

AGENDA FOR

LICENSING AND SAFETY PANEL

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To: All Members of Licensing and Safety Panel

Councillors: N Bayley, P Cropper, J Grimshaw,
R Hodgkinson, T Holt, D Jones (Chair), G Keeley, O Kersh,
K Leach, G McGill, R Skillen, Sarah Southworth 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:	Thursday, 18 April 2019
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 *(Pages 1 - 14)*

The Minutes of the last meeting, held on 7 March 2019, are 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 15 - 18)*

A report by the Assistant Director (Legal and Democratic Services) is attached.

6 URGENT BUSINESS

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

7 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.

8 SUSPENSION/REVOCATION OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE *(Pages 19 - 28)*

A report by the Assistant Director (Legal and Democratic Services) is attached.

9 APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE *(Pages 29 - 36)*

A report by the Assistant Director (Legal and Democratic Services) is attached.

Minutes of:	LICENSING AND SAFETY PANEL
Date of Meeting:	7 March 2019
Present:	Councillor D Jones (in the Chair) Councillors: N Bayley, J Grimshaw, R Hodgkinson, T Holt, G Keeley, K Leach, G McGill, O Kersh, Sarah Southworth and S Wright
Apologies for absence:	Councillors: P Cropper, R Skillen
Public Attendance:	There were two members of the public in attendance.

LSP.386 DECLARATIONS OF INTEREST

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

LSP.387 MINUTES**Delegated decision:**

That the Minutes of the Licensing and Safety Panel meeting held on 10 January, 2019, be approved as a correct record and signed by the Chair.

LSP.388 PUBLIC QUESTION TIME

Mr Charles Oakes of the Hackney Drivers' Association addressed the Licensing and Safety Panel and explained that there has been a drastic downfall in the number of Hackney Carriages now in Bury, standing currently at 64 from 124. Mr Oakes requested that an independent survey of public perception in relation to Hackney Carriages was conducted, at an approximate cost of £1,500, as there was a fear there could be no Hackney trade in Bury at all.

The question was raised as to who would fund the cost of this survey and the Licensing Unit Manager stated that the cost of the survey would need to be funded through the licence fees, not the Licensing Service but that further discussions on this matter would take place with Mr Oakes.

LSP.389 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 2005

The revised Statement of Principles under the Gambling Act 2005 came into effect on 31 January 2019, following ratification by full Council on 28 November 2018.

Common Minimum Standards – Hackney Carriage and Private Hire Trade

Following further meetings with the other nine Greater Manchester Authorities, it is hoped the Common Minimum Standards will be consulted upon in Summer 2019.

Hackney Carriage/Private Hire Trade Liaison Meeting

On 11 February 2019 the Licensing Service met with representatives of both the Hackney Carriage and Private Hire Trade and all licensed operators were invited to attend, in relation to the Greater Manchester Clean Air Plan. A copy of the minutes from this meeting were circulated to members of the Licensing and Safety Panel for information.

Evening Enforcement – 18 January 2019

The Licensing Service undertook evening enforcement on 18 January 2019 which resulted in the following:

- 4 restaurants were visited and of those Premises Licence summaries were not displayed at 2 Premises. Following instruction, these matters have now been remedied.
- An unlicensed takeaway was visited which was advertising that it was open until 2.00 am. Instruction was given at the inspection to close at 11.00 pm until a Premises Licence was in force.
- 8 other licensed Premises were visited and all were found to be compliant.

Operation Considerate

The Licensing Service took part in an operation in conjunction with Greater Manchester Police on 12 February 2019 in relation to Hackney and Private Hire licensed vehicles and drivers. The findings of the operation were circulated to members of the Licensing and Safety Panel. The Licensing Service are currently issuing warning letters to the vehicle proprietors and the drivers of the vehicles.

Greater Manchester Air Quality Plan Conversation

On 11 February 2019, at the Hackney Carriage and Private Hire liaison meeting, Officers from Environmental Health Service spoke to the representatives of the trades in respect of Air Quality and any feedback returned within a questionnaire.

Purple Flag Submission

Officers from the Licensing Service have been involved with the internal assessment required for the renewal application and the Council is currently waiting for confirmation of a date when the external assessment will take place.

Bradley Fold

In the early hours of 14 January 2019, there was a fire at Bradley Fold and due to this, the Council are unable to test any vehicles currently. Alternative interim arrangements were made within 48 hours of the fire

with Bolton Council, to enable the testing of vehicles to continue. The trade have been advised of the change of venue for testing and the tests have been carried out by Bury Council staff.

NAFN – National Anti-Fraud Network

Officers of the Licensing Service are currently looking to register onto the NR3 database that is held by NAFN. This data base will hold data on individuals that have either been refused a Hackney Carriage/Private Hire badge or had one revoked. All Greater Manchester Authorities are in the process of registering and uploading of data for the last 5 years. All individuals' information to be uploaded will be contacted prior to the upload and once data is uploaded, licensing staff will be checking the database on application or renewal to see if the applicant/licence holder has previously been refused or revoked.

It was agreed:

That the report be noted.

LSP.390 SAFEGUARDING REPORT

The Licensing Unit Manager submitted a report by the Assistant Director (Legal and Democratic Services) in respect of introducing safeguarding training for Applicants/licence holders of Hackney Carriage/Private Hire Drivers' licences. The report explained that on 20 March 2018, members approved the introduction of such safeguarding training and the requirement that all existing licence holders complete the training within a 12 month period.

Subsequently, on 14 June 2018, Members agreed to suspend this training in order for the Licensing Service to bring the proposed training in line with the requirements of the Greater Manchester Minimum Standards for Taxi Drivers.

The Council Procurement team and the Licensing Service have conducted a tender exercise in relation to the provision of safeguarding training. Thirty eight companies showed an interest and of those, six submissions were returned by the closing date in respect of this tender. Following evaluation and scoring, there has been one successful bidder, namely 'Personnel Checks'.

Following the Panel's decision on 14 June 2018 to suspend implementation of the training, Members are now requested to re-introduce with immediate effect the requirement for mandatory safeguarding training for new Applicants as a pre-requisite prior to application and that existing drivers will be required to undertake the training within 12 months of the implementation date. It is proposed that the first training take place as

soon as possible, before the 31 March 2019, with the costs of the training borne by the Applicant or the licence holder.

Delegated decision:

It was agreed unanimously by the members of the Licensing and Safety Panel to reinstate, with immediate effect, the Policy requirement for Applicants/licence holders of Hackney Carriage/Private Hire drivers' badges to undertake mandatory safeguarding training.

LSP.391 URGENT BUSINESS

There was no urgent business raised under this item.

LSP.392 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.393 A RENEWAL APPLICATION TO LICENCE A HACKNEY CARRIAGE LICENCE (1)

The Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services), regarding the review of the five fault criteria in respect of a Hackney Carriage vehicle licence.

The report explained that prior to February 2006, Hackney Carriage vehicles over 10 years old were not licensed by Bury Council unless the vehicle was in 'exceptional condition'. On 2 February 2006, following a request from the Hackney Carriage Association, the Licensing and Safety Panel reviewed the 'exceptional condition' criteria and resolved to allow vehicles to be licensed beyond 10 years of age subject to the vehicle passing requisite inspections with no more than 5 faults being identified ('the 5 fault rule').

This Policy has been reviewed since the above date and on 8 May 2014 the Licensing and Safety Panel considered a report relating to the review of current Policies relating to the Licensing and testing of Hackney Carriage and Private Hire vehicles. Members resolved that the 'exceptional condition' criteria be re-introduced for Hackney Carriages at 10 years old as an incentive to encourage proactive maintenance and provide for additional testing requirements where vehicles fall below acceptable standards.

In addition, existing licence holders be allowed a 3 year transitional period should they have made financial plans in respect of their vehicle to allow them to be licensed subject to the 5 fault rule.

On 27 July 2017, the Licensing and Safety Panel considered a report following a request from the Hackney Carriage Association represented by Mr Giles Bridge, requesting the Council consider a 15 year age Policy and review whether the five fault rule or the 'exceptional condition' criteria should apply to all Hackney Carriage vehicles over 10 years of age.

Members resolved unanimously that approval be given to continue with the current licensing and testing policy in relation to Hackney Carriage vehicles up to 10 years of age and then require the vehicle to be subject to the 5 fault rule.

The Licence Holder of a Peugeot Expert, attended the meeting and was represented by Mr Oakes, of the Hackney Drivers' Association. The report presented by the Licensing Unit Manager explained that on 19 May 2014, the vehicle in question, was transferred into the Licence Holder's name who is a licensed Hackney Carriage driver. The current vehicle licence is due to expire on 21 March 2019.

On 17 September 2018, the vehicle underwent a routine 6 month interim test at the Council's test centre at Bradley Fold and failed the test with 11 faults, 7 of which were MOT faults.

On 6 February 2019, the Licence Holder made an application to renew the vehicle licence in respect of this vehicle prior to its expiry on 21 March 2019. The Licensing Service requested that the vehicle undertake the usual renewal test on 18 February 2019, when the vehicle was found to have 3 faults, 2 of which were MOT faults.

The Licensing Unit Manager explained it is for the Licence Holder to present a case as to whether the Licensing and Safety Panel should deviate from the current 5 fault rule Council Policy applicable to vehicles over 10 years.

Mr Oakes addressed the Panel and explained that when the vehicle failed the interim 6 month test in September 2018, the Licence Holder was not suspended at that time and the vehicle was repaired, however, following the test on 18 February 2019 the Licence Holder is unable to renew the vehicle licence as it failed on 3 faults. Mr Oakes stated that there was no mechanism in place to appeal this judgement at the Magistrates' Court, which was unlawful. The Licence Holder has been a taxi driver for 10 years, he is a qualified engineer and well educated and this is an isolated incident.

Mr Oakes requested that the licence holder be allowed to continue with this vehicle, which will be well maintained, with the undertaking within the next 12 months the vehicle will be replaced.

Delegated decision:

The Panel carefully considered the report including the information and results in relation to the testing of the vehicle and the oral representations made and resolved on a majority basis to **refuse the renewal application.**

The Panel found as follows;

1. That the vehicle had failed on 11 faults in September 2018, 7 being MOT faults.
2. That the vehicle, had been driven 351,562 miles.
3. That this was a very serious matter as public safety was paramount.
4. The vehicle failed its renewal test due to faults including 2 MOT faults.
5. That there were no facts presented upon which the Licensing and Safety Panel could justify deviating from the current 5 fault rule Council Policy for vehicles over 10 years.

The licence holder was informed of their right to appeal within 21 days.

LSP.394 A RENEWAL APPLICATION TO LICENCE A HACKNEY CARRIAGE LICENCE (2)

The Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services), regarding the review of the five fault criteria in respect of a Hackney Carriage vehicle licence.

The report explained that prior to February 2006, Hackney Carriage vehicles over 10 years old were not licensed by Bury Council unless the vehicle was in 'exceptional condition'. On 2 February 2006, following a request from the Hackney Carriage Association, the Licensing and Safety Panel reviewed the 'exceptional condition' criteria and resolved to allow vehicles to be licensed beyond 10 years of age subject to the vehicle passing requisite inspections with no more than 5 faults being identified ('the 5 fault rule').

This Policy has been reviewed since the above date and on 8 May 2014 the Licensing and Safety Panel considered a report relating to the review of current Policies relating to the Licensing and testing of Hackney Carriage and Private Hire vehicles. Members resolved that the 'exceptional condition' criteria be re-introduced for Hackney Carriages at 10 years old as an incentive to encourage proactive maintenance and provide for additional testing requirements where vehicles fall below acceptable standards.

In addition, existing licence holders be allowed a 3 year transitional period should they have made financial plans in respect of their vehicle to allow them to be licensed subject to the 5 fault rule.

On 27 July 2017, the Licensing and Safety Panel considered a report following a request from the Hackney Carriage Association represented by Mr Giles Bridge, requesting the Council consider a 15 year age Policy and review whether the five fault rule or the 'exceptional condition' criteria should apply to all Hackney Carriage vehicles over 10 years of age. Members resolved unanimously that approval be given to continue with the current Licensing and testing Policy in relation to Hackney Carriage vehicles up to 10 years of age and then require the vehicle to be subject to the 5 fault rule.

The Licence Holder of a Peugeot Expert E7, was unable to attend the meeting due to being out of the Country from Friday 22 February 2019 and had instructed a family member, his son, to appear on his behalf. The report presented by the Licensing Unit Manager explained that the vehicle in question, was transferred into the Licence Holder's name on 21 June 2017 and is due to expire on 8 March 2019.

On 4 September 2018, the vehicle underwent a routine 6 month interim test at the Council's test Centre at Bradley Fold and failed the test with 7 faults, 6 of which were MOT faults.

On 19 February 2019, the Licence Holder made an application to renew the vehicle licence prior to its expiry on 8 March 2019. The Licensing Service requested the vehicle undertakes the usual renewal test on 26 February 2019, where the vehicle was found to have 6 faults, 2 of which were MOT faults.

The Licensing Unit Manager explained it is for the licence holder to present a case as to whether the Licensing and Safety Panel should deviate from the current 5 fault rule Council Policy for vehicles over 10 years of age.

The Licence Holder's son addressed the Panel and stated on reviewing the report from September 2018 and the definition of a fault, he did not consider some of these serious faults, e.g. both rear number plate lights inoperative and the fog lamp warning lamp inoperative. This was due to the bumper which was fitted prior to his father buying the vehicle, not being wired or accommodating them. He also stated that there was no leak on the power steering as the engine had been power washed and it was water and therefore he felt these should be deducted from the total and then the vehicle would fall within the 5 fault rule.

Delegated decision:

The Panel carefully considered the report including the information and results in relation to the testing of the vehicle and the oral representations made and resolved on a unanimous basis to **refuse the renewal application.**

The Panel found as follows;

1. That the vehicle had failed on 7 faults in September 2018, 6 being MOT faults.
2. That the vehicle had been driven over 200,000 miles.
3. That this was a very serious matter as public safety was paramount.
4. The vehicle failed its renewal test with faults including 2 MOT faults.
5. There was no evidence presented regarding the bumper or power washing of the engine.
6. That there were no facts presented upon which the Licensing and Safety Panel could justify deviating from the current 5 fault rule Council Policy for vehicles over 10 years.

The licence holder's representative was informed of the licence holder's right to appeal within 21 days.

LSP.395 A RENEWAL APPLICATION TO LICENCE A HACKNEY CARRIAGE LICENCE (3)

The Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services), regarding the review of the five fault criteria in respect of a Hackney Carriage vehicle licence.

The report explained that prior to February 2006, Hackney Carriage vehicles over 10 years old were not licensed by Bury Council unless the vehicle was in 'exceptional condition'. On 2 February 2006, following a request from the Hackney Carriage Association, the Licensing and Safety Panel reviewed the 'exceptional condition' criteria and resolved to allow vehicles to be licensed beyond 10 years of age subject to the vehicle passing requisite inspections with no more than 5 faults being identified ('the 5 fault rule').

This Policy has been reviewed since the above date and on 8 May 2014 the Licensing and Safety Panel considered a report relating to the review of current Policies relating to the Licensing and testing of Hackney Carriage and Private Hire vehicles. Members resolved that the 'exceptional condition' criteria be re-introduced for Hackney Carriages at 10 years old as an incentive to encourage proactive maintenance and provide for additional testing requirements where vehicles fall below acceptable standards.

In addition, existing licence holders be allowed a 3 year transitional period should they have made financial plans in respect of their vehicle to allow them to be licensed subject to the 5 fault rule.

On 27 July 2017, the Licensing and Safety Panel considered a report following a request from the Hackney Carriage Association represented by Mr Giles Bridge, requesting the Council consider a 15 year age Policy and review whether the five fault rule or the 'exceptional condition' criteria should apply to all Hackney Carriage vehicles over 10 years of age. Members resolved unanimously that approval be given to continue with the current Licensing and testing Policy in relation to Hackney Carriage vehicles up to 10 years of age and then require the vehicle to be subject to the 5 fault rule.

The Licence Holder of a Fiat Scudo attended the hearing and was accompanied by a friend. The report presented by the Licensing Unit Manager explained that the vehicle in question, had been licensed by Bury Council since 30 August 2012 and on 26 February 2016, was transferred into the Licence Holder's name. The vehicle licence expired on 24 February 2019.

On 15 August 2018, the vehicle was scheduled for a routine 6 month interim test at the Council's test Centre at Bradley Fold but the vehicle was not presented for test so the vehicle licence was suspended.

On 22 August 2018, the vehicle underwent a routine 6 month interim test at the Council's test Centre at Bradley Fold and failed the test with 9 faults, 5 of which were MOT faults.

On 24 August 2018, the vehicle was presented for retest. The vehicle still had 2 MOT faults.

On 30 August 2018, the vehicle was presented for a second retest, the vehicle still had 1 MOT fault as the rear brakes were out of balance.

On 4 September 2018, the vehicle was represented for a third retest which the vehicle passed.

On 11 February 2019, the licence holder made an application to renew this vehicle licence prior to its expiry on 24 February 2019. The Licensing Service requested the vehicle undertake the usual renewal test on 27 February 2019, where the vehicle was found to have 8 faults, 2 of which were MOT faults.

The Licensing Unit Manager explained it is for the licence holder to present a case as to whether the Licensing and Safety Panel should deviate from the current Council Policy of vehicles over 10 years of age being subject to the 5 fault rule.

The Licence Holder and his friend addressed the Panel and stated that it had cost £800 to get the vehicle through the tests and that although drivers try to keep their vehicles maintained, the public are often drunk and don't care about them and abuse the vehicles. The Licence Holder stated that there was very little work on the Bury ranks with so many Hackney Carriage vehicles. He further stated that the issues relating to the faults, were not big issues and wouldn't be dangerous to passengers and that he had taken the vehicle to a garage before being tested and had been told it was ok. The Licence Holder also stated that he had a family to provide for financially and a mortgage to pay.

Delegated decision:

The Panel carefully considered the report including the information and results in relation to the testing of the vehicle and the oral representations and resolved on a majority basis to **refuse the renewal application**.

The Panel found as follows;

1. That the vehicle had failed on 9 faults in August 2018, 5 being MOT faults.
2. That the vehicle, had been driven over 264,000 miles.
3. That this was a very serious matter as public safety was paramount.
4. The vehicle failed a further 2 renewal retests with faults including MOT faults.
5. That there were no facts presented upon which the Licensing and Safety Panel could justify deviating from the current 5 fault rule Council Policy for vehicles over 10 years.

The licence holder was informed of their right to appeal within 21 days

LSP.396 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

- (E)** 1. Licence holder 22/2018 attended the meeting and was represented by his Solicitor Mr Latif.

The Chair introduced the Panel and outlined the procedure to be followed. The Licensing Unit Manager then 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 9 August 2019. On 8 November 2018, a complaint was received from a member of the public regarding this Licence Holder's driving and conduct. The complainant alleged he was travelling in his vehicle along Pilkington Way in Radcliffe, a dual carriageway and was in the outside lane and the Licence Holder's Private Hire vehicle was on the inside. The Licence Holder's Private Hire vehicle started to encroach into the complainant's lane and therefore he sounded his horn to warn the Licence Holder. The Licence Holder pulled alongside the complainant and wound down his window, shouted obscenities and drove off.

Statements were produced from the complainant, a representative of the operator and a voice recording was played at the meeting of the passenger in the Licence Holder's vehicle at the time of the incident, which confirmed the Licence Holder had shouted abuse at the complainant.

Mr Latif addressed the Panel and stated that they had requested a signed witness statement to be used as written evidence under section 9 of the Criminal Justice Act from the complainant but this was declined by the Licensing Unit Manager. He and his client had not had the opportunity to investigate as they were not aware of the complainant or their details as these had not been provided. Mr Latif further stated that in his opinion the personal details of the complainant should have been provided under the Data protection Act. He stated that the Licence Holder was in fact the victim in this scenario as he had been racially abused by the complainant, for which he wanted to now report this incident to the Police for investigation.

The Council Solicitor advised the Licensing and Safety Panel that the provisions of the Criminal Justice Act 1967 did not apply in these proceedings as they are regulatory and would in any event only apply in criminal proceedings before the Magistrates Court when served with the requisite notice as per the provision of the legislation. The statements would therefore stand as basic statements.

In relation to the Data protection Act and GDPR, this was a request for third party personal data and a lawful basis would be required to share

that information. In view of the fact that the complainant feared reprisals and had refused to consent to the disclosure of his personal data, the only lawful basis would be the public task or public interest basis, which may not be satisfied in view of the concerns he had raised and the effect on such proceedings from a public perspective, particularly as the public may be dissuaded from complaining if their personal information is routinely shared with those they are complaining about. In addition, although there are exemptions that could be applied to allow disclosure, these did not place an obligation upon the data controller, i.e. the Council to disclose and in any event, did not apply in view of the regulatory nature of the proceedings and still require a lawful basis for disclosure of the data.

The Chair indicated to Mr Latif that the advice would be followed by the Panel and Mr Latif offered no counter arguments or precedent to justify his original contentions. The matter therefore proceeded.

Mr Latif stated that the Licence Holder's version of events was different to the complainant's as Pilkington Way in Radcliffe is not a dual carriage way but a single lane road and only divides into 3 lanes at the traffic lights, with Asda on the left hand side. Pictures were provided to the Panel of the road layout. He stated that the complainant was in fact sounding his horn and flashing his lights at the Licence Holder and chased him a total of 37 car lengths, before pulling up alongside him, winding down his window and calling him a racially offensive name and that the incident was a case of severe road rage, which would now be reported as a hate crime to the Police.

The Licence Holder's Solicitor went on to explain that the Licence Holder has 3 children with a high rent to pay for their home. He averaged 30 jobs a day and worked 6 days a week to provide for his family. He has never had any other issues other than a misunderstanding with a customer in February 2018. He relied heavily on his job as a licensed Private Hire driver and the Panel should understand that the Licence Holder is in fact the victim.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 22/2018 and his Solicitor 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 language was completely inappropriate to the complainant and also whilst carrying a member of the public at the time.
- That abuse was likely to have been shouted from both parties.
- That the proposal to report the matter to the police as a hate crime had only come after speaking with the Licence Holders Solicitor.

- The racial abuse allegation had not been mentioned to the Licensing Service during interview.
- 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 was informed of their right to appeal to the Magistrates' Court within 21 days.

2. Licence holder 25/2018 attended the meeting and was accompanied by his friend. The Chair introduced the Licensing and Safety Panel and outlined the procedure to be followed.

The Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services). The report explained that the Licence Holder is a Private Hire Driver and his operator notified the Licensing Service that they had suspended him, following the receipt of a complaint. The female reported that she had made a booking and when the Licence Holder arrived and she went to get into the car, she asked if she could sit in the front passenger seat, upon which the Licence Holder gestured to his lap and said 'you can sit here if you want'.

The female immediately left the vehicle and reported this to the operator who cancelled the trip and registered a complaint. A statement from the complainant was attached to the report for the Panel's information, along with a screen shot of her mobile phone confirming the vehicle details.

Further enquiries of the operator revealed it had received 9 complaints about the Licence Holder which it had categorised as rudeness.

During interview, the Licence Holder stated he could not remember such an incident and believed that he had been suspended from his operator because he cancelled a booking as he was unable to confirm whether the person who was waiting for him was the same person that had made the booking.

The Licence Holder and his friend addressed the Panel and stated he had not taken the female passenger and that it was a mix up as he had arrived for a booking and a man had got into his vehicle. The man would not confirm his name, as requested by the Licence Holder and therefore he would not take him. The Licence Holder cancelled the job but his operator then sacked him two weeks before Christmas. He stated he now works for another operator but is a well-educated man and a Civil Engineer but can't currently get work in that field and therefore drives for a living. He further stated he did not know about any of the other complaints referred to. He complained that his operator had no consideration for the drivers themselves and that it was very easy for people to log a complaint and give negative feedback. He was a family man and being unemployed will seriously affect his family financially. He stated that his star rating was 4.87 out of 5 for positive feedback and that he had completed over 18,000 trips with passengers and that 9 complaints was very small in comparison.

Delegated decision:

The Panel carefully considered the report, and oral representations by Licence Holder 25/2018 and his friend 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 suspend the Licence Holder for a period of 3 months.**

The Panel found as follows:

- That the Panel was satisfied with the complainant's version of events and found no reason to doubt it
- The complainant had a screen shot on her phone of the Licence Holders name and vehicle details
- The matter was reported immediately
- The allegation was of a serious nature
- That the Licence Holder contradicted himself in that he stated he could not recall the incident and then referred to an incident involving a male passenger for which he believes he was suspended
- The words, conduct and behaviour of the Licence Holder towards the complainant was completely inappropriate
- The Licence Holder had a number of other complaints lodged against him with his operator
- The licence holder had not understood or accepted the seriousness of the allegations

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

3. Licence holder 26/2018 attended the meeting and was represented by his Solicitor, Mr Rashid. The Chair introduced the Licensing and Safety Panel and outlined the procedure to be followed.

The Licensing Unit Manager read the report which was accepted by the Applicant and Mr Rashid. The report explained that the Licence Holder was issued a caution at Bolton Police Station following a conviction on 30 January 2019 for actual bodily harm. Greater Manchester Police contacted the Licensing Service and reported that an allegation of assault on 12 November 2018 was made by the 11 year old daughter of the Licence Holder during which the Licence Holder had hit her repeatedly with a plastic coat hanger causing significant bruising to her backside. The Licence Holder had attended Bury Police Station voluntarily on 10 January 2019 and admitted the assault and expressed remorse and regret for his actions.

The Licence Holder has been a licensed Private Hire driver with Bury Council since 24 January 2014 and has no previous record of convictions or complaints.

Mr Rashid addressed the Panel and explained that the Licence Holder is happily married with two children, his daughter and a son aged 7 years.

The Licence Holder has been driving for 4 years and has been with his current operator for 3 years and a character reference was provided from it confirming his good character and that there have never had any complaints about him.

Mr Rashid explained that the Licence Holder is of exceptionally good character and has never been in any trouble until this matter. He attended the Police Station voluntarily and cooperated fully with the investigation.

The incident occurred when the Licence Holder's daughter was repeatedly misbehaving and eventually he just reacted, very uncharacteristically. Social Services and the Police were involved and after a thorough investigation the Licence Holder was cautioned. He explained that the Licence Holder is very remorseful for his actions and that this kind of thing has never happened before or will again.

The Solicitor went on to explain that the Licence Holder is the main earner, his wife is a housewife and looks after the house and children, with whom he has a brilliant relationship. This is an isolated incident, which won't be repeated.

Delegated decision:

The Panel carefully considered the report, and oral representations by Licence Holder 26/2018 and his Solicitor 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 unanimous basis to admonish the licence holder.**

The Panel noted that;

- the offence for actual bodily harm against his young daughter was serious and unacceptable,
- the licence holder was extremely remorseful for his actions
- the police only cautioned the Licence Holder
- the Licence Holder had no other convictions or complaints recorded against him
- this was a one off error and would not be repeated.
- the Licence Holder had voluntarily attended the Police Station and cooperated fully with the Police and Social Services and
- the Panel agreed that the licence holder was a fit and proper person.

COUNCILLOR D JONES

CHAIR

Please note: The meeting started at 7pm and finished at 10.56 pm

REPORT FOR DECISION

Agenda Item	
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DECISION OF:	LICENSING & SAFETY PANEL
DATE:	18th APRIL 2019
SUBJECT:	OPERATIONAL REPORT
REPORT FROM:	ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)
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 Hearings Panel

2.1 The Licensing Service have received an application to review the premises licence in respect of Premier Off-Licence, 29 Chesham Road, Bury by the Licensing Authority. Representations have been received from Greater Manchester Police and the Weights and Measures Authority in respect of this application. A Licensing Hearings Panel considered the review application on the 28th February 2019 and members resolved to vary the conditions attached to the licence as follows;

Conditions Consistent with the Operating Schedule

1. CCTV system to be maintained and tapes to be safely retained for a minimum period of 3 months for viewing purposes by the authorities, including the Police. Cameras shall encompass both the internal and external areas of the premises.

Conditions Imposed at a Licensing Panel hearing 29th May 2008 (as amended in November 2010).

3. A person who is a Personal Licence Holder or the Designated Premises Supervisor be on the premises at all times at which alcohol products are sold.

- 2.2 The Licensing Service have received an application to review the premises licence in respect of Killon Street Off Licence, 26 Price Street, Bury, by the Weights and Measures Authority. Representations have been received from Greater Manchester Police and the Licensing Authority in respect of this application. A Licensing Hearings Panel considered the review application on the 28th February 2019 and members resolved due to the Premises Licence holder not being able to furnish the Panel with the further documentation, it was agreed unanimously, that to ensure a fair hearing and to enable the Premises Licence Holder to fully explain and provide evidence as to his current position and in addition enable this to be fully considered by the Responsible Authorities, that in the public interest, the hearing be adjourned to a future date. The rescheduled meeting has been organised for the 25th April.

3.0 Statistics of the Licensing Service

- 3.1 The Licensing Service during the financial year 18/19 have dealt with the following:-

Type of Work	Number
Number of Licences/Registrations/Consents/Permits processed	3617
Number of applicants/Licence holders considered by the Licensing and Safety Panel Of which were new applicants – 13 Suspension / Revocation / Admonishment - 15 Granted - 13 Refused – 3 Withdrawn - 0	31
Number of applications considered by Licensing Hearing Panels Of these:- Personal Licence - 1 Transfer application - 1 Review application – 3	5
Complaints regarding Taxi Trade	116

Complaints regarding Licensed premises	66
Freedom of Information Requests	29
Miscellaneous Complaints	2
Compliance checks/Enforcement/complaints undertaken by the Licensing Service:- Licensed premises Taxi Trade Clients – 286 Operator – 5 Vehicles - 690	629 981 in Total
Number of Enhanced Disclosure Checks	441
Number of Knowledge Tests undertaken includes Hackney Carriage conditions test/Private hire conditions test	148
Animal Welfare (Licensing of Activities involving Animals)(England) Regulations 2018 - Inspections	40
Gambling <ul style="list-style-type: none"> Betting Shop (Transfer) Club Machine Permit (New) Licensed Premises Gaming Machine Permit Notification of Intent to have Gaming Machines Small Society Lotteries (New) 	7 1 1 12 2
Policy matters <ul style="list-style-type: none"> Safeguarding training Animal Welfare (Licensing of Activities involving Animals)(England) Regulations 2018 Gambling – Statement of Principles Constitutional Change – Daytime meetings. 	

3.0 Gambling Visit

- 3.1 Following a complaint regarding illegal betting at a licensed premises, the Licensing Service carried out an unannounced visit on the 15th March 2019. Officers carried out an inspection and risk assessment exercise and no issues were found.

4.0 Common Minimum Standards

- 4.1 The Licensing Unit Manager has been attending further meetings in relation to the Common Minimum Standards with all the other Greater Manchester Authorities. It is hoped that the consultation will take place in the Summer.

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