

**LICENSING PANEL
16 NOVEMBER 2011
2.00 PM**



Present:

Councillors Thompson (Chairman), Brossard and Kensall

Also Present:

Mr Bull, Legal Adviser to the Panel

Ms Kelly, Licensing Officer

Mr Sexton, Head of Trading Standards & Licensing

Mrs Patel, Democratic Services Officer

Appellant, Licensed Private Hire Driver (Mr B)

1. Declarations of Interest

There were no declarations of interest.

2. The Procedure for Hearings at Licensing Panels

The Chairman confirmed that all parties had noted and understood the procedure to be followed at the hearing.

3. Exclusion of Public and Press (S100A)

RESOLVED that pursuant to section 100A of the Local Government Act 1972, as amended, members of the public and press be excluded from the meeting for consideration of item 4 which involved the likely disclosure of exempt information under category 1 of Schedule 12A of that Act:

- (1) Information relating to any individual

4. Report on Licensed Private Hire Driver (Mr B)

An appeal was submitted to the Licensing Panel against an officer decision to refuse to licence a vehicle, a Ford Mondeo as a private hire vehicle beyond 2 July 2011. The hearing was attended by the appellant.

Private Hire Licence's are subject to the following condition:

"The maximum age of a vehicle that may continue to be licensed is 8 years from the date of first registration for a saloon and estate vehicles and 10 years for a purpose built- Hackney Carriage "

The vehicle under consideration, a Ford Mondeo was first registered on 3 January 2003.

For the vehicle to be exempted from the above condition and for it to continue to be licensed beyond 2 July 2011, the appellant would need to persuade the Panel that

the vehicle had covered an abnormally low mileage and was in an exceptional condition.

The Panel gave careful consideration to the papers before them, heard and considered oral representations from the appellant and Ms Kelly.

The Panel decided **not to uphold the appellant's appeal** for an exemption in respect of the age limit condition, for the following reasons:

- The Panel were not satisfied that the appellant's vehicle was in exceptional condition, or that his vehicle had travelled an abnormally low mileage. The Panel noted that the mileage was 238,696 on 26 January 2011. The appellant confirmed to the Panel that the licensed vehicle had now travelled 261,000 miles. In addition, the Panel found that there was a lack of evidence of vehicle maintenance from December 2010 onwards. The Panel felt that a person who was appealing on grounds of exceptional condition would have supplied up to date service and maintenance records as part of their appeal. The mechanical stamps only confirmed a mechanic had charged the appellant for work on those dates. There was no covering document that showed that parts were replaced or gave any indication of the condition of the vehicle. Someone appealing on the grounds of exceptional condition would as stated above be expected to have produced more qualitative evidence of the condition of their vehicle, given that by the time it came to Panel it was nearly 9 years old and with such high mileage.
- The Panel felt strongly that public safety was paramount in this matter and that the age and condition of the appellant's vehicle did not satisfactorily guarantee public safety.
- The Panel could only uphold the appellant's appeal if both the criteria of; his vehicle being in an exceptional condition and his vehicle having travelled an abnormally low mileage were met. As the appellant's vehicle did not meet either of these criteria, the Panel concluded they could not uphold the appeal. Further, there was no qualitative evidence before the Panel to rebut the Licensing Officers recommendation following an inspection, that the car was not in exceptionally good condition or that the mileage was abnormally low.

The Chairman advised the appellant that he had a right of appeal to the Magistrate's Court within 21 working days against the Panel's decision.

CHAIRMAN