

FAREHAM

BOROUGH COUNCIL

Minutes of the Licensing Panel

(to be confirmed at the next meeting)

Date: Wednesday, 16 October 2024

Venue: Collingwood Room - Civic Offices

PRESENT:

Councillor Mrs P M Bryant (Chairman)

Councillors: Mrs S M Bayford and A M J Murphy



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 to all Members and participants in advance of the hearing.

Case 1 – Mr K

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

Questions were invited from the Applicant and Members of the Panel on the Licensing Officer's statement. None were forthcoming.

The Applicant was invited to present his case and did so accordingly.

The Applicant answered questions on his case from Members of the Panel.

The Applicant was invited to make a closing statement in respect of his case and did so accordingly.

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.

Following the Panel's deliberations, the Applicant and the Licensing Officer returned to the hearing, whereupon the Chairman announced the Panel's decision as follows:

LICENSING PANEL

DECISION OF THE MEETING HELD ON 16 October 2024

PRIVATE HIRE TAXI DRIVER'S LICENCE

Case 1 – Mr K

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 K attended the hearing and with the permission of the Chairman addressed the Panel. Mr K provided further information regarding the offence of Plying for Hire that he was convicted for on 9 March 2019.

The panel considered all the facts and has decided that Mr K is not a fit and proper person in accordance with the Act and therefore his private hire taxi drivers' licence is refused. 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 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 K was convicted in March 2019 and fined £300. According to policy Mr K should not be licensed until 8 March 2026 at the earliest.

Allowing Mr K to have a 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. Mr K himself identified that had he known that the Policy at Fareham Borough Council was 7 years conviction free he would not have applied.

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 Licensing Panel considers that the Applicant is not a fit and proper person to hold a private hire taxi driver's licence and that the licence therefore not be granted.

Case 2 – Mr S

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

Questions were invited from the Applicant and Members of the Panel on the Licensing Officer's statement. None were forthcoming.

At the request of the Legal Advisor, it was clarified that the date of the conviction of the offence, as detailed in the report, was 10 November 2023 and not 08 April 2023 as advised by the Licensing Officer.

The Applicant was invited to present the circumstances of his case and did so accordingly.

The Applicant answered questions from Members of the Panel on the circumstances of his case.

The Licensing Officer was invited to ask questions of the Applicant on the circumstances of his case but none were forthcoming.

The Applicant was invited to make a closing statement in respect of his case and did so accordingly.

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.

Following the Panel's deliberations. The Applicant and the Licensing Officer returned to the hearing, whereupon the Chairman announced the Panel's decision as follows:

LICENSING PANEL

DECISION OF THE MEETING HELD ON 16 October 2024

PRIVATE HIRE TAXI DRIVER'S LICENCE

Case 2 – 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 Chairman addressed the Panel. Clarification was provided regarding the offences and the sentence given by the court. Mr S also provided further information regarding the offence of Plying for Hire and having no insurance that he was convicted for on 10 November 2023

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 refused. 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 November 2023, fined and his licence endorsed with 8 penalty points. According to policy Mr S should not be licensed until 9 November 2030 at the earliest.

Allowing Mr S 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 Licensing Panel does not consider the Applicant to be a fit and proper person to hold a private hire taxi driver's licence and that the licence therefore not be granted.

Case 3 – Mr B

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

Questions were invited from the Applicant and Members of the Panel on the Licensing Officer's statement. None were forthcoming.

The Applicant presented the circumstances of his case and answered questions thereon from Members of the Panel.

The Panel sought, and received, clarification on the length of time that South Oxfordshire Council allows for Appeals to be brought under its Penalty Points System.

The Applicant was invited to present a closing statement on his case and did so accordingly.

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.

Following the Panel's Deliberations, the Applicant and the Licensing Officer returned to the hearing, whereupon the Chairman announced the Panel's decision as follows:

LICENSING PANEL

DECISION OF THE MEETING HELD ON 16 October 2024

PRIVATE HIRE TAXI DRIVER'S LICENCE

Case 3 – Mr B

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 B attended the hearing and with the permission of the Chairman addressed the Panel. Mr B provided further information regarding the

revocation of his licence by South Oxfordshire District Council in February 2024 as a result of him being witnessed using a mobile phone and receiving more than 12 penalty points within a 12 month period.

The Panel considered all the facts and has decided that Mr B is not a fit and proper person in accordance with the Act and therefore his private hire taxi drivers' licence is refused. 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 revocation of licence by South Oxfordshire District Council resulting from Mr B being witnessed using a mobile phone whilst driving. Mr B received 18 penalty points from South Oxfordshire District Council. As a result of him receiving more than 12 points within a 12 month-period his licence was revoked. He did not appeal the revocation. Mr B informed the Panel that he was confused about the process of appealing and did not comply with the timescales. Whilst the Panel noted that Mr B was not convicted of an offence of using his mobile phone, the policy followed by Fareham Borough Council states:

"It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction" and "In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines."

The Panel balanced the nature of the behaviour, including the fact that it relates to driving whilst licensed as a taxi driver and therefore an aggravating factor, against the facts asserted by the applicant, including it being a one-off offence and him not working as a taxi driver at the time as he was returning from school. The Panel remained concerned that Mr B made the decision to use his mobile phone while driving, even when stationary. Under the policy, it states that:

"Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later."

Allowing Mr B to be licensed 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 Licensing Panel does not consider the Applicant to be a fit and proper person to hold a private hire taxi driver's licence and that the licence therefore not be granted.

(The meeting started at 10.00 am
and ended at 12.35 pm).

..... Chairman

..... Date