

**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, 22nd October, 2015 at 1.00 pm in the Committee Suite, King's  
Court, Chapel Street, King's Lynn**

**PRESENT:** Councillor  
Councillors M Hopkins, D Tyler and D Whitby

**OFFICERS:**

Vicki Hopps - Environmental Health Manager  
Cara Jordan - Legal Advisor  
Rebecca Parker - Democratic Services Officer

**1 APOLOGIES FOR ABSENCE**

There was none.

**2 ITEMS OF URGENT BUSINESS**

There was none.

**3 DECLARATIONS OF INTEREST**

There was none.

**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 & 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 Hearing 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 Legal Advisor. The Licence Holder and witnesses introduced themselves.

**6 PROCEDURE FOR DETERMINING HACKNEY CARRIAGE/PRIVATE**

## **HIRE LICENCE APPLICATIONS AND DISCIPLINARY HEARINGS**

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

The witnesses left the room.

7

### **REPORT OF THE ENVIRONMENTAL HEALTH MANAGER**

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

The report was for Members of the Panel to review the Licence Holders continued suitability to hold a combined driver's licence following complaints of aggressive behaviour and smoking in a licensed vehicle.

The Environmental Health Manager circulated two additional documents to the Panel and the Licence Holder; a timeline of events and a character reference.

The Environmental Health Manager provided the Panel with details of an incident which had occurred, complaints received and other matters. She referred to the appendices which had been included within the report.

The Panel was informed that the Licence Holder had been referred to a Panel of the Licensing and Appeals Board on one previous occasion as he had carried five passengers in a Hackney Carriage Vehicle licensed to carry four passengers. The Panel's decision was to take no further action.

The Licence Holder had no questions for the Environmental Health Manager at this time.

The Environmental Health Manager provided the Panel with video footage, which had been provided by another member of the trade, which showed the Licence Holder parked in his Licensed Vehicle, putting his hand to his mouth, flicking ash out of the vehicle and then flicking the cigarette but onto the ground out of the window. The licence plate and registration plate was visible in the footage.

The Environmental Health Manager then provided the Panel with CCTV stills of the incident which had occurred in June 2015 and had been provided by the British Transport Police. The stills showed the Licence Holder and other Licensed Drivers. The Environmental Health Manager read out the statement provided by the British Transport Police whilst the Panel were viewing the CCTV images. The statement, which was also appended to her report, stated that the confrontation between the Licence Holder and another Licenced Driver was initiated by the Licence Holder.

The Environmental Health Manager called her first witness who provided his version of events of the incident which occurred in June 2015.

The Licence Holder questioned the witness. The Chairman of the Panel reminded the Licence Holder that he would have the opportunity to present his case later on in the Hearing and questions should be relevant to the evidence provided by the witness. The Licence Holder disagreed with the witness on the time the incident occurred. He also stated that he did not touch the first witness.

The Environmental Health Manager asked the witness to expand on some of the information he had provided in his statement. The witness explained that he was aware that members of the public were in the vicinity during the incident but did not take notice of whom. The witness stated that he was shocked that the Licence Holder was so aggressive towards him.

There were no questions from the Panel for the first witness.

The first witness left the hearing at 1.40pm.

The Environmental Health Manager called her second witness who provided his version of events of the incident which occurred in June 2015. The witness read out his email which had been included in the agenda. The witness stated that the other taxi driver involved in the incident with the Licence Holder was not to blame, he was just defending himself and had remained calm during the incident.

The Licence Holder questioned the witness. The Legal Advisor advised the Chairman that the Licence Holder's questions were deviating from the evidence produced by the witness and the Chairman reminded the Licence Holder that questions should be relevant to the evidence provided.

The second witness stated that he did not want to see the Licence Holder lose his job, but he felt he should be reprimanded for his actions.

The Panel had no questions for the second witness.

The second witness left the hearing at 1.50pm

The Environmental Health Manager called her third witness who provided his version of events of the incident which occurred in June 2015. He confirmed that there were other drivers present during the incident, but he could not remember who. He confirmed that there were also members of the public present and stated that a woman had pulled her husband out of the way as she feared for his safety.

Another member of the public had also told the Licence Holder to mind his language.

The Licence Holder questioned the third witness. The Chairman stated that the questions were irrelevant and should be restricted to questions about the evidence available at the Hearing.

The third witness left the Hearing at 1.55pm

The Environmental Health Manager called her fourth witness who provided his version of events of the day after the incident when he had been approached by the Licensed Driver. The witness explained that he had advised the other driver involved in the incident the previous day to report it to the Licensing Department at the Council as the Licence Holder had reported it to the Police.

The Licence Holder questioned the fourth witness. He stated that he had never sworn at the witness and had no issues with him.

The Chairman questioned the witness and the witness provided details of his working relationship and arrangements with other members of the trade.

The witness stated that he did not want to see any of the Licensed Drivers involved in the incident lose their job.

The fourth witness left the Hearing at 2.05pm.

The Environmental Health Manager called her fifth witness who provided information on his personal dealings with the Licence Holder. He provided the Panel with details of an incident which happened last summer. He stated that he had no previous history with the licence Holder.

The Licence Holder disagreed with the witnesses evidence.

The fifth witness left the Hearing at 2.10pm.

At the request of the Licence Holder the Chairman adjourned the meeting at 2.10pm

The Hearing reconvened at 2.15pm.

The Environmental Health Manager called her sixth witness, the Senior Licensing Enforcement Officer, who provided an overview of her dealings with the Licence Holder and the incident which had occurred in June 2015. The Senior Licensing Enforcement Officer referred to meetings and telephone calls, all of which had been documented and included within the agenda.

The Licence Holder stated that he was upset after he had spoken to the Senior Licensing Enforcement Officer as he thought she had told him he would lose his job. The Senior Licensing Enforcement Officer stated that she had advised that it was in the Licence Holders best interest to attend the Hearing and put forward to his case as it was unlikely that his Licence would be renewed with outstanding matters on his file.

There were no questions from the Panel to the Senior Licensing Enforcement Officer.

The Senior Licensing Enforcement Officer left the Hearing at 2.35pm.

The Environmental Health Manager called her seventh witness, the Licensing Enforcement Officer. The Licensing Enforcement officer provided a full account of his dealings with the Licence Holder, which had been included as a written statement in the agenda.

The Licence Holder questioned the Licensing Enforcement Officer and explained that he felt that there was an error on page 76 of the agenda. He also felt that there was a discrepancy in the CCTV stills provided by the British Transport Police, he felt that the time delay in between the stills did not provide a full picture of the incident and pointed out that they could have been manipulated and the order changed.

The Panel had no questions for the Licensing Enforcement Officer.

The Licensing Enforcement Officer left the hearing at 3.00pm.

At the request of the Licence Holder, the Environmental Health Manager read out one of the file notes which included information provided by another member of the taxi trade. The file note had been included in the agenda.

## 8 **THE LICENCE HOLDERS CASE**

The Licence Holder presented his case, he provided two documents to the Panel; an email from the Police Diversity Liaison Officer and a Character Reference.

The Licence Holder provided details of his career history within the taxi trade and incidents which had occurred and comments which had been made to him by other members of the trade. The Licence Holder explained that he had suffered in silence for years and had been hurt many times. In the end he felt that others had gone too far and caused him too much upset so he had reported them to the Police and an investigation was ongoing.

He felt that there was no customer service left in the trade. At one time drivers would open doors and load up shopping, but this did not happen now.

The Licence Holder explained that all of the witnesses who had been called to the Hearing worked together and all financially benefitted from working arrangements with one of the Licensed Drivers.

The Licence Holder admitted that he had smoked in his licensed vehicle on previous occasions but did not anymore. The Licence Holder admitted that he did lose his temper during the incident which occurred in June 2015 and apologised for doing so.

The Environmental Health Manager questioned the Licence Holder and asked him to expand and clarify some of the information which had been provided regarding the incident in June 2015. The Licence Holder stated that he had not reported previous incidents to the Police in the past as he was afraid of the consequences.

The Licence Holder responded to a question from the Legal Advisor regarding how the Licence Holder conducted himself and how he felt during the incident in June 2015.

The Licence Holder reiterated that he had been smoking in his vehicle on previous occasions, but was under a lot of stress at the time.

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

## 9 **SUMMING UP - THE ENVIRONMENTAL HEALTH MANAGER**

The Environmental Health Manager summed up her case.

At the request of the Licence Holder the Chairman adjourned the Hearing at 3.20pm.

The Hearing reconvened at 3.25pm.

The Environmental Health Manager continued to sum up her case. She requested that the Panel take into consideration the evidence put forward at the Hearing by all parties and reminded the Panel that the Licence Holder had admitted to smoking in his vehicle.

The Environmental Health Manager reminded those present that 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 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 dishonest, 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 the Act of 1976; or
- (b) Any reasonable cause.

The Panel was informed that under Section 7(2) of The Health Act 2006, a person who smokes in a smoke-free place commits an offence. A hackney carriage vehicle is a smoke-free place at all times, regardless of whether carrying passengers or not.

The Environmental Health Manager explained that the reason for the licensing of Hackney Carriage drivers is that the driver was in a position of trust and responsibility for his passengers. Consequently, it is generally accepted that such professional drivers should have a standard of care and driving that exceeds that of a private motorist.

The Environmental Health Manager requested that the Panel review the Licence Holder's continued suitability to hold a combined driver's licence and dispose of the matter in one of the following ways:

- (a) Do nothing
- (b) Issue a warning
- (c) Suspend his Driver's licence
- (d) Revoke his Driver's licence
- (e) Any other action deemed appropriate which may include the requirement to undertake an Anger Management Course, Driver Standards Agency test and/or the Borough Council 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 that decision.

## 10 **SUMMING UP - THE LICENCE HOLDER**

The Licence Holder summed up his case. He admitted that he had acted professionally but stated that it would not happen again. He stated that he regretted deeply what had happened. He referred to smoking in his vehicle and stated that he was under a lot of stress at the time.

## 11 **LEGAL ADVICE**

The Legal Adviser reminded the Panel that they should give consideration to the allegations that the Licence Holder had left his vehicle unattended, demonstrated aggressive behaviour and been smoking in his vehicle.

The Panel should give consideration to the Environmental Health Managers report and the evidence put forward at the hearing from all parties. The Panel needed to decide if the Licence Holder continued to remain a 'fit and proper' person.

**12      DETERMINATION**

The Chairman advised that the Panel would retire to consider their decision in private, 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. On reconvening, the Chairman read out the Panel's decision and reasons for their decision.

**The meeting closed at 4.40 pm**