

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 15 October 2020

Present: Councillor S Walmsley (in the Chair)
Councillors T Holt, G Keeley, K Leach, C Morris, I Schofield,
M Smith, Sarah Southworth, C Walsh, S Wright and Y Wright

Also in attendance: M Bridge
M Caveney
A Lomax

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

Apologies for Absence: Councillor J Grimshaw

LSP.263 DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

LSP.264 PUBLIC QUESTION TIME

There were no members of the public present to ask questions under this item. No questions were submitted prior to the meeting.

LSP.265 OPERATIONAL REPORT

The Executive Director (Operations) submitted a report advising Members on operational issues within the Licensing Service.

The report set out updates in respect of the following issues:

COMMON MINIMUM LICENSING STANDARDS

Members will recall that on the 23rd July 2020 that they authorised a consultation on the proposed GM Minimum Standards and support the proposal that TfGM administers the consultation process.

The Licensing Service would like to inform the Members of the panel that the consultation relating to the common minimum licensing standards/Clean Air has commenced.

COVID 19 – TRACK AND TRACE

Officers of the Public Protection Service including licensing officers have undertaken training to assist Public Health England by contacting individuals who have tested positive for COVID 19 to ascertain who they have been in close contact with. This work will continue for the foreseeable future.

LICENSING HEARINGS PANEL -10th September 2020

The Licensing Service received an application to review the premises licence from an interested party in respect of the Goats Gate, Radcliffe New Road Whitefield.

This application attracted five representations. Members considered the evidence with care and following the evidence of all parties, having understood the application and equally understanding the representations made, the Panel therefore unanimously decided it reasonable, balanced, appropriate and proportionate, based on all of the evidence and in accordance with its duties, that in order to promote the licensing objectives set out in the Licensing Act 2003, in particular the prevention of public nuisance, that the 21 conditions put forward by the respondents would be attached to the licence.

LICENSING HEARINGS PANEL -14th September 2020

The Licensing Service have received an application for the grant of a premises licence in respect of Myles Trading, 2a The Parade, Rufford Drive, Whitefield. This application attracted one representation against and 73 letters of support in favour of the application. All of the evidence was considered with care and it was established that having understood the Application and equally understanding the representations made, the Panel found there were no causes for concern so far as the promotion of the licensing objectives were concerned.

It was agreed unanimously, to grant the application for a Premises Licence subject to conditions volunteered by the applicant.

COVID 19

Officers of the Licensing Service have been actively engaging with businesses in relation to the impacts of the Covid 19 pandemic to ensure that they are compliant. Officers have been working additional hours over the weekends throughout the pandemic to ensure that businesses are compliant.

They work they have been doing is as follows:

- A direction notice to a licensed premises requiring them to close due to being considered an imminent risk to public health due to a lack of COVID secure measures.
- Carrying out 1064 proactive visits and contacts to licensed premises.
- Responded to 104 complaints about non-compliance in respect of the Coronavirus regulations.
- Writing to 420 businesses giving detailed information and advice that relates to their business i.e. Pubs, clubs and Bars, Restaurants and Takeaways
- Supplying posters to help inform members of the public of their obligations with regards to the wearing of masks.
- 341 licensed premises to check for compliance with regulations relating to "10pm closure"
- Issued 5 Warning Letters to businesses still trading after 10 pm

IMMEDIATE REVOCATION OF PRIVATE HIRE DRIVERS LICENCE

On the 11th September 2020, the Licensing Service in consultation with the Chair of the Licensing and Safety Panel revoked a private hire driver's licence with

immediate effect on the grounds of public safety following the driver being charged with two criminal offences.

On the 11th September 2020, the Licensing Service in consultation with the Chair of the Licensing and Safety Panel revoked a 2nd private hire driver's licence with immediate effect on the grounds of public safety , following the driver being charged with two criminal offences.

Delegated decisions:

1. That the contents of the report be noted.
2. That all of the Licensing Team and other staff that have supported them be thanked for their hard work and dedication during the ongoing difficult period in relation to COVID 19.

LSP.266 LICENSING ACT 2003 - REVIEW OF THE STATEMENT OF LICENSING POLICY

The Executive Director (Operations) submitted a report with regard to the requirement for the Local Authority as Licensing Authority to prepare and publish a statement of Licensing Policy at least every five years. The existing Statement of Licensing Policy was agreed by Council on the 21st October 2015 and took effect from the statutory deadline of the 7th January 2016. To comply with the statutory five year review period, the outcome of the review must be agreed before the 7th January 2021.

If the Authority does not have a revised policy in place by 7th January 2021 it will be unable to fulfil its duties under the Act.

In preparing the Policy a Licensing Authority had to have regard to the Secretary of State's guidance under Section 182 of the Act.

A copy of the proposed new statement of Licensing Policy was attached to the report.

The consultation had been in accordance with Cabinet Office guidelines which required a twelve week period of consultation. Feedback from the consultation was attached to the report and incorporated where relevant.

The Policy would need to be agreed by Council to adopt at its meeting on the 25 November 2020 for implementation by 7 January 2021.

RECOMMENDATION TO COUNCIL

That Council agree to adopt the Licensing Policy as outlined in the report.

LSP.267 REVIEW OF RECENT DECISIONS

The Executive Director (Operations) submitted a report relating to the review of decisions taken by the Council to the Hackney Carriage / Private hire Trade during the COVID 19 Pandemic.

It was explained that as a result of the COVID 19 Pandemic lockdown a number of practical matters were required to be adjusted to ensure safe working practices for clients of the licensed hackney carriage and private hire trade as well as for officers of the licensing service.

The decisions required are council matters that should be approved by council decision which is delegated to Licensing and Safety Panel. The scheduled meeting was 24th July 2020 and these matters were required to be implemented urgently to enable driver and vehicle licences due for renewal not to lapse.

In light of this an urgent report was considered by the Council Emergency Powers group on the 14th July 2020

The licensing Service requested the authorisation for the following matters:-

- **To postpone the receipt of new applications for Hackney Carriage and Private Hire Drivers for a period of three months until the 30th September 2020.**

This was requested as new applicant driver's would not be able to satisfy the Council's pre-requisites before applying for a licence as a result of partner agencies taking decisions to suspend their services as a result of Covid 19 this included providers of taxi driving tests, safeguarding training, and communications tests

- **To suspend the requirement for medical examinations for Hackney Carriage and Private Hire Driver's renewal applications until the 30th September 2020.**

Drivers are required to produce medical certificates that prove that they meet the DVSA Group 2 Medical Fitness to drive. Drivers were experiencing difficulty getting medical appointments due to Doctors amending their working practices following the COVID19 pandemic. The Licensing Service currently require drivers to self-certify medical fitness and submit to medical examinations as required by the licensing authority once such appointments become easily available.

- **To issue a twelve month hackney carriage and private hire badge driver licence provided that all the requirements to hold the badge have been satisfied.**

This was done following the request to provide some financial assistance to drivers, the reduced length could therefore attract a reduced charge and only costs £60 instead of £180 which is the cost for a 3 year licence.

- **To suspend the provision of the required Private Hire & Hackney Carriage knowledge test for new applications until further notice due to the Covid 19 pandemic.**

The reason for this is due to the following of guidelines on safe working practices which affect licensing staff. In addition the need to implement social distancing measures for drivers attending for the test and reducing the transmission of Covid 19. The provision of individual tests for drivers is not viable.

On the 24th July 2020, an additional report was considered by members in relation to these matters and members resolved to note the report and work of the licensing service.

The Licensing Officer explained that the Licensing and Safety Panel were now required to review the arrangements previously agreed.

Delegated decision:

The Panel approve that current arrangements as set out below continue:

- 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

LSP.268 TO REVIEW THE 10 YEAR AGE POLICY FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE IN LIGHT OF THE COVID 19 PANDEMIC 10

The Executive Director (Operations) submitted a report relating to a review of the 10 year age policy for Hackney Carriage and Private Hire vehicle in light of the COVID 19 Pandemic.

It was reported that following the previous decisions outlined in the report, the licensing service had become aware of vehicles that were due to reach 10 years of age since date of registration are now not complying with the current age 10 year age policy for Hackney Carriage and Private Hire Vehicles due to the extension of the vehicle licences either by 3 or 6 months.

Members were asked to consider a temporary relaxation of the age policy for those hackney carriage and private hire vehicles that will not comply with the 10 year age policy regime having been granted an extension to their vehicle licence during the Covid 19 pandemic.

The decision to allow a relaxation would mean that those vehicles will not be required to satisfy either the five fault rule for hackney carriages or the exceptional condition test for private hire vehicles until the next full renewal. This will affect vehicles being tested up until the 30th June 2021.

After this date any vehicle over the age of 10 years from date of registration will be required to pass the requisite five fault rule for hackney carriages or the exceptional condition test for private hire vehicles.

Delegated decision:

That the temporary relaxation of the age policy for those hackney carriage and private hire vehicles that will not comply with the 10 year age policy regime having been granted an extension to their vehicle licence during the COVID 19 pandemic be approved.

LSP.269 URGENT BUSINESS

LSP.270 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.271 SUSPENSION/REVOCAION OF A PRIVATE HIRE DRIVER LICENCE

The Executive Director (Operations) submitted a report relating to Licence Holder 15/2020 who attended the meeting. The Chair made introductions. The Legal Officer outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the Licence Holder set out the reasons for the Licence Holder being before the Panel.

On 9th September 2020, this client made an online application to renew their Private Hire Drivers licence. On the renewal application a question is asked in relation to convictions. This client answered No to the question "do you have any convictions, fines or formal cautions". However when a licensing advisor checked the clients driving licence the following conviction was found:

13/05/2018

SP30 - Exceeding statutory speed limit on a public road

Fixed Penalty Points – 3

When the Licensing Departments computer systems were checked, the client had also not informed us of this conviction in writing within seven days as per the Private Hire Drivers Licence conditions which state;

13 Convictions – If you are formally cautioned for an offence or convicted of an offence you must tell us in writing, within seven days.

When questioned by the Deputy Licensing Officer, this client stated that they didn't know or remember what the conviction was from back in 2018. They also stated that they didn't know why they didn't report it. They stated that it is not like them to do that and if they did forget it would have been due to human error or the fact of not knowing their licence conditions. They went on to explain that they have been a Bury licensed driver for 11 years and has never had an issue with their licence and that she was genuinely sorry if they forgot to report the conviction to the council.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 15/2020 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, grant the renewal application and to admonish the licence holder as to future conduct.**

LSP.272 APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE

The Executive Director (Operations) submitted a report relating to Licence Holder 16/2020 who attended the meeting. The Chair made introductions. The Legal Officer outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the Licence Holder set out the reasons for the Licence Holder being before the Panel.

Members are asked to address themselves to the question as to whether the applicant is a "fit and proper" person to hold a public / private hire driver licence.

This client has held a private hire driver's licence continuously since 6th January 2017. Following the expiry of their current drivers licence on the 30th September 2020 they submitted an online application for the grant of a Private Hire drivers licence on the 1st October 2020. This client answered No to the question "do you have any convictions, fines or formal cautions". However when a licensing advisor checked the clients driving licence the following conviction was found:

SP30 - Exceeding statutory speed limit on a public road	27/04/2019	27/04/2022	Licence endorsed with 3 points Fixed Penalty Notice
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Condition 13 of this clients Private Hire Drivers Licence states:

Convictions – If you are formally cautioned for an offence or convicted of an offence you must tell us in writing, within seven days. Write to the Licensing Unit Manager, 3 Knowsley Place, Duke Street, Bury, BL9 0EJ.

This client was subsequently interviewed by a licensing enforcement officer. They explained that they were caught by a speed enforcement camera in Stretford. They stated that the offence was dealt with by way of a fixed penalty notice and £100 fine which was willingly accepted and paid. This client accepts they are wholly responsible for the speeding offence and stated that they forgot that they were under a duty to inform the Licensing service of the motoring offence. They apologised for not notifying the service and stated it was because they are relatively new to taxi work. During the interview this applicant also disclosed that they have been notified of a second speeding offence that occurred approximately one month ago. They have returned the paperwork and are awaiting further information.

The client explained that when applying for licence on line the original application had not gone through properly so their spouse had submitted the application on their behalf at a late date. Their spouse was not aware of the conviction and therefore did not include it in the application.

The applicant is before members for consideration to be given as to their suitability to be a hackney carriage / private hire driver in Bury.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 16/2020 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, grant the Licence application and to admonish the licence holder as to future conduct.**

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 7.00 pm and ended at 8.20 pm)