

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Thursday, 29th November, 2012

Present: Cllr Mrs J A Anderson (Chairman) Cllr H S Rogers and Cllr A K Sullivan.
Together with representatives of the Licensing Authority.

PART 1 - PUBLIC

**LA
12/100** **DECLARATIONS OF INTEREST**

There were no declarations of interest made.

MATTERS FOR CONSIDERATION IN PRIVATE

**LA
12/101** **EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

RESOLVED: That as public discussion would disclose exempt information the following matter be considered in private.

PART 2 - PRIVATE

**DECISIONS TAKEN UNDER DELEGATED POWERS IN
ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE
CONSTITUTION**

**LA
12/102** **APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE -
CASE NO 10/2012
(Reason: LGA 1972 Sch 12A Paragraph 1 - Information relating to
an individual)**

The Panel gave consideration to the report of the Chief Solicitor regarding an application for the renewal of a Hackney Carriage Driver's Licence. The Panel was advised that an enhanced records check received from the Criminal Records Bureau (CRB) had revealed a Caution received for common assault which had not been disclosed on the application form.

The Panel listened carefully to the representations made by the Applicant and had regard to the report of the Chief Solicitor and found that the Applicant had disclosed a conviction for speeding dated 25 May 2009 on his application form dated 29 May 2012, for which he

had received three penalty points on his DVLA driving licence. The Applicant had failed to disclose his caution for common assault dated 25 September 2009 on his application form for the renewal of his Hackney Carriage Driver's Licence. The Applicant explained that the caution had arisen out of a minor incident between himself and the operator for whom he was working in 2009. He had continued to work for that operator for a further six months following the incident.

The Panel had regard to the Council's Hackney Carriage and Private Hire Licensing Policy, the relevant sections of which were set out at paragraph 1.3 of the report of the Chief Solicitor. The Panel's attention was drawn to paragraphs 3.1 to 3.4 of Appendix E to the Policy, which dealt with convictions for violence. The Panel noted that an application would normally be refused where the applicant had a conviction for common assault and the conviction was less than four years prior to the date of the application. The Panel was advised that, in accordance with paragraph 6.7 of Appendix E, formal cautions were, for the purposes of the guidelines, treated as though they were convictions and had to be disclosed.

The Panel was reminded that, in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Council may refuse to renew the licence of a driver of a hackney carriage vehicle on any of the following grounds:-

- (a) that he had since the grant of the licence
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence or had failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
- (b) any other reasonable cause.

The overriding consideration for the Panel was the safety of the public and while mindful of the explanation offered by the Applicant for the events leading to his caution for common assault, it did not regard this as sufficient to overcome the normal policy presumption of refusal set out in paragraph 6.2 of Appendix E of the Policy. For these reasons, the Panel

RESOLVED: That the Applicant was not a fit and proper person to hold a Hackney Carriage Driver's Licence and that the application be refused under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 1455 hours
having commenced at 1400 hours