

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, 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:	Tuesday, 28 November 2017
Place:	Meeting Rooms A & B, Town Hall, Bury
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 OF THE LAST MEETING *(Pages 1 - 6)*

To approve and sign as a correct record the minutes of the last meeting held on 19 October 2017. A copy of the minutes is 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 7 - 10)*

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

6 URGENT BUSINESS

Any other business, which by reason of special circumstances, the Chair agrees may be considered as a matter of urgency.

7 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.

8 CONSIDERATION OF A PSV DRIVER TO BE APPROVED TO WORK ON A HOME TO SCHOOL CONTRACT *(Pages 11 - 14)*

A report by the Director of Children's Services is attached.

9 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE DRIVERS' LICENCES *(Pages 15 - 22)*

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

10 APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE *(Pages 23 - 30)*

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

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Minutes of:	LICENSING AND SAFETY PANEL
Date of Meeting:	19 October 2017
Present:	Councillor D Jones (in the Chair), Councillors: P Adams, N Bayley, I Bevan, G Keeley, A McKay, O Kersh, R Hodgkinson, Sarah Southworth and S Wright
Apologies for absence:	Councillors J Grimshaw and J Walker
Public Attendance:	There were no members of the public in attendance

LSP. XXX DECLARATIONS OF INTEREST

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

LSP. XXX MINUTES**Delegated decision:**

That the Minutes of the Licensing and Safety Panel meeting held on 5 September 2017, be approved as a correct record and signed by the Chair.

LSP. XXX PUBLIC QUESTION TIME

There were no questions raised under this item.

LSP. XXX 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. From 25 August 2017 until 29 September 2017 there have been 18 assessments carried out of which 13 passed, 5 failed and 0 failed to attend.
- A private hire driver that had appeared before the Licensing and Safety Panel previously in relation to maintaining his vehicle, for which members revoked his licence, has lodged an appeal to the Magistrates' Court against the Council's decision. A case management hearing was listed on 5 October 2017 and the final hearing will be 29 November 2017.

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- On 11 July 2017 the Licensing Service refused to renew a hackney carriage vehicle licence in line with the Council's Policy in relation to the five fault rule. The proprietor appealed this decision and the case was heard at Manchester Magistrates' Court on 9 October 2017. The Court was satisfied with some elements of the appeal argument and the appeal was allowed, however, no costs were awarded against the Council.
- Statistics of work carried out by the Licensing Service during the first six months of the financial year 2017/2018 were provided to the Licensing and Safety Panel.

It was agreed:

That the report be noted.

LSP.XXX URGENT BUSINESS

There was no urgent business reported.

LSP.XXX 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.XXX SUSPENSION/REVOCATION OF A HACKNEY CARRIAGE DRIVER'S LICENCE

(E) Licence holder 22/2017 attended the meeting and was represented by Mr James Parry Solicitor, and accompanied by Mr Oakes of the Hackney Drivers' Association Ltd and a Mr Basat Khan to help with the interpretation.

The Chair outlined the procedure to be followed and the Licensing Unit Manager presented a report submitted by the Assistant Director (Localities) which was accepted by the licence holder and his representative, Mr Parry.

The report explained that the licence holder was before the Licensing and Safety Panel following a complaint on 18 September 2017 about this client's conduct. The female complainant had booked a taxi through a Private Hire Operator, who dispatched this licence holder's vehicle, which is a Hackney Carriage undertaking private hire work, on 15 September 2017 to take her from her home to her place of work, which is a journey she takes 3 times a week.

The complainant sat in one of the two front passenger seats. After a couple of minutes into the journey, the complainant noticed that the driver had only one hand on the steering wheel of the car and the other hand was rubbing and grabbing his crotch area over his track suit bottoms. This continued on a number of occasions throughout the 15 minute journey until they reached the destination when she paid the fare and exited the vehicle.

The complainant felt that the behaviour of the driver was inappropriate and telephoned the operator to make a complaint. The complainant felt so uncomfortable with the inappropriate behaviour of the driver that she telephoned the Police and then reported the conduct to the Licensing Service at Bury Council.

The complainant had been willing to attend the Licensing and Safety Panel but it was deemed that a written statement would suffice and this was included with the report for members of the Panel.

Mr Parry then addressed the Panel on behalf of the licence holder and explained that any allegation against a driver must be treated very seriously. Private hire and hackney drivers do expose themselves to the risk of allegations against them as they work alone. However, the Police had no intelligence regarding this licence holder in respect of any other complaint or safeguarding issues and that this is an isolated incident for which the Police have taken no further action.

He stated that the licence holder had not asked the complainant to sit in the front seat and no conversation had taken place between the two. Mr Parry stated that in order to protect himself against any future allegations the licence holder could install a dual direction dash cam.

Various questions were asked of the licence holder from the members of the Licensing and Safety Panel. In particular, he was asked if he was fully aware of how uncomfortable the complainant felt and whether the licence holder considered his behaviour to be inappropriate.

The licence holder stated it was wrong and he was sorry but that he hadn't felt his behaviour was inappropriate at the time as he had only pulled at his trousers on 2 occasions throughout the journey as he had felt uncomfortable. When he had picked up the customer she had got into the front seat and she had appeared very happy at the end of the journey and paid the fare with no problem.

Mr Parry summarised that the licence holder should install a camera in the cab and insist that customers sit in the back seat and he felt that a warning from members of the Licensing and Safety Panel to the future conduct of the driver would be the appropriate course of action.

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Delegated decision:

The Panel carefully considered the report and the oral representations by Licence Holder 22/2017 and his representative, Mr Parry and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, resolved unanimously, to **revoke the driver's licence**.

The Panel noted the following;

1. That the allegations were of a very serious nature,
2. That the behaviour of the licence holder was completely inappropriate,
3. That the complainants version of events was on balance accepted taking into account her actions after the incident in reporting the matter and her willingness to attend the Panel meeting,
4. That the driver showed no remorse or understanding of the complainants distress,
5. That the driver had only one hand on the steering wheel at times throughout the journey,
6. That the licence holder showed no remorse or acceptance that his behaviour was inappropriate even on his version of events,
7. That there were no mitigating factors or character references provided,
8. That the driver was not a fit and proper person to hold a Hackney Carriage Drivers licence issued by Bury Council.

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

LSP.XXX APPLICATION FOR PUBLIC/PRIVATE HIRE DRIVER'S LICENCE

The Licensing Unit Manager presented a report submitted by the Assistant Director (Localities) regarding an application for a Public/Private Hire Vehicle Driver's Licence.

Applicant 23/2017 attended the meeting and was accompanied by a friend. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report which was accepted by the Applicant.

The report explained that as part of an application process for a private hire drivers licence, the Applicant had declared two convictions which were; committing an act with intent to pervert the course of justice for which the applicant had been sentenced to a community order of 12 months unpaid work, with a requirement to undertake 60 hours and £250 costs; and conspiring/concealing/disguising/converting/transferring or removal of criminal property, for which the Applicant had been sentenced to 3 years imprisonment and confiscation of £20,000.

The Applicant addressed the Panel and explained that he wanted to move his family to Bury.

In relation to the first conviction, which was in May 2010, he explained that this related to a speeding ticket that the Applicant had received through the post. The Applicant gave this ticket to a friend of a friend who ran a claims firm and paid them the money for the fine, believing they would handle this on his behalf. However, this company did not pay the fine and the Applicant was one of 150 – 200 people involved in a large Court case. The Applicant was advised by his Solicitor to plead guilty. As he was at that time a licensed private hire driver in another area, his licence was revoked, although he reapplied one year later which was granted.

In relation to the second conviction in November 2013, , the Applicant explained that this was brought about through association with his brother in law who was collecting money from people around the country and which was being laundered through a money transfer shop.

His brother in law's car was pulled over on the M1 by the Police who found the Applicant's phone number on his mobile phone. The Applicant stated that he thought his brother in law worked for a car company and had no knowledge of any money laundering. The Applicant stated his first trial resulted in the jury failing to reach a unanimous decision. At the retrial, however, the second jury found him guilty

The Applicant explained to the Licensing and Safety Panel that he wanted to make a fresh start with his family in Bury. His son is at University and his daughter is in High school. He is currently working as an interpreter for the NHS, however, this is not providing enough financially for him and his family.

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, on a majority basis, that **the application for a Private Hire Driver's Licence by Applicant 23/2017 be refused.**

The Panel noted the following:

- These were serious offences of dishonesty
- The Applicant had received sentences in keeping with the seriousness of the offences including imprisonment
- That the Applicant licence with another authority has since been revoked
- The Panel was not satisfied the Licence Holder was fit and proper to hold a licence.

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

Licensing and Safety Panel 19 October 2017

COUNCILLOR D JONES

CHAIR

(Note: The meeting started at 7.00 pm and finished at 8.20 pm)



DECISION OF:	LICENSING & SAFETY PANEL
DATE:	28th NOVEMBER 2017
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 PRE-APPLICATION 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 29th September 2017 until the 10th November 2017 there has been 22 assessments carried out. Of the 22 assessments that were booked, 19 passed, 3 failed and none failed to attend.

3.0 Licensing Hearing Panels – 31st October 2017

- 3.1 Polka, 20 Parkhills Road, Bury.

The Licensing Service received an application to transfer the surrendered premises licence in respect of Polka, 20 Parkhills Road, Bury, BL9 9AX.

Greater Manchester Police, in their capacity as a Responsible Authority, gave notice that they were satisfied that the exceptional circumstances of the case are

such that granting the application would undermine the crime prevention objective.

The members of the Panel considered the Transfer application and resolved to reject the application.

3.2 Grape to Grain, 42 Bridge Street, Ramsbottom, BL0 9AD

The Licensing Service received an application for the grant of a new premises licence in respect of Grape to Grain, 42 Bridge Street, Ramsbottom.

An interested party made a representation in respect of the application.

The members of the Panel considered the application to grant a premises licence and resolved to grant the application.

4.0 Equality Act 2010

- 4.1 Following a complaint from a member of the public who is blind, the licensing service investigated the complaint and it was decided to instigate prosecution proceedings. On 1 November 2017, a private hire driver attended Manchester Magistrates Court and pleaded guilty to an offence under section 170 (3) of the Equality Act 2010. Section 170 (3) states as follows:-

The driver of a private hire vehicle commits an offence by failing or refusing to carry out a booking accepted by the operator—

(a) if the booking is made by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and

(b) the reason for the failure or refusal is that the disabled person is accompanied by an assistance dog.

Sentence as follows:-

Fine £250.00

Costs £250.00

Victim Surcharge £30.00

This matter will be listed for a future Licensing and Safety Panel meeting to give consideration to his suitability to hold a private hire drivers licence.

5.0 Communities in Charge of Alcohol" (CICA) Programme

- 5.1 A "Communities in Charge of Alcohol" (CICA) Programme has been developed, which aims to kickstart the development of a network of community alcohol champions across Greater Manchester. The project builds on the principle that local communities should be empowered to take charge of their own health and people in communities are best placed to influence their friends, families and colleagues.

This project is an innovative partnership between the Greater Manchester Combined Authority, Greater Manchester Health and Social Care Partnership. all ten Greater Manchester Local Authorities, the Royal Society for Public Health, the University of Salford and Public Health England North West.

The area selected due to the infrastructure that was already available and issues relating to alcohol, Radcliffe was selected. The "Darnhill" area was selected for Rochdale.

The aim is to provide community members with knowledge, skills and key contacts to support them:

- Support people to reduce drinking through brief advice or guiding them towards specialist services
- Attending local community events to speak to people about alcohol and health
- Provide support for communities to get involved with licensing decisions by helping them raise issues with the local authority about venues selling alcohol.

The Licensing Unit Manager has recently attended a presentation on the Licensing Act along with the Service Manager from Rochdale to give guidance on the processes that can be used by local communities if they have issues relating to problem premises that hold a premises licence/Club Premises Certificate under the Licensing Act 2003.

Contact Details:

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