

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 14 January 2016

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

Public Attendance: There was 1 member of the public in attendance

Apologies for Absence: Councillor M Wiseman

LSP.632 DECLARATIONS OF INTEREST

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

LSP.633 MINUTES

Councillor Caserta asked a question in relation to paperless meetings as discussed at the previous meeting and the Chair, Councillor Jones, explained that there were currently technical issues but it was hoped the Licensing and Safety meetings would be paperless in the very near future.

Delegated decision:

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

LSP.634 PUBLIC QUESTION TIME

There were no public questions raised under this item.

LSP.635 OPERATIONAL REPORT

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

The Licensing Unit Manager informed Members of the Licensing and Safety Panel that on 11 December 2015 a Licensing Hearings Panel considered an application for the variation of a premises licence in respect of the hours for the sale of alcohol for Wm Morrisons, Whitefield. A representation had been received by a local resident. The decision of the Panel was to vary the premises licence.

Also, it was reported that a multi agency operation was conducted with the Licensing Service and Greater Manchester Police (GMP) on 20 November 2015 where 21 private hire vehicles and 2 hackney carriage vehicles were checked. 2 vehicles had insurance issues and were seized by GMP, 7 of the vehicles had no issues at all and other issues identified were signage, lighting and fire extinguishers.

Councillor Caserta asked if this was a multi agency operation with other Authorities and if the drivers of the vehicles with serious issues would be before the Licensing and Safety Panel in the future.

The Licensing Unit Manager explained that this was an operation just in Bury between the Licensing Service and GMP. In relation to the 2 vehicles with insurance issues, 1 had already been resolved as the correct insurance was in place but the other would at some stage be before the Members.

It was agreed:

That the report be noted.

LSP.636 URGENT BUSINESS

There was no urgent business to report.

LSP.637 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.638 SUSPENSION/REVOCAION OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

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

Licence holder 01/2016 attended the meeting and was represented by Mr Charles Oakes of the Hackney Drivers' Association Ltd and was accompanied by a friend who also translated. The Chair outlined the procedure to be followed and the Licensing Manager read the report, which explained that on 25 November 2015, the licence holder had accepted a simple caution from Greater Manchester Police in relation to an assault occasioning actual bodily harm against his wife, which he had failed to disclose to the Council within 7 days, as required by a condition attached to his Private Hire Driver's Licence.

The licence holder and his representative were given the opportunity to address the Panel and it was explained firstly that he hadn't realised that he should inform the Council of the simple caution.

The Panel were informed that the licence holder and his wife had been married for 20 years and had 2 young children. However, the marriage had broken down following a dispute within the extended family and they had been living apart in Bury for the past 5 years but had decided to attempt reconciliation for the sake of the children. They had been living together for 2 weeks prior to the incident on 23 November 2015, when an argument occurred over family finances.

The licence holder alleged that his wife had demanded that he leave the property and that she grabbed him in order to get the door key from him. The licence holder pushed his wife away but as he was holding the key at the time, this resulted in her sustaining a scratch to her face. The licence holder also cut his finger at this time and did not realise that his wife was bleeding. His wife reported the incident to the Police and he was requested to attend Bury Police station on 25 November 2015 when he was arrested and was issued with a simple caution.

The licence holder explained that in the 20 years the couple had been married there had never been an argument and that it would not happen again. Mr Oakes stated that the licence holder had not been criminally convicted but had received a simple caution.

The Licensing Unit Manager asked the licence holder if he had a copy of the conditions that he was issued when he was granted a Private Hire Driver's licence, as it states clearly that if a driver receives a simple caution this must be reported to the Council's Licensing Office. The licence holder said he did have a copy of the conditions, however, he did not think that he needed to report this, particularly as the police had told him it would not appear on a CRB check. He stated he had not done this deliberately.

Mr Oakes presented to the Panel 2 character references both stating that the licence holder is an honest, reliable and well respected member of the community.

Delegated decision:

After carefully considering the written report and oral statements from the licence holder and his representative, Mr Oakes and the character references, 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.** The Chair, Councillor Jones stressed to the licence holder that any form of domestic violence is unacceptable and that if the licence holder was to present before the Licensing and Safety Panel again, his licence would be revoked.

LSP.639 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.

Applicant 24/2015 had been scheduled to attend the meeting on 3 December 2015 but had requested an adjournment as he required representation. He has since contacted a Solicitor who has now requested a further adjournment due to the lateness of notification of the hearing by the Applicant.

Delegated decision:

The Licensing and Safety Panel agreed unanimously to adjourn the hearing until the following meeting, on 29 February 2016.

Applicant 02/2016 attended the meeting and was accompanied by a friend who also translated where appropriate, as it was represented that his first language was not English. The Licensing Unit Manager read the report, which was accepted by the Applicant.

The Applicant and his friend then addressed the Panel and explained that for the last five years he has been struggling financially to support his wife and family. He has been working as a pizza delivery driver and in an off licence and also delivering keys to properties for a local estate agent; however he needs more financial security.

The Chair asked the Applicant if he wanted to address the issue of the incident that had taken place on 7 September 2011. A detailed statement from a complainant alleging sexual assault was included in the report.

The Applicant's friend stated that he has known the Applicant for 12 years and has always respected him. He stated that he believes that this incident had not taken place. The Applicant had been interviewed but no charges had been made against him as there was insufficient evidence available. The Applicant has always denied this allegation. He stated that he knew the complainant and that she also knew his wife and children and he still does not know why she made these allegations against him.

Members of the Licensing and Safety Panel asked the Applicant why he had declined to answer any questions put to him by the investigating Police Officers at the time, as stated in the report, and why on each of the 4 subsequent occasions his application had been refused (including an application to Rossendale Council) he had not appealed to the Magistrates' Court. The Applicant's friend said he was very scared for himself and his family and he had followed advice from his Solicitor at the time of questioning, who told him what to say. He also stated that the allegation he had made to the police that the female in question had instigated inappropriate sexual behaviour towards him, was not true and again that he had said this upon advice from his solicitor. He stated to the Panel that he was not there to give a false statement. Following his licence being revoked and then further Applications being refused, he could not afford further Solicitor's fees and that was why he had not appealed to the Magistrates' Court.

The Applicant submitted 3 character references to the Licensing and Safety Panel. He could provide no explanation for why she had made these allegations and stated that she did kiss him on the cheek when he picked her up. However, he had just panicked at the police station and done what his solicitor advised.

In summary, the Applicant stated that he appreciated that Public safety was paramount but he was being punished for what he has not done. He has been struggling financially for the last 5 years, he has no education and jobs are very hard to secure and he would really appreciate it if the Licensing and Safety Panel would return his Private Hire Driver's Licence.

Delegated decision:

The Panel carefully considered the written and oral evidence presented, the facts of the particular case and with due consideration of the Local Government (Miscellaneous Provisions) Act 1976 and of the Council's Licensing Policy and Conviction Guidelines, the Panel did not consider the licence holder to be a fit and proper person to hold a licence and considered it reasonable and proportionate in the interests of public safety to **refuse the application for a Private Hire Driver's Licence.**

In reaching its decision the Panel found as follows;
the allegations related to serious sexual misconduct by the Applicant although denied, there was no satisfactory explanation for the differing versions of events there was no explanation or reasoning as to why such allegations should be made against the Applicant
the Applicant had taken no steps to challenge any of the previous decisions made regarding earlier applications whilst the allegations did not result in a conviction, the actions of the Applicant, whilst previously on duty as a licensed taxi driver fell, by some considerable way, below the high standards of public safety, trust and conduct of a licence holder that is expected by the Council.

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

Applicant 03/2016 attended the meeting and was accompanied by his brother who acted as a translator. The Licensing Unit Manager read the report which was accepted by the Applicant.

This applicant had previously been granted a Private Hire Driver's Licence in June 2013. The Applicant and his brother addressed the Panel and explained that he had been divorced from his wife for 19 months. At the time of the offence in September 2013, when he had been convicted of driving a motor vehicle with excess alcohol for which he had been disqualified from driving for 12 months and fined £110 with costs of £85 and victim surcharge of £20, his wife had gone somewhere and he had gone to get her. There had been a family dispute and he had been having problems with his marriage and had decided to drink. His brother stated that he had never seen him drink and this was a one off incident and he had never drunk since. He is currently single and works as a local take away delivery driver.

Members of the Licensing and Safety Panel asked the Applicant why he had told the Licensing Enforcement Officer that he was a devout Muslim and has never consumed alcohol, when he had in fact been stopped and found to have been driving with excess alcohol some days earlier. The Applicant acknowledged this was not true and provided no explanation, but stated that this would not happen again and he no longer drinks.

Delegated Decision:

The Panel carefully 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 03/2016 be **refused** an application for a private hire driver's licence.

The Panel found that;
the offence was of a serious nature
it had been committed less than 3 years prior to the application
driving under the influence of drink is unacceptable under any circumstances
the Applicant showed no remorse for his actions and blamed them on his wife.

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

Applicant 04/2016 attended the meeting and was unaccompanied. The Licensing Manager read the report which was accepted by the Applicant.

The Applicant addressed the Panel in relation to the offence in January 2008 and explained that the conviction at in February 2009 for common assault for which he was fined £250, and ordered to pay compensation of £200 resulted from when he was attending a football match and he and a group of males were having a cigarette near the toilet area of the stadium. He was accused by a Steward of having been caught twice smoking and told that he would be ejected from the stadium. The Applicant tried to explain that due to work commitments he had not been at the previous football match on the Wednesday evening and therefore he could not have been caught previously. One of the Stewards tried to grab the Applicant and in the fracas he banged him with the back of his head. He also confirmed that as a result of the conviction he is barred from the football stadium.

The Applicant went on to explain that since the offence, he has been driving buses and coaches and is a driver for Bury Council for school transport. He has been driving for a living for a number of years and driving school children's for approximately a year. The Applicant explained he now wants to extend his licence to get a mini bus to make it more financially viable as he has 2 children to support.

He went on to state he has no other criminal convictions and no other complaints against he and the offence in question was committed in January 2008 almost 8 years ago.

Delegated decision:

The Panel carefully 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 04/2016 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 of common assault, although serious, had been committed 8 years ago. The Applicant has no other convictions or complaints against him.

COUNCILLOR D JONES
Chair

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