

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 23 July 2020

Present: Councillor S Walmsley (in the Chair)
Councillors J Grimshaw, T Holt, S Hurst, K Leach,
C Morris, M Smith, Sarah Southworth, C Walsh, S Wright
and Y Wright

Also in attendance:
Anita Green - Legal Services
Michael Bridge - Licensing Unit Manager
Angela Lomax - Head of Service (Trading Standards and
Licencing)
Chloe Ashworth – Democratic Services

Public Attendance: 1 members of the public was present at the meeting.

Apologies for Absence: Councillor G Keeley and Councillor I Schofield

LSP.94 DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

LSP.95 PUBLIC QUESTION TIME

No public questions were asked.

LSP.96 MINUTES OF THE LAST MEETING

That the Minutes of the Meeting held on 24th June 2020 be approved as a correct record and signed by the Chair

LSP.97 OPERATIONAL REPORT

Michael Bridge, Licensing Manager, provided an overview of a report which advises Members on operational issues within the licensing service.

The Licensing Service during the financial year 19/20 have dealt with the following:-

Type of Work	Number
Number of Licences/Registrations/Consents/Permits processed	4501
Number of applicants/Licence holders considered by the Licensing and Safety Panel Of which were new applicants –	20

<p>Suspension / Revocation / Admonishment - 8</p> <p>Granted - 6</p> <p>Refused - 3</p> <p>Withdrawn - 3</p>	
<p>Number of applications considered by Licensing Hearing Panels</p> <p>Of these:-</p> <p>Personal Licence - 1</p> <p>New application - 1</p> <p>Variation application -1</p> <p>Review application - 1</p>	4
Complaints regarding Taxi Trade	129
Complaints regarding Licensed premises	59
Freedom of Information Requests	46
<p>Compliance checks/Enforcement/complaints undertaken by the Licensing Service:-</p> <p>Licensed premises - 638</p> <p>Taxi Trade - 776</p> <p>Clients - 219</p> <p>Operator - 12</p> <p>Vehicles - 545</p>	2190
Number of Enhanced Disclosure Checks	419
Number of Knowledge Tests undertaken includes Hackney Carriage conditions test/Private hire conditions test	122
Animal Welfare (Licensing of Activities involving Animals)(England) Regulations 2018 - Inspections	45
<p>Gambling</p> <ul style="list-style-type: none"> • Betting Shop (Transfer) -7 	30

<ul style="list-style-type: none"> • Club Machine Permit (New) - 2 • Notification of Intent to have Gaming Machines - 13 • Small Society Lotteries (New) - 8 	
<p>General Licensing</p> <p>Electrolysis – New Application -1</p> <p>Hairdressers – New Application -5</p> <p>House to House Collections Applications – 32</p> <p>Street Collection permit Applications -110</p> <p>Marriage Venue Licences – New Applications – 4</p> <p>Scrap Metal Licence (Mobile) -1</p> <p>Scrap Metal Dealer (Site Licence) New Application – 2, Renewal 10</p> <p>Second Hand Dealer – New application – 18</p> <p>Street Trading Consents – New – 17 Renewal -16</p>	216
<p>Policy matters</p> <ul style="list-style-type: none"> • Safeguarding Training – Currently 61 drivers that have not completed the training. • Window Tint Policy • Testing Manual • Vehicle Signage 	

Following a meeting of the Emergency Powers Group on the 14th July 2030, the licensing service have been given permission to amend Council policy to assist licence holders in respect of the following matters:

- To postpone the Knowledge test until further notice.
- To grant a Hackney Carriage/Private hire Drivers Badges for a 12 month period rather than up to 3 years under the legislation.
- To permit a self-certification declarations in respect of medicals

- To postpone the receipt of new applications for Hackney Carriage and Private Hire Drivers badges
- To extend all current Hackney Carriage and Private Hire vehicle licences by 3 months beyond their current expiry date which are due for renewal between the dates 1/6/2020 and 31/3/2021 and to move forward by 3 months all 6 monthly scheduled interim vehicle tests scheduled between 1/7/20 to 30/9/20
- To permit Minor Variations or Temporary event notices to be submitted under the Licensing Act 2003 for On Sales of Alcohol and outside areas. The fees in respect of these applications will be waived (Only for those applications that relate to the on-sales and outside areas to assist businesses in light of COVID19).

It was agreed:

1. That members note the report and work of the licensing service.

LSP.98 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE TESTS IN LIGHT OF THE COVID 19 PANDEMIC

Michael Bridge, Licensing Manager provided a report on a review of Hackney Carriage and Private Hire Vehicle tests of the COVID-19 pandemic.

It was agreed that:

- That all interim tests scheduled between 1st July and 30th September be put back by three months.
- All Hackney Carriage and Private Hire vehicles licences that have previously had a three month extension be put back by a further three months (Previously expired between 1st April 2020 and 30th June 2020)
- All Hackney Carriage and Private Hire Vehicles expiring between the 1st July 2020 and the 31st March 2021 be put back by 3 months.

LSP.99 GREATER MANCHESTER MINIMUM STANDARDS FOR TAXI LICENSING

Michael Bridge, Licensing Manager provided members with an update regarding the proposals to introduce common, minimum standards for Private Hire and Hackney Carriages Vehicles, Drivers and Operators licensed by Licensing Authorities across Greater Manchester.

It was agreed that:

- The Committee note the contents of the report; and
- Authorise a consultation on the proposed GM Minimum Standards and support the proposal that TfGM administers the consultation process.

LSP.100 REQUEST TO INCREASE THE HACKNEY CARRIAGE FARE CARD

Michael Bridge, Licensing Manager presented a report to the committee which was a request from the Hackney Carriage Drivers Association to review the Hackney Carriage Fare Table. The Licensing Manager was supported by Charles Oakes, Hackney Carriage Drivers Association.

The Licensing Service have received a request from Hackney Carriage Drivers Association to increase the Hackney Carriage Fare Table within the Borough of Bury. This was last revised in 2008.

Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 allows a district Council to fix the rates or fares within the local authority for Hackney Carriage Vehicles by the production of a table of fares. The Act requires the council to advertise a notice in a local newspaper for 14 days any proposal to change Hackney Carriage fares and the production of a table of fares to allow any objections to be made.

It was agreed:

- That the fare increase is overdue as it was last revised in 2008.
- The panel considered the implications this may have on Taxi users as the increase may deter the public to use the taxis.
- To approve the review of the Hackney Carriage Fare Table and if no objections are received during the review implement the request.

LSP.101 EXCLUSION OF PRESS AND PUBLIC

It was agreed:

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.102 APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

Applicant 06/2020

The Licensing Unit Manager presented a report submitted by the Executive Director (Operations) regarding the application of a Private Hire Vehicle Driver's Licence.

Applicant 06/2020 attended the meeting alone.

The Chair made introductions and Anita Green, Legal Services explained the procedure and ensured that the Applicant and members of the Licensing and Safety Panel had all read the report. The report, which was accepted by the Applicant, explained that the client held a private hire driver's license since 14/05/2010 and has held it continually until its expiry on the 5th April 2020.

On 18th June 2020 the client submitted an application for a Private Hire Drivers licence. On the application the following question is asked, "have you ever been convicted of an offence". The client answered No to this question.

This client also submitted an enhanced DBS (Disclosure and Barring Service) check along with his application. When a licensing advisor checked this clients DBS the following convictions were found:

Fail to notify change of circumstances affecting entitlement to any benefit payment advantage under the Act on 5/1/13
Social Security Administration Act 1992 s.111A(1A)

Fail to notify change of circumstances affecting entitlement to any benefit payment advantage under the Act on 7/1/13
Social Security Administration Act 1992 s.111A(1A)

Fail to notify change of circumstances affecting entitlement to any benefit payment advantage under the Act on 7/1/13
Social Security Administration Act 1992 s.111A(1A)

Fail to notify change of circumstances affecting entitlement to any benefit payment advantage under the Act on 13/2/13
Social Security Administration Act 1992 s.111A(1A)

Fail to notify change of circumstances affecting entitlement to any benefit payment advantage under the Act on 4/1/14
Social Security Administration Act 1992 s.111A(1A)

Fail to notify change of circumstances affecting entitlement to any benefit payment advantage under the Act on 4/3/14
Social Security Administration Act 1992 s.111A(1A)

When the computer systems were checked, the client had also not informed the Licensing Service of these convictions in writing within seven days as per the Private Hire Drivers Licence conditions.

The applicant stated he was very sorry and he had made a mistake, he confirmed he had not done this deliberately. The applicant stated that his English is not good enough to understand what was required.

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, resolved, unanimously, that the **application for a Private Hire driver's licence by Applicant 06/2020 be refused.**

In considering whether the applicant is a fit and proper person to hold a Private Hire Driver's Licence the panel found the following:-

- The benefit fraud convictions are 3 years old in December 2020
- He breached condition 13 of his licence by failing to declare the conviction within 7 days in 2017
- He failed to notify a change of circumstance on 6 occasions in 2013 and 2014 for his benefit claims
- He failed to declare his 2017 conviction when making his application on 18 June 2020
- This is an accumulation of 8 occasions when he has been dishonest
- The Panel does not accept that his poor English can be accepted as an excuse
- The Policy states that an application will normally be refused where a conviction for benefit fraud is less than 3 years prior to the date of the application.
- The conviction is 3 years old in December 2020, however this is not a true reflection of the facts.
- By failing to declare in 2017 he has given himself the advantage of time since the conviction. If he had declared in 2017 he would have been brought before the licensing and safety Panel for consideration of revocation of his licence there and then
- He should not be entitled to benefit from his failure to disclose and disregard of the condition 13 of his licence.
- He has not given any reason to find that he is a fit and proper person
- The Panel take account of the Policy regarding dishonesty and the position of trust placed in private hire licence drivers.

Applicant 07/2020

The Licensing Unit Manager advised the Committee that Applicant 07/2020 has chosen to move his application to the next committee on the 24/09/2020.

Applicant 08/2020

The Licensing Unit Manager presented a report submitted by the Executive Director (Operations) regarding the application of a Private Hire Vehicle Driver's Licence.

Applicant 08/2020 attended the meeting and was accompanied by a representative, Mr Marza.

The Chair made introductions and Anita Green, Legal Services explained the procedure and ensured that the Applicant and members of the Licensing and Safety Panel had all read the report. The report, which was accepted by the Applicant and his representative, explained that the Applicant has previously held a Hackney Carriage Driver licence and a Hackney Carriage vehicle licence granted by this Authority. On the 5th September 2012, he appeared before the Licensing and Safety Panel in relation to an allegation of rape on a female passenger which resulted in his Hackney Carriage Driver licence being revoked. He appealed the Panel decision to Bury Magistrates and his appeal was dismissed.

This client has subsequently appeared before members of the Licensing Safety Panel on the 6th October 2014 and 11th April 2016 seeking consideration as to his suitability to become a Hackney Carriage Driver. On both occasions his application was refused. On the 26th April 2018 he appeared before the Licensing Safety Panel for consideration to become a Private Hire Driver. This application as also refused.

The Applicant's representative advised that applicant 08/2020 believed he had consensual sexual intercourse and was remorseful for doing this within his taxi. He told the Committee that the act in discussion is not representative of his character, of which he has provided unpaid domiciliary care for a relative.

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 Sexual Offences Act 2003, resolved, unanimously, that the **application for a Private Hire driver's licence by Applicant 08/2020 be refused.**

In considering whether the applicant is a fit and proper person to hold a Private Hire Driver's Licence the panel found the following:-

- The Panel is not satisfied that the applicant is a fit and proper person to hold a private hire driver's licence
- Regard was paid to the Policy allowing appropriate consideration to matters where there has been a police investigation but no charge
- The Panel accepted the information from GMP
- It was noted that the CPS did not continue with the case on public interest grounds. They had determined that there was sufficient evidence to proceed.
- The allegation was of a very serious offence of rape committed during the applicant's role as a private hire driver.
- It was noted that the applicant denied rape and he said that the sexual intercourse in the taxi was instigated by the complainant and was consensual. Even if that was accepted the applicant has breached the parameters of acceptable conduct of a professional driver by having sexual relations in his vehicle with a client. It is so serious that the applicant cannot be viewed as a fit and proper person to hold a licence.
- The offence took place in a secluded location at night.
- Taken at its highest it is a very serious criminal offence carrying life imprisonment and at its lowest it is grossly improper conduct by a person in a position of trust, leaving a profound effect on the victim
- The Panel has paid due regard to the submissions made by the applicant but do not find any reason to determine that he is a fit and proper person to hold a licence.
- The Panel considered the prospect that customers could enter his vehicle without prior knowledge of this history. That would be an unacceptable position to place members of the public in. Public safety is paramount. It is the duty of the Panel to protect the public.
- It is significant that the conduct took place in his vehicle and he wants to drive a private hire vehicle again.
- Vulnerable females and other persons classed as vulnerable use taxis late at night. Some may be intoxicated and therefore unable to exercise freedom of choice. The Panel's decision must reflect that the safety of all vulnerable people has been considered. The Panel has given serious consideration to that issue.
- There is no doubt in the Panel's view that the applicant is not a fit and proper person to hold a private hire vehicle licence.

The Licensing Unit Manager presented a report submitted by the Executive Director (Operations) regarding the application of a Private Hire Vehicle Driver's Licence.

Applicant 09/2020 attended the meeting alone.

The Chair made introductions and Anita Green, Legal Services explained the procedure and ensured that the Applicant and members of the Licensing and Safety Panel had all read the report. The report, which was accepted by the Applicant, explained that the client held a private hire driver's license since 24/03/2017.

On 5th May 2020 this client made an online electronic application for a Private Hire Drivers licence. This client answered No to the question "do you have any convictions, fines or formal cautions". However when a licensing advisor checked the client's driving licence the following convictions were found:

SP30 Exceeding statutory speed limit on a public road	19/01/18
SP30 Exceeding statutory speed limit on a public road	29/03/18

On checking the Licensing system a note was found that the client had telephoned on 10/04/18 to inform us of a SP30 conviction however we have no record of the reporting of the conviction from January 2018.

The applicant advised that he was sorry for not declaring the conviction and as he had previously declared over the phone the January 2018 conviction he believed this was satisfactory. The applicant also advised he is struggling due to the COVID-19 effects on business.

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, resolved, unanimously, that the **application for a Private Hire driver's licence by Applicant 09/2020 be granted.**

In considering whether the applicant is a fit and proper person to hold a Private Hire Driver's Licence the panel found the following:-

- The applicant had already suffered a loss of income due to waiting to come before the committee.
- He rang the Council regarding the first conviction to declare this.
- The applicant advised he will abide by the Licensing rules going forward.

COUNCILLOR S WALMSLEY

Chair

(Note: The meeting started at 7.00 pm and ended at 9.30 pm)