

AGENDA FOR

LICENSING AND SAFETY PANEL

Contact:: Nicole Tilly
Direct Line: 0161 253 5398
E-mail: n.l.tilly@bury.gov.uk
Web Site: www.bury.gov.uk

To: All Members of Licensing and Safety Panel

Councillors : Adams, N Bayley, I Bevan, S Briggs,
D Cassidy, J Grimshaw, R Hodgkinson, T Holt, D Jones
(Chair), A Matthews, A Simpson, S Southworth 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: | Monday, 3 November 2014 |
| Place: | Committee Rooms A & B, Town Hall, 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 the Licensing and Safety Panel 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 *(Pages 1 - 8)*

To approve as a correct record the Minutes of the last meeting held on 6 October 2014. A copy of the Minutes is attached.

4 PUBLIC QUESTION TIME

Questions are invited from members of the public present at the meeting on any matters for which this Panel is responsible.

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

5 URGENT BUSINESS

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

6 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.

7 SUSPENSION/REVOCAION OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE *(Pages 9 - 12)*

8 APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES *(Pages 13 - 20)*

| | |
|-------------------------------|---|
| Minutes of: | LICENSING AND SAFETY PANEL |
| Date of Meeting: | Monday 6 October 2014 |
| Present: | Councillor D Jones (in the Chair), Councillors: P Adams, N Bayley, I Bevan, D M Cassidy, J Grimshaw, R Hodgkinson, A K Matthews, A Simpson, S Southworth and J Walton |
| Apologies for absence: | Councillors: K S Briggs and T Holt |
| Public Attendance: | There were no members of the public in attendance |

LSP.346 DECLARATIONS OF INTEREST

There were no declarations of interest raised in relation to any items on the agenda.

LSP.347 MINUTES**Delegated decision:**

That the Minutes of the Licensing and Safety Panel meeting held on 9 September 2014 be approved as a correct record and signed by the Chair.

LSP.348 PUBLIC QUESTION TIME

There were no members of the public present to ask questions under this item.

LSP.349 DELEGATION TO LICENSING AND SAFETY PANEL WITH REGARD TO COUNCIL SCHOOL AND COLLEGE TRANSPORT CONTRACTS

The Assistant Director (Localities) submitted a report explaining the options for the review of drivers providing school and college transport contracts on behalf of the Council.

The Head of Trading Standards and Licensing reported that through Children, Young People and Culture, the Council arranges school and college transport for a number of young people. The contracts, which are awarded through a formal procurement process, are provided via local taxi companies and Public Service Vehicles (PSV) operators. Drivers are assessed as to their 'fit and proper' status through the enhanced Disclosure and Barring Service (DBS) and restricted occupation checks. Occasionally, those checks or a complaint may give rise to a concern with regard to a particular driver which needs to be reviewed.

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At present, any reviews relating to contract drivers are conducted by the school and college transport Manager and the transport contract Supervisor. Where the concern relates to a Council licensed public/private hire driver there may also be a need for a review before the Licensing and Safety Panel. To ensure consistency it is considered there would be advantages in a single review body and the following delegation is suggested as an addition to the existing delegations to Licensing and Safety Panel within the Council Constitution:

'To determine the 'fit and proper' status of drivers undertaking school and college transport contracts on behalf of the Council where there are grounds for concern arising from DBS and restricted occupation checks and/or intelligence received and/or complaints.'

Where drivers are considered not to be 'fit and proper' a recommendation will be made to the school and college transport Manager for action through the contract rules and requirements. This is the only option available to the Council in relation to PSV drivers. However, where those drivers are public/private hire licensed drivers, the Panel will, if appropriate, also take direct action through the existing protocols.

It was agreed:

To make a recommendation to Council for a delegation to Licensing and Safety Panel in the terms proposed to undertake reviews of drivers working on Council school and college contracts.

LSP.350 AMENDMENT TO THE SCHEME OF DELGATION TO LICENSING AND SAFETY PANEL

The Assistant Director (Localities) submitted a report proposing simplification and minor amendment to the delegations to Licensing and Safety Panel within the Council Constitution.

The Head of Trading Standards and Licensing explained that where there are grounds for refusal of a licence, the decision is delegated to the Licensing and Safety Panel, with Officers granting licences where there are no grounds for refusal. Minor amendments are proposed to simplify the scheme and ensure conformance with the legislative requirements. The proposals related to the determination of public/private hire licences and policy issues within the Licensing Act 2003 and the Gambling Act 2005.

A proposed amendment to replace paragraph 1 and 2 of section 3.2 (B) of Part 3 of the Constitution to read:

'To determine all new applications and all renewals for hackney carriage proprietor (vehicle), hackney carriage driver, private hire vehicle, private hire driver and private hire operator licences where the applicants do not comply with the relevant policy, guidelines, criteria

or where there are grounds for refusal of the applications under the relevant legislation’.

In agreeing the proposed amendment Members were advised in limited cases a situation can arise where a vehicle licence can expire whilst the holder awaits a hearing at Licensing and Safety Panel preventing the holder from working or accessing the appeals process. To address this situation the following delegation to Officers was proposed:

‘To determine applications to renew hackney carriage proprietor and private hire vehicle licences where the vehicle does not conform to the current vehicle age policy where the existing licence would expire prior to the next scheduled Licensing and Safety Panel meeting’.

In exercising the delegation licence holders will be given an opportunity to plead their case before a combination of 2 of the following 3 officers, The Head of Service, the Licensing Unit Manager, the Deputy Licensing Manager.

It was further noted that paragraphs 12 and 13 of section 3.2 (B) of Part 3 of the Council’s Constitution provide for general delegations to deal with matters in respect to the Licensing Act 2003 and the Gambling Act 2005. Amongst other matters, they purport the delegation of all policy matters to the Licensing and Safety Panel. Through the relevant statutes, the setting of policy is specifically reserved to Council and cannot be delegated.

The proposed amendment would simply be to remove the reference to ‘policy’ from the delegation.

It was agreed:

To make a recommendation to Council for the above changes.

LSP.351 URGENT BUSINESS

There was no urgent business to report at the meeting.

LSP.352 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.

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LSP.353 PROPOSED SUSPENSION/REVOCAION OF A PRIVATE HIRE DRIVER'S LICENCE

(E)

The Licensing Manager presented reports submitted by the Assistant Director (Localities) regarding Suspension/Revocation of Hackney Carriage/Private Hire Drivers' Licences.

The licence holders were invited to attend the meeting for separate hearings and the Chair outlined the procedure to be followed.

1. Licence Holder 26/2014 attended the meeting and accepted the report presented by the Licensing Manager. The licence holder, who was unrepresented, was given the opportunity to address the Panel and he apologised for not attending the previous meeting on 9 September 2014 and thanked the Licensing and Safety Panel for giving him the opportunity to present his case.

The licence holder explained that he had been driving since 1983 and had always had a clean licence but now had incurred 5 points in an accident that he was not aware of. He stated that he was fully insured and there was no need for him to have ignored this incident. He felt very embarrassed and was paying Court costs through instalments. He explained that he has a family and children to provide for and as it was approaching the busy Christmas period he needed to work as a taxi driver in order to support them.

Delegated decision:

Pursuant to section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Panel was satisfied that the Licence Holder had been charged with failing to stop/failing to report a road traffic accident and driving without due care and attention. The Licence Holder had appeared before Bury Magistrates' Court on 23 July 2014 and had changed his plea to guilty prior to commencement of the proceedings. His licence had been endorsed with 5 penalty points for the offence and he was fined £280 and ordered to pay £550 prosecution costs.

The Panel felt this was a serious offence and acknowledged that the offences of failing to stop and failing to report an accident fall under the heading of 'Major Traffic Offences'. Although the Panel further noted that the Licence Holder had admitted the offences and apologised, upon considering the written report, the oral representations made by the Licence Holder and taking account of relevant policy and the Council's Conviction Guidelines, the Panel resolved, on a majority decision, that Licence Holder 26/2014 have his Private Hire Driver's Licence **suspended for 6 months**.

The Licence Holder was reminded of their right of appeal to the Magistrates' Court within 21 days.

2. The Licence Holder 30/2014 was not in attendance and the Licensing Manager explained to the Panel that he had tried, unsuccessfully, to make contact with the Licence Holder to confirm his attendance for the meeting. It was reported that, according to his work colleagues, he has returned to Pakistan, however, the Immigration Service has no record of him leaving the Country.

Delegated decision:

Pursuant to section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Panel being satisfied that Licence Holder 30/2014 was illegally working in the UK and not entitled to work as a self employed taxi driver and upon considering the written report, and taking account of relevant policy and the Council's Conviction Guidelines, the Panel therefore agreed unanimously to **revoke** his licence.

LSP.354 APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

(E)

The Licensing Manager presented reports 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.

1. Applicant 31/2014 attended the meeting and was represented by his brother in law. The Licensing Manager summarised a report explaining that the Applicant had previously held a hackney carriage driver's licence and a hackney carriage vehicle licence granted by this authority. On 5 September 2012 the Applicant had appeared before the Licensing and Safety Panel in relation to an allegation of rape on a female passenger which resulted in his hackney carriage driver's licence being revoked. The report was accepted by the Applicant and his brother in law.

The Applicant addressed the Panel and explained that he deeply regretted the incident and that it was a mistake. The Applicant's brother in law stated that he realises that having sex in his vehicle was wrong but that it was consensual and he had dropped the female passenger off outside her home afterwards.

The Applicant's brother in law stated that the Applicant had been a taxi driver for 9 years and that the incident had completely tarnished his character. The whole family was aware of the episode and it had been a very difficult time for them all. It will have repercussions on his future as it is information disclosed on his DBS and he will struggle to get another job

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The Applicant's brother in law explained that the Applicant had a wife and 4 children to support and needed the opportunity now to be able to do so. He explained that he was of good character and

cared every day for his Father who was paralysed from the neck down. He needed the chance now to re-prove himself. The Applicant brought three character references which were circulated to the Licensing and Safety Panel.

Delegated Decision:

The Panel carefully considered the written report and the oral representations made by the Applicant and his brother in law and all the evidence presented including written references, and with due consideration of the potential effect on the Applicant's livelihood and family life, and taking into account the Council's Conviction Guidelines, the Panel found that;

- Greater Manchester Police believe that despite the Applicant not being charged with any offences, as the female had declined to pursue the matter due to the impact the investigation was having on her health, it is directly relevant to a working role with members of the public.
- The Crown Prosecution Service considered that the evidential burden to prosecute the charge had been met in that there was felt to be a realistic prospect of conviction.
- The allegation made against the Applicant in July 2012 was of a serious nature and was relatively recent.
- The Applicant had provided only a limited explanation of his version of events and even based upon that version, he admitted that activities of a sexual nature had occurred in his hackney carriage vehicle on the night in question.
- That even based on the Applicants version of event, his behaviour had been unacceptable.
- Members of the Licensing and Safety Panel had previously revoked the Applicant's Private Hire Licence and had therefore determined the Applicant not to be 'fit and proper'
- Although the Applicant had appealed the Panel's decision to Bury Magistrates' Court, this was dismissed.

The Panel therefore determined the Applicant not to be a fit and proper person in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and therefore resolved that the Applicant identified as 31/2014 be **refused** a Private Hire Driver's Licence.

The Applicant was informed of their right to appeal to the Magistrates' Court within 21 days.

2. The Applicant 32/2014 did not attend the meeting and the Licensing Manager explained that he had been in contact with the Applicant who had stated he was in hospital and due to be discharged on Friday 10 October 2014.

The Licensing and Safety Panel agreed to defer the matter until the next meeting.

COUNCILLOR D JONES – CHAIR

(Note: The meeting started at 7.00 pm and finished at 8.10 pm)

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