

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 29 February 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, Sarah Southworth,
J Walker and M Wiseman

Also in attendance:

Public Attendance: No members of the public were present at the meeting.

Apologies for Absence: Councillor N Parnell

LSP.732 DECLARATIONS OF INTEREST

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

LSP.733 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 14 January 2016, be approved as a correct record and signed by the Chair.

LSP.734 PUBLIC QUESTION TIME

There were no public questions raised under this item.

LSP.735 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 4 February 2016, in respect of Ethane Convenience Store, Bolton Street, Bury, following representations from Greater Manchester Police and interested parties and the application had been refused.

Also, it was explained that the Licensing Service had received a complaint on 26 June 2015 from a Member of the Public in relation to a Private Hire Driver's conduct which had resulted in him being prosecuted. He appeared before Bury Magistrates' Court on 27 January 2016 and changed his plea to guilty. The Licence holder was found guilty of assault by beating and using threatening abusive or insulting words or behaviour and was sentenced to 16 weeks imprisonment suspended for 12 months with a requirement to attend rehabilitation with the Probation Service within 12 months. He was ordered to pay £500 compensation to the victim with £200 Court costs and £80 victim surcharge.

Following this conviction, the Licensing Unit Manager liaised with the Assistant Director (Localities) and the Chair of the Licensing and Safety Panel and it was agreed to revoke, with immediate effect, his Private Hire Driver's badge.

LSP.736 OBJECTION TO INCREASE IN THE VEHICLE LICENCE FEES

The Licensing Unit Manager informed the Members of the Licensing and Safety Panel that following the advertisement within the Bury Times of the fee increase from £47 to £48 from 1 April 2016, the Licensing Service had not received any objections to this increase and therefore this issue did not need to come before the Panel. The Licensing Service had fulfilled its obligation in advertising the increase and therefore the increase would take effect from 1 April 2016.

LSP.737 URGENT BUSINESS

There was no urgent business to report.

LSP.738 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.739 SUSPENSION/REVOCAION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

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

Licence Holder 07/2016 attended the meeting and was unaccompanied. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report, which was accepted by the Licence Holder, and explained that on 16 December 2012, the Licence Holder had received a Simple Caution from Greater Manchester Police for battery. The Licence holder had not made this known to the Licensing Service on 19 December 2012 when his first Private Hire Driver's Licence was granted nor was it declared when the Licence was renewed in December 2013 and December 2014.

The Licence holder explained that the Simple Caution was in relation to a domestic dispute with his wife in the family home on 15 December 2012, when he pushed her onto the settee and held her down. His wife reported the matter to the Police which resulted in him being issued with a Simple Caution. The Licence Holder stated that he asked the Police Officer who administered the Simple Caution if it would appear on a DBS Disclosure Certificate and if it would prevent him from obtaining a Private Hire Driver's Licence and was told that the Simple Caution was not a conviction and would not appear on a DBS Certificate nor prevent him from being a taxi driver and therefore the Licence Holder did not disclose the Simple

Caution to the Licensing Service. However, in October 2015, on his latest DBS Certificate, the Simple Caution was identified.

The Licence Holder explained to the Licensing and Safety Panel that he had not hidden any information from the Licensing Service and that he genuinely did not realise he should declare the Simple Caution, as he had understood from the police officer that it was not a serious matter. On questioning he accepted that the renewal forms did set out the fact such matters should be reported and declared. However, the Licence Holder stated he still believed based on the police officer's advice that he did not need to declare the Simple Caution.

Delegated decision:

After carefully considering the written report, the oral statements from the Licence Holder and pursuant to the Local Government (Miscellaneous Provisions) Act 1976, the Panel resolved, unanimously, **to admonish the Licensee as to future conduct and to take no further action.** The Panel noted that the offence, although serious, had been committed over 3 years ago. He had received a Simple Caution and had no other convictions.

Licence Holder 08/2016 attended the meeting and was accompanied by his wife. The Licensing Unit Manager read the report, which was accepted by the Licence Holder which explained that based upon information received by the Licensing Unit, enquiries of Bolton Council's Licensing Service revealed that Bolton Council had revoked the Licence Holder's Private Hire Driver's Licence with immediate effect on 16 September 2014 on the grounds of Public safety, following information received from members of the public, regarding the Licence Holder's behaviour.

The Licence holder had failed to declare to Bury Council that his Licence at Bolton had been revoked when submitting his application for a Private Hire Driver's Licence.

The Licence holder and his wife addressed the Panel and explained that he is a good person and of no risk to the public. They explained that the Licence Holder disputes all the allegations made against him and stated that he felt 'ganged up' against from previous employers following a dispute over money after a road accident in a Private Hire vehicle. Also, the Licence Holder's previous occupation was as a Security Guard and he felt that people did not like him. He had fallen out with a number of individuals and there was a conspiracy against him which had subsequently led to his Licence being revoked following these false allegations.

The Licence Holder also presented a written statement and brought with him several written references from customers, past and present. He was currently working in Bury and had received no complaints about his conduct and also produced a reference from his current employer. He has been a Private Hire Driver for 10 years.

Following questions from the Panel, the Licence Holder accepted he had failed to declare the revocation on his application form, but stated this was based on advice from a third party that had helped him complete the form. He apologised to the Panel for this error and assured the Panel this would not happen again.

Delegated decision:

After carefully considering the written report, oral statements from the Licence holder and his wife, taking into consideration the written statement and character references and pursuant to the Local Government (Miscellaneous Provisions) Act 1976, the Panel resolved, on a majority decision, **to admonish the Licensee as to future conduct and to take no further action.** The Panel noted that although the allegations made against the Licence holder were serious, they accepted that he seemed honest and of genuine character and had the full support of his wife and family. He had been a Private Hire Driver for 10 years and since working in Bury there had been no complaints about him, and appeared remorseful in relation to his failing to declare the revocation. The Chair stressed to the Licence holder that Public Safety was paramount and that if his conduct was not exemplary he would have his Licence revoked with Bury Council.

LSP.740 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 did not attend the meeting and the Licensing Unit Manager informed the Members of the Panel that after liaising with his Solicitor, he had been notified by the Cousin of the Applicant that he was currently in Pakistan, however, he still wanted to proceed with the application. The Applicant had already been permitted two adjournments from previous Panel meetings in order to allow him to arrange a representative to accompany him.

Delegated decision:

It was agreed unanimously that, in view of the facts that the matter had been adjourned previously and the Applicant appeared content for the matter to proceed in his absence, the hearing go ahead in the absence of the Applicant based on the written report submitted.

After considering the written report, the Panel noted that the Applicant had been convicted of the following:

1 February 2012 at Manchester and Salford Magistrates' Court for offence of failing to provide information as to the identify of a Driver and had been sentenced with 6 penalty points on his DVLA Driving Licence and fined £165.00;

25 May 2012 at Macclesfield Magistrates' Court for using a vehicle uninsured against third party risks and had been sentenced with 6 penalty points on his DVLA Driving Licence and fined £220.00;

5 August 2015 at Bury and Rochdale Magistrates' Court for Tobacco Products Duty Act 1979 Section 8G(4)(a) and (6) – sell/offer for sale/otherwise deals in unmarked tobacco products otherwise than as prescribed and had been sentenced to 12 months conditional discharge with £85.00 costs and £15.00 victim surcharge, forfeiture and destruction of the tobacco.

The Panel carefully considered the report and 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 24/2015 be refused.**

The Panel noted that the offences were of a serious nature and pursuant to the Convictions Guidelines amounted to 2 major traffic offences and an offence of dishonesty. There was no further explanation or mitigation presented by the Applicant and the latter offences was very recent.

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

Applicant 05/2016 attended the meeting and was unaccompanied. The Licensing Unit Manager informed the Panel that after speaking to the Applicant earlier in the day, he had stated that he had not received any of the paperwork for the hearing. Therefore, all of the documentation had been emailed to the Applicant and the Licensing Unit Manager clarified with the Applicant that he was happy to proceed with the meeting. The Applicant confirmed he had now received and read all the information and was content to continue.

The Licensing Unit Manager read the report, which was accepted by the Applicant, which stated that he had been convicted at Burnley Crown Court on 3 September 2010, in relation to being Concerned in the supply of a class B controlled drug (Cannabis) s4 (3)(B) Misuse Drugs Act 1971 and was sentenced to a confiscation order under the proceeds of Crime Act for £29.81 and given 100 hours Community Service.

The Applicant addressed the Panel and thanked them for giving him the opportunity to explain himself and stated that this offence was 6 years ago and he had learnt by this mistake. He explained that he is now married with a child and he is the main financial earner. He is currently a delivery driver in Bacup but has friends and family within the Bury and he and his family are considering moving into the area. The Applicant has been in contact with Uber Taxi Service, Manchester, who confirmed that if he obtains a Private Hire Driver's Licence then he will be able to gain employment within the Company. The Applicant also produced 2 references for consideration.

Delegated decision:

The Panel considered the written report, the oral representations and references, 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 05/2016 was a fit and proper

person and resolved, on a majority decision, to **grant the application for a Private Hire Driver's Licence.**

The Panel noted that although the offences were of a serious nature, it was satisfied they were some time ago and that there had been no further convictions since that time.

The Licensing Unit Manager informed the Licensing and Safety Panel that Applicant 06/2016 had now withdrawn their Application.

Applicant 09/2016 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report, which was accepted by the Applicant, which explained that he had been convicted at Manchester Magistrates' Court on 22 September 2011 for offence of using a vehicle uninsured against third party risks, for which he had been sentenced to disqualification for 6 months.

The Applicant addressed the Panel and explained that the offences were unintentional and that he had believed he was covered to drive the vehicle in question. He went on to explain that his licence was not taken from him at court in 2009, albeit it was endorsed with 6 penalty points. His Licence was returned.

He did not realise that as the offence was within the first 2 years of driving, that the endorsement also resulted in DVLA revoking his Licence until he re-sat and passed the driving test and therefore, when he was caught by the Police driving his friend's car in 2011 his Licence was still revoked and therefore his Licence was then endorsed with another 6 points and therefore added to the 6 points already on his Licence and on the totting up system, he was disqualified from driving for 6 months.

The Applicant also explained that he was now married with children and needed to financially support his family. He had previously been a Security Guard but being a Private Hire Driver, would result in more stable employment for him. He also pointed out that he had now had his licence for 3 years without any further convictions.

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 09/2016 was a fit and proper person and resolved, on a majority decision, to **grant the application for a Private Hire Driver's Licence.**

COUNCILLOR D JONES
Chair

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