

Minutes of:	LICENSING AND SAFETY PANEL
Date of Meeting:	20 March 2018
Present:	Councillor D Jones (in the Chair) Councillors P Adams, N Bayley, J Grimshaw, 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 A McKay

LSP.432 DECLARATIONS OF INTEREST

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

LSP.433 MINUTES OF THE LAST MEETING

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 13 February 2018, be approved as a correct record and signed by the Chair.

LSP.434 PUBLIC QUESTION TIME

There were no public questions asked under this item.

LSP.435 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:

- In relation to Licensing Hearings Panels, the Licensing Unit Manager reported the following:

The Licensing Service received an application for a new premises licence in respect of Polka, 20 Parkhills Road, Bury, due to the premises licence being surrendered on 21 September 2017 by the previous owner. On 26 September 2017 an application to transfer the premises licence was made by another Applicant, however, representation was made by Greater Manchester Police and the application was refused at a Licensing Hearings Panel on 31 October 2017.

A further application for the grant of a new licence was subsequently submitted and Greater Manchester Police, in their capacity as a responsible authority, made representations which were considered at a Licensing Hearings Panel on 7 February 2018 and after hearing all the evidence in

respect of the new licence application, the Panel considered it reasonable, balanced, appropriate and proportionate to refuse the application for a premises licence.

- In relation to the agreement of Common Minimum Standards across Greater Manchester, it was reported that the Licensing Unit Manager and the Chair of the Licensing and Safety Panel attended an event at Dukinfield Town Hall on 8 February 2018 where the matter was discussed with the principle being to explore a more co-ordinated approach to Taxi and PHV Licensing and to develop minimum standards for Greater Manchester, looking at policies around drivers, vehicles and operators. Following a three month consultation with the trade, it was hoped to have one generic report to adopt provisions, by April 2019.
- It was reported that a prosecution in relation to the illegal landing of puppies and unlicensed Pet Shop Offences had been heard at Manchester Magistrates' Court on 7 March 2018. Mr Viktor Molnar pleaded guilty to offences under the Rabies order 1974 (importation of dogs, cats and other mammals) and sections 10, 73 and 75 of the Animal Health Act 1981 and to an offence under the Pet Animals Act 1951 for using his premises in Prestwich as a pet shop without a licence.

Mr Molnar was given a 270 hour Community Order and disqualified from operating a pet shop or a boarding establishment for ten years. He must also pay compensation to a purchaser of a puppy from Scotland to cover purchase and quarantine costs and to pay a contribution to prosecution costs of £2,500. Mr Molnar was registered with the Royal College of Veterinary Surgeons which will be contacted over his fitness to continue as a practising vet.

It was agreed:

That the report be noted.

LSP.436 SAFEGUARDING REPORT

A report by the Assistant Director (Localities) was submitted in respect of introducing safeguarding training for applicants/licence holders of hackney carriage/private hire drivers' licences.

The Licensing Unit Manager reported that following issues raised in the 2014 report into Child Sexual Exploitation in Rotherham regarding safeguarding controls in taxi and private hire licensing, the Licensing Service has identified the need to review its own safeguarding arrangements.

The proposed training aims to enable drivers to understand the need to protect vulnerable adults and children and identify possible victims of abuse and exploitation. Also, to understand their own roles and responsibilities in relation to personal safety and to identify where they can report any concerns.

The Convictions Policy and Guidelines, approved on 4 December 2014, states that the Council is concerned to ensure that a person is fit and proper; that the

public are not exposed to persons with a history of dishonesty, indecency or violence and that the safeguarding of children and young persons and vulnerable adults.

Currently Bury Council does not have a policy in place that requires applicants who wish to become licensed drivers of hackney carriage and private hire vehicles or existing licence holders, to undertake any training in relation to safeguarding matters. A request by the Interim Executive Director of Resources and Regulation was received asking that the Licensing Service investigate the possibility of introducing a policy relating to new applicants and existing licence holders to undertake safeguarding training.

Currently two providers of safeguarding training have been identified, one being a private company, Personnel Check and the other Barnardos. It is proposed the costs of the training will be borne by the Applicant or the Licence Holder. The current cost proposals for the Barnardos' online training is £6,000 for an unlimited licence to access the training.

Bury Council currently licences 1061 private hire drivers and 125 hackney carriage, meaning that unit costs would average £6 per driver. Additional costs would be incurred for facilitating and supervising the drivers in taking an online training session.

In respect of the private company, Personnel Check, they work on the basis of a pay per session basis which would be £750.00 or £30.00 for 40 drivers per session, with the possibility of additional costs for room hire.

Various questions and issues were raised by the members of the Licensing and Safety Panel.

It was agreed:

1. To introduce a policy for the requirement for Applicants/Licence Holders of hackney carriage/private hire drivers' licences to undertake safeguarding.
2. To delegate to the Head of Service (Trading Standards and Licensing) following consultation with the Chair of the Licensing and Safety Panel the power to approve providers to carry out the safeguarding training.
3. That the requirement be implemented from 1 July 2018, with a provision for existing drivers to have taken the training within 12 months, from that date.

LSP.437 URGENT BUSINESS

The Chair of the Licensing and Safety Panel reported, for information, that he and two other elected members, along with the MP for Bury had been at a meeting which was attended by upwards of over 70 hackney carriage drivers licensed by Bury Council, in which it was requested that there be another MOT testing station in Bury. The Chair defended the policy for the one testing station in Bradley Fold and referred to the fact that that there is often no representation at the Licensing and Safety Panel meetings, which were also public meetings, in order to express their concerns on an individual level, nor at the liaison meetings.

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 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE DRIVERS' LICENCES

1. It was requested that the hearing for Licence Holder 32/2017 be adjourned until the next meeting, which was agreed by the members of the Licensing and Safety Panel.
2. Licence Holder 33/2017 did not attend the meeting and it was reported by the Licensing Unit Manager that several attempts to contact the Licence Holder had been made via email, telephone, and letter. Two officers of the Licensing Service had been to the Licence Holder's address on that afternoon and it was apparent that no one was currently in the property and there was an apparent backlog of post behind the front door. The Father of the Licence Holder, also a Licence Holder in Bury, is known at present to be in Pakistan and it is unknown if the Licence Holder has gone with him. After further investigations with local private hire operators, it was concluded that this Licence Holder is not currently driving for any operator in Bury.

Following an in-depth discussion with the members of the Licensing and Safety Panel, it was decided, on a majority decision, to hear the case for Licence Holder 33/2017 in absence. Although it was agreed that the Licence Holder was not present to defend himself, the Panel considered the complaint serious enough to hear in his absence and there had been sufficient attempts to make him aware of the meeting and requirement to attend.

The Licensing Unit Manager presented a report submitted by the Assistant Director (Localities), which explained that on 12 December 2017 the Licensing Service received a complaint from a concerned Parent, that Licence Holder had been contacting her daughter excessively, without permission and using inappropriate language.

The complainant's daughter, who is over 18, had been out in Rochdale and used her mobile phone to contact the Licence Holder's operator in the early hours of Saturday 9 December 2017, to book a private hire taxi. The complainant's daughter had received an initial text from a mobile number advising her that her taxi was waiting outside.

Subsequently, between 09.37am and 12.30pm later the same day, her mobile received 7 phone calls and 5 text messages, 14 audio calls and 20 messages through the WhatsApp messaging service, with one stating 'Ur hot u'. Through Whatsapp, the complainant's daughter was able to view the

profile of the sender and she identified him as being the taxi driver who had taken her from Rochdale earlier that day and the mobile number was the Licence Holder's, the same number she had been notified of the arrival of her taxi in the early hours.

A witness statement and screen shots of the phone activity were attached to the report for the Panel's consideration.

Delegated decision:

The Panel carefully considered the report in respect of Licence Holder 33/2017 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. The Licence Holder had sought to engage with the customer in an unprofessional and inappropriate conversation, evidence of which was provided to the Panel.
2. The Licence Holder had deliberately breached the customer's privacy by contacting her, other than in a professional capacity.
3. The contact with the customer after completing the journey was unauthorised and unprofessional and was aggravated by the inappropriate content of the messages and large number of attempts to make contact using various methods.
4. The contact via the customer's mobile phone was such that the customer's mother was distressed and sufficiently concerned as to the conduct of the Licence Holder that she made a formal complaint.
5. The Licence Holder's conduct had left the customer feeling unsafe and wary of using a taxi service in Bury in future.
6. The Licence holder was not a fit and proper person and had breached the conditions and expected conduct of a licensed driver.

The Licence Holder would be informed in writing of the Panel's decision and would be reminded of their right to appeal to the Magistrates' Court within 21 days.

3. Licence holder 34/2017 attended the meeting and was unaccompanied.

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.

The report explained that the Licence Holder was granted a private hire driver's licence with Bury Council on 23 March 2016. On 1 February 2018, the Licensing Service became aware that the licence holder had failed to disclose motoring convictions, following a check of the Licence Holder's DVLA issued driving licence.

The Panel noted that the Licence Holder had a conviction SP30, speeding on a public road on 31 March 2016, for which his licence was endorsed with 3 penalty points; speeding on a motorway on 30 April, 2016 for which his licence was endorsed with 3 penalty points and two offences of using a vehicle with defective tyres on 25 February 2017, for which his licence was endorsed with 3 penalty points and he was fined £293.

The Licence Holder addressed the Panel and explained that he did not realise he had to disclose these offences, as he did not think they were major incidents. He explained he did not realise the speed limits on the roads in question and the defective tyres were on a vehicle he had used belonging to the operator he worked for. He now realises the error of his ways and that any conviction should be declared.

The Licence Holder went on to explain that he was the sole provider of his family and he could not afford to lose his licence as he would not be able to financially support them. He reported that he has now moved to another operator and is much happier there.

Various questions and concerns were raised with the Licence Holder from the Licensing and Safety Panel members.

Delegated decision:

The Panel carefully considered the report and the oral representations provided by the licence holder 34/2017 and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, **resolved, on a majority decision, to suspend the driver's licence for a period of three months.**

The Panel noted the following:

1. That the Licence Holder had only been issued his licence on 23 March 2016 and the first offence of speeding was committed on 31 March 2016 with the second offence of speeding only one month later.
2. The Licence Holder did not appreciate the seriousness of the offences or the danger, specifically in relation to defective tyres.
3. The Licence Holder had not disclosed, during the application process, any of the offences or convictions and the fact that he had 9 penalty points on his licence.
4. The Licence Holder did not appear to accept he was responsible for ensuring the roadworthiness of vehicles he drives.
5. The Licence Holder provided no reasonable explanation for the convictions or for not disclosing them, as the Panel were satisfied that the requirement to do so was very clear on the application forms.

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

LSP.440 APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

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

Applicant 35/2017 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 Applicant.

The report explained that the Applicant was convicted of battery on 25 March 2013 at Bury and Rochdale Magistrates' Court and sentenced to a conditional discharge of 12 months with costs of £100 and a victim surcharge of £15. Further, the report noted that although the conviction fell outside the Council's Convictions Guidelines, due to the time that had elapsed, the Applicant had been brought before the Panel as he had failed to disclose this conviction on his application form.

The Applicant addressed the Panel and explained that he did not realise that this conviction would still be present on his record, as it was over 5 years ago and he thought the offence would be cleared from his record.

The Applicant explained that the incident occurred in self-defence as he was approached by 2 people he knew, in an aggressive manner. However, after the incident they shook hands and he presumed that was the end of it, however, the other party made a complaint to the Police and he was convicted of battery.

The Applicant explained that he needs a full time job in order to progress in life. He was currently working part time as a chef but felt he would be more suited to the more flexible and longer hours and being self-employed, offered by being a taxi driver. He was very remorseful of the incident that occurred and apologised for not disclosing the conviction, but stated that it was a genuine misunderstanding in not doing so.

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 resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 35/2017 be granted.**

The Panel noted that although the offence of battery is serious, the Applicant had shown remorse and understood the seriousness of the matter. The offence and conviction had taken place over 5 years ago and there had been no further convictions since that time. In relation to not disclosing this conviction, the Panel accepted that the Applicant was genuine in his reasons and that it had been an oversight on his part. The Panel also noted that if the Applicant had declared the conviction, officers would have granted the licence.

COUNCILLOR D JONES
Chair

Please note: The meeting started at 7.00 pm and finished at 8.40 pm