

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 25 July 2019

Present: Councillor T Rafiq (in the Chair)
Councillors: P Cropper, J Grimshaw, S Hurst, C Morris,
S Wright and Y Wright

Also in attendance:

Public Attendance: 10 members of the public were present at the meeting

Apologies for Absence: Councillors: C Cummins, G Keeley C Walsh

LSP.1 DECLARATIONS OF INTEREST

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

LSP.2 PUBLIC QUESTION TIME

A member of the public highlighted an individual case, on behalf of another driver, relating to an MOT failure and the poor attitude of the staff at the Council's approved testing station. The Head of Trading Standards and Licensing explained that complaints about the testing station should be directed to the Transport Services Manager and referred to the fact that the Taxi Driver's Association had been provided with information relating to the complaints process.

A number of drivers in attendance expressed their concerns in relation to the Council's approved testing station and made representations in support of alternative stations being made available in the Borough. Mr Shafqat Mahmood raised the issue of the number of complaints made against the station and stated that an increasing number of drivers would end up being licensed outside of the borough, resulting in a loss of income for Bury Council. The Head of Trading Standards and Licensing explained that the issue of the testing station was regularly kept under review and stated that ultimately it would be for Members to decide if there was a need for an alternative testing station. If this was decided, it would then have to go through a procurement process. The Chair, Councillor Rafiq, explained that complaints about the testing station needed to be recorded formally and any proposal for change would need to be justified on the basis of evidence.

LSP.3 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 6 June 2019, be approved as a correct record and signed by the Chair.

LSP.4 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:

- Clean Air Conversation - Transport for Greater Manchester (TfGM) have undertaken a "conversation" on Air Quality which ended the 30th June 2019. The results of the "conversation" are being analysed by TfGM.
- Common Minimum Standards (CMS) - On the 3rd June 2019, the Licensing Unit Manager, Councillor Rafiq and Councillor Black attended a meeting along with the other 9 Greater Manchester authorities with Andy Burnham, Mayor of Greater Manchester. Subsequently, the proposals for CMS have been circulated to the trade and Licence Holders, operators and other trade representatives have been contacted regarding drop-in sessions that took place on 24 and 28 June. At those sessions there was an opportunity to ask questions and they were well attended. Consultation is the next step.
- Concerts at Heaton Park - Officers of the Trading Standards and Licensing Service have been working on 7, 8, 9 and 15 June at the concerts held at Heaton Park. Officers were involved in the enforcement of street trading legislation and Hackney Carriage and Private Hire legislation.
- Seizure of Tobacco - A specially trained tobacco detection dog has helped trading standards & licensing enforcement officers discover 36400 cigarettes and 12.85kg of tobacco worth over £25000. The illegal items were seized during inspection visits in Bury, conducted by Bury Council Trading Standards and licensing enforcement officers alongside with GMP partnership officer today Wednesday 5 June 2019.
- Licensing Hearing Panel Outcome - On the 8 July 2019, a Licensing Hearings Panel took place to consider an application for a personal licence. The applicant had a relevant offence under Schedule 4 of the Licensing Act 2003 of being in charge of a vehicle whilst unfit through drink. Members considered the representation from Greater Manchester Police and the applicant's comments and decided to grant the personal licence.

It was agreed:

That the report be noted.

LSP.5 GREATER MANCHESTER MINIMUM STANDARDS FOR TAXI LICENSING

The Assistant Director (Legal and Democratic Services) submitted a report to provide members with details of proposals to introduce common, minimum standards for Private Hire and Hackney Carriages Vehicles, Drivers and Operators licensed by Licensing Authorities across Greater Manchester (GM). The report set out proposals to consult across GM on the proposed GM minimum standards.

The proposed minimum standards relate to the four key areas identified by GM Licensing Network Group and aim to raise standards across GM with a view to a more consistent approach to taxi licensing across the region.

TfGM will host the GM minimum standards consultation on behalf of all GM Licensing Authorities and will procure an outside agency to do the analysis of responses.

It was agreed:

1. To note the contents of the report.
2. To authorise a consultation on the proposed GM Minimum Standards in autumn and support the proposal that Transport for Greater Manchester administers the consultation process.

LSP.6 URGENT BUSINESS

There was no urgent business reported.

LSP.7 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.8 SUSPENSION/REVOCAION OF DRIVER'S LICENCE

SUSPENSION/REVOCAION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

1. Further to the published agenda it was reported that the Chair had agreed to the deferment of the case relating to Licence Holder 01/2019.
2. Licence holder 02/2019 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 set out the reasons for the Licence Holder being before the Panel.

The report explained that the Licence Holder's Private Hire vehicle licence had been suspended from the date that the vehicle had failed its test on the 7 January 2019, until the date it had passed a re-test on 18 January 2019. In the intervening period the Licence Holder had driven the vehicle and admitted that he had worked, thereby using the vehicle for private hire and committing an offence under the Local Government (Miscellaneous Provisions) Act 1976. This was confirmed by records from the Private Hire Operator. The report further stated that during interview the Licence Holder

had said he did not realise the vehicle had been suspended as the tester had not removed the plates from the vehicle.

Further, the report also highlighted previous complaints regarding the Licence Holder for which he had received written warnings.

On being invited by the Panel to explain the circumstances, the Licence Holder stated that he understood the allegations in the report, which had been translated to him by his 13 year old daughter and that he had nothing to add. The Licence Holder admitted in full he was responsible.

Delegated decision:

The Panel carefully considered the report and oral representation and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and resolved, unanimously, **to suspend Licence Holder 02/2019 for a period of 3 months.** Furthermore during the period of the suspension the Panel required that the Licence Holder complete a communications course (including numeracy), the statutory safeguarding course, and the Council's Knowledge Test.

The Panel noted the following;

- That the actions of the Licence Holder amounted to an offence under the Local Government (Miscellaneous Provisions) Act 1976.
- That the Licence Holders actions were of a serious nature.
- That although he believed the offence was the result of a misunderstanding, the Licence Holder fully accepted his responsibility for the offence.
- That it was unclear if the Licence Holder understood the seriousness of his actions.
- The Licence Holder struggled to communicate with the Panel as a result of limited English.

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

LSP.9 NEW DRIVER APPLICATIONS FOR PUBLIC/PRIVATE HIRE LICENCE

The Licensing Unit Manager presented a report submitted by the Assistant Director (Legal and Democratic Services) regarding applications for Public/Private Hire Vehicles Drivers' Licences.

1. Applicant 03/2019 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report, which was accepted by the Applicant. This explained that during the application process for a Private Hire Vehicles Drivers' Licence, the Applicant had undertaken a Knowledge Test, which tests amongst other things, the Applicants ability to navigate from place to place around the Borough. However, during the test, the Applicant had been asked to leave as a result of his phone going off during the test, audibly referring to satellite navigation routes.

The Applicant addressed the Panel and explained that he had been using the device to revise routes before the test and had inadvertently forgotten to switch the device off.

It was reported that the Applicant had since re-sat and passed the test and had complied with all other requirements for his application.

Delegated decision:

The Panel carefully considered the report, the oral representations by the Applicant and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 03/2019 be granted.**

The Panel noted that although this was a serious allegation, the Applicant had passed the test again with only 3 errors. The Panel agreed that he was a fit and proper person to hold a licence in Bury.

2. Applicant 04/2019 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report, which was accepted by the Applicant, which explained that during the application process for a Private Hire Drivers Licence, the Applicant had been convicted of driving without insurance and had failed to notify the Licensing Service of this.

The Applicant addressed the Panel and explained the circumstances behind the conviction, which related to him agreeing to do a favour for a friend by delivering a takeaway for him, using his friend's car. The Applicant had mistakenly assumed his own motor insurance covered him for the journey. He apologised for the error.

Delegated decision:

The Panel carefully considered the report, the oral representations by the Applicant and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 04/2019 be granted.**

The Panel noted the circumstances of the offence and that although a serious matter, the Applicant had shown remorse and this was his only driving conviction. The Panel agreed that he was a fit and proper person to hold a licence in Bury.

3. Applicant 05/2019 attended the meeting and was accompanied by his wife, his uncle and his aunt to help with the interpretation.

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 Applicant.

The report explained that the Applicant had been a licensed Private Hire Driver from 24 February 2015 until 20 October 2017. He came before the Licensing and Safety Panel on 19 October 2017 following a complaint about his conduct, resulting in the revocation of his licence.

The complaint came from a female who had booked the Applicant through a Private Hire Operator, who complained that she had noticed that the driver had only one hand on the steering wheel of the car and the other hand was rubbing and grabbing his crotch area. This continued on a number of occasions throughout the 15 minute.

The complainant felt that the behaviour of the driver was inappropriate and made a complaint to the operator, the Police and then reported the conduct to the Licensing Service at Bury Council.

The report also explained that the Applicant had appealed the decision to the Magistrates Court, who dismissed his appeal and he then appealed to the Crown Court who also dismissed his appeal. It advised that the complainant had attended court on each occasion and that both courts had ordered the Applicant to pay the Councils legal costs, which are still outstanding.

The Applicant's aunt spoke initially on his behalf and explained that the Applicant had not intended to cause offence to the passenger and did not mean to make her feel uncomfortable, but that it was a misunderstanding and he was itchy. A character reference from the operator was provided to the Panel along with a mortgage statement highlighting the arrears that had built up as a result of the Applicant not being able to find permanent work since having his licence revoked. The Applicant stated how sorry he was about the incident and that he did not mean to cause any offence. He asked the Panel to give him another chance.

Delegated decision:

The Panel carefully considered the report and the oral representations by Applicant 05/2019 and his family members 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 **refuse to grant the Applicant a Private Hire Driver's Licence.**

The Panel noted the following:

1. That the allegations were of a very serious nature,
2. That the behaviour of the Applicant was completely inappropriate,
3. That the incident was quite recent,
4. That it was unclear if the Applicant fully understood the effect of his actions or the serious nature of what he had done,
5. The Applicant had made no effort to pay the Council's court costs.

The Panel agreed that he was not a fit and proper person to hold a licence in Bury.

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

COUNCILLOR T RAFIQ
Chair

(Note: The meeting started at 7.00 pm and ended at 9.50 pm)