

AGENDA FOR

LICENSING AND SAFETY PANEL

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To: All Members of Licensing and Safety Panel

Councillors : N Bayley, I Bevan, D Cassidy, J Grimshaw,
T Holt, D Jones (Chair), A Matthews, T Pickstone,
A Quinn, S Southworth, B Vincent and J Walton

Dear Member/Colleague

Licensing and Safety Panel

You are invited to attend a meeting of the Licensing and Safety Panel which will be held as follows:-

Date:	Thursday, 13 February 2014
Place:	Committee Rooms A & B, Town Hall, Knowsley Street, Bury
Time:	7.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of Licensing and Safety are asked to consider whether they have an interest in any of the matters on the Agenda, and if so, to formally declare that interest.

3 MINUTES OF THE LAST MEETING *(Pages 1 - 4)*

To approve and sign as a correct record the minutes of the meeting held on 8 January 2014. A copy of the minutes are attached.

4 PUBLIC QUESTION TIME

Questions are invited from members of the public present at the meeting on any matters about the work or performance of the Council or the Council's Services.

Approximately 30 minutes will be set aside for Public Question Time if required.

5 OPERATIONAL REPORT *(Pages 5 - 8)*

A report by the Assistant Director (Localities) is attached.

6 URGENT BUSINESS

Any other business which by reason of special circumstances the Chair agrees may be considered as a matter of urgency.

7 EXCLUSION OF THE PRESS AND PUBLIC

EXCLUSION OF PRESS AND PUBLIC

To consider passing the appropriate resolution under section 100 (A)(4) of the Local Government Act 1972 that the press and public be excluded from the meeting during consideration of the following item of business since it involves the likely disclosure of the exempt information stated.

8 APPLICATION FOR A PET SHOP LICENCE *(Pages 9 - 12)*

A report by the Assistant Director (Localities) is attached.

9 PROPOSED SUSPENSION/REVOCATION OF A PRIVATE HIRE DRIVER'S LICENCE *(Pages 13 - 18)*

A report by the Assistant Director (Localities) is attached.

10 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE (*Pages 19 - 24*)

A report by the Assistant Director (Localities) is attached.

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Minutes of:	LICENSING AND SAFETY PANEL
Date of Meeting:	8 January 2014
Present:	Councillor D Jones (In the Chair) Councillors: I Bevan, D M Cassidy, J Grimshaw, T Holt, A K Matthews, T Pickstone, A Quinn, B Vincent and J Walton
Apologies for absence:	Councillor S Southworth
Public Attendance:	There was 1 member of the public present at the meeting

LSP.XXX DECLARATIONS OF INTEREST

No declarations of interest were made in relation to any items considered at the meeting.

LSP.XXX PUBLIC QUESTION TIME

Mr Charles Oakes of the Hackney Drivers' Association Ltd, addressed the Licensing and Safety Panel in relation to the following issues:

- § The Licensing of rear loading vehicles; Mr Oakes stated that the request for the Licensing and Safety Panel to consider the licensing of rear loading vehicles had been discussed in the past by Members but it was time that consideration was again given to this matter. Mr Oakes explained that financially, this vehicle was a cheaper option.
- § Mr Oakes asked the Members' response on their right to either suspend or revoke an individual's licence – but that they could not do both and he referred to a case brought against Cardiff City Council.
- § There has been an increase in complaints from the Hackney Drivers in relation to Private Hire vehicles plying for hire. Mr Oakes stated that the Licensing Service was not addressing these grievances and the Hackney Drivers were turning to the Police to assist. He stated that this problem had been brought before the Licensing and safety panel on many occasions.

In response, the Head of Commercial and Licensing reported that the discussion on rear loading vehicles had been before the Panel a number of years ago and Members were not minded to licence these vehicles as the taxi ranks in the Borough were designed for side loading vehicles, not rear

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loading. The issue was in relation to pushing a wheelchair passenger off the kerb into the road to load them into the vehicle. It was stated that for the next meeting of Licensing and Safety, a report would be included explaining the history of past discussions on the rear loading vehicles, for Members to make a determination.

Councillor Quinn asked if a health and safety risk assessment should be included and the Head of Commercial and Licensing stated that within the Licensing Service there were Health and Safety Officers who would incorporate their findings within the report.

In relation to the Panel's decision to suspend or revoke an individual's licence, the Head of Commercial and Licensing explained that, previously, if a licence holder was immediately suspended for a serious offence, then it would come before the Panel for their decision to suspend or revoke that licence, however, now a driver will immediately have their licence revoked pending a Police investigation. This would be re-instated if the driver was found not guilty.

In relation to Private Hire Drivers plying for hire, the Head of Commercial and Licensing stated that this issue is explored regularly; however, it has been suggested to investigate the matter further. There is a problem with Private Hire Vehicles on the ranks but Enforcement Officers are constantly addressing the situation and issuing parking tickets where necessary.

LSP.XXX MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 5 December 2013, be approved as a correct record and signed by the Chair.

In relation to the minutes of the Taxi Liaison meeting held on 3 December, 2013, which had been circulated to the Members prior to the meeting, the Chair, Councillor Jones, asked, that in relation to the item regarding fire extinguishers and vehicle window stickers, if they were still required in a public vehicle and the Head of Commercial and Licensing reported that they were.

It was also reported that the public consultation regarding the item on the 'five fault rule and age policies', was now taking place.

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LSP.XXX URGENT BUSINESS

There was no urgent business to report at the meeting.

LSP.XXX EXCLUSION OF THE PRESS AND PUBLIC

Delegated decision:

That in accordance with Section 100(A)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting during consideration of the following items of business since it involved the likely disclosure of information relating to individuals who hold licences granted by the authority or applicants for licences provided by the Authority.

LSP.XXX PROPOSED SUSPENSION/REVOCATION OF A PRIVATE HIRE DRIVER'S LICENCE

Client 03/2014 did not attend the hearing and it was agreed by the Members of the Licensing and Safety Panel to adjourn their decision until the next meeting, in order to give the licence holder the opportunity to address the Panel.

LSP.XXX APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVERS' LICENCES

The Deputy Licensing Officer presented a report submitted by the Assistant Director (Localities) regarding applications for Public/Private Hire Vehicles Drivers' Licences.

The applicants were invited to attend the meeting for separate hearings and the Chair outlined the procedure to be followed. The applicants and their representatives were invited to address the Panel separately on their applications and any matters referred to in the Officer's report.

Delegated decisions:

1. That after careful consideration of the representations, and taking into account the Council's Conviction Guidelines, the applicant identified as 01/2014, be **refused** an application for a Private Hire Driver's Licence on the basis that the applicant was not a fit and proper person in accordance with the Local Government (Miscellaneous Provisions) Act 1976, to hold a Licence.

The applicant, who was supported by his son, addressed the Panel and stated that he took full responsibility for his actions and the subsequent convictions and explained his account of the offences which lead to the convictions. The applicant stated that he had served time in Prison for the offences and consequently he had lost everything including the business that he and his Father had worked so hard for, his house and car and for a time, contact with his Son. The applicant informed the Panel that he was truly sorry for the past and that he wanted a 'normal' life now. He had a small flat but he needed the Private Hire Driver's Licence in order to earn a living.

The applicant's Son also addressed the Panel and explained that his Father, whom he had been brought up by, had always worked hard with his Grandfather and that he had always been a fruitful member of Society. His Father was now very eager to contribute to Society again and at the age of 53 years, he needed this opportunity and he requested that the Panel grant a Provisional Licence.

In reaching its decision, the Panel considered the representations made by the applicant, and his son, and determined that due to the serious nature of the offences reported, namely blackmail; conspiring, concealing, disguising, converting, transferring or removing criminal property; conspiring or selling goods bearing false trade mark and failing to comply with Community requirements of a suspended sentence order and the subsequent sentencing of a total of 39 months imprisonment, that the applicant was not a fit and proper person to hold a Private Hire Driver's Licence.

The applicant was advised of their right to appeal within 21 days of notification to the Magistrates' Court.

2. That after careful consideration of the representations submitted and taking into account the Council's Conviction Guidelines, the application for a Private Hire Driver's Licence by applicant 02/2014, be **approved**. Although the Panel acknowledged the seriousness of the offence of driving with no insurance, it was over 3 years before and the applicant showed remorse for his actions and the Panel agreed unanimously that the applicant was a fit and proper person in accordance with the Local Government (Miscellaneous Provisions) Act 1976.

COUNCILLOR JONES
CHAIR

Please note: The meeting started at 7.00 pm and finished at 8.10 pm

REPORT FOR DECISION

Agenda Item	
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DECISION OF:	LICENSING & SAFETY PANEL
DATE:	13th FEBRUARY 2014
SUBJECT:	OPERATIONAL REPORT
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	W A JOHNSON
TYPE OF DECISION:	N/A – Report for information only
FREEDOM OF INFORMATION/STATUS:	This paper is in the public domain
SUMMARY:	A report to advise members on operational issues within the licensing service.
IMPLICATIONS:	
Wards Affected:	N/A
Scrutiny Interest:	Internal Scrutiny Panel

1.0 BACKGROUND

- 1.1 The report advises Members on operational issues within the licensing service.

2.0 TAXI ISSUES

- 2.1 Members will recall that at last month's meeting of the Panel, a request was made by Mr Oakes, Chairman of the Hackney Drivers' Association, that the Council reconsiders the licensing of rear loading vehicles as Hackney Carriages. The Licensing Service was directed to report the history of previous applications in the next Operational Report, including identifiable health & safety risks.

Requests from the Hackney Drivers' Association in relation to the licensing of rear loading vehicles as Hackney Carriages has previously been considered by the Licensing and Safety Panel on five separate occasions between December 2008 and October 2010. On those occasions the Panel was asked to consider two particular vehicles, namely the Fiat Freedom and the Peugeot Premier. On each occasion the Panel resolved not to licence rear loading vehicles as Hackney Carriages on the following grounds:-

- As all Hackney Carriages licensed by Bury Council are required to be wheelchair assessable, there were concerns relating to a wheelchair passenger being able to safely access a rear loading vehicle in both a manually propelled and an electric wheelchair.
- The vehicle is not suitable for use on a town centre rank. Bury Council byelaws requires Hackney Carriages to move up the rank once a taxi picks up a fare and moves off. This is to ensure that the maximum number of vehicle permitted to wait on the rank are able to do so. If a rear loading vehicle was the first vehicle on the rank, the driver would have to pull forward and away from the second vehicle, which could be in the line of traffic, so as to facilitate the rear loading of a wheelchair passenger. There would need to be approximately 3 metres free space behind the vehicle to accommodate the ramp, wheelchair and driver.
- Rank space in the Town Centre is at a premium and by allowing this type of vehicle would increase the problems that drivers and proprietors are currently experiencing.
- Potential legal challenge against the Council if a disabled person in a wheelchair was injured during the process of being brought down the raised kerb of the rank and onto the ramp in readiness for entering the rear of the taxi. There was a chance that the Council could be held to be liable for damages for personal injury under the provisions of the Civil Liability (Contribution) Act, 1978. A full risk assessment would need to be undertaken by someone qualified to do so. The Council's legal advisor at that time stated that there was some case law on this subject and that in the case in question, the local authority managed to defend the case successfully. The risk of anyone taking legal action was probably fairly low but would depend entirely upon the facts as to whether it would be possible to defend any such action successfully. The concern was that the Council is now aware of the raised kerb issue and that there are no plans to create a lowered kerb for a smoother transition for rear loaders.

When the matter was last considered by the Licensing and Safety Panel on the 12th October 2010, a Peugeot Premier rear loading vehicle was also presented for Members to inspect. The Panel resolved not to licence the vehicle as a Hackney Carriage. The Panel further resolved to delegate to the Head of Commercial and Licensing and or to the Licensing Unit Manager, authority to consider any further similar applications relating to the licensing of rear loading vehicles as Hackney Carriages.

Previously minuted Panel decisions reflect health & safety concerns. Health and safety regulations require that taxi drivers, as self employed persons, conduct assessments of risks relating to their own health & safety and of those who may be affected by their actions. Whilst any risk assessment should be specific to a type of vehicle and operation the Council's Health & Safety Inspectors can easily identify some potential risks.

- A) Our ranks are designed for side loading vehicles, not rear loaders
- A safe working space at the rear of vehicles on the rank can not be assured
 - To facilitate loading it is very likely and foreseeable that a vehicle would have to move off the rank and into the carriageway obstructing other road users with a risk of collision.
 - There is no requirement for a passenger to use the first vehicle on the rank. If safe working space was left between each vehicle rank capacity would decrease by half; potentially leading to ranks overflowing into unsuitable parking areas.

- B) Without a lowered kerb rear loading would require the passenger to be taken down the kerb height. Risks would include
- Manual handling and load control for the driver/ carer
 - Jarring or dislodging a passenger
 - Increased ramp angle from ground to vehicle increasing effort to load
 - Some wheelchairs may not be designed to descend a full kerb height leading to damage or grounding

To control the risks identified above the simplest measure would appear to be the continued use of side loading vehicles. Alternatively, it may be possible to redesign the ranks in some way to facilitate rear loading but this is unlikely in the foreseeable future. Formal risk assessments will be sought for any future applications for rear loading vehicles.

2.2 **Plying for Hire Exercises**

In response to Mr Oakes complaint in relation to private hire vehicles allegedly plying for hire, the Licensing Service have, in the past carried out a number of successful plying for hire exercises which have resulted in a small number of private hire drivers being prosecuted for plying for hire.

Licensing Enforcement Officers will continue to confront drivers of private hire vehicles suspected of plying for hire in places where members of the public are likely to gather. Legitimate parking in these areas can normally be established by reference to the data head fitted in the majority of private hire vehicles via which advanced bookings are passed by the Private Hire Operator accepting the advance booking. If the Licensing Service believes a particular area is becoming a hot spot, a plying for hire operation may be considered at that point. We will continue to investigate complaints where evidence of wrong doing is presented.

3.0 **UPDATE ON LICENSING HEARINGS**

- 3.1 On the 20th January 2014, a Licensing Hearings Panel considered an application to vary the Premises Licence in respect of Longsight Service Station, Longsight Road, Greenmount. The application was to extend the hours the premises were authorised to sell alcohol to 24 hours per day and to add the regulated activity of Late Night Refreshment. Representations were received from two ward Councillors. After considering the application and the representations, the Panel considered it reasonable, balanced, appropriate and proportionate, based on all of the evidence, to grant the application subject to inclusion of the following pre-agreed condition with GMP for security reasons:

"The entrance door to the shop will be closed to customers between midnight and 06.00 daily. Any sales between these hours will be made via a payment window".

Contact Details:

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Head of Commercial and Licensing
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