

AGENDA FOR

LICENSING AND SAFETY PANEL

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To: All Members of Licensing and Safety Panel

Councillors: P Adams, N Bayley, J Grimshaw, D Jones (Chair), 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, 20 March 2018
Place:	Meeting Rooms A & B - Town Hall
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 13 February 2018. 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 SAFEGUARDING REPORT *(Pages 11 - 14)*

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

7 URGENT BUSINESS

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

8 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.

9 SUSPENSION/REVOCAION OF HACKNEY CARRIAGE DRIVERS' LICENCES *(Pages 15 - 48)*

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

10 APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE *(Pages 49 - 52)*

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

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Minutes of:	LICENSING AND SAFETY PANEL
Date of Meeting:	13 February 2018
Present:	Councillor D Jones (in the Chair), Councillors: J Grimshaw, A McKay, J Walker and S Wright
Apologies for absence:	Councillors P Adams, Sarah Southworth
Public Attendance:	There were no members of the public in attendance

LSP 369 DECLARATIONS OF INTEREST

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

LSP 370 MINUTES**Delegated decision:**

That the Minutes of the Licensing and Safety Panel meeting held on 11 January 2018, be approved as a correct record and signed by the Chair.

LSP 371 PUBLIC QUESTION TIME

There were no members of public present at the meeting.

LSP 372 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 8 December 2017 until 19 January 2018 there have been 16 assessments carried out, of which 13 passed, 3 failed and none failed to attend.
- In relation to the Taxi Liaison meeting which was held on 18 January 2018 with representatives from the Hackney and Private Hire trade, a representative from the Council's Community Cohesion section attended to propose PREVENT training for all drivers which is part of the UK terrorism strategy to stop individuals becoming involved in extremist activity. A copy of the minutes from the meeting would be circulated to members of the Licensing and Safety Panel.

Licensing and Safety Panel, 13 February 2018

As a result of questions by members of the Panel, the Licensing Unit Manager reported that:-

- A Licensing Hearings Panel had been convened in relation to an application for a premises licence in respect of Polka, 20 Parkhills Road, Bury. The previous licence holder had surrendered their licence. A transfer application had been made, but was refused by the Licensing Hearings Panel on a previous occasion. An application for a new premises licence had therefore been made. Representations were received from Greater Manchester Police and the meeting was held on 7 February 2018, however, the Panel were not satisfied that documentation in respect of the application was acceptable and the application did not meet the Licensing Objectives and therefore the Licensing Hearings Panel refused the application.
- The Chair of the Licensing and Safety Panel and the Licensing Unit Manager had attended a meeting in Dukinfield along with representatives from all the Greater Manchester Authorities' Licensing Services. The reason for this meeting and subsequent planned future meetings is the aim for consistency throughout all authorities in respect of all private and hackney carriage vehicles and licence holders, meeting the common minimum standard required. This would include knowledge and pre-assessment tests etc. for drivers and the age, emissions, air quality etc. in relation to the vehicles.

It was intended that when a proposal had been finalised and agreed, there would be a three month consultation period after the election in May 2018 and then Transport for Greater Manchester would conduct a public consultation and finally one report would be sent to all AGMA Licensing and Safety Panels for agreement to adopt.

It was agreed:

That the report be noted.

LSP 373 EQUALITY ACT 2010 – MEDICAL EXEMPTION POLICY

The Assistant Director (Localities) submitted a report in relation to introducing a medical exemption policy under the Equality Act 2010. The Equality Act 2010 means that service providers must make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

Bury Council is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Taxis and private hire vehicles are a vital link in the transport chain. It is important that people who use wheelchairs or assistance dogs can have confidence that drivers will carry them and their wheelchair or assistance dog and at no extra charge. A driver who fails to comply with all requirements of the Equality Act 2010 may be

guilty of an offence and is at risk of prosecution, subject to any prescribed exemptions.

Currently Bury Council does not have a policy which permits licensed hackney carriage/private hire drivers to apply for a medical exemption under the Equality Act 2010, therefore the Licensing Service have drafted a policy to ensure that drivers who have allergies/medical conditions which do not allow them to comply with the requirements of the Act can apply for an exemption.

It was agreed:

- That the policy be approved and
- To delegate the issuing of exemption certificates to the Head of Service for Trading Standards and Licensing, or the Licensing Unit Manager/Deputy Licensing Officer in consultation with the Chairperson of the Licensing and Safety Panel.

LSP 374 URGENT BUSINESS

The Licensing Unit Manager brought to the attention of the Licensing and Safety Panel the following issues:

- The Licensing Service has been requested by the Interim Executive Director of Resources and Regulation to introduce safeguarding measures for licensed businesses including training for licensed hackney and private hire drivers and safeguarding policies for licensed operators.

The Licensing Service has made some initial enquiries into providers and will prepare a report for consideration at the next Licensing and Safety Panel meeting on 20 March 2018.

- The Licensing Service have been made aware that there is currently a backlog at the Magistrates' Court dealing with Licensing Appeals. An appeal by a Bury driver lodged on 4 December 2017 has only just been heard, albeit a further appeal has now been lodged with the Crown Court.

This backlog could have an impact in relation to public safety as a Licence Holder/Applicant who lodges an appeal against a decision by the Licensing and Safety Panel for suspension/revocation/refusal to grant is entitled to continue to drive until the appeal is heard.

- Following an agreement by the Interim Director of Resources and Regulation and Councillor O'Brien, Cabinet Member of Finance and Housing, an advert has been placed in the Bury Times and will be published on 15 February 2018, proposing a 3% fee increase for private hire operators and both private hire and hackney vehicles from 1 April 2018.

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This will trigger a 28 day consultation period and if representations are received objecting to the increase then a report will be put before the Licensing and Safety Panel in March for consideration.

LSP 375 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 376 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

(E) The Licensing Unit Manager presented a report submitted by the Assistant Director (Localities) regarding an application for a private hire vehicle driver's licence.

The Applicant was invited to attend the meeting and to address the Panel on their application and any matters referred to in the Officer's report. The Chair outlined the procedure to be followed.

Applicant 31/2017 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report which was accepted by the Applicant which explained the Applicant had been convicted at Greater Manchester Magistrates' Court on 10 September 2014 for offences of using a vehicle uninsured, for which the Applicant received 8 penalty points and was fined £165 and also for driving without due care and attention for which the Applicant received 0 penalty points and was fined £55.

The Applicant explained to the Panel the circumstances which had led to the conviction, which was that he had been working as a shop assistant and delivery driver for an e-cigarette company and had been using a company vehicle which he thought he was insured to drive whilst working. Whilst driving along Bury New Road, a pedestrian stepped out in front of him and was struck by the vehicle. The Applicant stated that there were no injuries to the pedestrian and no damage to the vehicle. At that time a Police car was passing and the Applicant gave a roadside statement. Although the Applicant pleaded guilty, on the advice of his Solicitor, he believes the pedestrian stepped out deliberately in front of his vehicle in order to claim compensation.

Following questions from the Members of the Licensing and Safety Panel, the Applicant further explained that he had in fact been stationary at the time of the impact and he believed this person was deliberately seeking compensation. He also stated that he had provided all the necessary information and documentation for his employer to insure him for the

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vehicle and that he had subsequently dismissed him from his job and they had not been held accountable for the vehicle he had been driving having no insurance. The Applicant stated that he had a family to support with three children and it was important for him to be the holder of a private hire licence in order to do so financially.

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 31/2017 be granted.**

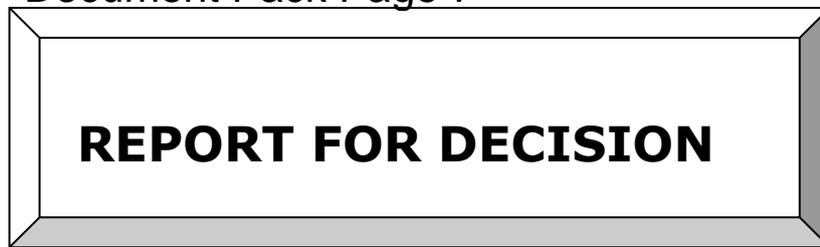
The Panel noted that although the convictions were serious, the court had sentenced him to small fines. The Applicant demonstrated he had understood the seriousness of the matter and had explained the circumstances surrounding the offences. He had shown remorse and apologised for the offences and the Panel felt he had been open and honest about the circumstances. The Panel agreed that the Applicant was a fit and proper person to hold a private hire driver's licence in Bury.

COUNCILLOR D JONES

CHAIR

Please note: The meeting started at 7.00 pm and finished at 7.40 pm

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DECISION OF:	LICENSING & SAFETY PANEL
DATE:	20th MARCH 2018
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 Licensing Hearing Panels

2.1 Polka, 20 Parkhills Road, Bury.

The Licensing Service received an application for a new premises licence in respect of Polka, 20 Parkhills Road, Bury. The reason for this application was the premises licence was surrendered under Section 28 of the Licensing Act 2003, on the 21st September 2017 by the previous owner.

Section 50(1)(b) permits the reinstatement by transfer where a premises licence lapses by virtue of Section 28.

On the 26th September 2017 an application to transfer the premises licence was made by another individual.

A representation to this application was made by Greater Manchester Police and the application was subsequently refused at a Hearing on 31st October 2017.

Section 50(6) states that the licence lapses again when the applicant is notified of the rejection of the application. Section 50(7) states that 'only one application for transfer of a premises licence may be made in reliance on this section'.

Greater Manchester Police, in their capacity as a Responsible Authority, made representations to the application for the grant of a new licence. This representation was considered at the Licensing Hearings Panel on the 7th February 2018:-

The following facts were found:

- On 15th November 2017 a new company, Polka, Ltd was incorporated with Mr. Jamal listed as sole Director and 20 Parkhills Road, Bury listed as the correspondence address.
- A new premises licence application was submitted, within this application Mr Jamal listed Mr Shamal Qadir as designated premises supervisor (DPS).
- Mr Jamal or Mr Qadir have not been present at the premises during visits by the police and trading standards.
- Mr Jamal and Mr Qadir both reside in Bradford.
- Although Mr Jamal maintained he was the owner of the business at 20 Parkhills Road, Bury and had purchased it from Mr. Omid (the previous owner) for £8,000, he produced no evidence in advance of, or at the Panel meeting to confirm that the ownership of the business had transferred to him.
- Mr Jamal provided no documentary evidence or other witnesses to support his statement that he is the owner of the premises, that Mr Omid was no longer involved in the business or how many staff were employed in the business.
- Mr Jamal had not known Mr Qadir prior to purchasing the business from Mr Omid.
- Mr Qadir, the proposed DPS, had worked for the previous owner of the business Mr Omid.
- Mr Omid had previously applied for the former Premises Licence to be transferred to him and this had been refused. His application had been supported and signed by Mr Qadir as proposed DPS.
- Mr Qadir has no previous experience of acting as a DPS and being responsible for running a business requiring the upholding of the licensing objectives under the Licensing Act 2003.
- Mr Qadir demonstrated no knowledge of the duties and responsibilities of a DPS.
- During questioning by the Panel, Mr Qadir and Mr Jamal were unable to state any of the four licensing objectives.

The Panel therefore considered it reasonable, balanced, appropriate and proportionate, based on all of the evidence, to Refuse the Application for a Premises Licence.

3.0 Common Minimum Standards Across Greater Manchester

- 3.1 The Licensing Unit Manager and the Chairman of the Licensing and Safety Panel attended an event at Dukinfield Town Hall on the 8th February 2018 where the matter of common minimum standards were discussed. The principle is to explore a more co-ordinated approach to Taxi and PHV licensing. It is proposed that the approach is to develop minimum standards for GM and working to influence national policy. The minimum standards will be looking at policies around drivers, vehicles and operators.

4.0 **Prosecution – Illegal landing of puppies and unlicensed Pet Shop Offences**

- 4.1 At Manchester Magistrates Court on Wednesday (7 March), Viktor Molnar pleaded guilty to offences under the Rabies (Importation of Dogs, Cats and other Mammals) Order 1974 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.

Viktor Molnar, who now lives in Dartford, Kent previously of Belroy Court, Prestwich 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 of £2,686.93 to a purchaser of a puppy from Scotland to cover her purchase and quarantine costs, and to pay a contribution to prosecution costs of £2,500.

Viktor Molnar was registered with the Royal College of Veterinary Surgeons, which will now be contacted over his fitness to continue as a practising vet.

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REPORT FOR DECISION

MEETING:	LICENSING & SAFETY PANEL
DATE:	20th MARCH 2018
SUBJECT:	INTRODUCTION OF SAFEGUARDING TRAINING FOR APPLICANTS/LICENCE HOLDERS OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS BADGES
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	MR M BRIDGE
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	To introduce safeguarding training for applicants/licence holders of Hackney Carriage / Private Hire Drivers Badges
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none"> 1. To introduce a policy for the requirement for applicants/licence holders of hackney carriage/private hire driver's badges to undertake safeguarding training. 2. To delegate to the Head of Service (Trading Standards and Licensing) following consultation with the Chairman of the Licensing and Safety Panel to approve alternative providers to carry out the safeguarding training. 3. Refuse to introduce a policy for the requirement for applicants/licence holders of hackney carriage/private hire driver's badges to undertake safeguarding training.

IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals.
Statement by Director of Finance and E-Government:	The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.
Equality/Diversity implications:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Considered by Monitoring Officer:	Yes <input checked="" type="checkbox"/> Comments
Are there any legal implications?	Under the legislation the Council is required to determine applications. The report is in accordance with the appropriate legislation.
Staffing/ICT/Property:	None
Wards Affected:	All
Scrutiny Interest:	Internal Scrutiny Panel

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 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. Although the current portfolio of procedures and policies is comprehensive, effective and robust, there is still room for improvement.
- 1.2 The proposed training aims to enable drivers to understand the need to protect vulnerable adults and children, identify possible victims of abuse and exploitation, understand things that could be identified as a risk, understand their own roles and responsibilities in relation to personal safety and identify where they can report any concerns.

1.3 Private and public hire drivers play an important role in safeguarding the public. It is for this reason that the Council believes that it is appropriate for all licensed drivers, and applicants wishing to be a licensed driver, to undertake basic safeguarding training. Sexual exploitation is the sexual abuse of children and young adults through the exchange of sex or sexual acts for drugs, food, shelter, protection, other basics of life and / or money. Sexual exploitation includes involving children and young adults in creating pornography and sexually explicit websites.

1.4 The Convictions Policy and guidelines approved on 4th December 2014 states the following:-

The Council is concerned to ensure:

- o That a person is fit and proper
- o That the public are not exposed to persons with a history of dishonesty, indecency or violence
- o The safeguarding of children and young persons and vulnerable adults

2.0 CURRENT ISSUES

2.1 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.

2.2 On the 14th November 2017, Greater Manchester Wider Leadership Team considered a report relating to common minimum standards by Steven Pleasant, Chief Executive of Tameside MBC. The report was very well received and was supported by the Chief Executives of all ten Greater Manchester Authorities.

2.3 In January 2018, the Licensing Service consulted the hackney carriage / private hire trade at the trade liaison meeting on the current work that the GM Authorities are developing relating to common minimum standards for the hackney carriage and private hire trade.

2.4 Further to the above, the licensing service received a request by the Interim Executive Director of Resources and Regulation requesting that the Licensing Service investigate the possibility of introducing a policy relating to new applicants and existing licence holders to undertake safeguarding training. Safeguarding training is one of the elements being considered as part of this approach.

2.5 The Licensing Service have currently identified two suppliers of safeguarding training, one being a private company and the other being Barnardo's.

2.6 It is proposed the costs of the training will be borne by the applicant or the licence holder.

2.7 The current cost proposals for the Barnardo's online training is £6,000 for an unlimited licence to access the training.

2.8 Bury Council currently licences 1061 Private Hire Drivers & 125 Hackney Carriage meaning having over 1000 drivers , unit costs would equal , £6 per driver.

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- 2.9 Facilitating the training would add additional costs for supervising the drivers taking an online training session.
- 2.10 The private company Personnel Check, work on the basis of a pay per session basis, each session would be for 40 drivers per session, the cost of which would be approximately £750.00 or £30 per training session.
- 2.11 Additional costs may have to be included in respect of room hire etc.
- 2.12 Members of the panel are requested to consider introducing the requirement of safeguarding training for new applicants as a pre-requisite prior to application and that existing drivers will be required to undertake the training before the expiry of their current badge.

3.0 CONCLUSION

Members are requested to consider the options of this report on page 1.

List of Background Papers:-

Minutes of the Hackney Carriage / Private Hire Drivers Trade Liaison Meeting

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