

## AGENDA FOR

## LICENSING AND SAFETY PANEL

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**To: All Members of Licensing and Safety Panel**

**Councillors:** P Adams, N Bayley, R Caserta, D Cassidy, J Grimshaw, R Hodgkinson, T Holt, D Jones (Chair), J Kelly, N Parnell, Sarah Southworth, J Walker and M Wiseman

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:-

<b>Date:</b>	Thursday, 15 October 2015
<b>Place:</b>	Meeting Rooms A & B - Town Hall
<b>Time:</b>	7.00 pm
<b>Briefing Facilities:</b>	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.
<b>Notes:</b>	

## **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 - 6)*

To approve and sign as a correct record the minutes of the meeting held on 3 September 2015. 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 OPERATIONAL REPORT** *(Pages 7 - 8)*

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

### **6 OBJECTION TO PROPOSED VARIATION TO THE PRIVATE HIRE OPERATORS' FEES** *(Pages 9 - 12)*

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

### **7 URGENT BUSINESS**

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

### **8 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.

### **9 APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES** *(Pages 13 - 24)*

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

<b>Minutes of:</b>	<b>LICENSING AND SAFETY PANEL</b>
<b>Date of Meeting:</b>	Thursday 3 September 2015
<b>Present:</b>	Councillor D Jones (in the Chair), Councillors: P Adams, N Bayley, R Caserta D M Cassidy, J Grimshaw, R Hodgkinson, T Holt, J Kelly, N Parnell, Sarah Southworth, J Walker and M Wiseman
<b>Apologies for absence:</b>	-
<b>Public Attendance:</b>	There were no members of the public in attendance

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The Chair, Councillor Jones, welcomed Angela Lomax, Head of Service, Trading Standards and Licensing and Alex O'Farrell, Licensing Enforcement Officer.

**LSP.264     DECLARATIONS OF INTEREST**

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

**LSP.265     PUBLIC QUESTION TIME**

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

Mr Charles Oakes of the Hackney Drivers' Association Ltd had presented a question in writing to the Licensing and Safety Panel in relation to Taxi Marshalls being present at the rank on Kay Gardens. Councillor Jones, Chair, stated that this issue would be discussed at the next meeting of the Hackney Carriage/Private Hire Liaison Meeting to be held on 22 September 2015 and the outcome would be reported back to the next meeting of the Licensing and Safety Panel in October 2015.

**LSP.266     MINUTES**

**Delegated decision:**

That the Minutes of the Licensing and Safety Panel meeting held on 6 July 2015, be approved as a correct record and signed by the Chair.

**LSP.267     REVIEW OF STATEMENT OF LICENSING POLICY**

The Assistant Director (Localities) submitted a report with regard to the requirement for the Local Authority as Licensing Authority to prepare and publish a statement of Licensing Policy at least every five years. The existing Policy was agreed by Council on 15 December 2010 with an effective date of the 7 January 2011.

To comply with the statutory five year review a revised Policy has to be agreed by Council by 7 January 2016.

In preparing the Policy a Licensing Authority had to have regard to the Secretary of State's guidance under Section 182 of the Act. A copy of the proposed new statement of Licensing Policy was attached to the report.

The consultation had been in accordance with Cabinet Office guidelines which required a twelve week period of consultation. Feedback from the consultation was attached to the report and incorporated where relevant.

The Policy would need to be agreed by Council to adopt at its meeting on the 21 October 2015.

### **RECOMMENDATION TO COUNCIL**

That Council agree to adopt the Licensing Policy as outlined in the report.

### **LSP.268 INTRODUCTION OF 3 YEARLY DRIVER AND 5 YEARLY OPERATOR LICENCES**

The Assistant Director (Localities) submitted a report relating to amendments to the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 by virtue of the Deregulation Act 2015 in relation to the grant of Hackney Carriage/Private Hire Drivers' Licences and Private Hire Operator Licences and the recent abolition of the DVLA Driver Licence Counterpart.

The abolition of the DVLA counterfoil has already occurred, the other legislative changes mentioned take effect from 1 October 2015. They provide for the routine granting of Licences with a period of validity in respect of Hackney Carriage and Private Hire Driver Licences of 3 years and in respect of Private Hire Operator Licences of 5 years; unless the Council thinks it appropriate in the circumstances of the case to grant for a lesser period. The changes may impact on the Council's ability to determine an Applicant/Driver's fit and proper status.

As part of the process of ascertaining an Applicant's 'fit and proper' status an enhanced Disclosure and Barring Service (DBS) check is undertaken on initial application and on the third anniversary. In order to ensure applicants and licence holders benefit, it is proposed that the dates of licences and DBS checks are synchronised. Members of the Panel were asked to consider delegating authority to the Head of Trading Standards and Licensing and/or the Licensing Unit Manager to grant licences for a lesser period, for this purpose, where there are no convictions or other issues regarding the application or renewal.

#### **Delegated decision:**

It was agreed that the Head of Trading Standards and Licensing and/or the Licensing Unit Manager is delegated to grant Licences for a lesser period than the 3 or 5 year periods.

**LSP.269 URGENT BUSINESS**

The Licensing Manager informed members of the Licensing and Safety Panel that the Operational report, which presents updates on operational issues within the Licensing service, would be re-introduced for the next Panel meeting.

**LSP.270 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.271 PROPOSED SUSPENSION/REVOCAION OF PRIVATE HIRE DRIVERS' LICENCES**

**(E)**

The Licensing Unit Manager presented a report submitted by the Assistant Director (Localities) on the proposed suspensions of Private Hire Driver's Licences.

Licence Holder 17/2015 did not attend the meeting. The Licensing Unit Manager explained that he had tried to contact the Licence Holder and informed him in writing of the date of the meeting. A letter had been presented to the Licensing Officer at 12 pm on the day of the meeting explaining that he would not be attending the meeting and stating that due to the lack of work in the past few months he was considering not renewing his licence anyway.

**Delegated decision:**

1. That upon considering the written report and taking into account the relevant Policy and the Council's Conviction Guidelines, the Panel agreed, on a majority decision, that Licence Holder 17/2015 have his Private Hire Driver's Licence **revoked**.

The Licence holder would be notified in writing of their right to appeal to Bury Magistrates' court within 21 days.

**LSP.272 APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES**

**(E)**

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. The Chair outlined the procedure to be followed and 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.

1. Applicant 13/2015 did not attend the meeting.

### **Delegated Decision**

It was agreed unanimously by the Licensing and Safety Panel to defer this hearing until the next meeting on 15 October 2015.

2. Applicant 14/2015 attended the meeting and was accompanied by his wife.

### **Delegated decision:**

The Panel considered the written report, the oral representations made by the Applicant and his wife. It noted the Applicant's circumstances and the remorse he showed.

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 14/2015 was a fit and proper person and resolved to **grant the application for a Private Hire Drivers Licence for a six month period**. 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 licence holder was reminded of their right of appeal to the Magistrates' Court within 21 days.

2. Applicant 15/2015 attended the meeting but following questions from the Licensing and Safety Panel and the need for more information, it was agreed to defer this hearing.

### **Delegated Decision:**

It was agreed unanimously by the Licensing and Safety Panel to defer this hearing until the next meeting on 15 October 2015.

3. Applicant 16/2015 attended the meeting and was accompanied by Mr Khan.

### **Delegated decision:**

The Panel considered the written report, the oral representations made by the Applicant and his colleague. It noted the Applicant's circumstances and the remorse he showed.

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 16/2015 be refused.**

The Panel noted the Applicant's personal circumstances but found

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

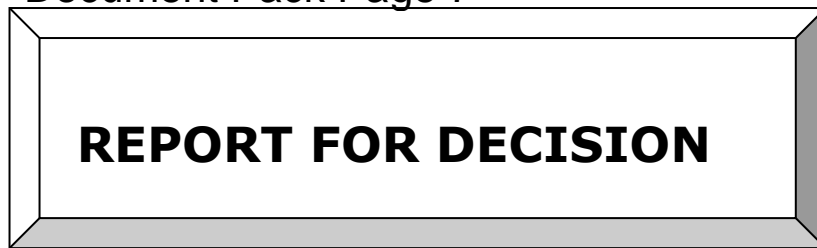
**COUNCILLOR D JONES**

**CHAIR**

**(Note: The meeting started at 7.00 pm and finished at 8.40 pm)**

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<b>DECISION OF:</b>	<b>LICENSING &amp; SAFETY PANEL</b>
<b>DATE:</b>	<b>15<sup>th</sup> October 2015</b>
<b>SUBJECT:</b>	<b>OPERATIONAL REPORT</b>
<b>REPORT FROM:</b>	<b>ASSISTANT DIRECTOR (LOCALITIES)</b>
<b>CONTACT OFFICER:</b>	<b>M BRIDGE</b>
<b>TYPE OF DECISION:</b>	N/A – Report for information only
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is in the public domain
<b>SUMMARY:</b>	A report to advise members on operational issues within the licensing service.
<b>IMPLICATIONS:</b>	
<b>Wards Affected:</b>	N/A
<b>Scrutiny Interest:</b>	Internal Scrutiny Panel

## 1.0 BACKGROUND

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

## 2.0 LICENSING HEARINGS PANEL

2.1 On the 17th September 2015, a Licensing Hearings panel considered an application for the grant of a premises licence in respect of The Lord Raglan, Water Street, Radcliffe. Representations were received from Greater Manchester Police and local residents. Members considered the evidence and decided to refuse the application.

## 3.0 HACKNEY CARRIAGE/PRIVATE HIRE LIAISON MEETING

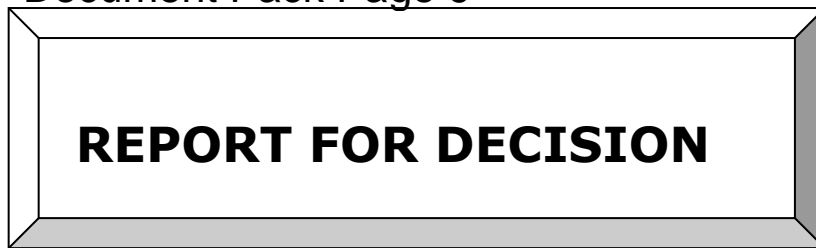
3.1 Members will recall that a Hackney Carriage/Private Hire Liaison meeting was scheduled for the 22<sup>nd</sup> September 2015, unfortunately due to attendance problems from the trade, it was decided following consultation with the

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Chairman of the Licensing and Safety Panel that it should be cancelled and another date will be arranged in due course.

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<b>DECISION OF:</b>	<b>LICENSING &amp; SAFETY PANEL</b>
<b>DATE:</b>	<b>15<sup>th</sup> October 2015</b>
<b>SUBJECT:</b>	<b>REPRESENTATIONS RECEIVED IN RESPECT OF THE PROPOSED VARIATION TO THE PRIVATE HIRE OPERATOR LICENCE FEES</b>
<b>REPORT FROM:</b>	<b>ASSISTANT DIRECTOR (LOCALITIES)</b>
<b>CONTACT OFFICER:</b>	<b>MR M BRIDGE</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain
<b>SUMMARY:</b>	This report relates to a representation received from a private hire operator in relation to the recently advertised proposed variation to the Private Hire Operator Licence fees.
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	To approve the advertised fees without modifications To approve the advertised fees with modifications
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework? <b>Yes</b> No
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	There are no specific issues from the report other than potential costs/risks associated with legal appeals
<b>Statement by Executive Director of Resources:</b>	The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.
<b>Equality/Diversity implications:</b>	Yes <b>No</b> (see paragraph below)
<b>Considered by Monitoring Officer:</b>	Under the legislation the Council is required

	<p>to determine applications. The report is in accordance with the appropriate legislation, as amended by the Deregulation Act 2015.</p> <p>Members are advised that Licences are regarded as possessions within the terms of the Human Rights Act 1998. Under the Act everyone is entitled to the peaceful enjoyment of one's possessions and so actions interfering with those possessions must be lawful, reasonable and proportionate. It is lawful to impose reasonable conditions as a way of protecting the safety of the travelling public, so long as it is not out of proportion. It is a balancing act between the public interest and the individual's rights.</p>
<b>Wards Affected:</b>	All
<b>Scrutiny Interest:</b>	Overview and Scrutiny Panel

**TRACKING/PROCESS**

**DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

**1.0 BACKGROUND**

- 1.1** Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847, the Council is required to consider applications for Hackney Carriage/Private Hire Driver licences and Private Hire Operator licences. Bury Council currently grants such licences for a 12 month period.
- 1.2** Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council may charge such fees for the grant of vehicle and operator licences as may be resolved by them from time to time.
- 1.3** Section 10 of the Deregulation Act 2015, has amended both the 1976 and the 1847 Acts so that with effect from 1st 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.
- 1.4** As a result of the above change in legislation, the current fees for Operator licences have been amended to reflect the longer duration of licences and the

reduction of officer time which will no longer be required on an annual basis so that the income is maintained for the duration of this licences with the Licensing Service.

- 1.5** Section 70(2) of the Local Government (Miscellaneous Provisions) Act 1976, gives authority to a District Council to set the fees in relation to the Licensing of Hackney Carriage and Private Hire vehicles and also for Private Hire Operator licenses. Having varied the fees the Council is required to advertise them in a local newspaper so as to allow persons wishing to object to them a period of 28 days from the date of publication of the notice to object.

## **2.0 INTRODUCTION**

- 2.1** Under the Constitution of Bury Council, the Interim Executive Director of Resources and Regulation obtained approval for a non key decision for variation to the private hire operator licence.

### **2.2 Current Fees – Annual Licences**

Private Hire Operators 1-2 vehicles	£253.00
Private Hire Operators 3 or more vehicles	£352.00

### **Proposed Fees – 5 year Licences**

Private Hire Operators 1-2 vehicles	£1248.00
Private Hire Operators 3 or more vehicles	£1742.00

- 2.3** If an operator licence is surrendered/cancelled before it's expiry. A pro-rata refund will be given for every full 12 months remaining on that licence.

## **3.0 REPRESENTATIONS**

- 3.1** There are currently 40 private hire operators licensed with this Authority. In accordance with the legislation the proposed fees were published in the Bury Times on 10<sup>th</sup> September 2015. Objections have been received from two private hire operators, copies of which are attached at Appendix 1 and 2.

## **4.0 CONCLUSIONS**

- 4.1** Members are requested to consider the objection and to determine if the proposed fees are to be applied.

### **List of Background Papers:-**

Not applicable

### **Contact Details:-**

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