

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Wednesday, 18th November, 2015

Present: Cllr M A Coffin (Chairman), Cllr Mrs J A Anderson and Cllr R V Roud

Together with representatives from the Licensing Authority

PART 1 - PUBLIC

LA 15/105 DECLARATIONS OF INTEREST

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

LA 15/106 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 PARAGRAPH 3, PART 3 OF THE
CONSTITUTION**

**LA 15/107 REVIEW OF PRIVATE HIRE OPERATOR AND PRIVATE HIRE
DRIVER'S LICENCES - CASE NO 22/2015**

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

The Panel was invited to consider whether there were grounds for the suspension or revocation of Private Hire Operator's Licence Number 13/00770/OPER following investigations into his practices as a Private Hire Operator. The Panel was asked to consider multiple non-compliances with the requirements of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act") and breaches of the Tonbridge & Malling Hackney Carriage and Private Hire Policy in respect to what is required of a person holding a Private Hire Operator Licence.

In addition, the Panel was asked to consider whether the Operator, who also held a Private Hire Driver's Licence (Badge Number 491) remained a fit and proper person to hold that licence.

The Panel listened carefully to the representations made by the Operator/Driver, had regard to the report of the Director of Central Services and made the following findings in respect to the Private Hire Operators Licence 13/00770/OPER:–

1. The Panel noted the requirements of the Tonbridge & Malling Borough Council Hackney Carriage and Private Hire Licensing Policy in relation to the requirements placed upon Private Hire Operators.
2. The Panel was very concerned at the clear failure, through the information given and Operator's own evidence, to keep any records, as required by s.56(2), and s.56(3) of the 1976 Act. This failure was itself sufficient to warrant a revocation of the Private Hire Operator's Licence under s.62(1)(a) of the 1976 Act.
3. In relation to s.62(1)(b) of the 1976 Act, the Panel was also concerned over the Operator's general conduct and lack of cooperation with the Licensing Authority and its officers and in not adhering to the Private Hire Operators conditions as clearly stated in the Licensing Policy.
4. In relation to s.62(1)(d) of the 1976 Act, the Panel noted that the Operator did not appear to operate as a Private Hire Operator.

With regard to the Private Hire Driver's Licence (Badge Number 491) the Panel made the following findings:–

1. The Panel noted the requirements of the Tonbridge & Malling Borough Council Hackney Carriage and Private Hire Licensing Policy in relation to Private Hire Drivers.
2. By s.61(1)(a)(ii) of the 1976 Act, a failure to comply with the provisions of the 1976 Act as they relate to private hire drivers may give reason for the Council to suspend or revoke a Private Hire Driver's Licence.
3. The Panel noted that, in relation to licensed vehicle, plate number 174, the Driver had failed properly to affix the vehicle plate to the rear of the licensed white Peugeot registration number FY09 CHH, contrary to Section 48(6) of the Local Government (Miscellaneous Provisions) Act 1976.
4. Furthermore, having been reminded by an authorised officer of the Council that it was both a legal and policy requirement to so affix the plate, the Driver still failed to do so. The Panel noted that a failure to comply with a requirement of an authorised officer of the Council is a potential offence under s.73(1)(c) of the 1976 Act.
5. Under s.61(1)(b) of the 1976 Act, the Council may also take into

account “any other reasonable cause” why a Private Hire Driver’s licence should be revoked or suspended.

6. The Panel considered the Driver’s general conduct and lack of cooperation with the Licensing Authority and its officers.
7. The Panel also noted that on two occasions the Driver had failed to keep a copy of a valid insurance certificate in the vehicle, contrary to the Council’s policy.
8. It was noted that, considered against the Council’s penalty points system, the total number of points which might be accumulated in respect of the above matters was high.
9. In light of all of the above, the Panel considered that the Driver no longer met the test of a “fit and proper person” for the purposes of holding a Private Hire Driver’s Licence.

For the reasons set out above the Panel therefore

RESOLVED: That

- (1) Private Hire Operator Licence number 13/00770/OPER be REVOKED; and
- (2) Private Hire Driver’s Licence Badge Number 491 be REVOKED.

The meeting ended at 1.39 pm
having commenced at 12.05 pm