

**LICENSING PANEL  
30 NOVEMBER 2011  
2.00 - 6.30 PM**



**Present:**

Councillors Brunel-Walker (Chairman), Baily and Brossard

**In Attendance:**

Mr Bull, Legal Adviser to the Panel  
Mrs Patel, Democratic Services Officer  
Mr Sexton, Head of Licensing and Trading Standards  
Ms Kelly, Licensing Officer  
Ms Dobson (part)  
Licensed Driver (Mr C)

**5. Declarations of Interest**

There were no declarations of interest.

**6. The Procedure for Hearings of Licensing Panels**

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

**7. 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

**8. Report on Licensed Driver (Mr C)**

A referral was made to the Licensing Panel to determine whether any enforcement action was deemed necessary in respect of Licensed driver Mr C and his Dual Driver Licence following the issue of a further 4 penalty points, leading to a total of 19 points being issued to him within the last 12 months. The Licensing Panel hearing on 13 April 2011, issued the licensed driver with a formal written warning stating that should he be issued with any further penalty points, irrespective of the severity of the offence, within the following 12 months, the matter would be referred to a Licensing Panel who would then decide whether his licence should be suspended or revoked.

Following the hearing on 13 April 2011, 3 penalty points were issued in June 2011 for a severely defective tyre which was deemed to compromise public safety. Consequently, a Licensing Panel hearing on 20 July 2011 was convened and this Panel issued the licensed driver with a 3 month suspension which would run until 12 November 2011.

On 3 October 2011 the licensed driver was issued with 4 penalty points for an alleged incident that took place on 1 August 2011 which involved him attempting to drive along a path cleared to allow the emergency services to pass. This led to him accruing a total of 19 penalty points on his licence in the last 12 months and as a result a referral to a Licensing Panel was made, to determine what action should be taken.

At the hearing on 30 November, the Panel gave careful consideration to the papers placed before them and heard and considered oral representations from the licensed driver, Ms Kelly, Licensing Officer and Mr Sexton, Head of Trading Standards and Licensing. The hearing ran for nearly 5 hours in duration.

Having considered all the evidence, the Panel decided that the licensed driver's Dual Driver Licence should be suspended for a period of 14 days to commence from 12 noon on 1 December 2011. The licensed driver would be entitled to the return of his badge or the issue of a new badge at 12 noon on Thursday 15 December, provided the administrative procedures for the issuing of a lost badge were completed by that date. For the avoidance of doubt, the Panel confirmed that the licensed driver was on no account to drive a licensed vehicle from 12 noon on 15 December unless he had completed the administrative requirements for the issue of a replacement badge and the badge was ready for collection.

Upon the licensed driver's request and taking into consideration the fact that he was unrepresented; the Panel agreed to consider the issue of 4 penalty points for the alleged incident on 1 August and the surrender of his badge following the issue of his 3 month suspension, as two distinct and separate matters.

#### **Issue of 4 Penalty Points**

The Panel carefully considered the representations made by the licensed driver and Mr Sexton around the alleged incident that took place on 1 August 2011. The Panel agreed unanimously, on the balance of probabilities that the 4 penalty points issued to the licensed driver as a result of this incident had been correctly issued and were clearly warranted. The Panel felt that the witness statement submitted and representations made by Mr Sexton at the hearing were credible and honestly given. The Panel found the licensed driver's account of the incident to be on the whole ambiguous and in places contradictory.

#### **Surrender of Badge**

The Panel considered carefully representations from the licensed driver, Ms Kelly, Licensing Officer and Ms Dobson, Operational Assistant. On the basis of the evidence, the Panel remained unconvinced that the licensed driver had surrendered his badge on 10 August 2011 as he claimed. However, the Panel decided to give the licensed driver the benefit of the doubt and deem that he had served his 3 month suspension.

The Panel asked the licensed driver to note that whilst extreme leniency has been shown to him on this occasion, the Panel were unconvinced by most of his representations at the hearing. The Panel took into account the financial hardship that had been caused as a result of the 3 month suspension to the licensed driver and his family and the likely impact of a further suspension.

A 14 day suspension was issued to the licensed driver by the Panel to ensure that he clearly understood that the Panel took very seriously the matter of public safety and

the extent to which he was a fit and proper person to be a licensed driver. In arriving at the 14 day suspension they took into consideration the fact that the licensed driver had not as yet resumed driving and on the basis of their deeming that the licensed driver had served his suspension, he may have served two weeks in excess of the 3 month suspension issued. The Panel reiterated that as they were unable to conclude categorically that the licensed driver had served his suspension, they were deeming that he had.

The Panel reminded the licensed driver that he currently had 19 penalty points of which 12 would expire on 31 January 2012. Should he be issued with any further penalty points irrespective of the severity of the offence before 31 January 2012, the matter would be referred to a Licensing Panel, who would then decide whether his licence should be suspended or revoked. The Panel asked that the licensed driver be mindful that on this occasion, the Panel had treated him leniently, should he be involved in any future contraventions in the next 2 months, given his history of previous contraventions, it was probable that a future Licensing Panel would look upon his case severely.

The Panel advised the licensed driver that if he was required in the future to produce any document that he sought a record of compliance by visiting in person, speaking with an officer and obtaining a receipt. Further, he should keep a note of times and dates when he had contact with the department about matters relating to his licence.

**CHAIRMAN**

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