

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 11 January 2018

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

LSP.288 DECLARATIONS OF INTEREST

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

LSP.289 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 28 November 2017, be approved as a correct record and signed by the Chair.

LSP.290 PUBLIC QUESTION TIME

Charles Oakes, of the Hackney Drivers' Association Ltd, submitted a written question to the Licensing and Safety Panel enquiring as to how someone who is unemployed would raise an amount of approximately £450 to apply for a taxi driver's licence.

The Licensing Unit Manager explained that the total cost of a licence would not reach £450, however, there were separate components contained within the fee including the 3 year licence, knowledge test, DBS check, English and Maths assessment and the driving assessment. Not all of the cost is taken up front only the DBS check and pre-assessment costs. It is a non-profit fee to cover the charges incurred, some of which are outside the Council's control.

It was also explained that there was a proposal to increase the fee by 3%. This proposal would be advertised in the press, which is a statutory obligation. The Licensing Unit Manager stated that a comparison of all the Greater Manchester Authority fees would be collated and put before the Licensing and Safety Panel for information.

It was agreed:

That the response be noted.

LSP.291 OPERATIONAL REPORT

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 10 November 2017 until 8 December 2017 there have been 8 assessments carried out, of which 6 passed, 2 failed and none failed to attend.
- In relation to Licensing Hearings Panels, the Licensing Unit Manager reported the following:
 - The Licensing Service received an application to vary the Designated Premises Supervisor in respect of the Wellington Hotel, 338 Bolton Road, Bury and the hearing was convened for 6 December 2017, however, the representation was withdrawn prior to the hearing, following mediation with the Police, therefore this application was not heard by a Licensing Panel.
 - The Licensing Service received an application to review the premises licence in respect of the White Rooms, 254 Bury New Road, Whitefield, from Greater Manchester Police in their capacity as a Responsible Authority and two interested parties also made representations. The meeting was convened for 19 December 2017 and the Panel received evidence and considered all oral and written documentation before considering the merits of the case and agreed to vary the conditions of the licence in keeping with the licensing objectives; to prevent crime and disorder, to prevent public nuisance and ensure public safety. The Panel agreed it reasonable, balanced, appropriate and proportionate based on all the evidence, to vary the conditions and not revoke the licence.
 - The Licensing Service received an application to transfer the premises licence and vary the Designated Premises Supervisor in respect of Jason's Mini Mart. 36 Albion Street, Bury and the hearing was convened for 20 December 2017. 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 Panel's decision was to refuse both applications.
- Following a decision of the Licensing and Safety Panel on 27 July 2017 to revoke a private hire driver's licence with immediate effect for failing to maintain his vehicle over a 2 year period, the driver appealed the Council's decision to Manchester and Salford Magistrates' Court. The hearing took place on 29 November 2017 and the Magistrates' decided to dismiss the appeal and the Council were granted costs of £1,570.

It was agreed:

That the report be noted.

LSP.292 URGENT BUSINESS

There was no urgent business reported.

LSP.293 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.294 SUSPENSION/REVOCATION OF A HACKNEY CARRIAGE DRIVER'S LICENCE

Licence holder 30/2017 attended the meeting and was accompanied by Mr Ahmed, Solicitor.

The Chair outlined the procedure to be followed and the Licensing Unit Manager presented a report submitted by the Assistant Director (Localities).

The report explained that the Licensing Service had received information from Greater Manchester Police on 19 December 2017 that the Licence Holder had received a conviction for the possession of a class 'A' drug on 21 November 2017 at Manchester Magistrates' Court and was fined £100 with costs of £85 and a victim surcharge of £30. This had not disclosed to the Licensing Service within 7 days as required under the private hire drivers' licence conditions.

Mr Ahmed stated that it was not the Licence Holder driving the vehicle but his uncle, which was accepted by the Licensing and Safety Panel. He explained that driving a taxi is all the Licence Holder knows and that he has worked as a taxi radio operator since he was 16 years old. He is the only financial provider in the household and his mother relies on him and that to lose his licence would be detrimental to the family.

Following questions from the members of the Panel, the Licence Holder explained that he had not been driving the vehicle but had been a passenger and it was not his car. He acknowledged that there was a bag of a class 'A' drugs in the pocket of the door of the car and that when the Police stopped the car he automatically put this in his pocket as he didn't want his uncle to get into trouble.

When questioned as to why he had not disclosed this conviction to the Licensing Service, Mr Ahmed stated that the Licence Holder had not been aware he had to. He stated that he was young and naive at the time of the conviction and was very remorseful for his actions and stressed how important it was for him to keep his licence in order to provide for his Mother and family.

Delegated decision:

The Panel carefully considered the report and the oral representations provided by the Licence Holder 30/2017 and his Solicitor 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 conviction for possession of a class 'A' drug was a serious offence.
2. That the conviction date of 21 November 2017 was very recent and the conviction guidelines state that a conviction of less than 3 years old will generally be refused and there were no exceptional circumstances to depart from these guidelines.
3. The Licence Holder provided no reasonable explanation for not disclosing the conviction, as the requirements for disclosure are clear.
4. That the Licence Holder was not a fit and proper person to hold a Private Hire Driver's Licence issued by Bury Council.

The Licence Holder was informed of their right to appeal to the Magistrates' court within 21 days.

LSP.295 APPLICATION FOR PRIVATE HIRE DRIVERS' LICENCES

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 invited to address the Panel separately on their applications and any matters referred to in the Officer's report. The Chair outlined the procedure to be followed.

1. Applicant 27/2017 attended the meeting and was represented by Mr Ahmed, Solicitor. The Licensing Unit Manager read the report which was accepted by the Applicant and representative, which explained that the Applicant had been convicted at Greater Manchester Magistrates' Court on 14 March 2013 for an offence of driving a motor vehicle with excess alcohol and sentenced to 12 months disqualification and fined £110 with costs of £350 and a victim surcharge of £20.

The Applicant addressed the Panel and explained the circumstances which had led to the conviction, which were that on 11 February 2013 the Applicant had visited a friend for a drink, which was a regular occurrence and he always booked a taxi home. On this occasion, he was at a female friend's house and they had an argument and she took his car keys and started to drive his car. She travelled up the road where she had stalled the car at a Give Way. The Applicant stated he opened the car door to stop the female from driving further, when she sounded the horn and started shouting and a neighbour called the Police. The Applicant had by this time reversed the car to a safer place and was stood outside the car

but with the keys in his pocket. The female initially accused the Applicant of assault but these charges were later dropped.

Following questions from the members of the Licensing and Safety Panel, the Applicant stated that he only chased the female as he was worried for her safety, as she had also been drinking. He further stated he had only reversed the car a short distance to ensure the safety of others as well as his car, due to where the vehicle had been left. The Applicant also explained that since this incident he has suffered ill health and lost 4 stone. He has 5 children to support, 2 of which are at University and he felt that not only him but his whole family were suffering. The Applicant acknowledged that what he did was wrong, was very remorseful for his actions but stated that he had waited until the 5 years since the conviction time was almost complete, before applying for his licence.

Delegated decision:

The Panel carefully considered the report and the oral representations by the Applicant and Mr Ahmed and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 27/2017 be granted.**

The Panel noted that although a serious offence, the Applicant had shown remorse and understood the seriousness of the matter. The offence and conviction had taken place almost 5 years ago and there had been no further convictions since that time.

2. Applicant 28/2017 attended the meeting and was represented by Mr Ahmed, Solicitor.

The Licensing Unit Manager read the report, which was accepted by the Applicant which explained that the Applicant had been convicted at Bury Youth Court on 18 December 2014 for offences of driving otherwise than in accordance with a licence and using a vehicle uninsured. The Applicant was fined £290 and given 6 penalty points on his licence.

Mr Ahmed addressed the Panel on behalf of the Applicant and explained that the Applicant was only 16 years old at the time of the conviction and was very young and naïve. He had been driving his friend's car who was also with him in the vehicle but when the Police stopped the car he had been driving. He had voluntarily declared the convictions which were committed at the time, due to him time being too young to hold a driving licence.

The Applicant currently works as a taxi radio operator but wants to become a taxi driver with the firm he works for.

Delegated decision:

The Panel carefully considered the report and the oral representations by the Applicant and Mr Ahmed and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 28/2017 be granted.**

The Panel noted that although a serious offence, the Applicant had shown remorse and understood the seriousness of the matter. The offence and conviction had taken place over 3 years ago and there had been no further convictions since that time.

3. Applicant 29/2017 attended the meeting and was represented by Mr Ahmed, Solicitor.

The Licensing Unit Manager read the report which was accepted by the Applicant and which explained that the Applicant had held a hackney carriage and private hire driver licence until 9 December 2017 and as part of the renewal application process, the Applicant's driving licence was checked with the DVLA. At that time, it was discovered that the Applicant had been convicted on 6 July 2016 at Manchester Magistrates' Court of an offence of failing to give information as to identity of driver, for which the Applicant had received 6 penalty points. The Applicant had not disclosed this conviction.

Mr Ahmed explained that the Applicant had been a taxi driver with Bury since 2004 and always had a clean record until this offence. It had resulted from the Applicant's vehicle crossing going through a red traffic light. Although the vehicle in question was registered to the Applicant, it was not he who had been driving on that date. Unfortunately the circumstances were that his Mother was very ill in Pakistan and the Applicant was regularly visiting her. However, due to not being at home very much during his Mother's illness, the Applicant's post had not been opened and therefore the Applicant had no recollection of the offence, until a bailiff came to his house to collect a fine related to it.

Mr Ahmed stated that the Applicant was the head of a large household and the main financial support. He had not purposely done wrong and had already paid a large fine and received 6 penalty points on his licence. He was very remorseful.

Delegated decision:

The Panel carefully considered the report and the oral representations by the Applicant and Mr Ahmed and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, unanimously, that **the applications for a Hackney Carriage Licence and a Private Hire Driver's Licence by Applicant 29/2017 be granted.**

The Panel noted that although a serious offence, the Applicant had shown remorse and understood the seriousness of the matter. He also had no other convictions or complaints registered against him during his previous 13 years as a Licence Holder.

COUNCILLOR D JONES

Chair

(Note: The meeting started at 7.00 pm and finished at 8.40 pm)