

**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 22/7 DECLARATIONS OF INTEREST**

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

**LAP 22/8 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 22/9 REVIEW OF PRIVATE HIRE DRIVER'S LICENCE - CASE NO. 001/2022**

The Licensing & Appeals Committee, sitting as a Panel was asked to consider whether any action was appropriate in respect of a holder of a Hackney Carriage and Private Hire (Dual) Driver's licence, after it was alleged that they caused criminal damage to a Maidstone driver vehicle and had caused public order offences.

The Panel had regard to the report of the Director of Central Services and Deputy Chief Executive, the complaint from the Maidstone Taxi driver, an account from another Maidstone Taxi Driver, a copy of the receipt and picture of the repaired window and two Kent Police disclosure requests and response.

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

- a. Licensing of Drivers and Vehicles - 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.
- b. Conditions of Licence - 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 a decision.

The Panel listened to the report presented by the Licensing Officer and had regard to the documents sent in by the Maidstone driver. The Panel listened to the Licence Holder’s explanation of what happened on the day in question.

Having carefully considered the written report presented by the Head of Service - Licensing, Community Safety and Customer Services and having heard in detail from the Hackney Carriage and Private Hire (Dual) Driver, the Panel was satisfied, on the balance of probabilities, that they had been aggressive towards the complainant, had used foul language and had committed an act of criminal damage.

In reaching their decision the Panel were advised not to, and did not, take into account any of the historical allegations/information shared by the Kent Police with the Licensing Authority following a request for personal information under the Data Protection Act 2018.

In view of the level of violence used it appeared to the Panel that in the interests of public safety that the suspension of the licence have immediate effect under s.61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

For these reasons, the Panel

**RESOLVED:** That

- (1) The Hackney Carriage and Private Hire driver’s licence be **SUSPENDED** for a period of six months and that that period of suspension should come into effect immediately in the interests of public safety; and

- (2) six points be added to the Hackney Carriage and Private Hire driver's licence for a period of two years, under the Council's Hackney Carriage and Private Hire Licensing Policy.

The meeting ended at 1.00 pm