

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 15 October 2015

Present: Councillor D Jones (in the Chair)
Councillors P Adams, N Bayley, R Caserta, D Cassidy, T Holt,
J Kelly, N Parnell, Sarah Southworth and J Walker

Also in attendance:

Public Attendance: There were 5 members of the public in attendance at the meeting.

Apologies for Absence: Councillor J Grimshaw, Councillor R Hodgkinson and Councillor M Wiseman

LSP.383 DECLARATIONS OF INTEREST

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

LSP.384 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 3 September 2015, be approved as a correct record and signed by the Chair.

LSP.385 PUBLIC QUESTION TIME

Mr Charles Oakes of the Hackney Drivers' Association Ltd addressed the members of the Licensing and Safety Panel in relation to the proposed variation to the Private Hire Operator Fees. Mr Oakes stated that there has been no consultation over this proposal and the other proposals to raise fees for drivers' licences, and asked why this had not taken place.

The Licensing Unit Manager explained to the Panel the chronology of events since July 2014, when drivers were initially advised of the proposed changes in legislation and that a driver's badge would be valid for three years. It was explained that the Deregulation Act 2015 received Royal Assent on 26 March 2015 and that the draft report to go before the Licensing and Safety Panel had been prepared for consideration in August 2015.

On 25 August 2015 an email was sent to Mr Oakes with a copy of the report that was to be considered at the Panel on 3 September 2015. Mr Bridge also spoke with Mr Oakes and advised him that the fees, although not yet approved, would be in the region of £170 and Mr Oakes seemed agreeable with this. Mr Bridge further advised the Panel that on 27 August the operational decision for approval of the licence fees was sent to the Interim Executive Director of Resources and Regulation, and was signed off by him on 2 September 2015.

The required statutory notice for operator's fees was published in the Bury times on 10 September 2015 and on 7 September 2015, a letter was sent to all drivers informing them of the fees and the proposals to deal with DBS matters which were also to be considered at the next Panel meeting.

The matter came before the Panel on 3 September and was approved and on 11 September all Operators were advised in writing of the notice in the Bury Times and the changes brought in by the legislation.

Mr Oakes then made an FOI request for justification of the fee of £170 and a response was sent to him on 5 October 2015.

Mr Rook, the temporary Chair to the Greater Manchester Private Hire Association then addressed the Panel and explained that Manchester and Salford Councils had come under the scrutiny of the Audit Commission, due to the number of the trade members opposing the proposed increase in fees and as a result the proposed increase in drivers' and Operators' fees had been rejected.

Mr Rook stated that Manchester Council has now proposed the Operator's license at £650 for 5 years and a driver's licence at £103, which are savings to the trade and offered to meet with Bury Council to discuss this issue.

The Licensing Unit Manager explained that the fees have generally not been raised by the Council for some time and it is national legislation affecting all local authorities that has led to their review. He went on to explain that he has contacted colleagues at other authorities in relation to their fees, and he set out some of the fees charged by others.

Mr Rook queried why the licence fees could not be consistent throughout all the AGMA Authorities and that it was important to discuss this issue with members of the trades and consultation was paramount.

LSP.386 OPERATIONAL REPORT

The Assistant Director (Localities) submitted a report advising members on operational issues within the Licensing Service.

The Licensing Unit Manager informed members that a Licensing Hearings Panel had considered an application for the grant of a Premises Licence on 17 September 2015, in respect of the Lord Raglan, Radcliffe, following representations from Greater Manchester Police and local residents and the application had been refused.

Also, it was explained that following the lack of attendance from the trade, the Hackney carriage/Private Hire Liaison meeting scheduled for 22 September 2015 had been cancelled but would now be re-arranged in due course.

LSP.387 OBJECTION TO PROPOSED VARIATION TO THE PRIVATE HIRE OPERATORS' FEES

The Assistant Director (Localities) submitted a report with regard to representations received in relation to the recently advertised proposed variation to the Private Hire Operators' Licence fees. The report is in accordance with the appropriate legislation, as amended by the Deregulation Act 2015.

The Licensing Unit Manager explained that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Clauses Act 1847, the Council is required to consider applications for Hackney Carriage/Private Hire Drivers' licences and Private Hire Operators' licences. Bury Council grants such licences for a 12 month period.

Section 10 of the Deregulation Act 2015 has amended both the 1976 and the 1847 Acts so that with effect from 1 October 2015, a District Council must grant driver licences for a period of 3 years and Operator

Licences for a period of 5 years unless the Council thinks it appropriate in the circumstances of the case to grant for a lesser period. As a result in the change of the legislation, the current fees for Operator licences have been amended to reflect the longer duration of licences and the reduction of Officers' time which will no longer be required on an annual basis, so that the income is maintained for the duration of the licence with the Licensing Service.

There are currently 40 Private Hire Operators licensed with the Authority and objections have been received from 2 Private Hire Operators.

Members were requested to consider the objections and to determine if the proposed fees are to be applied.

Mr Palin, the licensed operator of Apple Cars, who had submitted a written representation, then addressed the Panel. Mr Palin explained that his objections to the proposal were mainly concerning the amount to pay upfront for the 5 year period, before the issue of the licence. He stated that the Private Hire industry consists of many different licensed Operators ranging in size and it was unreasonable to suggest that a company with only 3 vehicles pay the same as a company with 300 and it would be particularly disadvantageous to the smaller fleet.

Mr Palin requested that some other form of payment, rather than the full amount to be paid up front, could be considered. He also submitted two petitions signed by other operators who also objected to the proposals.

Mr McGlynn, the licensed operator of Radcliffe Walshaw who had also submitted a written representation, was asked if he wished to address the Panel. He indicated that Mr Palin had covered all the points he wished to raise.

Various discussions took place with the members of the Licensing and Safety Panel in relation to the way the fees could be paid. The Licensing Unit Manager explained that the fees must be paid in order to grant the licence and that the cost to the Licensing Service through the Civil Courts to recover the amount if the licence holder did not pay, could subsequently mean an increase to the fees in order to address the loss.

The Council Solicitor explained that the legislation states that a licence must be granted for 3 or 5 years unless the Council think it appropriate in the circumstances of the case to grant a lesser period. In this case Mr Palin was suggesting an alternative method of payment, rather than annual licences. The Chair, Councillor Jones, stated that this issue needed to be explored further. The Licensing Unit Manager reported that meetings are held with members from the Hackney Carriage/Private Hire Liaison Associations but the previous meeting on 22 September 2015 was cancelled due to lack of trade attendance, however, this would now be re-scheduled and all persons present would be invited. This matter could be discussed then.

It was resolved that:

The matter regarding the approval of the advertised fees, with or without modifications, would be deferred until the next meeting of the Licensing and Safety Panel on 3 December 2015 with a further report on the issue of payment options to be included.

In the interim, as it had been agreed at the last meeting on 3 September 2015, that the Head of Trading Standards and Licensing or the Licensing Unit Manager be delegated to grant licences for a lesser period than 3 – 5 years, any drivers whose licence was due to be renewed imminently would be considered on their own merit and renewed as appropriate.

LSP.388 URGENT BUSINESS

There was no urgent business to report.

LSP.389 EXCLUSION OF 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.390 APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

The Licensing Unit Manager 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 were invited to address the Panel separately on their applications and any matters referred to in the Officer's report. The Licensing Unit Manager read out the contents of each report which were accepted by each of the Applicants.

Applicant 13/2015 did not attend the meeting and no explanation was provided. The Applicant had also failed to attend the meeting on 3 September 2015 without explanation and the Panel had agreed to defer that hearing. The Licensing Unit Manager explained that he had tried to contact the Applicant on a number of occasions but to no avail.

Delegated decision:

After considering the report and noting the fact that the Applicant had been convicted at Birmingham and Solihull Magistrates' Court on 19 May 2014 for 2 counts of battery and then again on 20 August 2014 for failing to comply with the requirements of a Community order and taking into account the relevant policy and the Council's Conviction Guidelines, the Panel decided to proceed with the application and 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 application for a Private Hire Driver's Licence by Applicant 13/2015 be refused.**

The Applicant would be informed in writing of their right to appeal to the Magistrates' Court within 21 days.

Applicant 15/2015 attended the meeting and was unaccompanied. The Applicant had appeared before the Panel on 3 September 2015 and the matter had been deferred as the Panel required more information.

The Licensing Unit Manager read the report which was accepted by the Applicant. He also advised the Panel for the sake of clarity that the DVLA will revoke a licence of someone who is awarded 6 penalty points during the first 24 months of holding a DVLA drivers licence.

The Applicant addressed the Licensing and Safety Panel and explained that he was an experienced, safe driver. In relation to the conviction for failing to provide the identity of a driver, he explained that he had driven in a bus lane in Bradford and been sent a fine for £35, however, due to family problems at the time, his wife had failed to give him the letter and therefore he had failed to respond to a written notice from the Police to provide the details of the driver at the time of the offence.

When questioned he confirmed that he wasn't living at the same address as his wife at the time and had given that address as he was not a permanent resident in the UK.

The Applicant was then asked about his current residence and confirmed he is now living in Bolton, however the address on his driving licence was noted as Luton. When questioned he stated he had applied for his licence there using that address but had not lived there. The Applicant stated that he will change it to his current address immediately.

Delegated Decision

The Panel considered the written report and the oral representations made by the Applicant. Taking into account the relevant policy and the Council's Conviction

Guidelines, the Panel 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 application for a Private Hire Driver's Licence by Applicant 15/2015 be refused.**

The Panel noted the Applicant's circumstances but found;

That the Applicants conviction for a failure to provide information as to the identity of a driver, was a serious offence,

That the Blackburn and Darwen Magistrates' Court had similarly viewed this as a serious matter and fined the Applicant £675 and his licence endorsed with 6 penalty points.

As a result the DVLA had revoked the Applicants driving licence

The Panel had further concerns regarding the Applicants use of various addresses.

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

2. Applicant 18/2015 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report which was accepted by the Applicant. The Applicant addressed the Licensing and Safety Panel and explained that he had made a mistake. He stated that he had just passed his driving test and purchased a car but as he was returning home from the vendor, he was stopped by the Police who had found that the Applicant was not insured. The Applicant pleaded guilty to the offence as he acknowledged it was his mistake. He has no other convictions and he confirmed he would not make the same mistake again.

Delegated decision:

The Panel considered the written report and the oral representations made by the Applicant and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and taking into account the relevant policy and the Council's Conviction Guidelines, the Panel determined that Applicant 18/2015 was a fit and proper person and resolved to **grant the application for a Private Hire Driver's Licence.**

3. Applicant 19/2015 did not attend the meeting and had requested, through his Solicitor, that the hearing be deferred as he had been involved in an accident. The Applicant would provide a medical certificate at the next meeting to confirm this.

Delegated decision:

It was agreed unanimously by the Licensing and Safety Panel to defer this hearing until the next meeting on 3 December 2015.

4. Applicant 20/2015 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report which was accepted by the Applicant.

The Applicant addressed the Licensing and Safety Panel and explained that whilst he had worked for a friend who was a private car trader, he was insured to move

cars under the Policy of his friend's insurance but did not have his own insurance. However, he presumed he would be covered under this insurance to drive his own car. The Applicant had only just bought a car and was the registered owner of the vehicle but

his wife was insured to drive the car and he was not on the insurance as a named driver. He had driven the car on this basis and had been stopped by the police and subsequently convicted at Manchester Magistrates Court for having no insurance. He was fined £986 and awarded 6 penalty points. He further stated that he was convicted in his absence as he did not attend court due to personal circumstances at the time and so was ordered to pay the maximum fine. The Applicant stated that he has a young family and was not in work currently and having a licence this would give him the flexibility to work around the needs of his family.

Delegated Decision:

The Panel considered the written report and the oral representations made by the Applicant and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and taking into account the relevant Policy and the Council's Conviction Guidelines, the Panel determined that Applicant 20/2015 was a fit and proper person and resolved to **grant the application for a Private Hire Driver's Licence.**

5. Applicant 21/2015 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report which was accepted by the Applicant.

The Applicant addressed the Panel and explained that he has been working for a relative as a radio operator for the last couple of years but would now like to be a driver for them. He informed the Panel that at the time of the conviction for driving without insurance at Rochdale Magistrates Court, for which he received a fine of £600 and 6 penalty points, he had been driving his Auntie's car following a family bereavement as his own car was in the garage. He was not insured, and he had been stopped by the Police.

Delegated Decision:

The Panel considered the written report and the oral representations made by the Applicant and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and taking into account the relevant Policy and the Council's Conviction Guidelines, the Panel determined that Applicant 20/2015 was a fit and proper person and resolved to **grant the application for a Private Hire Driver's Licence for 6 months.** The Applicant would not need to appear before the Panel again after this time if there was no breach of the conviction guidelines or other complaints against him during that period.

The Applicant was advised of their right to appeal to Bury Magistrates' court within 21 days.

COUNCILLOR D JONES
Chair

(Note: The meeting started at 7.00 pm and ended at 8.55 pm)