

AGENDA FOR

LICENSING AND SAFETY PANEL

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To: All Members of Licensing and Safety Panel

Councillors : P Adams, N Bayley, I Bevan, J Grimshaw,
R Hodgkinson, D Jones (Chair), G Keeley, J Kelly,
O Kersh, A McKay, Sarah Southworth, J Walker and
S Wright

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:-

Date:	Wednesday, 12 October 2016
Place:	Meeting Rooms A & B - Town Hall
Time:	7.00 pm
Briefing Facilities:	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.
Notes:	

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 - 4)*

Minutes of the last meeting, held on 1 September 2016 are 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 5 - 6)*

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

6 DRIVING SKILLS ASSESSMENT *(Pages 7 - 10)*

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 SUSPENSION/REVOCATION OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE *(Pages 11 - 18)*

A report by the Assistant Director is attached.

10 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVERS' LICENCES *(Pages 19 - 26)*

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

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Minutes of:**LICENSING AND SAFETY PANEL****Date of Meeting:**

1 September 2016

Present:

Councillor D Jones (in the Chair),
Councillors: P Adams, N Bayley, I Bevan , J
Grimshaw, R Hodgkinson, G Keeley, O
Kersh, J Kelly, A Mckay , Sarah Southworth
and J Walker

Apologies for absence:**Public Attendance:**

There were no members of the public in
attendance

LSP.205 DECLARATIONS OF INTEREST

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

LSP.206 MINUTES**Delegated decision:**

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

LSP.207 PUBLIC QUESTION TIME

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

The Chair, Councillor Jones, referred to 2 written questions that had been submitted in writing by Mr Charles Oakes, concerning enforcement at taxi ranks and Police numbers in the town centre. The Head of Service (Trading Standards and Licensing) provided a verbal update to the Committee and undertook to provide Mr Oakes with a full written response.

LSP.208 OPERATIONAL REPORT

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

The report set out updates in respect of the following issues:

- Driver Assessments
- Taxi Licence Appeal

Further to the information set out in the report, the Head of Service (Trading Standards and Licensing) provided a verbal update in respect of a recently held Licensing Hearings Panel for Alt House Bar which resulted in noise conditions being imposed along with a reduction in licensed hours.

Licensing and Safety Panel, 1 September 2016

It was agreed:

That the report be noted.

LSP.209 URGENT BUSINESS

There was no urgent business reported.

LSP.210 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.211 APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES
(E)

The 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 23/2016 attended the meeting. The report was read by the Licensing Officer and was accepted by the Applicant. With regard to the offence of failing to disclose the identity of the driver of his private vehicle at the time of a speeding offence, the applicant explained that he had sold the vehicle and was under the impression that the new owner had applied for the log which had been missing at the time of the sale.

The Applicant acknowledged that he should have made efforts to ensure DVLA were informed about the lost log book and should not have relied on the new owner to liaise with DVLA.

Delegated decision:

The Panel carefully considered the written report and the oral representations made by the Applicant and taking into account the Council's Conviction Policy and Guidelines, in accordance with the Local Government (Miscellaneous Provisions) Act 1976 the Panel determined that Applicant 23/2016 was a fit and proper person and resolved to **grant the application for a Private Hire Driver's Licence.**

2. Applicant 24/2016 attended the meeting . The report was read by the Licensing Officer and was accepted by the Applicant. The Applicant explained that the allegations relating to his step daughter, that resulted in the Police intelligence being provided to the Licensing Department, were as a result of a dispute with his ex wife. The Applicant stated that no conviction had resulted and submitted a letter from the Police confirming no further action would be taken. In addition, certificates concerning his historical employment, in Britain and abroad, were also submitted to the Panel at the meeting. With regard to the alleged offence, the applicant stated that an exchange of social media messages was the result of his phone having been hacked.

Delegated Decision:

The Panel carefully considered the written report, the oral representations made by the Licence Holder and acknowledged that the Council's Conviction Policy and Guidelines did not cover the disclosure of intelligence from the Police that had not resulted in a criminal conviction. The Panel determined the Applicant not to be a fit and proper person and therefore resolved that the application for a Private Hire Driver's Licence by Applicant 24/2016 be **refused**.

The Panel noted the circumstances of the case, and found that;

- The non conviction intelligence would only be provided to the Panel in cases where the Police reasonably believe that the information was relevant for consideration as part of the application process.
- Although the applicant had not been convicted, the seriousness and nature of the non conviction intelligence disclosed by the Police was such that the applicant did not meet the high threshold required for the grant of a licence in Bury.

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

3. Applicant 25/2016 attended the meeting and was accompanied by a friend to assist with interpreting and by the operator of a local taxi company. The Licensing Officer presented the report, which was accepted by the Applicant.

The Applicant then addressed the Panel through the interpreter and taxi company operator explaining the circumstances relating to a complaint from a member of the public which had resulted in his licence being revoked with immediate effect. It was acknowledged by the applicant that alcohol had been consumed and he was therefore in breach of their licence conditions. The taxi company owner highlighted that the applicant was not charged by the Police following breath tests and that no other complaints had been received in relation to the applicant during the 2 years he had been driving for his company.

Licensing and Safety Panel, 1 September 2016

Delegated Decision:

The Panel carefully considered the written report and the oral representations made by the Applicant and taking into account the Council's Conviction Policy and Guidelines, in accordance with the Local Government (Miscellaneous Provisions) Act 1976, the Panel determined that Applicant 25/2016 was not a fit and proper person and resolved that the application for a private hire driver's licence be **refused**.

The Panel found that although the applicant had not broken the law, the seriousness of the offence that had resulted in the immediate revocation of his previous licence, namely consuming alcohol whilst working, was such that he had fallen below the standards required by the Authority in respect of ensuring the safety of the travelling public.

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

4. Applicant 26/2016 attended the meeting and was unaccompanied. The Licensing Officer read the report which was accepted by the Applicant.

The Applicant addressed the Panel and explained that the offences related to a time when he had only been in the country for 7 months. He had acted on behalf of a friend in good faith and stated that his naivety of the situation meant he did not realise he was doing anything fraudulent or illegal. As such he did not attempt to flee the scene and co-operated fully with the bank staff and Police.

Delegated decision:

The Panel carefully considered the written report and the oral representations made by the Applicant and taking into account the Council's Conviction Policy and Guidelines, in accordance with the Local Government (Miscellaneous Provisions) Act 1976 the Panel determined that Applicant 26/2016 was a fit and proper person and resolved to **grant the application for a Private Hire Driver's Licence**.

COUNCILLOR D JONES

CHAIR

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

REPORT FOR DECISION

Agenda Item	
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DECISION OF:	LICENSING & SAFETY PANEL
DATE:	12th OCTOBER 2016
SUBJECT:	OPERATIONAL REPORT
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	M BRIDGE
TYPE OF DECISION:	N/A – Report for information only
FREEDOM OF INFORMATION/STATUS:	This paper is in the public domain
SUMMARY:	A report to advise members on operational issues within the licensing service.
IMPLICATIONS:	
Wards Affected:	N/A
Scrutiny Interest:	Internal Scrutiny Panel

1.0 BACKGROUND

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

2.0 DRIVER ASSESSMENTS

2.1 Further to the last meeting of the Licensing and Safety Panel. The licensing service can confirm that the assessments are continuing to be undertaken by the adult learning team. From the 12th August 2016 until the 23rd September 2016 there has been 21 assessments carried out. Of the 21 assessments that were booked, 18 passed, 2 failed and 1 failed to attend.

2.0 PREMISE LICENCE REVIEW

2.1 A local resident, in their capacity as an interested party, submitted an application for a review of the Premises Licence in respect of Alt House, 1-3 Moss Lane, Prestwich. Representations were received by the Licensing Service from Greater Manchester Police in their capacity as a Responsible Authority and other interested parties during the representation period.

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The members of the Panel considered the review application on the 24th August 2016 and resolved to reduce the timings on the premises licence by one hour and to impose the following conditions:

- None of the outside areas to the premises to include the rear car park are to be used for licensable activities or for the consumption of alcohol after 19.30 hrs daily.
- An effective noise limiting device approved in writing by the Council (which shall so far as possible be tamper-proof) shall be installed and operated in the premises and all noise levels shall be agreed and set to the written satisfaction of the Council. Whenever regulated entertainment is taking place, all amplified music (whether live or recorded) and associated sources (e.g. DJ's and amplified voices/amplified instruments) are to be connected to this noise limiting device.
- That reasonable sound proofing measures be taken within the premises to the satisfaction of the council to prevent the playing of live/recorded music disturbing residents within the vicinity of the premises.

3.0 OUTCOME OF APPEAL

Members will recall giving consideration to the review applications in respect of Bellini and La Capannina submitted by Greater Manchester Police in which they revoked both licences. Appeals were submitted to the Magistrates Court for consideration. The premises licence in respect of Bellini lapsed due to the company going into liquidation, however a new premises licence has been granted in the name of San Leonardo's.

On the 20th September 2016, both matters were considered and the appeal in respect of Bellini's was dismissed due to the matter above.

The appeal in respect of La Capannina was considered by the Magistrates and it was decided to allow the appeal and the conditions on the premises licence were modified by consent and costs were awarded to the Licensing Authority in the sum of £5000.

Contact Details:

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REPORT FOR DECISION



**Agenda
Item**

DECISION OF:	LICENSING & SAFETY PANEL
DATE:	12th October 2016
SUBJECT:	This report relates to a proposal to consider providers who will undertake the pre-requisite assessment in respect of driving skills in relation to all new applications received by Bury Council for the grant of a Hackney Carriage/Private Hire Driver licence.
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	MR M BRIDGE
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is public
SUMMARY:	This report requests the council to consider providers who will undertake the pre-requisite assessment in respect of driving skills in relation to all new applications received by Bury Council for the grant of a Hackney Carriage/Private Hire Driver licence.
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none"> 1. To delegate to the Head of Service (Trading Standards and Licensing) following consultation with the Chairman of the Licensing and Safety Panel to approve alternative providers to carry out the driver assessment. 2. To request that the Licensing Service provide a further report to the Licensing and Safety Panel once providers have been identified. 3. To remove the requirement of the driving pre application assessment <p>Option 1 is the recommended option.</p>
IMPLICATIONS:	The relevant legislation which authorises a district council to grant driver licences states that a district council shall not grant a licence unless they are satisfied that the applicant is

	a 'Fit and Proper' person to hold such a licence.
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes No
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals or Judicial review.
Statement by Executive Director of Resources:	The assessment required will be paid for by the applicant direct to the external provider carrying out the assessment with no cost implications to the Council.
Equality/Diversity implications:	None
Considered by Monitoring Officer:	This report is in accordance with the appropriate legislation.
Wards Affected:	All
Scrutiny Interest:	Overview and Scrutiny Panel

TRACKING/PROCESS**DIRECTOR:**

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

1.0 INTRODUCTION

- 1.1 The Local Government (Miscellaneous Provisions) Act 1976 allows Local Authorities to use criteria as they deem appropriate to determine if applicants are 'Fit and Proper' before granting a Hackney Carriage/Private Hire Driver licence.
- 1.2 Members will recall that on the 9th June 2016, a report was considered regarding the introduction of two pre application assessments for applicants to undergo, the purpose of which is to ensure that all new applicants for a Hackney Carriage/Private Hire Driver licence hold the appropriate minimum communication, numeracy and driving skills was considered.
- 1.3 Members resolved that all new applicants for a Hackney Carriage/Private Hire Driver licence must provide evidence to the Council at the time of submitting their application, that they have attended and passed the following:

- a. A Driver & Vehicle Standards Agency (DVSA) driving assessment relevant to the type of licence they are applying for and
- b. If they cannot produce documentary evidence that they have gained an O Level /GCSE /CSE/ pass in English and Mathematics or the ESOL entry level 1 or equivalent, that they be required to undertake and pass an assessment of their communication/numeracy skills by an assessor approved by the Council.

That a report reviewing of progress of the new arrangements set out in (1) above be submitted to this Panel in 6 months time.

2.0 BACKGROUND

- 2.1 Since the introduction of the pre application assessments, Bury Council has been notified on the 31st August 2016 by the Driver and Vehicle Standards Agency (DVSA) that they are withdrawing the provision of Taxi Assessments with effect from the 31st December 2016. A copy of the letter is attached at Appendix 1.
- 2.2 Since receiving this notification the Licensing Service are actively researching alternative companies who will be able to test new applicants for Hackney Carriage/Private Hire Driver licences up to the DVSA standard.
- 2.3 New applicants are being advised that the DVSA are no longer offering the Taxi assessment and that we are currently sourcing a new provider. However, the Licensing Service are allowing applications to be submitted provided they have completed the pre-assessment in relation to Maths and English and submitted an application for an enhanced DBS disclosure. A Hackney Carriage/Private Hire Driver licence will not be issued until the applicant has passed the Council's Local Knowledge test and completed and passed the driving assessment.
- 2.4 Once the alternative providers have been identified, members are requested to give consideration to delegating the approval of the providers following consultation with the Chairman of the Licensing and Safety Panel to the Head of Service (Trading Standards and Licensing).

3.0 CONCLUSION

- 3.1 Members are requested to consider this report and to adopt the recommended option on page 1.

List of Background Papers:-

DVSA Letter to Chief Executive – Appendix 1

Contact Details:-

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Chief Executive
Local Authority
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31 August 2016

CHIEF EXECUTIVE	
For.....	
- 1 SEP 2016	
ACKD	
COPY TO	
SENT ON	Angela Tomax

DVSA Taxi Driver Assessments

DVSA (and previously DSA) have been conducting Taxi Driver Assessments for participating Local Authorities since 1999. Demand has increased over the years, with a throughput in 2015-16 of approximately 23,000 and a forecast of 28,000 for the business year 2017-18.

These assessments now require considerable examiner resource, at a time when the demand for statutory tests is at an all-time high. The Agency is under pressure to reduce car test waiting times and in order to achieve this, we need to prioritise our activities.

Regrettably, a decision has been made to withdraw the provision of Taxi Assessments with effect from 31 December 2016. We understand that this will be a disappointment and inconvenience to those Local Authorities who currently require their taxi drivers to pass the DVSA assessment.

The Agency also recognises the road safety benefits of such an assessment; therefore, we would point out that there are potential providers such as road safety charities and Driving Instructor representative bodies, who may be interested in providing an alternative service. Details of these organisations can be easily obtained by submitting a general internet search.

Yours faithfully

Neil Wilson
Head of Driver and Driver Training Policy

Safety Standards Service

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