

**Minutes of: LICENSING AND SAFETY PANEL**

**Date of Meeting:** 18 December 2019

**Present:** Councillor T Rafiq (in the Chair)  
Councillors J Grimshaw and B Mortenson

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

**Apologies for Absence:**

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**LSP.1 DECLARATIONS OF INTEREST**

No declarations of interest were made at the meeting

**LSP.2 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.3 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCES**

Licence Holder 14/2019 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 has a conviction on 31 October 2019 for plying for hire and driving without insurance, for which he was sentenced to a fine of £120, costs of £220, a Victim Surcharge of £32 and was awarded 6 penalty points.

The Licence Holder advised the Panel that the circumstances of the conviction were that he was parked and was approached by 2 men and they asked him to take them. He refused and advised them to get a hackney carriage but they continued to hang around his and told him that there was fighting where the hackney carriages were, he then decided to take them. He was subsequently stopped by the police and now realises he made a big mistake and should not have taken them.

Questions were asked by the Panel.

**Delegated decision:**

The Panel carefully considered the report and the oral representations by Applicant 14/2019 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 **revoke the Licence Holders Private Hire Driver's Licence.**

The Panel noted the following:

1. That the offence was of a very serious nature,
2. That the conviction was very recent,

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.

#### **LSP.4 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVER LICENCES**

1. Applicant 15/2019 attended the meeting and was unaccompanied. The Chair welcomed the Applicant and introduced the Licensing and Safety Panel and outlined the procedure to be followed.

The Licensing Unit Manager read the report which explained that as part of the application procedure for a Private Hire Licence, the applicant submitted a DBS criminal record check which had disclosed the following convictions:

On 29 January 2002 the applicant had been convicted of Failing to Surrender to Custody at appointed time contrary to Bail Act 1976 s.6(1) and had received a sentence of £25 fine.

On 27 March 2002 the applicant had been convicted of Grievous Bodily Harm contrary to Offences Against the Person Act 1861 s.20 and had been sentenced to 6 months Young offenders institute.

On 10 May 2002 the applicant had been convicted of Assault on a Police Officer contrary to Police Act 1996 s.89(1) and had been sentenced to 2 months Young offenders institute (consecutive with previous conviction)

On 10 May 2002 the applicant had been convicted of Failing to Provide a Specimen for analysis contrary to Road Traffic Act 1988 s.7(6). And had been sentenced as follows: Disqualified from driving 2 years, Driving licence endorsed. Also on 10 May 2002 the applicant had been convicted of Disorderly Behaviour or words likely to cause harassment alarm or distress contrary Public Order Act 1986 s.5(1)(a) but had received no separate penalty.

On 19 October 2005, the applicant had been convicted of Driving a Motor Vehicle with excess alcohol contrary to Road Traffic Act 1988 s.5(1)(a) and had received a Fine of £45, Disqualified from driving for 3 years and had his Driving licence endorsed

On 25 January 2006 the applicant had been convicted of Using a Vehicle without insurance contrary to Road Traffic Act 1988 s.143(2). The Applicant received a Community Order for 12 months. Also on 25 January 2006 the applicant was convicted of Driving whilst disqualified contrary to Road Traffic Act 1988 s.103(1)(b) and received a sentence of Community Order 12 month supervision requirement, unpaid work requirements for 200 hour.

On 19 April 2007 the applicant had been convicted of Driving whilst Disqualified contrary to Road Traffic Act 1988 s.103(1)(b) the Sentence received was 3 months imprisonment and Driving licence endorsed. Also on 19 April 2007 the applicant was convicted of Driving a motor vehicle with excess alcohol contrary to Road Traffic Act 1988 s.5(a)(1). He received the following Sentence: Imprisonment 3 months concurrent. Disqualified from driving for 6 years and Driving licence endorsed.

The Criminal record check highlighted the following caution:

Assault Occasioning actual body harm contrary to Offences Against the Person Act 1861 s.47. Caution date: 9 July 1998.

The following conviction falls within current conviction guidelines:

On 17 January 2013 the applicant was convicted of Failure to provide a specimen for analysis contrary to Road Traffic Act 1988 s.7(6) and was Disqualified from driving 5 year, received a Curfew requirement with electronic tagging and Community order 16/10/13. The applicant was also ordered to pay Costs £85 and Victim Surcharge £60.

The Applicant addressed the Panel and explained that he had undertaken a course of 14 sessions in relation to driving and alcohol and the driving ban had been lifted early and his driving licence restored in 2016.

The applicant explained that he was self-employed and had 2 children and that his wife was a carer who worked nights.

The Applicant stated that he was embarrassed by his criminal record and that he had changed since his last convictions.

### **Delegated decision:**

The Panel carefully considered the report and 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, the panel agreed unanimously, that **the application for a Private Hire driver's licence by Applicant 15/2019 be refused.**

The Panel noted the serious nature of the convictions outlined in the report and concluded that on the evidence presented the applicant was not a fit and proper person to hold a private hire licence.

The Panel noted the Guidelines on the relevance of previous convictions and other information as stating that simply remaining free from conviction will not

generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence, and that multiple offences or a series of offences over a period of time may demonstrate a pattern of inappropriate behaviour.

2. Applicant 16/2017 attended the meeting and was accompanied by his wife. The Chair welcomed the Applicant and introduced the Licensing and Safety Panel and outlined the procedure to be followed.

It was explained that as part of the application procedure for a Private Hire Drivers Licence, this applicant submitted an application form on the 5<sup>th</sup> February 2019. Checks were undertaken by the Licensing Service of the Disclosure and Barring Service and DVLA which came back clear.

As part of the application procedure to become a Private Hire Driver within Bury; applicants are expected to take and pass a knowledge test. The test is designed to establish the applicant's knowledge of licence conditions some of which relating to conduct, roads and locations within the borough of Bury. It takes place at 13.00 every other Wednesday. When applicants are called into the Council Chamber they are immediately told to turn off their mobile phones or put them into 'airline mode' so as to prevent them being used. During the pre-test introductions applicants are told that the knowledge test is being carried out under test conditions and drivers are not permitted to talk, confer, use notes or pieces of paper or use mobile phones. Applicants are told that they are not obligated to stay until the end of the test and can leave if they feel they have done enough. Once the test is started the Enforcement Officer stays in the Council Chamber with the applicants and continually observes the applicants to ensure test conditions are maintained.

This applicant undertook the knowledge test on the 22<sup>nd</sup> May 2019. Part way through the test the Enforcement Officer was walking around the Council Chamber and saw that this applicant had placed his mobile phone on his thigh under the desk. A map application was clearly visible and open on the phone screen. The applicant was immediately approached and informed that he had failed the test and asked to leave.

The applicant has tried to rebook his knowledge test and following a discussion between the Enforcement Officer and Licensing Unit Manager the decision was taken to speak to the applicant.

The applicant was interviewed on the 4<sup>th</sup> June 2019. He stated that he had been using his mobile phone immediately prior to the test to establish the roads near the locations featured in the home study pack. He stated that he had failed to listen to the enforcement officer at the start of the test citing his diabetes and fasting in line with Eid. He claimed to have received a text message partway through the test and through force of habit removed his phone from his pocket to read the text. He denied that he had been using his phone as a satnav device during the test and had not intended to cheat.

Since the interview; the applicant has now fulfilled all the pre-requisites required to become a private hire driver.

The Applicant stated that it wasn't his intention to look at his phone and this had been a mistake. The Applicant explained that he had held a premises licence for 16 years and had never had any issues with this.

**Delegated decision:**

The Panel carefully considered the report and the oral representations by the Applicant 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 16/2019 be granted.**

The panel noted that the Applicant was of previous good character and that looking at his telephone had been a genuine mistake. The Panel agreed that the Applicant was a fit and proper person to hold a licence in Bury.

3. Applicant 17/2019 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report, which was accepted by the Applicant.

It was reported that the Applicant has been the holder of a Private Hire Licence since 15 November 2016 which was his first licence with Bury and was granted for a 3 year period.

On 3<sup>rd</sup> December 2019 the Applicant had attended the licensing service reception to renew his private hire driver's licence. During the appointment he had declared that on 14 November 2019 he had been convicted of Assault by Beating contrary to s.39 of the Criminal Justice Act 1988 and had received a Conditional Discharge, Victim surcharge of £20 and Costs of £400.

It was reported that the Applicants renewal application had therefore been halted.

The Applicant explained that this was this first ever offence of any type and he was very sorry that it had happened. He had an argument with his wife that had become heated and he had pushed her out of the way. The police had been called and he had been advised to plead guilty which he had done. He stated that he still resided at the family home.

**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 17/2019 be refused.**

The Panel noted the following:

1. That the offence was of a serious nature,
2. That the conviction was very recent,

The panel took note of paragraph 7b of the Policy and Guidelines document which stated that 'users of private hire vehicles have a right to expect that

drivers are not individuals with a predisposition toward a propensity for violent behaviour at any level.'

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 1.00 pm and ended at 2.30 pm)**