

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 10 January 2019

Present: Councillor N Bayley (in the Chair)
Councillors: P Cropper, J Grimshaw, R Hodgkinson,
G Keeley, G McGill, R Skillen, Sarah Southworth and
S Wright

Also in attendance:

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

Apologies for Absence: Councillors: T Holt, D Jones, O Kersh and K Leach

It was agreed at the start of the meeting that in the absence of Councillor Jones, who gave his apologies for the meeting, Councillor Bayley be appointed as Chair

LSP.285 DECLARATIONS OF INTEREST

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

LSP.286 MINUTES

That the Minutes of the Licensing and Safety Panel meeting held on 6 December 2018, be approved as a correct record and signed by the Chair.

LSP.287 PUBLIC QUESTION TIME

There were no questions raised under this item.

LSP.288 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:

APPEALS TO MAGISTRATES' COURT

- Following a decision of the Licensing and Safety Panel to refuse to grant a Hackney Carriage Driver's Licence, an appeal has been lodged and will be heard at the Magistrates' Court on 1 March 2019.
- Following a decision to refuse to renew a Hackney Carriage vehicle due to it failing the five fault rule as it is a vehicle over 10 years of age from the date of registration, an appeal has been lodged and will be heard at the Magistrates' Court on 11 March 2019.
- An appeal against the Council's decision to revoke a Hackney Carriage Driver's Licence due to him failing to maintain his vehicle was heard at

the Magistrates' Court on 17 December 2018 and dismissed by the Magistrates. An application for costs was made to the sum of £2,305, which was reduced to £1,735 due to the driver having lost his livelihood.

MULTI AGENCY VISITS WITH GREATER MANCHESTER POLICE

The Licensing Service took part in visits to licensed premises with Greater Manchester Police on 7 December 2018 and out of 12 premises visited the following issues were found:

- Three premises had no Designated Premises Supervisor and instruction was given to cease the retail sale of alcohol.
- A section 19 notice under the Criminal Justice and Police Act 2001 was served on a licensed premises in Bury due to the Premises Licence Holder being made insolvent and the premises was closed.
- A gambling machine was situated in a licenced premises and no permit had been applied for. Instruction was given and the machine was turned off.

MULTI AGENCY VISITS WITH TRADING STANDARDS

Officers from the Trading Standards and Licensing Services visited 26 off licences to undertake compliance checks in relation to alcohol, tobacco and food. Minor issues were found and advice was given to licence holders.

VISITS TO SECOND HAND DEALERS

Officers from the Trading Standards and Licensing Services visited 14 second hand dealers to ensure compliance with the Greater Manchester Act 1981 and Officers are currently dealing with their findings.

It was agreed:

That the report be noted.

LSP.289 CHANGES TO OFFICER DELEGATION IN RESPECT OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING

This item was withdrawn at the meeting.

LSP.290 CHANGES TO CONSTITUTIONAL MAKE UP AND FREQUENCY OF LICENSING AND SAFETY PANEL MEETINGS/DAYTIME MEETINGS

The Licensing Unit Manager presented a report by the Assistant Director (Legal and Democratic Services), which explained that the consideration of driver and new Applicants' misdemeanours form a large percentage of business brought before the Licensing and Safety Panel. A number of Panel meetings this municipal year have exceeded 10.00 pm and resulted in the suspension of

standing orders and Officers have been asked to consider options for refining procedures and reducing the amount of business placed before the Panel in one meeting.

At present, the Council Constitution requires the Licensing and Safety Panel determine driver, vehicle and operator licence applications where Applicants do not comply with the relevant criteria or where there are grounds for refusal of an application.

Currently the Council Constitution at Article 8 allows for the appointment of regulatory and non-executive Committees set out in part 3 of the Constitution and the membership of the Licensing and Safety Panel as:

- 13 members of the Authority to form a politically balanced Committee where possible;
- 3 members of full Panel to be selected to form politically balanced Licensing Hearings Panels where possible to deal with individual applications for licences under the Licensing Act 2003.

Currently all matters relating to public and private hire are heard at 6 weekly meetings, in the evening, starting at 7.00 pm, before a full politically balanced Committee where possible.

It is proposed that 3 member politically balanced Panels, where possible, be permitted to sit and hear matters relating to Hackney Carriage and Private Hire licences included in the Local Government (Miscellaneous Provisions) Act 1976 and to sit during the normal working day, i.e. Monday – Friday 9.00 am – 5.00 pm.

Full member Licensing and Safety Panel meetings will continue to be scheduled on 6 weekly intervals and continue to meet in the evenings and will consider matters of Policy as well as relevant Public and Private Hire matters needed to be considered where the driver/operator/vehicle owner would prefer to be heard at an evening meeting to allow for working arrangements or carer responsibilities to be taken into consideration.

Any matter to be determined immediately on the grounds of it being in the interest of Public safety would continue to be determined through existing delegations.

Various questions were asked from the members of the Licensing and Safety Panel in respect of availability of members, political balance, how many additional meetings and which issues would be considered at these meeting.

It was agreed:

To accept the proposals, in whole and seek Council approval with regard to altering the frequency of and Constitution of Licencing and Safety Panel meetings dealing with Hackney Carriage and Private Hire matters.

LSP.291 URGENT BUSINESS

There was no urgent business raised under this item.

LSP.292 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.293 SUSPENSION/REVOCAION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

1. Licence holder 19/2018 attended the meeting and was represented by Mr Khan, Solicitor and accompanied by his Father. The Chair welcomed the licence holder and introduced the Licensing and Safety Panel and the Council Solicitor outlined the procedure to be followed.

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.

The report explained that the licence holder is a licensed Private Hire driver and his licence is due to expire on 17 October 2019. The licence holder also has a licensed Private Hire vehicle which has been licensed continuously since 9 May 2017 and expires on 9 May 2019. During the period from 10 May 2017 to 15 October 2018, time the licence holder has been spoken to and received written warnings regarding incorrect signage being displayed on the vehicle on 9 separate occasions and has persistently breached the Private Hire conditions. Therefore, the licence holder is now before the Licensing and Safety Panel.

The Licensing Unit Manager explained that the licence holder was scheduled to attend the last meeting on 6 December 2018 but due to being involved in a road traffic accident on 30 November 2018, was unable to attend and the hearing was adjourned.

Mr Khan, Solicitor, had provided the Licensing and Safety Panel with a full witness statement prior to the meeting, explaining the personal circumstances of the licence holder.

The licence holder and his Solicitor, Mr Khan addressed the Panel and explained that it was accepted that the licence holder had breached the licensing conditions and is now very remorseful. They explained that the licence holder had purchased a new vehicle, a Mercedes E Class AMG, which he was very proud of as he had never owned a car like this before.

Although he had displayed relevant signage on the vehicle, it was not approved operator signage and he had cut down stickers on magnets, to make them more aesthetically pleasing and blend in with the vehicle, as well as avoid damage to the paintwork. Following the road traffic accident on 30 November, 2018, the car was now 'written off' and he was driving a Passat car belonging to his operator, with full correct signage.

The licence holder accepted that his behaviour was completely inappropriate and that it was paramount that correct signage was displayed for the public to ensure they entered the correct vehicle. It was explained to the Panel that the licence holder's brother had passed away in unexpected circumstances in September 2015, leaving this client as the main financial provider in the household, with his wife, Mother and Father, his three children and widowed sister in law and her four children.

Mr Khan explained that the licence holder was a model driver in every other way and it was very important to keep his licence in order to provide for his family. The licence holder reiterated how remorseful he was and fully appreciated the importance of correct signage on a vehicle for the public. He would fully comply with all licensing conditions in the future and would not appear before the Panel again.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 19/2018 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, on a majority basis, to admonish the licence holder as to future conduct.**

The Panel found as follows:

- That the licence holder's behaviour and attitude to the approved Council's signage was inappropriate and considered 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 breaches, had shown remorse for his actions and understood the importance of correct signage for the safety of the Public.

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

2. Licence holder 20/2018 attended the meeting and was unaccompanied. The Chair welcomed the licence holder and introduced the Licensing and Safety Panel and the Council Solicitor outlined the procedure to be followed. The Licensing Unit Manager explained that this hearing had been adjourned from the previous meeting on 6 December 2018, due to personal circumstances.

The Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services). The report explained that this

licence holder had been allocated a job to the home address of a 16 year old female to take her to her Nanna's house at 7.47 pm on Tuesday 16 October 2018. The licence holder remarked on the female's sister who had shown her into the vehicle, stating 'she's good looking'.

During the journey, the female described the driving as erratic, driving fast and swerving in and out of lanes and going through a red light. This scared the female as did the driver's inappropriate conversation. When they arrived at her Nanna's house, she told her what had happened and this was reported to the female's Mother, who then reported it to the operator and the Licensing Service the next morning.

When the licence holder was interviewed by the Deputy Licensing Officer and Enforcement Officer, the licence holder stated he couldn't remember the incident and denied the conversation and his manner during the interview was confrontational and dismissive.

Included with the report were witness statements from the 16 year old female and her Mother.

The licence holder stated before the Panel that the report was not accepted as he could not remember the incident at all as set out in the report. The licence holder acknowledged that he had received the report in advance of the meeting but felt that the complainant was exaggerating the incident.

The licence holder further addressed the Panel and explained that although he lived in Darwen, he liked driving taxis in the Radcliffe area as he knew people there. He explained that he takes young people all the time and occasionally they don't have enough money to pay but he will still drop them at the door. He stated that he did not do or say what has been alleged and that the incident has been exaggerated or made up by the female and her Nanna had become angry and reported it.

Delegated decision:

The Panel carefully considered the report, and oral representations by licence holder 20/2018 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 basis, to revoke the licence.**

The Panel found as follows:

- The Panel was satisfied with the complainants version of events
- There was no explanation for the licence holders allegation that the complainant had lied
- The licence holder stated he could not recall the incident at all but told the Panel about road closures on the evening in question
- The conduct and behaviour of the licence holder towards the complainant was completely inappropriate
- The licence holder had not understood or accepted the seriousness of the allegations

- The licence holder had shown no remorse for his actions, appearing confrontational and dismissive when interviewed by the Licensing Officer and also when before the Licensing and Safety Panel
- The licence holder had previously been suspended for an inappropriate conversation with a female passenger in December 2015
- That the licence holder was not a fit and proper person to hold a licence in Bury.

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

3. A request was made by the Solicitor of licence holder 22/2018 to adjourn this hearing due to him moving address but failing to notify the Licensing Service and therefore not receiving the paperwork in time. This request was agreed with the Chair and members of the Licensing and Safety Panel.

LSP.294 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVERS' LICENCES

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

1. Applicant 23/2018 attended the meeting and was accompanied by his brother. The Chair welcomed the Applicant and introduced the Licensing and Safety Panel and the Council Solicitor outlined the procedure to be followed.

The Licensing Unit Manager read the report, which was accepted by the Applicant and his brother, which explained that the Applicant had been convicted on 19 September 2013, of driving a motor vehicle with excess alcohol, at Burnley, Pendle and Rossendale Magistrates' Court and was disqualified from driving for 12 months, reduced if course completed, fined £110 with costs of £85 and a victim surcharge of £20.

The report explained that following information from Crime Stoppers, and intelligence passed to Greater Manchester Police, the Applicant had been arrested by Lancashire Police on Market Street, Bacup, on 4 July 2013, after failing a roadside breath test, which eventually led to a prosecution.

The Applicant and his brother addressed the Panel and explained that at that time, the Applicant was having a very difficult time with his wife, from whom he is now divorced. He had a drink at home and his wife had forced him to drive and he had been caught. The Applicant no longer drinks and this was a one off occasion as he is a devout Muslim.

The Applicant explained that he needs a licence as he is currently struggling with the job he has, as a delivery driver. It is 5 years since the conviction and he asked the Panel for a chance to prove himself.

Delegated Decision:

The Panel carefully considered the report and the oral representations by the Applicant and his brother and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, the panel agreed unanimously, that **the application for a Private Hire driver's licence by Applicant 23/2018 be granted.**

The Panel noted that although the offence for drink driving was serious, the Applicant was remorseful for his actions and the Panel accepted that this was a one off error due to the difficulties in his home life and would not be repeated. The offence occurred over five years previously and the Panel agreed that this Applicant was a fit and proper person.

2. Applicant 24/2018 attended the meeting and was accompanied by Mr Oakes, The Hackney Drivers' Association Ltd. The Chair welcomed the Applicant and introduced the Licensing and Safety Panel and the Council Solicitor outlined the procedure to be followed.

The Licensing Unit Manager read the report which was accepted by the Applicant and Mr Oakes. The report explained that on Thursday 19 November 2013, an altercation had taken place between the licence holder and a Civil Enforcement Officer undertaking parking attendant duties, during which the licence holder was reported to have used foul and abusive language towards the Officer, struck the Officer to the side of the head causing the Officer's hat to fall to the ground and then pushed the Officer in the back causing the Officer to stumble forward. Members also heard that during interview the licence holder admitted his involvement, that he had lost his temper and struck the Officer, but that he denied using foul and abusive language or pushing the Officer.

The licence holder had appeared before the Licensing and Safety Panel on 13 February 2014 and his licence was revoked. The Applicant appealed the Panel's decision but failed to appear at the appeal hearing at Bury and Rochdale Magistrates' Court on 3 July 2014 and the matter was heard in his absence and the appeal was dismissed. The Court ordered that the Applicant pay the Council's costs of £2,050.00 and he currently owes £690.00 of that amount.

The Applicant has also applied for private hire licences and appeared before the Panel on 19 January 2017 and 27 July 2017 and was refused on both occasions.

Mr Oakes addressed the Panel and explained that on the day of the incident, the licence holder was suffering with a trapped nerve in his right leg, which was causing him considerable pain. This was not an excuse for his behaviour but a reason why he had reacted as he had. He was waiting for physiotherapy and on strong painkilling medication.

The Applicant also addressed the Panel and apologised for his behaviour. He realised the severity of the situation but explained that it was just spur of the moment and completely out of character for him. He felt embarrassed and ashamed of his conduct on that day. He explained he and his wife now have a baby who has to attend regular appointments at North Manchester Hospital. He

is currently working different jobs in a car wash, in a tyre establishment and on the market to try and provide for his family.

Delegated Decision:

The Panel carefully considered the report and the oral representations by the Applicant and his representative and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, the panel agreed unanimously, that **the application for a Private Hire driver's licence by Applicant 24/2018 be granted.**

The Panel noted that the offence was of a serious nature and acknowledged that the Applicant had no excuse for his behaviour but that he was deeply remorseful for his actions, that he was trying hard to provide for his family and incidents of this nature would not be repeated. They also noted that more than 5 years had elapsed since the incident and there were no other matters recorded against the Applicant. The Panel agreed that he was a fit and proper person to hold a licence in Bury.

COUNCILLOR BAYLEY
Chair

(Note: The meeting started at 7.00 pm and ended at 9.40 pm)