

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

LICENSING AND APPEALS BOARD

**Minutes from the Meeting of the Licensing and Appeals Board held on
Thursday, 10th September, 2015 at 10.00 am in the Committee Suite, King's
Court, Chapel Street, King's Lynn**

PRESENT: Councillor D Tyler (Chairman)
Councillors C Sampson and J M Tilbury

OFFICERS:

Brian Isted – Licensing Enforcement Officer
Cara Jordan – Legal Advisor
Rebecca Parker – Democratic Services Officer

1 APOLOGIES FOR ABSENCE

There were none.

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 THE 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 Driver's Licence. He introduced the Panel Members, Officers and Legal Advisor. The Licence Holder introduced himself.

**6 PROCEDURE FOR DETERMINING HACKNEY CARRIAGE/PRIVATE
HIRE LICENCE APPLICATIONS AND DISCIPLINARY HEARINGS**

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

7 **REPORT OF THE LICENSING ENFORCEMENT OFFICER**

At the invitation of the Chairman, the Licensing Enforcement Officer 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 driver's licence following the receipt of a complaint. A complaint had been received from a member of the public regarding dangerous driving in that the Licence Holder was watching TV on a mobile phone whilst driving.

The Licensing Enforcement Officer provided the Panel with details of the incident and referred to the appendices which had been included within his report.

The Licensing Enforcement Officer provided the Panel with the Licence Holders employment history within the taxi trade.

The Panel was informed that on 16 April 2014 it was necessary for the Licensing Department to write to the Licensed Driver regarding a breach of condition 3.36 in that he failed to take his licensed vehicle to the same approved testing station for a retest.

The Licensing Enforcement Officer referred to regulation 109 of the Road Vehicles (Construction and Use) Regulations 1986 and Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Enforcement Officer explained that the reason for the licensing of Private Hire drivers was that the driver was in a position of trust and responsibility for his passengers. Consequently it was generally accepted that such professional drivers should have a standard of driving that exceeded that of a private motorist.

The Licensing Enforcement Officer 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 Licensing Enforcement Officer called the complainant as a witness. Upon request the complainant provided an overview of dealings with the matter. He explained that he had got in the taxi which was parked outside the taxi office and noticed a phone attached to the driver's side window screen which was turned on and the sound was being played via Bluetooth through the car's speakers. The witness explained that the Licenced Driver did not switch off the television

programme which was showing on the mobile phone. The witness explained that he did not ask for the device to be turned off and did not feel he should have to. The witness was concerned for himself and his wife who were passengers in the taxi and any other road users.

In response to a question from the Licensing Enforcement Officer, the witness explained that he did not experience any bad driving during the journey and he was sat directly behind the driver so he couldn't see if the driver was watching the television. The witness confirmed that the television was on for the whole journey.

The Licenced Driver had no questions for the witness.

The witness responded to a question from the Legal Advisor and confirmed that he could see the programme which was being shown on the television.

The witness left the Hearing.

The Licensing Enforcement Officer responded to questions from the Panel and confirmed the registration plate and the taxi licence plate of the Licensed Driver.

8 **THE LICENCE HOLDERS CASE**

The Licence Holder presented his case. He apologised for the mistake and stated that it was a one off and wouldn't happen again. The Licence Holder explained his personal circumstances at the time the complaint was made.

The Licence Holder responded to questions from the Licensing Enforcement Officer and Members of the Panel regarding the complaint and the breach of condition 3.36 in that the Licence Holder failed to take his licensed vehicle to the same approved testing station for a retest.

9 **SUMMING UP - THE LICENSING ENFORCEMENT OFFICER**

The Licensing Enforcement Officer summed up his case.

The Licensing Enforcement Officer requested that the Panel consider his report, and the submissions put forward at the Hearing and dispose of the matter by using one of 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 decision must be given as there was provision for appeal to the Magistrates' Court against the decision.

10 **SUMMING UP - THE LICENCE HOLDER**

The Licence Holder summed up his case. He apologised for his actions and reminded those present of his personal circumstances at the time. He stated that it wouldn't happen again and he enjoyed his job in the taxi trade.

11 **LEGAL ADVICE**

The Legal Advisor reminded the Panel that they needed to be satisfied that the Licence Holder was 'fit and proper' and the onus was on the Licensed Driver to satisfy the Panel in this respect.

She reminded them that they needed to take into account the Licensing Enforcement Officer's report and the evidence and representations put forward at the hearing.

The Legal Advisor explained that taxi drivers held a position of trust and the Panel needed to ensure that the public were protected.

She referred to a 2002 case (Leeds City Council v. Hussain) and explained that the Panel generally do not need to consider personal circumstances as they are not relevant unless it explains the drivers conduct.

12 **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 test. On reconvening, the Chairman read out the Panel's decision and reasons for their decision.

The meeting closed at 11.00 am