

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 20 April 2017

Present: Councillor D Jones (in the Chair)
Councillors P Adams, R Hodgkinson, G Keeley, J Walker and S Wright

Also in attendance:

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

Apologies for Absence: Councillor N Bayley, Councillor I Bevan, Councillor J Grimshaw, Councillor O Kersh, Councillor A McKay and Councillor Sarah Southworth

LSP.689 DECLARATIONS OF INTEREST

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

LSP.690 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 7 March 2017, be approved as a correct record and signed by the Chair.

LSP.691 PUBLIC QUESTION TIME

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

LSP.692 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 - these assessments are continuing to be undertaken by the adult learning team. From February 2017 until March 2017, 31 assessments had been carried out, of which 27 passed, 4 failed and 0 failed to attend.
- Purple Flag External Assessment – the Council will be notified in May 2017 of the decision in respect of the renewal application.
- Hackney Carriage Transitional Arrangements – It was reported that transitional arrangement for the Hackney Carriage fleet come to an end on 1 June 2017

- Immigration Act 2016 – Implications on the Licensing Act 2003 – Details of the effect of the new provisions commencing on 6 April 2017, were set out in report relating to both personal and premises licences. It was reported all requirements of the Act had been implemented by the Licensing Service.
- Equality Act 2010 – It was reported that sections 165 and 167 come into effect on 6th April 2017 in relation to wheelchair accessible vehicles, the requirement to assist wheelchair passengers, the prohibition on charging them extra and the power given to local authorities to make lists of wheelchair accessible vehicles. It was reported that the Licensing Service is in the process of implementing the requirements of the Act.
- Statistics of the Licensing Service – Statistical information was set out in the report for the 2015/16 financial year in respect of the number of licences, registrations, consents and permits processed.

It was agreed:

That the report be noted.

LSP.693 URGENT BUSINESS

There was no urgent business reported.

LSP.694 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.695 SUSPENSION/REVOCATION OF HACKNEY DRIVERS LICENCES

Licence Holder 07/2017 was invited into the meeting and was represented by Mr D Whitehead and accompanied by his partner.

The Chair outlined the procedure to be followed and the Licensing Unit Manager presented a summarised report submitted by the Assistant Director (Localities) which was accepted by the Licence Holder and his representative. This set out the reasons for the Licence Holder being before the Panel.

The report explained that on 9th March 2017, the Licensing Service had received a complaint that at approximately 17.50 on 8th March 2017 the Licence Holder had approached the complainant at a bus stop on Bury Road. The complainant had not booked a private hire vehicle and had not tried to attract the Licence Holders attention. The Licence Holder offered to take the complainant where she wanted to go without having to pay. The incident had been witnessed by the complainants' employer and his wife, who picked up the complainant and took her

home. They subsequently provided witness statements to the Licensing Service in respect of the incident.

When interviewed by the Licensing Service about the matter the Licence Holder claimed he had no recollection of the incident and denied picking up or approaching the public.

The report stated that the Licence Holder had been before the Licensing and Safety Panel on 29th February 2016 as a result of the failing to declare 2 complaints made to Bolton Council relating to inappropriate conduct towards female passengers when he originally applied for his licence with Bury Council. On that occasion, the Panel had resolved to issue the Licence Holder with a verbal warning.

Mr Whitehead addressed the Panel on behalf of the Licence Holder. He produced several character references from female passengers which were submitted to the Panel. It was explained that the Licence Holder had been confused during his interview with the Licensing Officer regarding the incident. He stated that the confusion had arisen as he had been asked about Radcliffe Road not Bury Road. The Licence Holder did recall an incident on Bury Road which is a continuation of Radcliffe Road. Mr Whitehead then questioned why the complainant had not been interviewed by the Licensing Service with a translator as the witness statement provided by the complainant's employer made reference to the potential to exploit the complainants' poor understanding of English. The Licensing Enforcement Officer who conducted the interview was present at the meeting and was able to confirm that there had been no language barrier during the interview process.

Mr Whitehead went on to state that the Licence Holder had been given the benefit of the doubt in the past, the evidence was contradictory and the Licence Holder had been confused as to the location of the incident. The Licence Holder's wife stated that her husband had been known to get himself into "situations" but he was friendly and often misunderstood.

The Licence Holder also addressed the Panel and explained that he was in the area of Bury Road/Radcliffe Road at the time as he was waiting for a potential regular booking. He denied that he had approached the complainant at the bus stop and stated that he was parked at the junction of Oakwood Grove and Bury Road and that his vehicle was approached by the complainant. The Licence Holder stated that he informed the complainant that she could talk to him but he could not take her anywhere as she had not made a booking. A copy of the clients completed jobs list was submitted to the Panel which indicated that he did not work between 15.59 and 18.08.

Various questions were asked of the Licence Holder from members of the Licensing and Safety Panel.

Delegated decision:

1. The Panel carefully considered the report, the character references and the oral representations by Licence Holder 07/2017, their representative Mr Whitehead and the licence holders wife 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, **to suspend Licence Holder 07/2017 for a period of 6 months.**

The Panel noted the following;

- That the licence holders version of events differed from the statements provided by the complainant and the complainants employer but concluded that the Licence Holder had been plying for hire and had attempted to pick up a lone female.
- The Licence Holder could provide no reasonable explanation as to why the complaints on this occasion or previous occasions had been made.
- The Panel highlighted concerns in relation to the similarities with previous allegations for which the Licence Holder had been before the Panel.
- The complaints of both plying for hire and approaching a lone female were both of a very serious.
- The Licence Holder had received a previous warning from the Panel and had appeared not to act in accordance with that warning.

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

LSP.696 APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE LICENCE

The Licensing Unit Manager presented a report submitted by the Assistant Director (Localities) regarding applications for Public/Private Hire Vehicles Drivers' Licences.

Applicant 08/2017 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 previously had his application for a Private Hire Drivers Licence refused at a Panel meeting held on 1 September 2016. It was reported that the decision taken on 1 September 2016 was based on inaccurate and misleading information provided within the DBS check that had been presented to the Panel. Checks had since been undertaken and the inaccuracies had recently come to light following information disclosed by the Police.

The Applicant then addressed the Panel and explained the issue regarding the inaccurate DBS certificate. A letter was read out by the Acting Assistant Director of Legal and Democratic Services from the Applicant's solicitor, Mr B Koffman. The letter highlighted the inaccurate information on which the previous decision was taken and requested the application be considered in the absence of this information.

Delegated decision:

The Panel carefully considered the report, the oral representations by the Applicant and the letter from the Applicant's solicitor 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 08/2017 be granted.

LSP.697 STREET PASTORS

The Chair, Councillor Jones, placed on record his thanks to the team of Street Pastors in Bury for the dedicated work they undertake.

Delegated decision:

That a formal letter from the Panel be sent to the Street Pastor Team thanking them and recognising the important work they do.

(**Note**- This item which did not appear on the agenda for the meeting was allowed to be considered as a matter of urgency by the Chair to allow for recognition of the work of the Street Pastors at the earliest opportunity)

**COUNCILLOR D JONES
CHAIR**

(Note: The meeting started at 7.00 pm and finished at 8.45 pm)