had been provided in advance of the hearing. He considered it necessary to produce rebuttal and explained that his Client would need time to find relevant information which would not be possible that afternoon. He requested that the Hearing be adjourned.

The Chairman considered the request and at 1.28pm agreed to adjourn the meeting until a date to be agreed by all parties.

The meeting was adjourned at 1.28pm

The meeting reconvened on Monday 13th April 2015 at 11.00am in the Committee Suite, King's Court, Chapel Street, King's Lynn, Norfolk

PRESENT:

Councillor D Tyler (Chairman), Councillor M Hopkins
and Councillor C Manning.

OFFICERS PRESENT:

Wendy Vincent - Democratic Services Officer
John Gilbraith - Licensing Manager

LEGAL ADVISOR:

- Cara Jordan

OBSERVING:

- Vicki Hopps

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, 2972, 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, Private Hire Licences (x3), Hackney Carriage Proprietors Licence and Private Hire Operators 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, Private Hire Vehicle Licences and Private Hire Operators Licence. He introduced the Panel, Members, Officers and the Legal Advisor.

The Licence Holder introduced herself, her legal representative and another person who would be accompanying them at the meeting, but would not be called as a witness.

5.2 **The Procedure**

The Legal Advisor outlined the procedure that would be followed at the Hearing and asked the Licence Holder if the other person present was in attendance to support her. The Licence Holder’s legal representative confirmed that this was correct and outlined the reasons why another person was present.

The Legal Advisor explained that there were two preliminary issues to be raised as set out below.

The Legal Advisor referred to an email from the Licence Holder’s legal representative which referred to the Licence Holder’s Operator’s Licence. The Licence Holder’s legal representative responded to the question.

The Legal Advisor explained that the Hearing today had been adjourned and that she had not been present at the previous Hearing, however, she had read the report which had been circulated and proposed that it was not necessary for the Licensing Manager to present his report as it had been presented at the previous

Hearing. It was therefore suggested that the Hearing would commence with the Licensing Manager calling his first witness to which the Licence Holder's legal representative agreed.

The Legal Advisor informed those present that the Borough Council's Licensing Manager would be calling three witnesses who would be subject to questioning by the Licensing Manager, the Panel and the Licence Holder's legal representative.

The Licence Holder's legal representative confirmed that the Licence Holder would not be calling any witnesses.

6. The Licensing Manager's Report/Questions

At the invitation of the Chairman, the Licensing Manager outlined the reasons why the Panel was reviewing the Licence Holders continued suitability to hold a Combined Hackney Carriage and Private Hire Driver's licence following the receipt of complaints against her. The Private Hire Operator's Licence expired on 26 January 2015 had lapsed and there was currently no application to renew that licence, therefore it was no longer necessary for the Panel to review the Operator's Licence.

The Licensing Manager asked the Licence Holder's legal representative to confirm he had received the documentation which had been emailed to him. The Licence Holder's legal representative confirmed that the documentation had been received.

The Licensing Manager called the first witness.

The Licensing Manager asked the first witness to provide an overview of the complaint received with regard to the Licence Holder.

The first witness provided an overview of the complaint received involving the Licence Holder.

The Chairman invited the Licence Holder's legal representative to ask questions of the first witness.

The first witness responded to questions from the Licence Holder's legal representative.

There were no questions from the Panel or the Licensing Manager to the first witness.

The first witness left the Hearing.

The second witness was called to the Hearing.

The Licensing Manager asked the second witness to confirm his name and the role his job entailed.

The second witness confirmed his name and provided an overview of his role and duties undertaken.

The second witness responded to questions from the Licensing Manager.

The second witness responded to questions from the Licence Holder's legal representative.

The Panel had no questions for the second witness.

The second witness left the Hearing.

The third witness was called to the Hearing.

The Licensing Manager asked the third witness to confirm her name and the role her job entailed.

The third witness confirmed her name and provided an overview of her role and duties undertaken.

The third witness responded to questions from the Licensing Manager.

The third witness responded to questions from the Licence Holder's legal representative.

There were no questions from the Panel to the third witness.

The third witness left the Hearing.

7. The Licence Holder's Case

At the invitation of the Chairman, the Licence Holder's legal representative presented the case and asked the Licence Holder to provide an overview of the incidents which had been the subject of a complaint to the Licensing Department.

The Licence Holder provided the Panel with an overview of the incidents which had been the subject of a complaint.

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

The Licence Holder responded to questions from the Panel.

The Licence Holder responded to questions from the Borough Council's Legal Advisor.

8. Summing up

8.1 Summing Up – the Licensing Manager

The Licensing Manager summed his case.

The Licensing Manager requested that the Panel consider the contents of his report, including the submissions put forward by the Licence Holder's legal representative 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's legal representative summed up the case.

9 Legal Advice

The Legal Advisor had no further matters 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 1.08 pm