

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 7 January 2021

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

Also in attendance: Michael Bridge – Licensing Manager
Michael Caveney – Council Solicitor
Laura Jones – Deputy Licensing Officer
Angela Lomax – Head of Trading Standards and Licensing
Laura Swann – Assistant Director – Operations Strategy

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

Apologies for Absence: Councillor S Walmsley, Councillor C Walsh and Councillor
S Wright

LSP.430 NOMINATION OF CHAIR

In the absence of the Chair of the Licensing & Safety Panel, Members are asked to nominate a Chair for this meeting.

Delegated decision:

That Councillor Holt be nominated as Chair for this meeting of the Licensing and Safety Panel.

LSP.431 DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

LSP.432 MINUTES OF THE LAST MEETING

Delegated decision:

That the Minutes of the last meeting held on 26 November 2020 be approved as a correct record and signed by the Chair.

LSP.433 PUBLIC QUESTION TIME

No public questions were submitted to the meeting.

LSP.434 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/CLEAN AIR

The Licensing Service would like to inform the Members of the panel that the consultation relating to the Common Minimum Licensing standards/Clean Air closed on the 3rd December 2020. Transport for Greater Manchester and the approved contractor are currently analysing the responses received.

A briefing session is being arranged early January for the Executive Member and Chair of Licensing Committee. This will be set up by Transport for Greater Manchester to brief members on the next steps regarding Clean Air and Common Minimum Licensing Standards.

COVID 19 – Covid Marshals

A team of Covid Marshals has been employed by Bury Council using funding from Central Government. The team commenced work on the 1st December and will be in place until the end of March 2021, it consists of 2 daytime marshals working 8am-4.30pm and 2 evening marshals working 4.30pm-11pm. We have also had extra marshals in place for the weekend 12/13 December and 19/20 December to assist with busy areas such as the market and Millgate shopping centre during the busy shopping period on the run up to Christmas. If Greater Manchester moves into Tier 2 extra marshals will be employed to help with checking of licensed premises in an evening.

Marshals working during the day have been handing out masks to students and high school children using public transport in the morning and afternoon at Bury, Prestwich and Radcliffe Metrolink stations. They have been assisting with queue management and giving advice to retail and close contact service staff regarding the wearing of face coverings. They have also been working in conjunction with markets management to assist with compliance of coronavirus restrictions on the market.

During the evening the marshals have been checking for compliance outside the park at the Lightopia event at Heaton Park as well as checking takeaways for staff and customers wearing face coverings and visiting licensed premises across the borough to ensure they remain closed except for takeaway. They have also assisted at various events taking place across the borough.

LICENSING HEARINGS PANEL - 6th October 2020

The Licensing service have received an application for the grant of a premises licence under the Licensing Act 2003 in respect of Eat New York, 24 Bury New Road, Prestwich, M25 0LD. This application attracted representations from Greater Manchester Police in their capacity as a Responsible Authority and 27 representations from interested parties. Members considered this application at a Licensing Hearings Panel on the 6th October 2020 and resolved that the premises licence be granted as set out in the updated operating schedule:

- a. Supply of alcohol – For consumption On/Off the Premises.
Monday to Sunday 12.00 until 01.00
- b. Provision of Late Night Refreshment (Indoors)
Monday to Sunday 23.00 until 01.30

- c. Opening Times.
Monday to Sunday 10.00 until 01.30

The Panel also attached 30 conditions to the premises licence.

TAXI MATTERS

On the 17th August 2020, the Licensing service received a referral from a Bury Council safeguarding practitioner. The referral detailed an incident wherein a licensed private hire driver had behaved inappropriately with 2 vulnerable females. This matter was investigated by the police and the Licensing Service.

The Licensing Unit Manager consulted with the Chair of the Licensing and Safety Panel about the matter and it was decided that this private hire drivers licence should be revoked with immediate effect pursuant to s61 (1)(b) – ‘any other reasonable cause’, on the grounds of public safety, pursuant to s61 (2B) of the Act.

COMPLIANCE AND ENFORCEMENT

The Licensing service have since the last panel on the 6th October until the 16th December 2020 dealt with business premises in relation to Covid issues:

- 10 business premises advice given
- 22 complaints
- 278 compliance checks
- 40 enforcement actions taken including 3 improvement notices and 1 prohibition notice
- 18 intelligence checks recorded

OUTCOME OF APPEAL AGAINST LICENSING AND SAFETY PANEL DECISION.

On the 15th December 2020, an appeal against the decision of the Licensing and Safety panel on the 23 July 2020 at Manchester Magistrates Court was considered. The applicant was previously a private hire driver for 10 years but had let his licence lapse so had submitted a new application for a private hire driver’s licence but failed to declare a number of convictions to the Licensing Authority. The appeal was dismissed by the District Judge, the council made a costs application but unfortunately this was rejected on the basis that he had lost his income.

LSP.435 REVIEW OF THE DECISION TO SUSPEND LICENCES UNDER THE LICENSING ACT 2003 FOR NON-PAYMENT OF ANNUAL FEES DURING THE COVID 19 PANDEMIC

The Executive Director (Operations) submitted a report relating to the review of a decision taken by the Council in respect of annual fees under the Licensing Act 2003 during the Covid 19 Pandemic.

It was reported that the Licensing and Safety Panel had received a report at its meeting on 26 November 2020 where it had been agreed to defer a decision of the Emergency Powers Group in relation to Annual Fees under the Licensing Act

2003 during the Covid-19 Pandemic to this meeting of the Panel in order that a further detailed report be submitted.

On the 14 July 2020, the Emergency Powers Group was consulted about an urgent decision that was required in relation to the suspension of annual fees payable under the Licensing Act 2003 in respect of Premises Licences and Club Premises Certificates.

The Greater Manchester Combined Authority had agreed a consistent approach which has been referred to the Wider Leadership Team as part of a number of measures to assist licensed premises as part of the lockdown easing as businesses reopen.

Members of the Emergency Powers Group (EPG) agreed to the proposed decision not to suspend any Licensing Act 2003 premises licences for non-payment of the annual fee until 1 December 2020. In addition it was noted that a review of this urgent decision would be referred to the Council's Licensing and Safety Panel for consideration in November 2020.

The second lockdown was implemented by Government on 5 November 2020 and ended on the 2 December 2020.

On the 26 November 2020, a report was considered by the Licensing and Safety Panel to review the urgent decision taken on the 14th July 2020. Members resolved that the implementation of the decision, i.e. to commence the recovery of the annual fees that are payable under the Licensing Act 2003, be deferred so that a further detailed report could be prepared for consideration at the next meeting of the Licensing & Safety Panel in January 2021.

Since the meeting of the Licensing and Safety Panel on the 26 November 2020, the Government placed Greater Manchester in Tier 3 on the 2 December 2020.

The Licensing Service would like to inform members, no further guidance on a consistent approach has been issued by the Greater Manchester Combined Authority or the Wider Leadership Team on this matter. The Licensing Service have liaised with the Council's finance department and the annual fees are set up as a subscription. The invoices are then sent when required via this automated system to the licence holders of premises licences and club premises certificates, to advise them that the annual fee is payable. During the pandemic this invoices have still been being issued, but the Licensing Service have not been suspending premises licences or club premise certificates when payment has not been made. This is as a result of the direction of the Wider Leadership Team, the Combined Authority and the urgent decision in July 2020.

In light of the decision of the Licensing and Safety Panel on the 26 November 2020, the licensing service have requested details of the payment information for the period 1 April 2020 until the 1 December 2020:

The total value of the fees payable from 1 April to 1 December 2020 was £101,855. Approximately two thirds of licensing invoices issued have been paid by businesses (£70,185) and a total of £31,670 remains outstanding.

Other businesses will be due to receive invoices between 1 December 2020 and 31 March 2021 which will have a value of £17,200. Based on the experience of the first three quarters payments (two thirds paid) then £11,352 is likely to be paid, which would leave £5,848 unpaid.

This totals a potential of £37,518 that would be outstanding for payment (based on outstanding fees to date and the projection for the rest of the year).

It should be noted that the outstanding payments include a variety of business types including Off Licences, pubs, restaurants, takeaways.

The Licensing Act 2003 requires the Council to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

The outstanding income outlined in the report will represent a budget deficit if not recovered in this financial year.

It was also explained that the annual fees for next year will still be payable on the anniversary of the issue of licences and certificates and this may require venues to pay two annual fees in a short period.

The Council has a debt management process in place that would be followed in recovering the outstanding payments. This process allows companies to contact the finance team if they are struggling to pay and discuss payment options. Finance staff will be briefed to check that anyone struggling has accessed all the support they are entitled to.

Delegated decisions:

1. That the Licensing Service will take steps to suspend any licence for non-payment of the annual licence fee.
2. It is noted that any unpaid annual licence fee will be recovered using the Council's debt recovery process.

LSP.436 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.437 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCES

Licence Holder 22/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 22/2020 who did not attend the meeting.

The Licensing Unit Manager reported that the Licence Holder had requested that an adjournment be granted as it was reported that the Licence Holder had not had enough notice to instruct a legal representative due to the Christmas and New Year breaks. The request for adjournment was read out verbatim by the Licensing Unit Manager.

The Council's legal representative at the meeting advised Members that the Licence holder had received all of the paperwork relating to the case on 17 December 2020 and it was felt that this was a reasonable amount of time to enable legal representation to be sought.

It was also reported that through his legal representative, the Licence Holder had been advised that the Panel would hear the case in absence if they agreed to proceed. They refused to attend in person.

The Panel Members voted and, it was agreed that the request for an adjournment be denied and the Panel proceed with the case in absence.

On 14th October 2020, the licensing service received notification from Greater Manchester Police that this client had been issued with a fixed penalty notice for driving with incorrectly displayed number plates. Greater Manchester Police confirmed that whilst the fine is not endorsable; this is an MOT failure which renders the vehicle unroadworthy and is a breach of Private Hire Vehicle condition 3 which states: Condition of the Vehicle a. You must make sure that the vehicle is kept in a good condition. We can inspect and test the vehicle at any time to make sure it reaches out standards. b. You must keep the inside and outside of the vehicle clean and safe. c. You must not alter the private hire vehicle in any way without first checking with us. d. Inside the vehicle: Seats must be properly covered and upholstered; Floors must be covered by mats, carpets or other coverings which are clean and in good condition; and Any damage to upholstery or carpets must be professionally repaired.

This client's vehicle was subsequently seen by Licensing Enforcement Officers on the 15th October 2020 and again on 6th November 2020 with the illegal number plates still in place on the vehicle. When asked about the matter in interview the client claimed that he had been unable to change the plates because the current pandemic had meant shops who manufactured the plates were not open. Halfords; a nationwide vehicle accessories retailer and supplier of vehicle number plates was considered an essential retailer for the purpose of the recent lockdown and consequently remained open throughout. The client claims that he has now rectified this matter and his vehicle now displays road legal registration plates.

On 5th November 2020, the licensing service received a complaint of poor driving. The complainant described how on the 5th November at 10am she was travelling in a vehicle, owned by her, being driven by her friend, from Bolton to Little Lever and was on Bury Road. After passing through a set of traffic lights, she noticed a white car coming up behind them at speed. She is a driving instructor so has rear mirrors fitted in the passenger side on the car. She described how even when she is not working it's just natural instinct to always be checking in the mirrors. The driver also observed the car which was a white Jaguar with Bury taxi plates fitted. As the car got closer it moved over to the right and started to flash its lights. It

was crossing over the central markings in the road. The complainant was approaching a pelican crossing and was concerned that the taxi was going to overtake and potentially put pedestrians at risk. As a driving instructor she states that she is aware that the Highway Code indicates that if a vehicle is tailgating, you should drop back to allow distance to separate yourself from the vehicle in front. They held their position and the vehicle continued to flash its headlights. Her friend indicated and pulled up on the left to allow the car to overtake. The vehicle then pulled up beside them blocking the road and an argument began. The driver of the taxi said we had been "braking illegally" and also suggested "cash for crash". The complainant's vehicle is 6 weeks old and it would not be in her interest to have an accident as the vehicle is her livelihood, she also has dash cams fitted should an accident occur so it would be fully documented. She stated that the taxi drove in front of them and kept putting his brakes on to deliberately slow them down. Unfortunately she didn't download the front cam footage as she says it happened very suddenly and we were more aware of his actions behind us at first. The complainant submitted the rear dash cam footage to the licensing service by email. The car could clearly be identified by its registration plate and is licensed by the client. The client was shown the dashcam footage during interview and asked why he was driving in the middle of the road. He stated that the complainant's car was braking for no reason so his natural instinct was to swerve to the right. On 20th November 2020 this client's vehicle was seen in Bury Town Centre failing to display signage indicating which Operator he worked for. When interviewed in relation to this matter the client indicated that he had removed the Operator stickers as he had recently changed Operator and had taken the opportunity to detail his vehicle. He claims that he has now rectified this matter and the vehicle displays the correct signage. Private Hire vehicle licence condition 5 states:

Signs

Vehicles must display the following signs at all times:

- The name of the operator's firm on the front windscreen at the top left-hand side.
- The name of the operator's firm at the bottom of the back windscreen.
- The name, phone number and logo of the operator's firm on the two front door panels.

All signs, including phone numbers and logos, must be between 4cm and 7cm high. New signs must be checked with the Council's licensing service before you use them. They must be affixed to the vehicle by means of a sticker.

When asked why he had left his previous Operator; the client indicated that it was due to a lack of work. His previous Operator was therefore contacted to confirm this assertion. An Office manager from his previous operator indicated that they took the decision to end their partnership with this client following receipt of two complaints that were emailed to them in October 2020. The two emailed complaints that were emailed to the private hire Operator.

Complaint 1 is from a school headmaster who asserted that this client was belligerent, overly aggressive and harassed the school and its employees following an incident outside the school where a child was nearly run over. The school accept this client is not at fault for the near miss; however, they felt his

subsequent actions were wholly unacceptable. In interview the client believed that he had not behaved inappropriately. He felt an employee of the school was abusive towards him so he was within his rights to demand an apology that has not been forthcoming. The second complaint was from a Superintendent within Greater Manchester Police who emailed this client's operator to complain that this client had overtaken at speed a line of cars and gone straight ahead from a right turn only lane and then travelled along Bury & Bolton road overtaking at speed. The Superintendent stated that had he been in a marked vehicle the clients driving would have warranted a ticket. When asked about this incident the client does not believe that he was speeding and stated that he had intended to turn right at the lights but changed his direction of travel when he received a job from his Operator whilst stationary at the traffic lights.

On the 15th December 2020; the licensing service received a telephone call from this client who wished to make a complaint about a parking warden operating within Bury town centre. He was advised that the licensing service could not help with such a query and was directed to the correct Council department. The client then became combative and aggressive towards the licensing advisor who gave the client ample warning before terminating the telephone call.

Delegated decision:

The Panel carefully considered the report, and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, as amended by the Road Safety Act 2006, resolved, on a majority basis, to invoke Section 52 and to suspend the Licence Holder with immediate effect.

The Panel found as follows:

- The Licence Holder received a fixed Penalty Notice for driving with incorrectly displayed number plates.
- The Licence Holder continued to drive with illegal number plates even after being advised on two occasions to change them by a Licensing Enforcement Officer.
- The Licensing Unit received a number of complaints from members of the public regarding poor driving and aggressive behaviour.
- The Licence Holder has behaved aggressively towards a Licensing Advisor.
- The Licence Holder was removed as a driver by his previous operator due to his behaviour.
- The licence holders' driving display and aggressive manner with members of the public was such that he posed a danger to the public

Licence Holder – 23/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 22/2020 who attended the meeting with his legal representative. 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.

The Licence Holder submitted an online application for the renewal of a Private Hire drivers licence on the 7th December 2020. This client's private hire driver's licence has been extended until the 7th January 2021.

As part of the application the applicant is asked to declare any convictions. The following conviction was declared by the applicant on his online application.

Offence	Offence Date	Expiry Date	Sentence
CD10 Driving without due care and attention,	6th January 2018	6th January 2021	Licence endorsed with 3 points Fixed Penalty Notice

The client's history has been checked on the licensing computer system and there is no record of the applicant declaring this conviction. The applicant has therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions. 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 applicant was subsequently asked for the history behind the conviction and the reasons as to why he had failed to declare it in line with his conditions.

He explained that it was a mistake and that he was not aware of the condition that he had to declare the conviction to within 7 days. The conviction came about as a result of an incident where the applicant's vehicle hit a pedestrian. The client assisted the pedestrian and took them to the walk in centre. He also reported the incident to the Police. He states that he was living in Dubai at the time and was due to fly out the next day to meet his family. He was sent a letter by the Police to attend an awareness course but when he came back from Dubai the offer for the course had been withdrawn and he instead attended Bolton Crown Court and was given 3 penalty points. The applicant was asked to email in his reasons for failing to declare the conviction.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 23/2020 and his representative and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, resolved, to grant the renewal application and to admonish the licence holder as to future conduct.

LSP.438 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVER LICENCES A

Licence Holder 24/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 24/2020 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.

This applicant had previously held a private hire driver's licence continually since 29th November 2003 until its expiry on the 29th November 2020. He submitted an online application for the grant of a new Private Hire drivers licence on the 4th December 2020.

When a licensing advisor used the DVLA's online portal to check this applicants driving licence the following conviction was found:

Offence	Offence Date	Expiry Date	Sentence
SP50 - Exceeding speed limit on a motorway	22 March 2019	22 March 2022	Licence endorsed with 3 points Fixed Penalty Notice

This applicant has therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions. 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 applicant was subsequently interviewed by a licensing enforcement officer. He explained that that he was travelling on the M6 when he was stopped by the Police for doing 82mph in a 70mph zone for which he accepted 3 points and paid a £100 fine. The applicant was apologetic and stated that he has not tried to deliberately mislead the licensing service but had made a genuine mistake in failing to be fully aware of the conditions on his private hire driver's licence. He stated that this is the first time his DVLA issued driving licence has been endorsed.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 24/2020 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.

COUNCILLOR T HOLT
Chair

(Note: The meeting started at 7.00 pm and ended at 8.30 pm)

