

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 21 December 2016

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

Also in attendance:

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

Apologies for Absence:

LSP.424 DECLARATIONS OF INTEREST

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

LSP.425 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 15 November 2016, be approved as a correct record and signed by the Chair.

LSP.426 PUBLIC QUESTION TIME

There were no questions raised under this item.

LSP.427 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:

- Pre-application assessments – The Licensing Manager informed the Members that assessments are continuing to be undertaken by the Adult Learning team. From 28 October until 2 December 2016, 30 assessments have been carried out, of which 27 passed, 3 failed with none failing to attend. The general feedback from candidates has been largely positive and there have been no complaints or disagreements when a candidate has been unsuccessful.

The two suppliers who have been authorised to undertake the pre-requisite driving assessments are Defensive Driver Training and Mitchells. The feedback from the Defensive Driver Training examiners was that the standard of the drivers who pass is very good with only a few minor errors, with a 76% pass rate of the candidates that attended.

Mitchells have carried out around 150 Driving Test Assessments for the Greater Manchester Authorities, of which a number have been for Bury Council. The pass rate of these tests is around 50 to 60% but there is not a figure specifically for the candidates of Bury Council.

- The Licensing Unit Manager explained that in relation to the Immigration Act 2016, Licensing Service staff has recently attended training in relation to the new provisions around preventing illegal working in the private hire vehicle and taxi sector. With effect from 1 December 2016, the provisions in the 2016 Act prohibit all Licensing Authorities across the UK from issuing to anyone who is disqualified by reason of the immigration status and other immigration safeguards into the existing Licensing regimes across the UK. The Licensing Service is currently amending their procedures to comply with the requirements of the Act.

It was agreed:

That the report be noted.

LSP.428 URGENT BUSINESS

There was no urgent business reported.

LSP.429 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.430 SUSPENSION/REVOCAION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

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

Licence holder 31/2016 attended the meeting and was accompanied by his daughter. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report, which was accepted by the Licence Holder. This explained that on 4 May 2016 the licence holder was granted a Private Hire Vehicle Licence in relation to a Volkswagen Passat which was approximately 3 years and 8 months old from the date of first registration. The vehicle was subjected to an initial vehicle inspection by the Council's examiner at Bradley Fold, Bury. At this time the Licence Holder was advised that the vehicle had passed the test and was handed a written advice by the examiner advising that the front tyre treads were low and that the rear tyre inner edges were

worn. It also advised the Licence Holder of the date and time of the vehicles next interim test.

On 2 November 2016 the Licence Holder failed to attend an interim test at Bradley Fold test Centre, with the vehicle, resulting in the Private Hire Vehicle Licence being suspended as a matter of routine. The Private Hire Vehicle Licence plates were returned to the Licensing Service on 14 November 2016 and a new test appointment was made for the following day, at which the vehicle failed the inspection with a total of 8 faults, of which 6 were MOT defined faults. All 4 tyres were found to be below the legal tread limit, 2 being so bad that the wire construction chords which lie below the rubber were visible.

In response the Licence Holder and Licence Holder's daughter explained that following the test on 4 May 2016 all 4 tyres on the vehicle had been changed but had driven over 11,000 miles since then. The Licence Holder stated that the faults found in relation to the tyres on 14 November were due to the tracking on the vehicle. It was explained that the Licence Holder had been a taxi driver since 1993 but this year had had a number of personal problems. The Licence Holder's sister had passed away in Pakistan and his wife has recently been unwell and had been in hospital and that the Licence Holder himself has not been well. He had forgotten to check the tyres and it was a genuine mistake and he was sorry. The Licence Holder stated that he had the car serviced in August and the tyres had been checked then. The Licence Holder produced a receipt for the purchase of the tyres and also a reference.

Delegated decision:

After carefully considering the written report, oral statements from the Licence Holder and his daughter, taking into consideration written evidence and the character reference and taking into account the Council's Convictions Policy and Guidelines, pursuant to the Local Government (Miscellaneous Provisions) Act 1976, the Panel resolved, unanimously, **to revoke the licence.**

The Panel noted that the Licence Holder had been a licensed driver for over 20 years, but he had provided no detail as to any regular checks on the vehicle or any explanation as to why he had not noticed the state and condition of the tyres or any issues with the tracking. He could not produce any service history for the vehicle. It was further noted that the Licence Holder had ignored the warning light on the vehicle regarding the tyre pressures and had continued to drive the vehicle for private hire after its licence had been suspended.

The Panel felt that public safety is paramount and that the Licence Holder had shown little regard as to the wellbeing of passengers by allowing the vehicle to fail on such serious faults. The Licence Holder had been a driver since 1993 and should be more aware of the importance of the maintenance of a vehicle being used to carry the travelling public.

In the circumstances the Panel felt that the Licence holder was not a fit and proper person to be a Private Hire driver within Bury.

The Licence Holder was notified of the right to appeal to the Magistrates' Court within 21 days.

2. Licence holder 32/2016 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. This explained that the Licence Holder has been the holder of a Hackney Carriage and then a Private Hire vehicle licence in relation to a Peugeot Expert 8 seater vehicle, since the vehicle was transferred to him on 29 November 2013. The vehicle had failed two consecutive periodic vehicle inspections on 1 June 2015 and 7 December 2015 with more than 3 MOT defined faults on each occasion and therefore on 8 June 2016 the vehicle was placed on two interim tests during the subsequent 12 month period, in accordance with the Council's policy. On the same date, the vehicle failed its annual renewal inspection with 13 MOT defined faults being identified. The Licence Holder was before the Licensing and Safety Panel for failing to maintain his vehicle between the last 4 periodic vehicle inspections.

The Licence Holder was given the opportunity to address the Panel and he accepted his responsibility for the vehicle and its maintenance and that it was his fault the vehicle had failed inspections. He explained that he had not used good garages and mechanics and unfortunately he has had a lot of personal issues to deal with. He stated he has 6 children and he lives with his elderly parents whose health is not very good. He explained he is the sole provider for all his family and that his daughter, who has special educational needs, has had the transport from home to school stopped by the Council which is adding further pressure on him and his family.

The Licence Holder explained he has had spent between £10,000 and £12,000 on the vehicle, the engine replaced in the vehicle twice, had 2 new gear boxes and 3 clutches and that the vehicle has been very problematic since he took it in 2013. He has been travelling to Sheffield to use a mechanic who has replaced the engine but unfortunately the garage he has used locally has not been up to standard. The Licence Holder stated that he has a number of documents and receipts for the work undertaken but he failed to bring them to the meeting as he did not feel they would be relevant.

The Licence Holder stated he had spent a great deal on the car but had only paid £5,500 for the vehicle in the first instance. The vehicle was now completely roadworthy and had passed the latest inspection. He would never knowingly drive a vehicle that was not safe for the public to travel in and he will be replacing the vehicle in the New Year. This had been a very difficult time for the Licence Holder, knowing he would be before the Licensing and Safety Panel and with his personal circumstances at home.

The Licence Holder brought a reference from his employer which explained he was a valued member of their team and was a regular driver for the firms schools contract.

Delegated decision:

After carefully considering the written report, oral statements from the Licence holder, taking into consideration the written statement and character reference 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 licence holder had been a Hackney Carriage Driver since 2004 and a Private Hire Driver since 2013 and there have been no complaints against him. The Panel also took into consideration the personal circumstances of the Licence Holder and noted the fact that he was the main provider for his family and showed genuine remorse. The Chair stressed the Panel's concerns as to the serious nature of the issues identified and the importance of maintaining the vehicle to a high standard and that it was up to the driver to ensure their vehicle was of that standard which is required by Bury Council to guarantee the safety of the public.

LSP.431 APPLICATIONS FOR PUBLIC/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 33/2016 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report, which was accepted by the Applicant. This explained that the Applicant had been convicted of driving a motor vehicle with excess alcohol on 4 November 2011 at Coventry District Magistrates' Court and was disqualified from driving for 18 months and fined £20 with £80 costs.

The Applicant addressed the Panel and explained that he was a single Father of a 10 year old daughter, with a lot of responsibility to provide for her. He currently works night shifts but to drive a Private Hire vehicle would allow him to work hours that suited him to be able to care for his daughter. The Applicant explained that he had also attended a DVLA drink/driving course and his licence had therefore been restored to him after 12 months. He further stated that he no longer drank, particularly as he took his responsibilities for caring for his daughter very seriously.

Delegated decisions:

1. 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 33/2016 was a fit and proper person and resolved to **grant the application for a Private Hire Driver's Licence.**

The Panel noted that although a serious matter, the conviction was over 5 years ago and there had been no further convictions since that time. The Panel also acknowledged the Applicant's personal circumstances and that he was remorseful for his actions.

1. Applicant 34/2016 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report, which was accepted by the Applicant. This explained that the Applicant had previously held a Private Hire drivers licence, which had expired on 17 November 2016. He subsequently submitted a new application and declared he had been convicted at Manchester and Salford magistrates' Court on 11 March 2016 for driving with no insurance (IN10), committed in November 2015. The Applicant had his DVLA Licence endorsed with 6 penalty points and was fined £175.

The Applicant then addressed the Panel and explained that he had been randomly stopped by Police in Bury Town Centre. When asked by the police what he was doing, he had openly explained that he was transporting food from a takeaway business. The Applicant stated that he had gone to collect food for his family from a friend's takeaway business and his friend had asked him to deliver some food on his way home and help him out, as it was a very busy night. He stated that he did not realise that his own vehicle insurance did not cover him for this purpose and that as it was classed as commercial/business use, he required additional insurance. When advised by the police that he was not insured, his vehicle was seized and he had to pay for its return.

When asked why the conviction had not previously been declared to the Council during the period of the Applicant's previous licence, the Applicant explained that he had forgotten about the conviction as he has had a stressful time as his wife is a cancer patient.

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 33/2016 was a fit and proper person and resolved to **grant the application for a Private Hire Driver's Licence.**

The Panel accepted the Applicant's explanation that he did not realise his insurance would not cover him and he appeared genuinely remorseful for this conviction. It noted that the vehicle he was driving at the time did have insurance, albeit not for the purpose it was being driver for. It further noted that he had previously been a licensed driver for over 10 years without complaint or conviction. There had also been no further convictions since the one in question.

COUNCILLOR D JONES
Chair

(Note: The meeting started at 7.00 pm and ended at 9.30 pm)

