

FAREHAM

BOROUGH COUNCIL

Minutes of the Licensing Panel

(to be confirmed at the next meeting)

Date: Tuesday, 6 August 2024

Venue: Collingwood Room - Civic Offices

PRESENT:

Councillor Pamela Bryant (Chairman)

Councillors: S P Ingram and Mrs J Needham



1. EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED that the public and representatives of the press be excluded from the meeting in accordance with Section 100(A) of the Local Government Act 1972, on the grounds that the matters to be dealt with involve the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 3 of Part 1 of Schedule 12 of The Act.

2. HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVING LICENCES

The panel considered a report by the Licensing Officer which contained exempt information in respect of private hire vehicle driving licences. A copy of the report was circulated with the agenda to all members and participants in advance of the meeting.

Case 1 – Mr S

The Licensing Officer presented the circumstances of the case, as supported by the documentary evidence.

The Chair invited questions from the Applicant and members of the panel on the Licensing Officer's presentation of the case. None were forthcoming.

The Applicant presented the circumstances of his case, as supported by the documentary evidence and answered questions thereon from members of the panel.

At the invitation of the Chair, the Applicant made a closing statement in respect of his case.

Following the submission of the Applicant's closing statement, the Applicant and the Licensing Officer withdrew from the hearing whilst the panel considered its decision in private.

At the conclusion of the Panel's deliberations, the Applicant and the Licensing Officer returned to the hearing, whereupon the Chair announced the Panel's decision as follows:

LICENSING PANEL

DECISION OF THE MEETING HELD ON 06 August 2024

PRIVATE HIRE TAXI DRIVER'S LICENCE

Case 1 - Mr S

The Panel has considered very carefully the report of the Licensing Officer and all the evidence presented today.

It has given due regard to the Local Government (Miscellaneous Provisions) Act 1976 ("the Act"), Fareham Borough Council Taxi Policy including the guidelines relating to the application of the "fit and proper person" test and other considerations of character. The Human Rights Act has been borne in mind whilst making the decision.

Mr S attended the hearing and with the permission of the Chair addressed the Panel. Clarification was provided regarding the offence and the sentence given by the court. Mr S also provided further information regarding the roof top light and why he initially informed the Licensing team that he had been found not guilty.

The panel considered all the facts and has decided that Mr S is not a fit and proper person in accordance with the Act and therefore his private hire taxi drivers' licence is revoked. The reasons for this decision are outlined as follows:

Reasons for Decision

The Licensing Officer addressed the panel highlighting the reasons for the hearing. The panel was referred to the Taxi Policy and guidance around the fit and proper test as it relates to convictions, complaints, and patterns of behaviour.

The Panel were concerned about the recent conviction directly concerned with his private hire licence. The policy around driving convictions of this nature provides that a driver should be conviction free for at least 7 years after the completion of any sentence. Mr S was convicted in February 2024 and given a Conditional Discharge until February 2025. According to policy Mr S should not be licensed until 24th February 2032 at the earliest.

The Panel noted that the Taxi Policy also provides that outcomes that might not amount to a conviction such as a caution or conditional discharge should be treated in exactly the same way as a conviction for the purposes of the fit and proper test.

Allowing Mr to retain his licence would be outside of the Taxi Policy and the Panel heard no evidence to allow them to make a decision outside of policy on this occasion.

There is a statutory right of appeal to the Magistrate's Court of the decision which must be made within 21 days of formal notice.

RESOLVED that the Applicant is not considered to be a fit and proper person to hold a private hire taxi driver's licence and that the licence therefore be revoked.

Case 2 – Mr R

The Licensing Officer presented the circumstances of the case, as supported by the documentary evidence. The Licensing Officer provided clarification in respect of 3 unanswered questions on the Application form as presented at Appendix L to the report – the Applicant would be driving full time, had not developed any medical conditions that required treatment/medication and has not been licensed by any other Authorities.

The Chair invited questions from the Applicant, members of the panel and the Legal Adviser on the Licensing Officer's presentation of the case. None were forthcoming.

The Applicant presented the circumstances of his case, as supported by the documentary evidence and answered questions thereon from members of the panel and the Legal Adviser.

At the invitation of the Chair, the Applicant made a closing statement in respect of his case.

Following the submission of the Applicant's closing statement, the Applicant and the Licensing Officer withdrew from the hearing whilst the panel considered its decision in private.

At the conclusion of the Panel's deliberations, the Applicant and the Licensing Officer returned to the hearing, whereupon the Chair announced the Panel's decision as follows:

LICENSING PANEL
DECISION OF THE MEETING HELD ON 06 August 2024
PRIVATE HIRE TAXI DRIVER'S LICENCE
Case 2 – Mr R

The Panel has considered very carefully the report of the Licensing Officer and all the evidence presented today.

It has given due regard to the Local Government (Miscellaneous Provisions) Act 1976 ("the Act") The Fareham Borough Council Taxi policy and the guidelines relating to the application of the "fit and proper person" test and other considerations of character. The Human Rights Act has been borne in mind whilst making the decision.

Mr R attended the hearing and with the permission of the Chair addressed the Panel. Clarification was provided regarding the offence and his current circumstances in particular his employment with UBER Eats.

The panel considered all the facts and has decided that for exceptional reasons Mr R is a fit and proper person in accordance with the Act and therefore his private hire taxi drivers' licence application is approved. The reasons for this decision are outlined as follows:

Reasons for Decision

The Licensing Officer addressed the panel highlighting the circumstances of the application. The panel was referred to the Taxi Policy and guidance around the fit and proper test as it relates to convictions, complaints, and patterns of behaviour.

The Panel were concerned about the previous conviction for battery and the resulting sentence. The policy around convictions involving assault

provides that a driver should be conviction free for at least 10 years after completion of any sentence. That period in this case ends on 25th October 2026. On that basis granting the licence is outside of policy.

The Panel found exceptional reasons to go outside of policy in this case. It noted that Mr R is now a more mature settled family man but also and more importantly deals with angry customers on a regular basis in his current employment. He has a very good Uber rating which he would not have if he was not dealing with angry customers appropriately. On this basis the Panel was satisfied that Mr R would not repeat his offending and is a fit and proper person to hold a licence.

There is a statutory right of appeal to the Magistrate's Court of the decision which must be made within 21 days of formal notice.

RESOLVED that the application for private hire taxi driver's licence be granted.

(The meeting started at 10.05 am
and ended at 11.40 am).

..... Chairman

..... Date