

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 3 December 2015

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

Also in attendance:

Public Attendance: There were 2 members of the public present at the meeting.

Apologies for Absence: Councillor J Grimshaw and Councillor N Parnell

LSP.522 DECLARATIONS OF INTEREST

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

LSP.523 MINUTES OF THE LAST MEETING

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 15 October 2015, be approved as a correct record and signed by the Chair.

LSP.524 PUBLIC QUESTION TIME

There were no public questions raised under this item.

LSP.525 OPERATIONAL REPORT

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

The Head of Trading Standards and Licensing informed the Members of the Licensing and Safety Panel that on 13 November 2015 Licensing Officers, the Chair of Licensing, Councillor Jones and the Council Solicitor attended a Taxi Liaison meeting with representatives of the trade to discuss particular issues within Licensing.

Councillor Jones also informed the members that following the Taxi Liaison meeting on 13 November, other issues discussed were child sexual exploitation and the training that Drivers should receive in relation to this and also Terrorism and how Drivers with convictions in other Countries would be identified and checked accordingly to ensure that legal requirements are met and that all Drivers are entitled to work in the UK.

The Head of Licensing and Trading Standards also explained that following the Panel meeting in April 2015, when members of the Panel had agreed to suspend Private Hire Driver 45/2014 for 3 months, following complaints about his behaviour, this driver had appealed to Bury Magistrates' Court and the appeal had

been heard on 25 November 2015 and the decision of the Court was to overrule the Licensing and Safety Panel and change the suspension from 3 months to 1 month

LSP.526 OBJECTION TO PROPOSED VARIATION TO THE PRIVATE HIRE OPERATORS' FEES

The Assistant Director (Localities) submitted a report with regard to Private Hire Operators' Licence Fees.

The Head of Trading Standards and Licensing explained that following the last Licensing and Safety Panel meeting on 15 October 2015 when this item was considered, along with representations from Mr Palin, the licensed operator of Apple Cars and Mr McGlynn, the licensed operator of Radcliffe Walshaw attended the meeting, the Panel requested that there be consideration as to what other forms of payment arrangement were available, rather than the full amount of fees be paid up front.

It was explained that in keeping with Guidance regarding the Deregulation Act 2015 and following discussions with colleagues, based upon the additional administration that would be created both for the Council's Finance and Licensing Services, payment in instalments would not be a viable option.

However, the Head of Trading Standards and Licensing advised that as a result of the issues raised by members of the Panel and the taxi trade generally about the Council's fees regime, it is proposed that in addition to reviewing of the cost of a five year Operators Licence, the Licensing Service have identified that the fees relating to all aspects of Hackney Carriage/Private Hire Licensing need to be reviewed. Part of this review would be to consider further cost saving benefits for the provision of a five year Licence as well as a review of the banding charges for different numbers of vehicles operated by Private Hire firms.

It was therefore proposed that the status quo remain in respect of the Private Hire operators; therefore they will be granted/renewed on a 12 month basis under the current fee structure until the review has been completed. It was requested that the report, at this time, be noted.

It was agreed:

That the report be noted

LSP.527 GAMBLING ACT 2005 - TRIENNIAL POLICY REVIEW

The Assistant Director (Localities) submitted a report setting out details of the requirements under the Gambling Act 2005 for the Council to review its Statement of Principles for gambling in the Borough. Section 349 of the Act requires the Local Authority to prepare and publish a Statement of Principles at least every three years. It was reported that the existing Statement was agreed by Council on 12 December 2012. A full copy of the amended Statement of Principles for the period 2016 - 2021 was appended to the report.

Recommendation to Council:

That the amended Statement of Principles, as set out in the report, be accepted without amendment and submitted to Full Council on 9 December 2015 for approval.

LSP.528 URGENT BUSINESS

Councillor Jones, Chair of the Licensing and Safety Panel, informed members of the Committee that it was proposed that future meetings of the Licensing and Safety Panel would be paperless from January 2016. Councillor Jones asked that any views and issues be forwarded to him directly and he would in turn liaise with Democratic Services.

LSP.529 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.530 SUSPENSION/REVOCAION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

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

1. Licence holder 22/2015 attended the meeting and was accompanied by a friend. The Chair outlined the procedure to be followed and the Deputy Licensing Officer read the report which explained that on 12 October 2015 the vehicle belonging to the Licence holder, which was a Toyota Avensis, underwent a routine 6 month interim inspection at Bradley Fold Test Centre and had failed the test with 18 faults. The report was accepted by the Licence holder and his friend.

The Licence holder was given the opportunity to address the Panel and explained that he had acquired this vehicle on 27 August 2015 and in relation to the poor maintenance and preparation of the vehicle for testing he had rarely driven it for private hire use as he had been off work caring for his wife who had been diagnosed with a brain tumour. The Licence holder presented a letter from the hospital confirming this information and a letter from his wife explaining the situation, both of which were accepted by the Panel. The Licence holder also explained that he no longer has the Toyota as he has now got a new vehicle which is a '56 plate and although it is an older vehicle also, it is in very good condition.

The Licence holder apologised but explained this had been a very difficult time for him and his wife but that her health was now improving and he now had a new vehicle and felt he was 'back on track'.

Delegated decision:

After carefully considering the written report, oral statements from the Licence Holder and documentation provided by him, pursuant to the Local Government (Miscellaneous Provisions) Act 1976, the Panel resolved, **to admonish the licensee as to future conduct and to take no further action.**

2. Licence holder 23/2015 attended the meeting and was accompanied by his brother and a character referee. The Licence Holder's brother stated that he was a CWU Representative and was attending the meeting to represent his brother. Both Councillors Holt and Walker declared they were also members of CWU.

The Chair outlined the procedure to be followed and the Deputy Licensing Officer read out the report. The Licence Holder declared he was in fact 34 years old, not 35 as stated in the report.

The Licence Holder's brother then addressed the Panel and stated that although there had been 4 separate allegations of inappropriate comments of a sexual nature to a lone female passenger made against the Licence holder by the complainant, the last of which had been on Wednesday 21 October 2015. He stated that no formal complaint had been made to the Licence Holder's employer until 27 October 2015, 6 days after the last alleged incident.

It was explained to the Licensing and Safety Panel that the Licence Holder was of sound character and that following his granting of a Private Hire Driver's Licence in June 2011, he had to take time off work as his wife was very sick with a brain tumour. He has since furthered his education taking level 1 & 2 courses in motor mechanics. The family are very religious and the Licence holder had visited Haj in Saudi Arabia on 3 separate occasions, including taking his vulnerable Mother. He was a caring family man and the allegations were a complete fabrication and were having a negative effect on his health.

The Licence Holder's referee stated he has known the Licence Holder for 3 years as he had worked for the same private hire company, as a radio operator. He stated that the allegations were completely out of character and he believed that they were untrue.

The Licence Holder then addressed the Panel and explained that he believed that the complainant had taken offence when he had tried to advise her not to leave University as she had suggested she may do.

He explained that she had always sat in the front of his vehicle and if she had felt so uncomfortable in his company she could have sat in the back of the vehicle. He further stated that his employer frequents the pub that the complainant works in and she could have mentioned this to him. He went on to explain that he had previously worked as a doorman and had no criminal record.

Delegated decision:

After carefully considering the written report, which included the statement from the complainant and oral statements from the Licence holder, his brother and

character referee and taking into consideration the relevant policy and the Council's Conviction Guidelines and the Local Government (Miscellaneous Provisions) Act 1976, the Panel resolved, unanimously, **to suspend the Licence holder for 3 months.**

The Panel found that;

- the complaints against the Licence Holder were of a serious nature
- there were 4 separate incidents
- the content of the complainants statement that inappropriate conversation had taken place was true
- there was no valid explanation from the Licence Holder to explain why the complainant would lie
- the Licence Holder accepted that conversations had taken place during which he had told the complainant he had been a doorman and commented upon her appearance
- the Licence Holder had been vague in his recollections regarding other parts of the alleged conversations
- the behaviour of the Licence Holder was not acceptable as a licensed driver within Bury.

The Licence holder was informed of their right of appeal to Bury Magistrates' Court within 21 days.

LSP.531 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 were invited to address the Panel separately on their applications and any matters referred to in the Officer's report.

1. Applicant 19/2015 attended the meeting and was unaccompanied. This hearing had been adjourned, at the Applicant's request, from 15 October 2015. The Deputy Licensing Officer read out the contents of the report which was accepted by the Applicant.

The Applicant addressed the Panel and stated that in relation to his 2 convictions for failure to provide information as to the identity of a driver, he had not received any letter following either offence on 22 November 2013 or 28 April 2014. As a result he was convicted at Manchester Magistrates' Court, fined and his Licence was endorsed with 6 penalty points on each occasion.

In relation to the offence of racially/religiously aggravated harassment on 26 June, 2013, for which the Applicant was convicted at Bolton Magistrates' Court and fined £200 with costs of £400, compensation of £100 and victim surcharge of £20, the Applicant stated that this was an incident when he had been driving in Bolton and he had been overtaken by another vehicle driven by a young man and accompanied by his girlfriend. The Applicant stated there had been an exchange

of words and that the other driver had shouted and sworn at him and he had done the same back.

The Applicant explained that he was a calm person and had been driving for 5 years, he was not a criminal and wanted to make a living and that he currently worked part time in KFC but this did not provide enough financially.

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 19/2015 be **granted the application for a Private Hire Driver's Licence for 12 months.**

The Panel found that;

- the offences were of a serious nature
- they had been committed less than 3 years prior to the application
- the Licence would only be granted for 12 months. If there were no further convictions or complaints during this time then the Licence would be extended.

2. Applicant 24/2015 attended the meeting and was accompanied by his Cousin. The Applicant stated, before the hearing took place, that he was worried, due to the language barrier, that he would not be able to express himself correctly and asked if he could adjourn the hearing until he was able to have further representation.

Delegated decision:

The Licensing and Safety Panel agreed unanimously to adjourn the hearing until the following meeting, on 14 January 2016.

3. Applicant 25/2015 attended the meeting and was unaccompanied. The Deputy Licensing Officer read the report, which was accepted by the Applicant.

The Applicant then addressed the Panel and explained that in relation to the offence of Solicitation on 24 December 2008 for which he received a simple caution, that he had attended a party at a friend's flat in Rochdale and another friend had arrived accompanied by 3 females who turned out to be prostitutes. A neighbour had complained about the noise from the party and the Police had been called. The Applicant had attended the local Police station where the caution had been administered.

The Applicant stated that he had recently been made redundant, and had a temporary job, but as his partner was expecting their baby he needed more permanent employment.

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 25/2015 was a fit and proper person and resolved to **grant the application for a Private Hire Driver's Licence.**

The Panel noted that the offence although serious, had been committed almost 7 years ago when the Applicant was 18 years of age. He had only received a caution and he had no other convictions.

4. Applicant 26/2015 attended the meeting and was unaccompanied. The Deputy Licensing Officer read the report which was accepted by the Applicant.

The Applicant addressed the Panel and explained that in relation to the offences of using a vehicle uninsured against third party risks and driving otherwise than in accordance with a Licence for which the Applicant was convicted on 7 February 2013 at Kirklees Magistrates' Court and fined £300 with 8 penalty points on his Licence, that he was living in Bradford at the time and had purchased a vehicle privately. He explained that he had driven it from the vendor's property to his home address and whilst parked at the side of the road, as he had broken down, he was the subject of a vehicle check by the Police who determined there was no insurance on the vehicle. The Applicant, at this time, was on a UK issued provisional Licence.

The Applicant stated this was his mistake and he acknowledged he should have ensured the vehicle was fully insured before he had driven it. He stated that he was currently working as a cashier and was also studying in order to better his career. He hoped that being able to drive a Private Hire vehicle, it would enable him to continue his studying.

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 26/2015 was a fit and proper person and resolved to **grant the application for a Private Hire Driver's Licence.**

The Panel noted that although the offences are serious, they had been committed over 3 years ago. The Applicant had no other convictions and showed remorse for his actions.

COUNCILLOR D JONES
Chair

(Note: The meeting started at 7.00 pm and finished at 9.35 pm)