

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 19 January 2017

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

LSP.432 DECLARATIONS OF INTEREST

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

LSP.433 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 21 December 2016, be approved as a correct record and signed by the Chair.

LSP.434 PUBLIC QUESTION TIME

There were no questions raised under this item.

LSP.435 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 are continuing to be undertaken by the adult learning team. In December 2016, 12 assessments were booked, of which 10 passed, 2 failed and 0 failed to attend.
- In relation to a Licensing Hearings Panel meeting on 10 May 2016, following an Application for a review of the premises Licence submitted by the Police in respect of PICS (Now known as the Mint Lounge), 30/32 Market Street, Bury and subsequent representations from 3 other interested parties during the representation period, the Licensing Hearings Panel resolved various modifications to the Premises licence. The Licence Holder subsequently appealed the Panel's decision to the Magistrates' Court and it was heard on 26 and 27 September 2016 and the decision was announced on 6 December 2016. The Magistrates' allowed the appeal and amended the hours of the premises licence. A condition of last entry of 3.00 am was imposed, although this was a change to the condition imposed by the Licensing and

Safety Panel of last admittance of 2.00 am. The remaining conditions were reinstated as per the original licence conditions.

It was agreed:

That the report be noted.

LSP.436 APPLICATION TO REMOVE A LICENCE CONDITION RELATING TO A DOG CRECHE

A report by the Assistant Director (Localities) was submitted to the Licensing and Safety Panel in relation to a request from a Licence Holder to remove condition 28 from his licence. The Licensing Unit Manager read the report explaining that the Animal Boarding Establishment Act 1963 is the relevant legislation which relates to the boarding of dogs and cats, and includes dog crèches. The Council has specific conditions which relate to all forms of boarding of animals including those at Dog crèches.

On 12 October 2010, the Licensing and Safety Panel considered and approved licence conditions relating to dog crèches in order to give more specific control in this growing market. The report is in relation to condition 28 which states 'full males, bitches in season and puppies under six months of age must not be boarded with other dogs'. Bury Council adopted this particular condition in order to ensure the safety of all dogs attending a crèche.

Mr Luke Millington, Managing Director of Stay N Play Doggy Day care and the joint Licence Holder of the establishment along with Mr Jason Morgan, attended on behalf of both Licence Holders and explained to the Panel that they have held a licence under the Animal Boarding Establishment Act for a dog crèche since 1 September 2016 and on 12 December 2016; the Licensing Service received a request from Mr Millington to remove condition 28 from the licence.

Mrs Sandra Coombes, Enforcement Officer in Animal Health, attended the meeting and explained that things now are different from 1963 and people like to have day care for their animals and this does not include boarding over night. Condition 28 is to ensure the safe provision and welfare of all the animals.

Mr Millington attended the meeting with his Mother in Law and addressed the Licensing and Safety Panel and explained that after speaking to various veterinary nurse practitioners and other professionals he believed it was important for dogs to socialise from a very young age. He stated that over 90% of aggression in dogs is due to fear and that could be addressed in a puppy for it to learn how to act and react and greet other dogs to give confidence and to find its place within a pack.

Mr Millington explained that at the licensed premises, the dogs are integrated initially on a one to one basis and if there are any dogs that are aggressive they are put into a separate cage and the owner informed that they cannot be accommodated. Although it is an industrial unit there are various areas off the unit in which to separate dogs if necessary. The current licence is for 34 dogs but the Day Care has only 20 at any one time. There are 8 members of staff in total and always 4 on site, making the ratio 1 member of staff to 5 dogs.

Following various questions by the members of the Licensing and Safety Panel, Mr Millington explained that he has had to turn away a number of customers as he currently is unable to accept puppies under 4 months old. Although he has only held the licence since 1 September 2016, he started training 8 years ago, making it a profession 4 years ago. Mr Millington provided a number of references and certificates to the Panel and stated he felt he had the experience, knowledge and practice to warrant removing condition 28 from his licence.

Delegated decision:

After carefully considering the written report, oral statements from the Licence Holder and taking into consideration written evidence, the Panel agreed on a majority decision to refuse the request to remove condition 28 from the licence.

The Panel noted that Mr Millington had some experience in running the business and had further experience with dogs. It further noted the various certificates demonstrating the training undertaken by the Licence Holders and their staff. However, as the licence had only been granted on 1 September 2016, it was felt by the Panel that further time was needed in order that the Licence Holders could demonstrate that safety standards were being met, that the Licence Holders were able to provide the best care and for the welfare of all the animals, and that there had been no complaints or concerns regarding the establishment.

LSP.437 URGENT BUSINESS

There was no urgent business reported.

LSP.438 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.439 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.

1. Applicant 01/2017 attended the meeting and was represented by Mr Oakes of The Hackney Drivers' Association Limited. The Licensing Unit Manager summarised the report, which was accepted by the Applicant and Mr Oakes, which explained that the Applicant had previously held a Private Hire licence with Bury Council from 23 September 2013 to 13 February 2014, when the Licensing and Safety Panel had revoked the licence following an incident on 19 November 2013. The report explained that on the morning of 19 November a Civil Enforcement Officer was on duty on Wellington Road when she came across the Applicant's Licensed Private Hire vehicle parked in a suspended parking bay and subsequently attached a fixed penalty notice to the vehicle. The Applicant, who lived nearby, approached the Officer in an angry manner, swearing. The Officer tried to reason with the Applicant and then started to walk away. She then felt a blow to the side of her head, which knocked off her hat and a push in the back, causing her to stumble.

The Applicant and Mr Oakes then addressed the Panel and accepted that although the Applicant had knocked off the Officer's hat, he had not pushed her in the back, nor sworn at her. The Applicant explained that at that time he had pulled a muscle in his leg and was in a great deal of pain and had lost his temper momentarily. Mr Oakes stated that this was not an excuse but a reason why the offence had taken place. The Applicant had appealed the Licensing and Safety Panel's decision to have his licence revoked to the Magistrates' Court but stated that he had not been given notice of the hearing and had therefore failed to attend. The matter was dismissed and he had been ordered to pay costs of £2,050 at £35 - £40 a month and he still owed £1,215.

Mr Oakes stated that the offence had occurred over 3 years ago and the Applicant stated he did not realise that where he had parked was a suspended parking bay. He took full responsibility for his actions and regretted his behaviour and hoped he could now be given another chance as a Private Hire Driver.

Delegated decision:

The Panel carefully considered the report and the oral representations by Mr Oakes and the Applicant and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 01/2017 be refused.**

The Panel noted that this was a serious matter and the Applicant at that time had only been driving as a Licensed Private Hire Driver in Bury for 2 months when the incident occurred. The Panel further noted he had shown little remorse for his actions and provided no reassurances to the Panel as to his future conduct. It therefore did not feel confident as to his future conduct, despite the passage of time. The Applicant had not attended Court for the appeal hearing and in all the circumstances, the Panel determined the Applicant not to be a fit and proper person.

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

2. Applicant 02/2017 attended the meeting and was unaccompanied. The Licensing Unit Manager summarised the report, which was accepted by the Applicant, which explained that the Applicant had been convicted at Bolton Crown Court on 27 April 2012 following an offence on 30 November 2011, of wounding/inflicting grievous bodily harm and possessing an offensive weapon in a public place. The Applicant had been sentenced to community order 12 months supervision requirement and forfeiture of the knife (offensive weapon). He had also failed to declare the latter offence on his application.

The Applicant then addressed the Panel and explained that the incident had occurred at an establishment in Radcliffe. The Applicant knew a member of staff, who was a friend, at the premises and regularly took some of his wages to send home to his parents, otherwise his friend would spend all of the money on 'weed'. The owner took offence to this and accused the Applicant of stealing his money. He became verbally abusive and would spit at him. This continued over a number of months until the night in question, when the owner of the premises was particularly abusive, physically and verbally. The Applicant stated that he did not know what to do and therefore went home to get the knife and returned. He did not intentionally mean to hurt the owner and he accepted this was a grave mistake which he deeply regretted, particularly as it had greatly affected his life.

When asked by the Licensing and Safety Panel why he had not declared on his application possessing an offensive weapon, he explained that he did not realise it was a separate offence, as he had been convicted of both offences at the same time.

The Applicant explained that he had previously been working for a housing association and with young people and people seeking asylum.

Since being on remand from prison for these offences, he had applied to return to the same job but was unable to do so following this conviction. He had applied for a number of other jobs but was unsuccessful and until only yesterday he had been working at a warehouse but now has no job. He has been in touch with Uber Private Hire Operator and could secure a job with them if he can be granted a licence.

Delegated decision:

The Panel carefully considered the report and the oral representations by the Applicant and after taking into account the Council's Conviction Policy and

Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 02/2017 be refused.**

The Panel agreed that these were very serious offences and appeared to have occurred in a pre-meditated manner. It was noted that the conviction for the wounding offence had been less than 10 years prior to the application, but there were no exceptional circumstances that would justify the Panel not following the Council's Conviction Policy. Although the Applicant was remorseful for his actions and needed to be working again, they did not feel that he was a fit and proper person to be a Private Hire Driver in Bury.

COUNCILLOR
Chair

(Note: The meeting started at Time Not Specified and ended at Time Not Specified)