

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 23rd March, 2022

Present: Cllr Mrs F A Kemp (Chairman), Cllr H S Rogers and
Cllr Mrs J A Anderson.

Together with representatives of the Licensing Authority.

PART 1 - PUBLIC

LAP 22/4 DECLARATIONS OF INTEREST

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

LAP 22/5 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 TO BE TAKEN UNDER DELEGATED POWERS IN
ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE
CONSTITUTION**

**LAP 22/6 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE - CASE NO.
002/2022**

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

The Licensing and Appeals Committee, sitting as a Panel, was asked to consider what action should be taken in respect of the holder of a Hackney Carriage and Private Hire (Dual) Driver's licence, after a member of the public made a complaint about the driver. The complaint included a video and photograph showing the driver using his mobile phone whilst driving.

The Panel had regard to the report of the Director of Central Services and Deputy Chief Executive, the complaint, a photograph showing the driver holding a mobile phone whilst driving and a video showing the driver holding a mobile phone whilst driving.

In addition, the Panel had regard to the TMBC Licensing Policy 2018-2023 with particular reference to:

- (1) Section 1.4.4 - Public safety is a paramount consideration when processing prospective candidates by ensuring only fit and proper persons are licensed to be entrusted to drive members of the public safely, professionally and courteously to and from their required destinations.
- (2) Section 4.11.3 - In assessing whether the applicant is a "fit and proper" person to hold a licence the Council will consider each case on its merits. It will take account of cautions, convictions, and fixed penalty notices whether spent or unspent, but only in so far as they are relevant to an application for a licence. Upon receipt of a licence application the Licensing Officer will assess from the information provided whether any or all of the current or spent convictions are capable of having significant relevance as to whether the applicant is a fit and proper person to hold a licence and, refer to the Licensing and Appeals Panel for decision.
- (3) Section 8.14 - Mobile Telephones may only be used whilst driving if you have hands-free access, such as:
 - A Bluetooth headset
 - Voice command
 - A dashboard holder

If you use your phone hands-free, you must stay in full control of your vehicle at all times.

- (4) Section 12.14.1 - Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is later.
- (5) Section 14.1.20 - It is illegal to use a hand held mobile phone while driving since December 2003. From March 2017 the Fixed Penalty Notice for using a handheld mobile phone while driving is £200 and 6 points.
- (6) Drivers must not use a mobile phone whilst driving unless it is designed for hand-free operation.

The Panel listened to the report presented by the Licensing Officer and had regard to the video provided by the member of the public. The Panel listened to the driver's explanation of what happened on the day in question and had regard for his clean record as a licensed driver.

For these reasons, the Panel

RESOLVED: That in respect of Case Number 002/2022, the Hackney Carriage and Private Hire (Dual) Driver's licence BE SUSPENDED for a period of three months and six penalty points be placed on the driver's licence for a period of two years.

The meeting ended at 11.15 am.