

NORTH LINCOLNSHIRE COUNCIL

LICENSING (MISCELLANEOUS) SUB-COMMITTEE

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
TOWN POLICE CLAUSES ACT 1847**

**APPEAL AGAINST THE ISSUE OF PENALTY POINTS ON A HACKNEY
CARRIAGE/PRIVATE HIRE VEHICLE DRIVERS LICENCE**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform the Sub-Committee of an appeal against the imposition of penalty points on a Hackney Carriage/Private Hire Vehicle Drivers Licence.
- 1.2 In accordance with North Lincolnshire Council's Hackney Carriage and Private Hire Licensing Policy, Appendix I, any appeal against the imposition of points is to the Licensing (Miscellaneous) Sub-Committee.
- 1.3 Mr John Johnstone Fleming has appealed against the imposition of points on his licence. A copy of the written appeal is attached as Appendix A.

2. BACKGROUND INFORMATION

- 2.1 The Licensing (Miscellaneous) Sub-Committee is authorised to determine applications for the grant, transfer, renewal or revocation of Hackney Carriage/Private Hire Licences relating to drivers, operators and vehicles and to hear appeals where penalty points have been endorsed on a licence.
- 2.2 Appendix I of the Hackney Carriage and Private Hire Licensing Policy was introduced to provide the Council with a middle ground when dealing with breaches of conditions or offences. Prior to the introduction of the penalty points scheme the only options were to either do nothing or prosecute or revoke a licence. In many cases doing nothing was not appropriate whilst prosecution or revocation had significant financial implications for the licensed driver.

- 2.3 The Licensing (Miscellaneous) Sub-Committee is authorised to determine the appeal of points issued on a Hackney Carriage and/or Private Hire Licence.
- 2.4 Drivers of Hackney Carriages and Private Hire Vehicles must be in possession of a valid Hackney Carriage or Private Hire Vehicle Drivers Licence, depending which vehicle they wish to drive. Licences are endorsed in accordance with Schedule 1 of Appendix I of the Hackney Carriage and Private Hire Licensing Policy.
- 2.5 Should a driver, operator or proprietor receive 12 or more points on their licence, then a review of the licence would be carried out. Under such a review section 61 of the Local Government (Miscellaneous Provisions) Act 1976 would be considered and members of the Committee would need to consider if it is appropriate to suspend, revoke or refuse to renew a licence on the grounds that since the grant of the licence the person has:
 - (a) been convicted of an offence involving dishonesty, indecency or violence; or
 - (b) been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847; or
 - (c) any other reasonable cause.
- 2.6 Mr Fleming has held a Hackney Carriage/Private Hire Vehicle (HC/PHV) Drivers Licence since March 2010. His current licence was issued in September 2015, which is due to expire on 18 November 2018.
- 2.7 Mr Fleming has appealed the penalty points in relation to:
 - a) On 4 December 2015 'Operating a vehicle other than in accordance with paragraph 5(b) of the Byelaws for Hackney Carriages, in that he failed to operate the Taximeter while carrying passengers for hire and reward. His Hackney Carriage Vehicle Driver's Licence was endorsed with 8 Points, for a period of 5 years.
- 2.8 Supporting information in relation to this appeal will be presented at the time of the meeting. Mr Fleming has been served with a copy of the information prior to the meeting.
- 2.9 Members should not allow themselves to pre-determine or to be prejudiced in favour of or opposed to the appeal until they have had an opportunity to consider all the pertinent facts.
- 2.10 Members should be aware that as they are acting in a quasi-judicial role as regards this licensing matter, they should remain in the room so that they hear all the evidence on which the decision will be based.

- 2.11 The imposition of points on a licence does not prejudice the Council's ability to take action where it is deemed appropriate.

3. OPTIONS FOR CONSIDERATION

- 3.1 The options available to the Licensing (Miscellaneous) Sub-Committee under the Local Government (Miscellaneous Provisions) Act 1976 when considering such information are as follows:

Option 1 –To uphold the appeal.

Option 2 –To reject the appeal.

4. ANALYSIS OF OPTIONS

- 4.1 The appeal against the imposition of any penalty points on a licence should be considered in accordance with our Hackney Carriage and Private Hire Licensing Policy. Further, any appeal must be considered before any hearing to determine the fitness and propriety of a driver under section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

Option 1 – Members should only uphold the appeal if they consider that the imposition of points was wrong in accordance with the policy.

Option 2 – Where members are satisfied that the Policy has been followed, they should uphold the imposition of the penalty points.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 There are no resource implications.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

- 6.1 Members must follow the policy when considering the appeal. If members deviate from the policy then they must provide full reasons for doing so.

- 6.2 There is no appeal beyond this Sub-Committee save if the members determine to consider the licence under section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

7. OUTCOMES OF CONSULTATION

- 7.1 Not applicable.

8. RECOMMENDATIONS

- 8.1 That the appeal be determined in accordance with the options outlined at paragraph 3 above, taking into account the information provided.

DIRECTOR OF PLACES

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Author: Nick Bramhill
Date: 22 March 2016

Background Papers used in the preparation of this report: -
Application file, except information protected by the Data protection Act.



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Dear Mr Lepley Appeal Penalty Points

I refer to a letter 23/12/15 in which the above Penalty Points was administered by Licensing Manager Mr Bramhill.

I am not in any way denying that the offence took place but I did explain to Mr Bramhill what had happened and he gave no response.

I believe that there was mitigating circumstances in which this came about

You also advise that I should appeal to the licensing team within 21 Days, I believe this advice is incorrect as it was Mr Bramhill's decision to award points.

How can anybody appeal to Mr Bramhill directly?

Can you please arrange a date for a hearing, in which I will explain my mitigation

It would be my intention to
call witnesses if you feel it would
be helpful.

Yours
sincerely

[Redacted signature]