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| Minutes of: | LICENSING AND SAFETY PANEL |
| Date of Meeting: | 2 August 2018 |
| Present: | Councillor D Jones (in the Chair) Councillors N Bayley, P Cropper, J Grimshaw, R Hodgkinson, T Holt, G Keeley, A McKay and Sarah Southworth |
| Also in attendance: | |
| Public Attendance: | There was one member of public present at the meeting. |
| Apologies for Absence: | Councillors: O Kersh, J Walker and S Wright |

LSP.109 DECLARATIONS OF INTEREST

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

LSP.110 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 14 June 2018, be approved as a correct record and signed by the Chair.

LSP.111 PUBLIC QUESTION TIME

There were no questions raised under this item.

LSP.112 OPERATIONAL REPORT

The Assistant Director (Legal and Democratic Services) submitted a report advising Members on operational issues within the Licensing Service.

The report set out updates in respect of the following issues:

- **Enforcement Operation**

On 5 July 2018 a multi-agency operation took place with the Licensing Service, Police, DVSA and HMRC at Tops Park, Bolton Road West, Ramsbottom, in which 15 licensed vehicles were stopped. Of these vehicles, one was prohibited by the DVSA due to failed indicators and the Licensing Service suspended the vehicle and following discussions with the driver, the plates were removed. Three drivers were warned of their obligations as a driver due to incorrect signage on their vehicle, which have since been presented correctly and a private hire driver was not wearing his private hire driver's badge, for which he received a warning.

- **Common Minimum Standards – Hackney Carriage and Private Hire Trade**

On 5 July 2018, the Chair of Licensing and the Licensing Unit Manager attended a meeting at the headquarters of the Greater Manchester Combined Authority, which was attended by the Mayor of Greater Manchester, to discuss issues Local Authorities are experiencing in respect of common minimum standards in relation to out of town vehicles driving within their Borough. Following this meeting on 11 July 2018, the Licensing Unit Manager attended a meeting of the Greater Manchester Licensing Managers group to further discuss issues and updates will follow.

- Trade Liaison Meeting

Minutes were provided to the members of the Licensing and Safety Panel of the Taxi Trade Liaison meeting on 11 July 2018, which was attended by representatives of the Hackney carriage and Private Hire Trade.

- Multi-Agency Visits – Gambling commission

On 25 June 2018, the Deputy Licensing and Licensing Enforcement Officers took part in joint enforcement visits with the Gambling Commission, in which a betting shop and an adult gambling centre were visited but no issues were found.

- Appeal to Crown Court

The Licensing Service are currently defending an appeal at the Crown Court in respect of a revocation of a hackney carriage driver's licence, following a decision on 19 October 2017 by the Licensing and safety Panel. The appeal is now listed for a full day on 13 September 2018.

- Review Application

A Licensing Hearings Panel has been scheduled for consideration of the Sir Robert Peel, Sunnybank Road, Bury, following a review application from an interested party.

- Safeguarding Training

The Licensing Service are currently in the process of reviewing the safeguarding training taking into account the common minimum standards and further updates will follow.

- Application Process – Pre-requisites

A review of the pre-requisites required prior to making an application to become a licensed hackney carriage and private hire driver is currently under way.

It was agreed:

That the report be noted.

LSP.113 GAMBLING ACT 2005 -TRIENNIAL POLICY REVIEW

A report by the Assistant Director (Legal and Democratic Services) was submitted in respect of the Gambling Act 2005, section 349, which requires the Local Authority to prepare and publish a Statement of Principles at least every three years and the existing Statement was agreed by council on 9 December 2015.

The Statement as presented can be accepted, amended or rejected but to comply with the statute, a revised Statement has to be agreed by Council on 28 November 2018 and be in place by 31 January 2019, in order to fulfil its duties under the Act.

The Statement has been reviewed and updated in light of Gambling Commission guidance and it was recommended that approval be given for a consultation to be undertaken and a further report presented to the Licensing and Safety Panel in due course once the consultation has finished.

It was agreed:

That members approve a consultation to be undertaken.

LSP.114 URGENT BUSINESS

There was no urgent business raised under this item.

LSP.115 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.116 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCES

1. Licence holder 02/2018 attended the meeting and was represented by Mr Khan, Solicitor.

The Chair outlined the procedure to be followed and the Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services), which explained that a complaint had been received regarding the client's conduct by a young Asian female on 14 May 2018.

The report stated that on 10 May at 5.45 pm the complainant had booked a taxi to take her Bury, to her home in Rochdale and when the taxi arrived, driven by the Licence Holder, she sat in the back seat.

During the course of the journey, it is alleged that the Licence Holder asked personal questions about the girl and her family and on arrival at their

destination, although no fare was payable as it had been pre-paid using the App, he turned to face her and told her that in future if she wanted a lift she could ring his private number. The complainant stated that she felt scared and gave the driver her number and he rang her phone so she then had his number.

The complainant had an injury to her knee and was limping and the Licence Holder asked to look at her knee and the swelling and then touched her knee and moved his hand up to her thigh and asked if her pants were tight and if they came down. The complainant left the vehicle and immediately blocked the Licence Holder's mobile number and told her Uncle, who is a taxi driver, of her experience and he told her to report it to Licensing and she also reported it to the Police and made a statement. However, she did not want any further involvement as she was afraid of reprisal.

The crime write up from the Police was included with the report for information and Mr Khan provided the Licence Holder's witness statement and character references, which were circulated to Panel members prior to the meeting.

Mr Khan addressed the Panel on behalf of the Licence Holder and explained that on the whole the report was accepted, however, the Licence Holder denied asking if the complainant's leggings came down and in relation to the impression given by the Licence Holder's interview with the Licensing Officer, that the Licence Holder did not consider his behaviour to be inappropriate, Mr Khan stated that he did realise his mistake as there should not be any physical contact, however, as no interpreter was present at the interview, he felt that his statement has been misinterpreted by the interviewer.

Mr Khan stated that no criminal proceedings have been taken against the Licence Holder and that the complainant did not perceive the incident to be of a sexual nature and that his touching her knee was intended to be more of a medical examination. The Licence Holder explained that he had been an amateur wrestler in his childhood and was aware of sports injuries and he was trying to ascertain what kind of injury the complainant had. He accepted he should not have touched her knee, but maintained that it was nothing other than an investigative examination.

Mr Khan explained that the client has been in the UK for 18 years with no criminal convictions and has been a taxi driver for 3 years, with no complaints or convictions.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by the Licence Holder 02/2018 and Mr Khan 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 suspend the driver for four months and to require the Licence Holder to undertake a communications examination before his licence is returned.**

The Panel found as follows:

- That the complainants version of events was accepted, there being no basis upon which to dispute her honesty.
- That the Licence Holder accepted most of the allegations made.
- That the allegations were sufficiently serious to merit due consideration and that it was due to the complainant not wanting to proceed that a further investigation had not taken place and it is directly relevant to a working role with members of the public.
- The allegation made against the Licence Holder was of a serious nature.
- That even based on the Licence Holder's explanation of events, his behaviour had been unacceptable and unprofessional and not of the standard expected.

The Licence Holder was notified of the right to appeal to the Magistrates' Court within 21 days.

2. Client 05/2018 attended the meeting and was represented by Mr Khan.

The Chair outlined the procedure to be followed and the Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services), which explained that on 11 June 2018, Greater Manchester Police reported to the Licensing Service that the Licence Holder had been convicted of the offence of driving without due care and attention on 11 June 2018 at Manchester Magistrates' Court for which he had received 6 penalty points and had been ordered to pay £660 costs, £150 fine £250 compensation with a £30 victim surcharge.

The Licence Holder was subsequently interviewed by the Licensing Service, 10 days after the initial intelligence was received. The Licence Holder had not notified the Licensing Service of the conviction within seven days as per his private hire driver's licence conditions. During the interview he stated that he was involved in a road traffic collision with a cyclist. The incident was witnessed by an off duty Police Officer who had recorded the accident on a dashcam. The matter went to Court and as the Licence Holder did not believe he was at fault, he had pleaded not guilty but was found so after a trial. The Licence Holder stated that he had forgotten that condition 13 of his private hire driver's licence required him to notify the Licensing Service within 7 days if he was convicted of an offence.

Mr Khan provided the Licence Holder's witness statement, which was circulated to Panel members prior to the meeting and Mr Khan addressed the Panel and provided a character reference and his valid MOT certificate.

Mr Khan stated that it was unclear within the Licensing conditions and guidelines as to whether reporting a conviction to the Licensing Service was required within 7 'working' days or 7 'calendar' days. He explained that the Licence Holder has been driving for 16 years and a taxi driver since 2012 with an impeccable record. Unfortunately, the Licence Holder's Grandmother passed away around the time of the incident which was another reason why he had not reported the conviction within the time required.

Delegated decision:

The Panel carefully considered the report, additional documentation and oral representations by the Licence Holder 05/2018 and Mr Khan 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 admonish the Licence Holder as to his future conduct.**

The Panel noted that:

- This was a serious offence, but that its commission would not ordinarily result in referral to the Licensing and Safety Panel.
 - That the Licence Holder should be fully aware of the licensing conditions and what is expected of him as a private hire driver in Bury.
3. Members of the Licensing and Safety Panel agreed, following the request from the Licensing Unit Manager, that consideration of the matter regarding Licence Holder 06/2018 be postponed until the next meeting due to the Licence Holder having moved and the paperwork for the meeting being sent to his old address.

LSP.117 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVER LICENCES

The Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services) regarding applications for Private Hire Vehicle 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.

1. Applicant 7/2018 attended the meeting and was accompanied by Mr Patel, Solicitor. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report, which was accepted by the Applicant and Mr Patel, which detailed a number of major offences and convictions the Applicant had received since 1995 until 2011, which had resulted in fines, community service and also imprisonment.

The Applicant explained, through Panel questioning, that in 1995 when he was 16 years of age and at College, his father had a stroke and subsequently passed away shortly after. This made the Applicant, as the eldest son, the provider for his Mother and siblings. Unfortunately, this responsibility became too much for the Applicant and he turned to a life of crime, involving drugs and alcohol for which the Applicant was sent to Prison on numerous occasions. During his time in prison and as he got older, the Applicant began to realise that he no longer had the respect of his children, who refused to call him Father, which upset him deeply.

Following his release from Prison in 2011, the Applicant bought a takeaway which was very successful. Towards the end of 2017 the Applicant's sister was diagnosed with bowel cancer which meant daily visits for treatment to hospital and the Applicant had to sell the takeaway. Unfortunately, the sister passed

away and the Applicant became responsible for her children as well as his own. He now works as a delivery driver for the same takeaway but requires a job that allows him flexibility in order to take the children to and from school and provide for his family. The Applicant no longer drinks or takes drugs. He stated he is a changed man but requires this chance in order to provide fully for his family.

Delegated Decision:

The Panel carefully considered the report and the oral representations by the Applicant and Mr Patel and after 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, that **the application for a Private Hire Driver's Licence by Applicant 07/2018 be granted for a period of 6 months.**

The Panel noted;

- That all of the offences and convictions the Applicant was guilty of were of a very serious nature,
- That the Applicant accepted the severity of these offences and was genuinely remorseful for his past actions when he was younger.
- That the Applicant is now forty years old and a changed person and the last conviction was over 7 years ago.
- That the Applicant had openly provided a full history of convictions to the Licensing Unit and had not tried to conceal or deceive Officers.
- That the Applicant had run a successful business for a number of years.
- That the Applicant now had responsibilities for his late sister's children.

Therefore, on the information provided by Mr Patel and the Applicant, the Licensing and Safety Panel found that the Applicant was a fit and proper person to hold a private hire driver's licence in Bury.

If, after a 6 month period, no further offences had taken place, then the Applicant would be granted a full licence.

2. Applicant 08/2018 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 following an enhanced DBS check, information, which is believed to be relevant to the application for the role of taxi driver by the DBS, is currently held by the Police in relation to this Applicant.

The information states that on 31 May 2015, a 31 year old female reported an allegation of sexual assault to the Police. The allegation is that the female approached a private hire taxi and that the driver, known to be the Applicant, agreed to take her home for £10, although not pre-booked. The female alleged that she refused to sit in the front with the driver but that he stopped the vehicle under a bridge and reached into the back and grabbed her in an attempt to pull her towards him and then attempted to touch her intimately without her consent. As a result of feeling scared, the female then got into the front but refused the driver's suggestion they should purchase some alcohol and claimed

that he then attempted to kiss her and touch her without consent, telling her she did not have to pay for the journey.

The female then alleged that the driver wanted to take her to a snooker club but she said she needed food first and they went to a fast food restaurant and to the toilet and she called her friend, who arrived at the restaurant and both the taxi company and the Police were called.

Following Police enquiries and consideration of the matter by the Crown Prosecution Service, the Applicant was charged with two counts of sexual assault and the case was heard at Manchester City Crown Court on 25 August 2016 but the Jury could not reach a verdict and therefore there was a hung jury. On 26 May 2017 a re-trial took place and the Applicant was found not guilty and discharged for both counts.

The Applicant addressed the Panel and stated that he did pick up the female, which was his mistake and that the fare was not pre-booked and he did agree a fixed fare of £10. The Applicant said the female wanted food and she jumped into the front of the taxi, not waiting for him to stop the car first. She had wanted the toilet and he told her to wait until they reached the restaurant and when they arrived there, her friend from earlier in the evening turned up. The next day he was contacted by the Police.

The Applicant stated he has been a full time taxi driver since 2010 with Manchester Council and never had any complaints against him. He has lived in the UK since 1974 and is hard working and has 4 children and grandchildren to support. He admits he made a mistake by picking the female up but denies any further allegations made against him. This has been a very stressful time for the whole family. The Applicant brought a number of character references to the meeting.

Delegated decision:

The Panel carefully considered the written report and the oral representations made by the Applicant and with due consideration of the potential effect on the Applicant's livelihood and family life, determined the Applicant not to be a fit and proper person in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and therefore resolved that the Applicant identified as 08/2018 be **refused** a Private Hire Driver's Licence.

The Panel found that:

- Although not convicted, the Panel was satisfied that the version of the events provided by Greater Manchester Police was on balance the version that it would accept.
- The complainant had gone through the investigation and 2 trials and there was no basis upon which to doubt her version of events.
- The allegations were sufficiently serious to merit due consideration.
- Greater Manchester Police believe that despite the Applicant not being charged with any offences, it is directly relevant to a working role with members of the public.

- The allegation made against the Applicant in January 2015 was of a very serious nature.

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

At 10.00 pm the Licensing and Safety Panel agreed to suspend standing orders in order to continue the meeting.

3. Applicant 09/2018 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, which explained that he had been convicted at Bury Magistrates' Court for an offence of driving a car with no insurance on 16 August 2015, the Applicant had received 6 penalty points on his licence.

The Applicant had explained to the Licensing Officer that he was insured fully comprehensive on his own car which entitled him to drive other vehicles third party. At the time when he was stopped, he was driving his cousin's car, however, he did not realise that his direct debit had not been taken and therefore his insurance company had cancelled his policy.

The Applicant addressed the members of the Licensing and Safety Panel and explained that he was sure he was fully insured and had paid via direct debit but that it was a mistake on his part that the direct debit had not been taken as he had not checked it. He stated that he is a shop keeper and has been for 14 years but competition was such that he wasn't making enough of a living to support his family. His son would soon be going to University and he had to pay his mortgage and this would help him 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 09/2018 be granted.**

The Panel noted that the offence of driving without insurance was a serious one but that the Applicant had shown remorse and understood the seriousness of the matter. The members of the Licensing and Safety 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

(Note: The meeting started at 7.00 pm and ended at 10.08 pm)