

Minutes of: **LICENSING AND SAFETY PANEL**

Date of Meeting: 5 September 2018

Present: Councillor D Jones (in the Chair),
Councillors: N Bayley, J Grimshaw, R Hodgkinson,
T Holt, G Keeley, G McGill, O Kersh, Sarah
Southworth, S Wright

Also in attendance:

Public Attendance: No members of the public were present at the meeting.

Apologies for Absence: Councillor P Cropper

LSP.124 DECLARATIONS OF INTEREST

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

LSP.125 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 2 August 2018, be approved as a correct record and signed by the Chair.

LSP.126 PUBLIC QUESTION TIME

There were no questions raised under this item.

LSP.127 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:

- **Gambling Act**

The 9 week consultation in respect of the Statement of Principles under the Gambling Act 2005 has now commenced and this will end on 5 October 2018. A further report will be presented to the next Licensing and safety Panel on 18 October 2018 for consideration.

- **Revocation and appeal to the Magistrates' court in respect of a Private Hire Driver's Licence**

The Licensing Service, in consultation with the Chair, revoked a Private Hire Driver's Licence on 1 August 2018 with immediate effect following information received from Greater Manchester Police about the driver's

conduct. On 3 August 2018 the driver had an appeal considered at Manchester Crown Court in respect of a four month suspension for failing to take a guide dog in his Private Hire vehicle. The Court agreed that the appeal against that suspension should not proceed when the licence in question has since been revoked and the matter was adjourned until 5 October 2018 in order to update the Crown Court on the driver's pending appeal against revocation.

- **Decision of the Royal College of Veterinary Surgeons**

The Council took prosecution proceedings against a Mr Molnar in relation to the offences of bringing in to the country five miniature 'teacup' dachshund puppies and running an illegal pet shop from his home in Prestwich. Mr Molnar pleaded guilty at Manchester Magistrates' Court on 7 March 2018. The puppies were offered for sale on various internet sites when they were much younger than the age suggested on the vaccination card and therefore too young to have been legally brought into the UK. When tested, the puppies did not have rabies immunity. Mr Molnar, who now lives in Dartford, Kent, was given a 270 hour Community Order and ordered to pay compensation and was banned from operating a pet shop or boarding establishment for ten years.

Mr Molnar was registered with the Royal College of Veterinary Surgeons and as a result of these convictions, on 2 August 2018, a Disciplinary Committee found that in view of the seriousness of Mr Molnar's conduct, the risk to public and animals and the fact that the convictions were directly linked to his veterinary practice, that he was unfit to practise.

It was agreed:

That the report be noted.

LSP.128 URGENT BUSINESS

There was no urgent business raised under this item.

LSP.129 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.130 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

1. Licence Holder 06/2018 attended the meeting and was represented by Mr Rashid, 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 was accepted by the Licence Holder and his Solicitor. This explained that on 1 May 2018, the Licence Holder attended the Licensing Service and presented paperwork issued by Greater Manchester Police (GMP) indicating that he was to stand trial at Manchester Magistrates' Court on 22 June 2018 for offences contrary to the Protection from Harassment Act 1997 and on 27 June 2018, he advised that he had been found guilty of conduct amounting to stalking contrary to s.21 (1) & (4) Protection from Harassment Act 1997. The dates of the offence for which the Licence Holder was convicted were 1st and 25th April 2018. The Licence Holder was given a restraining order lasting until 21 June 2020 and sentenced to 100 hours unpaid community work with a £380 fine.

The Licence Holder's Solicitor addressed the Panel and explained that the Licence Holder had been a Private Hire Driver since April 2013 and during this five years he had not received any complaints about his conduct or received any points on his licence or endorsements. It was explained that he had been a resident in the UK since 2003, is married and had 2 children. However, the Licence Holder and his wife separated in September 2017 and the main concern for him is contact with his children. His wife has made allegations that the Licence Holder has been continually contacting her and her family by telephone and followed her in his car which is a licenced Private Hire vehicle, which he denies.

Various questions were asked from the members of the Licensing and Safety Panel and the Solicitor confirmed that there was never any accusation of violence against the Licence Holder, nor any involvement from Social Services in relation to the children. The Licence Holder had pleaded guilty to the offence on the basis of a phone call and that he has cooperated fully with the Licensing Service and approached them of his own accord. Character references were provided from his employer.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by the Licence Holder 06/2018 and Mr Rashid 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 future conduct.**

The Panel found as follows:

- That the Licence Holder's conviction and conduct amounting to stalking was a serious matter.
- 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.
- The Licence Holder had understood the seriousness of the offence and had shown remorse for his actions.

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

2. Licence Holder 11/2018 attended the meeting and was accompanied by his wife.

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 was accepted by the Licence Holder and his wife. This explained that on 14 June 2018, the Licence Holder had attended the Licensing and Safety Panel in respect of convictions relating to speeding and his failure to notify the Licensing Authority of them. At that meeting the Panel was advised that on 30 May 2018, the Licence Holder had appeared at Bradford Magistrates' Court and submitted an exceptional hardship argument against a proposed driving disqualification. However, the Magistrates disqualified the Licence Holder for a lesser period of 56 days and as a result of this decision, an appeal was submitted to the Crown Prosecution Service. On 31 May 2018, the Licensing Service was notified that the client had been banned from driving for 2 months because of accruing 12 penalty points on his DVLA Licence.

Members of the Panel were further advised that the Licence Holder had, on 5 June 2018, appealed the disqualification and had successfully had this removed pending the appeal. The Panel had then agreed to suspend the Licence Holder's driver's licence and Operator's licence for a period of 2 months and had instructed the Licence Holder to undertake the practical driving assessment for taxi drivers provided by one of the Council's approved driver training providers.

The Licence Holder addressed the Panel and expressed deep regret at his actions, explaining it was the hardest 56 days for him and his wife and that it had affected her health. He has taken the practical driving assessment as required and stressed that he was a good driver and Operator and how important it was to him and his wife to be able to keep his licence. He apologised for his actions and stated he regretted them and was ashamed.

Delegated decision:

The Panel carefully considered the report, and oral representations by the Licence Holder 11/2018 and his wife 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;

- The fact the Licence Holder had been disqualified from driving was a serious matter.
- The previous Panel's 2 month suspension imposed on 14 June 2018 would end on 20 September 2018.
- The Licence Holder was very remorseful for his actions.
- The Licence Holder had clearly learned a lesson in relation to his conduct and the resulting impact of the suspension of his licences.

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

3. Licence Holder 12/2018 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 (Legal and Democratic Services), which was accepted by the Licence Holder. This explained that the Licence Holder had been convicted at Manchester Magistrates' Court on 6 June 2018 of driving without insurance and plying for hire for which he had received 6 penalty points and fined a total £1,110.

The Licence Holder addressed the Panel and explained that he had been working on Deansgate in Manchester when two young ladies just got into his vehicle. He accepted the fare due to the fact that he had refused to take someone previously and had ended up being assaulted and had to go to hospital and he did not want this to happen again. However, he was pulled over by Manchester Licensing Officers as part of a plying for hire exercise and subsequently received a summons to Court when he pleaded guilty to the offences. He will also appear before Manchester Licensing Panel on 18 September 2018.

Delegated decision:

The Panel carefully considered the report, and oral representations by the Licence Holder 12/2018 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 take no action against the Licensee.**

The Panel noted;

- The Licence Holder was in a difficult position and that he was concerned an altercation would take place if he refused the fare due to a past incident.
- The Licence Holder understood the seriousness of his actions and the offences and was remorseful for his actions.

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

4. Licence Holder 13/2018 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 (Legal and Democratic Services), which was accepted by the Licence Holder. This explained that he had informed the Licensing Service on 20 July 2018 that he had been banned from driving for a period of 56 days because he had accrued 12 penalty points on his DVLA Licence. The Client had received motoring convictions for speeding on 4 separate occasions, for which he had received 3 points for each. He had a further two speeding convictions still to be added to his licence.

The Licence Holder addressed the Panel and explained that he had appealed the disqualification for 56 days to the Crown Court but the appeal was

dismissed and the penalty was increased by £100. The disqualification period now finishes at the end of September 2018. The driver stated that he had been working for Uber over the last 18 months and he was not earning enough money, therefore was working longer hours, which resulted in him making mistakes. He was now married with a little girl and if his licence is revoked this will leave the family in financial difficulties. The Licence Holder also stated that he has already undertaken a speed awareness course in 2014 as a result of previous speeding convictions.

The Panel members asked various questions of the Licence Holder, including why he had received a written warning in relation to poor attitude towards a Manchester Enforcement Officer and the Licence Holder explained that he had been parked on double yellow lines on Peter Street, Manchester waiting for a young lady to enter his vehicle. It was raining at the time but he was asked to move before the young lady got into the vehicle, which the Licence Holder thought was unreasonable and a disagreement ensued. The Enforcement Officer was in fact a Licensing Officer and therefore he was warned of his conduct but received no penalty charge.

Delegated decision:

The Panel carefully considered the report, and oral representations by the Licence Holder 13/2018 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 Licence Holder for a period of 4 months from the end of September 2018.**

The Panel found as follows:

- Multiple speeding offences have been committed over a short period of time.
- The offences were of a serious nature.
- Public safety is paramount and the Licence Holder did not appear to understand the seriousness of speeding.
- The Licence Holder showed no remorse for his actions.
- There are still outstanding speeding offences which have not yet been added to the Licence Holder's DVLA Licence.

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

5. Licence Holder 14/2018 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 (Legal and Democratic Services), which was accepted by the Licence Holder. This explained that the Licensing Unit Manager was contacted by the Workshop Manager of Bradley Fold Testing Station about the Licence Holder's conduct when he took his vehicle to be examined on 17 July 2018.

The Workshop Manager reported that the Licence Holder was over 10 minutes late and therefore they would not test his vehicle, as is their Policy. The Licence Holder became aggressive and shouted in his face and stormed out of

the office shouting and screaming expletives at the top of his voice, which was witnessed by 5 other Council employees. The workshop Manager stated that he had informed the Licence Holder's employer that they would not put up with aggressive behaviour and the Licence Holder would not be allowed back to the Bradley Fold Site.

The Licence Holder addressed the Panel and explained that prior to having his vehicle tested he had gone to have his car valeted and the tyres checked but that establishment had opened late, putting him behind schedule. However, it was a misunderstanding and he had not been swearing at the Workshop Manager just generally on his way out, in particular at something his son had said. He was frustrated that his car would not be checked and that he would have to pay again to have it re-booked. If it was taken out of context then he would apologise to the Workshop Manager personally.

The Licence Holder denied being 10 minutes late and he had taken a picture of the clock which read 7 minutes past not 10 minutes, however, he did not have that available for the Panel. He had been to the station on many occasions and sometimes he had to wait 40 minutes but didn't complain. He explained that driving a taxi is a stressful job and having to deal with drunks. He had a lot of responsibility in his family and needed to provide financially. The fact that he would have to pay another £30 to have his vehicle re-booked was money that he didn't have and as it had been a stressful day he was shouting out loud but not to any one person, only generally.

Delegated decision:

The Panel carefully considered the report and oral representations by the Licence Holder 14/2018 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 vote, to suspend the Licence Holder for a period of 2 months.**

The Panel found as follows:

- On balance the Panel was satisfied that the Licence Holder had shouted and sworn at the staff at Bradley Fold.
- The conduct and behaviour of the Licence Holder was completely inappropriate towards staff and that he should be fully aware of the Licensing conditions and what is expected of him as a Private Hire Driver in Bury.
- Even if the Licence Holder had not directed his bad language towards staff, the Panel was satisfied his language and conduct was wholly inappropriate for a Licence Holder in Bury.
- The Licence Holder showed no remorse or understanding of his actions.

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

LSP.131 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVERS' LICENCES

- (E)** The Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services) regarding applications for Private Hire and Hackney Carriage 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 15/2018 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. This explained that the Applicant had been convicted at North and West Cumbria Magistrates' Court on 19 October 2016 for failing to give information as to identity of a driver for which he was fined £440.00 and received 6 penalty points on his DVLA Licence. It was explained that the Applicant had been caught, by a parked Police car, speeding on the motorway whilst driving to Scotland, however, the Applicant moved address and did not inform the DVLA and was unaware of the fine issued. Subsequently a Court date was arranged which the Client failed to attend as he was unaware of it.

The Applicant explained that he has been in Bury since 2005 and has been working in a takeaway. He is now engaged and due to marry next year and he would like the opportunity to become a Private Hire Driver in order to provide financially for his wife.

Delegated decision:

The Panel carefully considered the written report and the oral representations made by the Applicant and 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 15/2018 be granted.**

The Panel noted:

- The Applicant knew the seriousness of speeding.
- The Applicant showed remorse for his action.

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

2. Applicant 16/2018 attended the meeting and was accompanied by his wife and Councillor Preston. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report, which was accepted by the Applicant. This explained that the Applicant has previously held both Hackney Carriage and Private Hire Driver Licences granted by this Authority since 4 May 1994.

The Applicant's Hackney Carriage Driver Licence was revoked by the Licensing and Safety Panel on 12 January 2015 due to racial harassment, using threatening, abusive, insulting words or behaviour with intent to cause harassment, alarm or distress (section 5 Public Order Act 1986). The report

also listed a chronology of previous incidents where the Applicant's volatile behaviour have come to the attention of the Licensing Service, for which he had received verbal warnings and or sent formal warning letters.

The Applicant appeared before the Licensing and safety Panel on 6 April, 2009, and the Panel resolved that he be sent a final warning letter; the Applicant then appeared before the Panel on 11 January 2011, which resulted in the Panel suspending his Hackney Carriage Driver Licence for a period of 2 months and then finally having his licence revoked in January 2015.

The Applicant addressed the Panel and explained how important it was for him and his wife that he be able to work as a taxi driver. He is currently working as a volunteer in various jobs but would like to be able to provide financially. He explained that he had been ill with cancer and wanted to continue to work.

Delegated decision:

The Panel carefully considered the written report and the oral representations made by the Applicant and his wife 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, on a majority basis, that the Applicant identified as 16/2018 be refused a Hackney Carriage Driver's Licence.**

The Panel found that:

- The Applicants behaviour has been unacceptable on a number of previous occasions, particularly towards Council Officers and people in a position of authority.
- The Applicant had been convicted of a recent serious offence also connected with his behaviour.
- The Applicant has received numerous verbal and written warnings from the Licensing Service and had been before the Panel on a number of occasions in relation to his aggressive conduct.
- Public safety is paramount and the Panel did not feel that the Applicant was a fit and proper person to hold a Hackney Carriage driver's licence in Bury.

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

3. Applicant 17/2018 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. This explained that he had previously held a Private Hire Driver's Licence with Bury, which was revoked by the Licensing and Safety Panel on 3 March 2015 for convictions relating to; failing to comply with a traffic sign, plying for hire and no insurance, exceeding the statutory speed limit on a public road and making false representation to make gain for self or another.

On 29 May 2018, the Applicant then made a subsequent application for a Private Hire Driver's Licence and as part of the application, he declared the

previous offences and convictions from July and October 2014. The offence relating to no insurance has been removed from the Applicant's DVLA licence as from 7 July 2018; the offence relating to exceeding the statutory speed limit on a public road has been removed as from 13 July 2018 and the failure to comply with a traffic sign will remain on his DVLA record until 11 October 2018.

The Applicant addressed the Panel and explained when he had previously held a Licence he was very young. He was now 25 years old and is married with a child and much more mature. He had been working in a PPI call centre in Bury and also for the CSA in Bolton and was now working in Wigan selling carpets. He needed a more secure employment which would enable him to provide for his family financially. The Applicant confirmed he has a clean driving licence now.

Delegated decision:

The Panel carefully considered the written report and the oral representations made by the Applicant and 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 17/2018 be granted.**

The Panel noted;

- The Applicant was very remorseful for his previous actions and that he understood the error of his ways.
- The past offences were of a serious nature but the Applicant understood the gravity of the matter.
- The Applicant had a current clean driving licence.
- The offences were more than 3 years ago.

**COUNCILLOR
Chair**

(Note: The meeting started at 7.00 pm and ended at 10.40 pm)