

<b>Minutes of:</b>	<b>LICENSING AND SAFETY PANEL</b>
<b>Date of Meeting:</b>	17 October 2018
<b>Present:</b>	Councillor D Jones (in the Chair) Councillors N Bayley, R Hodgkinson, G Keeley, G McGill and Sarah Southworth
<b>Also in attendance:</b>	
<b>Public Attendance:</b>	No members of the public were present at the meeting.
<b>Apologies for Absence:</b>	Councillors: P Cropper (CI), J Grimshaw (CI), T Holt, O Kersh (CI) and S Wright

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#### **LSP.205    DECLARATIONS OF INTEREST**

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

#### **LSP.206    MINUTES**

##### **Delegated decision:**

That the Minutes of the Licensing and Safety Panel meeting held on 5 September 2018, be approved as a correct record and signed by the Chair.

#### **LSP.207    PUBLIC QUESTION TIME**

There were no questions raised under this item.

#### **LSP.208    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:

- **Licensing Hearings Panels**
  - The Licensing Hearings arranged for Killon Street Off Licence, Price Street, Bury was adjourned from the original date of 31 August 2018 and had been re-scheduled for 19 October 2018, however, the Applicant has now withdrawn the application.
  - A Licensing Hearings Panel was arranged for 5 September 2018, in respect of Sir Robert Peel, Sunnybank Road, Bury, following a review from an interested party and subsequently also from Greater Manchester Police, where the Panel resolved to modify the conditions on the Premises Licence.

- A Licensing Hearings Panel was arranged for 27 September 2018, in respect of the Crowded house, Manchester Road, Bury, following an application to vary the Premises Licence to remove conditions. The application received representation from the Licensing Authority. The Panel resolved to vary conditions 3 and 4 on the Licence, rather than remove them.

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

The Licensing Unit Manager attended a further meeting on 6 September 2018 of the Greater Manchester Licensing Managers' Group. Following the departure of the current Chairman, Bury is to be Deputy Chair of this Group and assist the new Chair in driving forward Common Minimum Standards. The next meeting is scheduled for 18 October 2018.

- **Appeal to Crown Court**

- The Licensing and Safety Panel revoked a Private Hire Driver's Licence on 19 October, 2017 and the driver appealed to Manchester Crown Court, which was heard on 13 September 2018. The Court decided to dismiss the appeal and awarded the Council reduced costs of £1000 and the driver has now returned his badge.
- The Licensing and Safety Panel suspended a Private Hire Driver's Licence on 28 November 2017 and the driver appealed the suspension to Manchester Crown Court. However, further intelligence has been received about the driver which has resulted in an immediate revocation of their Private Hire Driver's Licence on 31 July 2018. Subsequently, a notice of abandonment of appeal was served on the Crown Court by the driver's Solicitor.

- **Gambling Act 2005 – Statement of Principles**

The Licensing Service commenced the consultation on the Statement of Principles under the Gambling Act 2005 on 3 August 2018, which ended on 5 October 2018. A report has been compiled to be considered by the Licensing and Safety Panel.

- **Bury Times – 6 September 2018**

An article in the Bury Times on the opinions section has indicated that Bury Council has been taking a tough stance on taxi drivers and agrees that it is understandable that the Council takes such a strong stance if there are concerns regarding a driver that they are taken off the road.

- **Animal Licensing Business workshops**

On 1 October 2018, the Animal Welfare (Licensing of Activities Involving Animals) (England) regulations 2018 came into force, which creates a new licensing regime and repeals a number of pieces of legislation. A

number of workshops for businesses affected by the regulations have been hosted by Bury Council, which have proved very popular.

- **Pre-requisites for Licenced Drivers**

On 14 June 2018, a request from a chauffeur operator was received to exempt chauffeur drivers from some of the pre-requisites to become a driver in Bury. The Licensing and Safety panel directed the Licensing Service to review the current policy which is currently ongoing in line with the common minimum standards.

- **Immediate Revocation of a Private Hire Driver's Licence**

The Head of Service for Trading Standards and Licensing in consultation with the Chairman of the Licensing and Safety Panel have revoked, with immediate effect, the Licence of a Private Hire Driver, following information received.

**It was agreed:**

That the report be noted.

**LSP.209 HOME TO SCHOOL CONTRACT**

Prior to this hearing, it was agreed by all Members of the Panel, to hear this item in a closed session and the Panel therefore resolved 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 this item of business since it involved the likely disclosure of information relating to an individual.

The Applicant attended the meeting and the Chair outlined the procedure to follow and the Applicant accepted the report as presented.

A report was presented on behalf of the Director of Children, Young People and Culture in relation to the suitability of an individual Public Service Vehicle (PSV) driver, asking the Panel to consider their suitability to work on a home to school contract.

The report explained that passengers using the Home to School Transport Service have a range of additional needs including learning, behavioural, sensory, hearing, visual, autistic disorder or physical disabilities and escorts are allocated to accompany pupils on their journey to and from school where required.

A report was considered on 6 October 2014 in relation to the Licensing and Safety Panel undertaking a review of PSV drivers working on transport contracts when a caution or conviction is disclosed on their enhanced DBS certificate. Members resolved that the Panel would become the single reviewing body for such applications and the relevant delegation was amended, so as to enable it to determine if such applicants were 'fit and proper'.

In relation to the current driver, an application was made to the Home to School Transport Service and as part of the process a DBS check for an enhanced DBS on 18 April 2018 was made, which showed a conviction dated 5 October 2017 by Greater Manchester Police for an offence of sending by communication network offensive/indecent/obscene/menacing message or matter under the communications Act 2003. The Applicant was sentenced to a community order, costs of £650, unpaid work requirement and a victim surcharge of £85.

The Applicant then addressed the Panel and explained that a friend of his had written on the wall of his Facebook page to which he had responded, inappropriately. The conversation then continued with his friend in a private conversation. Someone, the Applicant is not aware of whom, reported him for his inappropriate comment, which was of a homosexual nature and also attended Court anonymously to give evidence.

The Applicant explained that he had not meant to cause any offence and had since deleted Facebook. He has a job with a Home to School Transport Contract provider who require drivers to work in both Bury and Bolton. He wanted to be a mini bus driver and currently lived at home with his family.

The Applicant explained that he had received quite a severe penalty in Court and understood the error of his ways and would never post or state any inappropriate language that could be construed as a hate crime in the future.

**Delegated decision:**

The Panel carefully considered the report and the oral representations by the Applicant and taking into account the Council's Conviction Policy and Guidelines and resolved, unanimously, that **the Applicant was suitable to work as a PSV driver on the Home to School Transport contract and therefore the application was allowed.**

The Licensing and Safety Panel noted that any form of hate crime was a serious offence. However, the Applicant had received a fitting sentence and realised the seriousness of the matter. The Applicant was very remorseful for his actions and the Panel therefore agreed unanimously that the driver was a suitable person.

**LSP.210 RESPONSES TO CONSULTATION - STATEMENT OF PRINCIPLES GAMBLING ACT 2005**

The Assistant Director (Legal and Democratic Services)) submitted a report setting out details of the requirements under the Gambling Act 2005 to prepare and publish a Statement of Principles prior to carrying out functions under the Act. The Policy has to be reviewed every three years and must be published by 3 January 2019, being 28 days before the current Statement ceases to have effect on 31 January 2019.

The Act is based on the promotion of the three Licensing Objectives:

- a) Preventing gambling from being a source of crime and disorder
- b) Ensuring that gambling is conducted in a fair and open way and

- c) Protecting children and other vulnerable persons from being harmed or exploited by gambling

A full copy of the amended Statement of Principles for the period 2019 - 2022 was appended to the report.

The Licensing Service have received four responses to the consultation and a summary of the responses was attached at appendix 2, which have been considered and where appropriate, the Statement of Principles has been amended.

For the Statement of Principles to be agreed by 3 January 2019, it will need to be put before Council on 28 November 2018.

**Recommendation to Council:**

That the amended Statement of Principles, as set out in the report, be accepted without amendment and submitted to Full Council on 28 November 2018, for agreement.

**LSP.211 ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS, ENGLAND) REGULATIONS 2018**

The Assistant Director (Legal and Democratic Services) submitted a report to advise members of new regulations operational in relation to Animal Welfare.

Bury Council is responsible for licensing a number of activities relating to the welfare of animals under a number of Acts of Parliament and relevant regulations, of which there are currently 88 premises within the Borough. Prior to 1 October 2018, the Council issued licences under the following legislation (which has now been repealed due to the Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018):

1. Pet Animals Act 1951
2. Animal Boarding Establishments Act 1963
3. Riding Establishments Act 1964
4. Riding Establishments Act 1970
5. Breeding of Dogs Act 1973
6. Breeding of Dogs Regulations 1999
7. Breeding and Sale of Dogs (Welfare) Act 1999

Licences that have been granted by the Council will get transitional provisions under 1, 2, 3 and 4 of the above legislations for any unexpired licences and an unexpired licence granted under the Breeding of Dogs Act 1973 will continue in force for the rest of its term subject to the provisions of that Act, Breeding of Dogs (Licensing )Records) Regulations 1999 and the Breeding and Sale of Dogs (Welfare) Act 1999.

The Council also issues licences for the below activities relating to the welfare of animals and are regulated by the following Acts:

- Dangerous wild animal licences – (Dangerous Wild Animals 1976)
- Zoo licences – (Zoo Licensing Act 1981)

The Animal Welfare Act 2006 is the primary piece of legislation controlling the welfare of animals in England and Wales and established set welfare standards must be maintained by all people who are responsible for an animal. It has consolidated animal welfare legislation in areas such as preventing unnecessary suffering, mutilation and animal fighting. The Act also places responsibilities on to numerous enforcement agencies.

When carrying out its function under the primary licensing Acts the Council will seek to promote the following objectives:

- Animal welfare (the five needs)
- Public safety

The licensing legislation states clearly the criteria which the Council must be satisfied of before any licence is granted. Where the relevant inspector is not satisfied that the legal requirements are met, or when an inspector or the veterinary surgeon has raised concerns, the applicant will be notified and given the opportunity to address these issues in the hope of satisfying the relevant criteria.

**It was agreed:**

That the refusal to grant, suspend, vary and revoke a licence under these regulations be delegated to the Head of Service for Trading Standards and Licensing and/or the Licensing Unit Manager, following consultation with the Chairman of the Licensing and Safety Panel.

That the determining of appeals against the allocated star rating be delegated to the Head of Service for Trading Standards and Licensing.

**LSP.212 URGENT BUSINESS**

There was no urgent business raised under this item.

**LSP.213 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.214 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE**

Licence holder 18/2018 requested that the hearing be deferred due to attending urgent family business abroad. Proof of this request was seen by the Licensing

Unit Manager and it was agreed unanimously by the members of the Licensing and Safety Panel to adjourn the hearing until the following meeting.

**COUNCILLOR D JONES**  
**Chair**

**(Note: The meeting started at 7.00 pm and ended at 7.50 pm)**