

**LICENSING PANEL
30 APRIL 2014
10.00 - 10.51 AM**



Present:

Councillors Thompson (Chairman), Brossard and Finnie

In Attendance:

Simon Bull, Legal Adviser to the Panel

Mr E, Appellant

Niamh Kelly, Licensing Officer

Bobby Mulheir, Chief Officer Customer Services

Amanda Roden, Democratic Services Officer

13. Declarations of Interest

There were no declarations of interest.

14. The Procedure for Hearings at Licensing Panels

The Chairman confirmed that all parties understood the procedure to be followed for the hearing.

15. Exclusion of Public and Press

RESOLVED that pursuant to Section 100A of the Local Government Act 1972, as amended, and having regard to the public interest, members of the public and press be excluded from the meeting for the consideration of the following item which involves the likely disclosure of exempt information under the following category of Schedule 12A of that Act:

- (1) Information relating to any individual (Item 16).

16. Report on Licensed Dual Driver

At the hearing, the Panel gave careful consideration to the papers placed before them and heard and considered oral representations from Mr E and Miss Kelly, Licensing Officer. Bobby Mulheir, Chief Officer Customer Services, was also present at the hearing.

Having considered all the evidence, the Panel decided that Mr E's hackney carriage vehicle licence should be granted, subject to the vehicle satisfying requirements other than age.

The Panel noted that Mr E had placed telephone calls to Customer Services at Bracknell Forest Council on 12, 13 and 14 March 2014 with queries in relation to the purchase of a different vehicle for the purpose of being used as a hackney carriage. The Panel noted in particular the call placed on 12 March 2014, in which Mr E

queried what age the vehicle needed to be and Mr E was advised by Customer Services that the vehicle needed to be less than 5 years old.

Licensing Officers attempted to contact Mr E by telephone on 14 March 2014 and left a message on Mr E's voicemail advising Mr E to check the guidance notes for hackney carriage drivers in relation to purchasing another vehicle. The Licensing Section confirmed by letters dated 18 and 25 March 2014 that Mr E had been given incorrect advice from Customer Services, which was in relation to private hire vehicles, and that Mr E's vehicle needed to be less than 4 years old. Mr E had been advised by the garage that the vehicle Mr E purchased had previously been used as a hackney carriage in Weston-Super-Mare. However, the Panel also noted that Mr E had approximately 15 years experience of being a hackney carriage driver and that Mr E should be familiar with the guidance notes for hackney carriage drivers.

The Panel took into consideration the 'Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers' dated January 2013, applied and issued by Bracknell Forest Council (BFC), which was applicable at the time when Mr E purchased a different vehicle and included how to contact the Licensing Section at BFC on page 38.

The Panel decided to grant the hackney carriage vehicle licence to Mr E only, because and only because the guidance notes held out that Customer Services would offer definitive guidance, as given to Mr E, and this decision was not to be taken as a precedent for the future.

The Panel recommended that page 39 of the current 'Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers' dated April 2014, be revised to reflect that matters in relation to the granting and renewal of licences be referred to a licensing officer to respond, rather than Customer Services. This was no criticism of Customer Services who acted in good faith, or of the initial decision made.

However, after taking all the circumstances into account, including the proof of purchase of the vehicle in question which was shown to the Panel, the Licensing Officer and the Legal Adviser, showing that the vehicle order was placed on 14 March 2014, after Mr E had spoken to Customer Services, the Panel decided to grant the hackney carriage vehicle licence, subject to the vehicle satisfying requirements other than age. The Panel thought that this was a fair and equitable decision. It was important that Mr E complied with the 'Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers' at all times in the future.

CHAIRMAN