

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 24th February, 2021

Present: Cllr H S Rogers (Chairman), Cllr A E Clark and Cllr R V Roud

Together with representatives of the Licensing Authority

PART 1 - PUBLIC

LAP 21/1 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

LAP 21/2 EXCLUSION OF PRESS AND PUBLIC

The Chairman moved, it was seconded and

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

PART 2 - PRIVATE

DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION (RESPONSIBILITY FOR COUNCIL FUNCTIONS)

LAP 21/3 REVIEW OF HACKNEY CARRIAGE DRIVERS LICENCE – CASE NO. 01/2021

(Reason: LGA 1972 Sch 12A Paragraph 1 – Information relating to any individual)

The Panel was asked to consider whether the holder of a Hackney Carriage Driver's Licence should have his licence suspended or revoked under s.61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 on the ground of any other cause, namely for poor conduct towards members of NHS staff at Medway Hospital.

The report of the Director of Central Services and Deputy Chief Executive set out details of a complaint received from a member of NHS staff regarding the licence holder's conduct towards her and another member of NHS staff.

The Panel took into account the Council's Taxi and Licensing Enforcement Policy, as well as the Institute of Licensing guidance on determining the suitability of applicants and licensees in the hackney

carriage and private hire trade. Particular reference was made to section 3.32 of the guidance issued in April 2018 which stated that licensees were expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should licensees take the law into their own hands. Licensees were expected to act with integrity and demonstrate conduct befitting the trust that was placed in them.

The Panel had regard to the report of the Director of Central Services, the written submissions received from the complainant and the oral evidence presented by the Senior Licensing Officer and the licence holder. Based on the evidence presented the Panel concluded that:-

1. The licence holder should not have parked in an ambulance bay in the first place and that he was parked inappropriately for in excess of 22 minutes.
2. The licence holder should have moved his vehicle at the first opportunity and parked in the proper car park. There clearly was a verbal altercation between the licence holder and an ambulance driver and subsequently between the licence holder and a nurse (which would have been avoided if the licence holder had parked in the proper place). The licence holder denied that he was verbally abusive but the Panel could not see why the nurse involved would have made the allegations if they were not true.
3. Taking into account the above, the Council's Taxi Licensing Policy and, in particular paragraphs 3.3.2 and 3.28 of the Institute of Licensing's policy on determining the suitability of taxi drivers, the Panel determined that the licence holder had not behaved in a way that the Licensing Authority would expect its taxi drivers to behave. The Panel concluded that the licence holder had had an altercation with a member of NHS staff, caused by his parking and waiting in an inappropriate place, which was totally unacceptable. He had been rude and had failed to move his car at the earliest opportunity.
4. The licence holder stated that he had behaved out of character because he was not feeling well. He said that he thought he might have had Coronavirus as he had a high temperature and 'flu' like symptoms. The Panel considered this to be a potentially very serious breach of the Government's Covid-19 Guidance and regulations.
5. The Panel considered the licence holder's decision to drive a friend to hospital when he thought he might have Coronavirus was clearly in breach of the Government's guidance and reckless in the extreme.

The Panel took into account, as mitigating circumstances, the licence holder's previously clean record and the fact that he apologised to the

Panel for his behaviour. Bearing this apology in mind, the Panel invited the licence holder to send a letter of apology to the hospital and its staff.

The Panel suggested that the licence holder familiarise himself with the Government's guidance on Covid-19 to ensure that he did not put his paying passengers, anyone else or himself at risk in the future.

The Panel, therefore,

RESOLVED: That, in respect of Case Number 01/2021, the Hackney Carriage Driver's Licence be suspended for a period of 14 days under s.61(2) of the Local Government (Miscellaneous Provisions) Act 1976 on the ground that there was reasonable cause to do so.

The meeting ended at 12.14 pm
having commenced at 10.00 am