

FAREHAM

BOROUGH COUNCIL

Minutes of the Licensing Panel

(to be confirmed at the next meeting)

Date: Wednesday, 20 November 2024

Venue: Collingwood Room - Civic Offices

PRESENT:

Councillor Pamela Bryant (Chairman)

Councillors: C A Bainbridge and S P Ingram



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 licences. A copy of the report was circulated to all Members and participants in advance of the meeting.

Case 1 – Mr I

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

Questions and points for clarification were invited from the Applicant and Members of the Panel on the Licensing Officer's statement which were answered accordingly.

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

The Licensing Officer and the Applicant left the hearing whilst the Panel considered its decision in private.

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

LICENSING PANEL

DECISION OF THE MEETING HELD ON 20 November 2024

PRIVATE HIRE TAXI DRIVER'S LICENCE

Case 1 – Mr I

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 I attended the hearing and with the permission of the Chairman addressed the Panel. Mr I provided further information regarding the offence of driving a motor vehicle with excess alcohol which he was convicted for on 12 January 2017.

The Panel considered all the facts and has decided that Mr I is a fit and proper person in accordance with the Act and therefore his private hire taxi drivers' licence is allowed. 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 I was convicted in January 2017 and fined £362. Mr I advised that he undertook a drunk driving awareness course that shortened his driving ban from 12 months to 9 months. According to policy Mr I should not be licensed until 13 September 2024 at the earliest.

The Panel took into consideration that Mr I has had no other convictions or penalty point endorsements. Mr I explained the circumstances surrounding his conviction and demonstrated great remorse and regret for the events that occurred. Since then, Mr I has gone on to become a British Citizen.

The Panel felt that Mr I is a fit and proper person to hold a licence, and his application is allowed for a period of 12 months. The Panel seek to emphasise that any further instances (convictions, complaints and patterns of behaviour) would be reviewed in accordance with the policy, and the licensing authority reserves the right to take the application and discussions today into account for any future decisions.

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 considered that the Applicant was a fit and proper person to hold a private hire vehicle licence and that the licence therefore be granted.

Case 2 - Mr H

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

Questions and points for clarification 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 and the Legal Advisor.

The Licensing Officer and the Applicant left the hearing whilst the Panel considered its decision in private.

At the request of the Chairman, the Licensing Officer returned to the hearing to answer a point for clarification. The Licensing Officer confirmed that drug testing had been carried out as part of the application process. The Licensing Officer then left the hearing and the Panel continued its deliberations in private.

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

LICENSING PANEL
DECISION OF THE MEETING HELD ON 20 November 2024
PRIVATE HIRE TAXI DRIVER'S LICENCE
Case 2 – Mr H

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 H attended the hearing and with the permission of the Chairman addressed the Panel. Mr H provided further information regarding the offences outlined below:

1. Conviction on 27 February 2017 for possession of a Class B controlled drug
2. Conviction on 9 May 2017 for causing serious injury by dangerous driving
3. Conviction on 18 July 2017 for using threatening/abusive words/behaviour or disorderly behaviour likely to cause harassment/alarm
4. 6 penalty points endorsement for exceeding statutory speed limit on a public road on 31 January 2023

The panel considered all the facts and has decided that Mr H 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.

Possession of a Class B controlled drug

Guidance on Suitability 2024 states at section 4.46 that:

“Where an applicant has a conviction for possession of drugs, or related to the possessions of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.”

The Panel were concerned about the conviction directly concerned with his private hire licence. The policy around convictions of this nature provides that a driver should be conviction free for at least 5 years after the completion of any sentence. Mr H was convicted in February 2017 and fined £135. According to policy Mr H should not be licensed until February 2022 at the earliest. The Panel heard from the licensing officer that drugs testing is required from all new applicants and no issues in relation to this were raised in this case.

Causing serious injury by dangerous driving

Guidance on Suitability 2024 states at section 4.55 that:

“Any offence which resulted in injury to any person or damage to any property (including vehicles), or any insurance offence then a licence will not be granted until at least 7 years have elapsed since the completion of any sentence.”

The Panel were concerned about the conviction directly concerned with his private hire licence. The policy around convictions of this nature provides that a driver should be conviction free for at least 7 years after the completion of any sentence. Mr H was convicted in May 2017. According to policy Mr H should not be licensed until 9 May 2024 at the earliest.

The Panel heard from the Applicant that in this event he had picked up a group of five friends in a four seated car. Mr H allowed the fifth person to be sat on the external part of the boot of the car, with Mr H as the driver. Mr H drove the car down a back road, and the fifth person fell off of the car and was seriously injured. The Panel heard that an ambulance was called and Mr H was charged with causing serious injury by dangerous driving. Mr H did not demonstrate any remorse for his actions, simply stating that it was a very long time ago and he was subjected to peer pressure.

Whilst allowing Mr H to have a licence would not be outside of the minimum policy for this type of offence, the Panel felt that Mr H acted recklessly in allowing someone he cared about to ride on top of the boot of his car, and calls into question whether he is fit and proper person to hold a licence. The Panel also recognised that Mr H was not a child at the time of the offence, and was a 20 year old man with a driving licence.

Using threatening/abusive words/behaviour or disorderly behaviour likely to cause harassment/alarm or distress

Guidance on Suitability 2024 states at section 4.36 that:

'Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment or criminal harassment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed.'

The Panel were concerned about the conviction directly concerned with his private hire licence. The policy around convictions of this nature provides that a driver should be conviction free for at least 7 years after the completion of any sentence. Mr H was convicted in July 2017 and fined £100. According to policy Mr H should not be licensed.

The Panel heard from Mr H that the offence occurred in a McDonalds car park at approximately 3am when he was trying to bring his partner home. Mr H stated that his partner was making a scene and was not clothed appropriately to be left in the car park that late at night, so he became verbal with her. Mr H agreed with the panel that he got angry, and emphasised how long ago it was. Mr H submitted that he now has children and a good partner, and is much more calm and professional now. Mr H stated that he has since dealt with many drunk passengers as a Hackney Driver in Reading and understands what is expected of him.

The Panel were concerned with the lack of remorse shown by Mr H in describing these events. Allowing Mr H to have a licence would be outside of the Suitability Guidance and the Panel heard no evidence to allow them to make a decision outside of policy on this occasion.

Exceeding Speed Limit and 6 Penalty Points

The Panel were concerned with the penalty points endorsements found on Mr H's driving licence. Penalty points (and the underlying offence) will be relevant and taken into consideration for 4 to 11 years from the date of conviction, or date of offence depending on the type of offence. By attaining 7 or more penalty points, a driver is demonstrating they may not be a fit and proper person, and the Suitability Guidance states that the authority should assess their suitability. While Mr H does not have 7 penalty points, he did receive 6 penalty points for one offence, indicating that he was going considerably above the speed limit. The Panel asked Mr H what speed he was going, but Mr H stated he could not remember. Mr H agreed with the panel it was considerably above 30mph.

The Panel were concerned that Mr H could not remember how fast he was going when the offence occurred only last year. Mr H showed no remorse for the offence and did not seem to recognise the significance of the situation. While the guidance pertains to 7 points, the Panel did not feel that Mr H provided any further evidence or justification as to why he is a fit and proper person to hold a licence in these circumstances.

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 considered that the Applicant was not a fit and proper person to hold a private hire vehicle licence and that the licence therefore be refused.

Case 3 – Mr H

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

Questions and points for clarification 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 from Members of the Panel thereon.

The Licensing Officer and the Applicant left the hearing whilst the Panel considered its decision in private.

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

LICENSING PANEL

DECISION OF THE MEETING HELD ON 20 November 2024

PRIVATE HIRE TAXI DRIVER'S LICENCE

Case 3 – Mr H

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 H attended the hearing and with the permission of the Chairman addressed the Panel. Mr H provided further information regarding the offence of robbery which he was convicted of on 3 August 2001. Mr H also provided further information regarding the penalty points obtained on 19 May 2021.

The panel considered all the facts and has decided that Mr H is a fit and proper person in accordance with the Act and therefore his private hire taxi drivers' licence is allowed. 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 Suitability Guidance 2024 states at section 4.38:

“Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed. Where the offence of violence was committed against a child or vulnerable adult a licence will never be granted.”

The Panel were concerned about the conviction of robbery, which Mr H provided further details of in his written submissions. Mr H explained in his written submission that when he was 16 years old, him and some friends went out ‘to find vulnerable people with mobile phones and money to take.’ Mr H went on to state that one of the victims sustained an injury to their shoulder after being pushed to the ground.

The Panel raised further queries regarding these points with Mr H, who clarified that vulnerable was not the correct term to use in his submission. Mr H confirmed that none of the victims involved were elderly or children, and that the victims were adults in their 30s or 40s. While the Panel did not take this to diminish the seriousness of the conviction, the Panel were in agreement that there was no evidence to suggest that the offence was committed against any vulnerable adults or children. The Panel therefore adopted the guidance that a licence will not be granted until at least 10 years have elapsed since completion of any sentence imposed. Mr H was convicted in August 2001 and received a 10 month detention and training order. According to policy Mr H should not be licensed until 4 June 2012 at the earliest.

The Panel heard from Mr H his remorse for the events that led to his conviction. He reiterated that he was 16 years old and regrets his actions. He went on to state that he was young and immature at the time. The Panel noted that he has had no further convictions for the past 24 years, and Mr H also advised that he has since set up a local community hub for under 16s to guide them post education. He expressed a particular interest in helping them through athletic careers.

The Panel were also concerned with the penalty points endorsements found on Mr H’s driving licence. Penalty points (and the underlying offence) will be relevant and taken into consideration for 4 to 11 years from the date of conviction, or date of offence depending on the type of offence. The Panel noted that the 3 penalty points on his licence are now expired, and Mr H confirmed that he was going approximately 35mph in a 30mph road. The Panel noted, but did not have any concerns, in relation to the expired points in the granting of this decision.

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 considered that the Applicant was a fit and proper person to hold a private hire vehicle licence and that the licence therefore be granted.

(The meeting started at 10.05 am
and ended at 1.10 pm).

..... Chairman

..... Date