

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 4 March 2021

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

Public Attendance: 2 members of the public were present virtually at the meeting.

Apologies for Absence: Councillor J Grimshaw and Councillor C Walsh

LSP.1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted by Councillor J. Grimshaw and Councillor C. Walsh.

LSP.2 DECLARATIONS OF INTEREST

The Chair, Councillor S. Walmsley declared a personal interest in the agenda item 10 application for a private hire driver licence as she knew the applicant.

Councillor Walmsley left the virtual meeting during deliberation of the application.

LSP.3 MINUTES OF PREVIOUS MEETING

Delegated decision:

That the Minutes of the last meeting held on 7th January 2021 be approved as a correct record and signed by the Chair.

LSP.4 PUBLIC QUESTION TIME

No public questions were submitted to the meeting.

LSP.5 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:

COVID 19 – Covid Marshals

Covid Marshals are currently working with officers within Public Protection. The marshals work 7 days a week and this changes flexibly depending on current restrictions

The work that is undertaken by the marshals includes:

- Proactive engagement with businesses and residents in Covid hotspots
- Behaviour change engagement on Covid secure matters
- Supporting GMP and Community Safety with repeat offending households.

TAXI MATTERS – Grants/Enforcement

The Licensing Service have been assisting the Strategic Planning and Economic Development service to engage with the Hackney Carriage and Private Hire Trade to help promote awareness to enable them to apply for a small and micro business grant being given by the Authority.

Illegal Puppies

Officers from the Public Protection Service became aware of an illegally landed puppy following a referral from a vet. This resulted in a miniature dachshund puppy being seized and taken into quarantine. The puppy was examined and was judged (teeth checked) to be younger than 12 weeks minimum age requirement before being allowed to be imported. The puppy was imported by someone in Reading from Hungary and was found to have a fraudulent pet passport which came with the puppy.

The Public Protection Service issued a press release which can be found at:

<https://www.mynewsdesk.com/uk/bury-council/pressreleases/bury-councilwarn-of-crack-down-on-the-illegal-puppy-trade-3070241>

Suspected illegally Landed Cat

The Licensing Service received a referral from a vet relating to a cat that had been imported from Greece not having a relevant microchip. Officers liaised with Dover Port, given length of time cat had been in the country and several attempts to identify a microchip, the vet decided to re microchip and provide new documents once satisfied not a rabies risk.

Investigation of dumping of food at Bury Lido

Licensing Officers had assisted the investigation of fly tipping of dumped food at Bury Lido as the individual arrived by a private hire vehicle.

Reports of avian Flu in North Yorkshire surrounding Turkey and Chicken Rearing

In December, Licensing staff met with GM Civil contingencies and resilience unit to draw up an avian flu plan, this work is ongoing. Local Authorities responsibilities in relation to an outbreak includes Assisting Animal Plant & Health Agency identifying and maintaining a list of poultry keepers, enforcement of movement restrictions & bio security controls (if and when applicable) and assistance to Public Health England in managing fears and risks to human health.

The Licensing Service have reviewed poultry keepers register, also submitted communications via the Council's website, Bury Times and Social media alerting the public about Avian Flu and requirement to keep birds indoors. Also requesting bird keepers notify the council, please note that this is not a mandatory requirement for small numbers of birds.

Ongoing Notification received are received from APHA AI notification service Notifications provide bird flu latest updates on confirmed cases – the work is still continuing.

Annual Fees for Licensing Act premises

Following the previous report to this panel on the 7th January 2021 for noting, the Licensing Service have requested that duplicate invoices are sent to the businesses that have not paid their annual fees under the Licensing Act 2003.

Delegated decision:

That the report be noted.

LSP.6 CLEAN AIR AND COMMON MINIMUM LICENSING STANDARDS

The Executive Director (Operations) submitted a report advising Members on the ongoing work relating to the Clean Air Plan and Common Minimum Licensing Standards which had been considered by Cabinet on the 23rd February 2021.

On the 29th January 2021, a report was considered by the Greater Manchester Combined Authority relating to the Clean Air Plan and Common Minimum Licensing Standards consultation.

This was followed by the report attached to the agenda pack at Appendix 1 which was considered by Cabinet in late February 2021.

Delegated decision:

That the report be noted.

LSP.7 URGENT BUSINESS

No urgent business was reported at the meeting.

LSP.8 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.9 SUSPENSION/REVOCATION OF PRIVATE HIRE DRIVER LICENCE

Licence Holder 25/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 25/2020 who attended the virtual meeting.

The Chair made introductions of the panel and the Legal Officer present 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 Licence Holder had previously held a private hire driver's licence continually since 14th April 2015 until its expiry on the 18th February 2021. He submitted an online application for the renewal of a private hire driver's licence on the 20th January 2021. The Licensing Service have issued a without prejudice letter in relation to his application to renew his private hire badge and extended his badge until the meeting this evening. As part of the application the applicant was presented with information shown in the agenda report which had been subject to numerous modifications within the last year.

The online application screen explains that any traffic offences must be declared irrespective of when they occurred. This Licence Holder selected no when asked "Do you have any convictions, fines or formal cautions?"

The Licence Holder also selected no when asked "Have you been issued with any fixed Penalty notices?" Prior to submitting the completed application this applicant was also presented with information on screen which reminded them of the need to show all current endorsements and required him to positively declare that "the information provided by me on this application is true". The final screen also clearly indicated that applicants should "include all convictions that you may have including motoring convictions"

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

Offence	Offence Date	Expiry Date	Sentence
TS10 – failing to comply with traffic light signals	26th April 2018	26th April 2021	Licence endorsed with 3 penalty points Fine £165

This applicant is before the committee for the following reasons: - A) Failing to declare the convictions during his previous licence period as required by condition 13 of a private hire driver's licence. B) The offence falls within the Conviction Guidelines.

This applicant was subsequently interviewed by a licensing enforcement officer. He explained that the offence had occurred because he failed to stop at a red light in Manchester. He believed the level of the fine related to the time that elapsed between the traffic light turning red and his vehicle triggering the camera. The client had declared the offence on an application which he submitted on the 2nd January 2021; however, having been told to reapply at a later date due to the application being made over one month prior to his badge expiring; he then forgot to include it on the second application. His first application can be found at Appendix 1 in the restricted report. His second application can be found at Appendix 2. The applicant was asked why he had not declared the conviction in 2018 and he explained that he was not aware then that traffic offences were relevant. The applicant was apologetic and stated that he had made a genuine

mistake for which there was no excuse. The applicant was emailed a summary of what had been discussed over the telephone and asked whether he agreed with this or wanted to amend anything. He agreed with the summary which was attached at Appendix 3. The applicant was before Members for consideration to be given as to his suitability to be a private hire driver in Bury.

Delegated decision:

The Panel carefully considered the report, the additional written documentation and oral representations by licence holder 25/2020. They heard that the applicant had originally disclosed the offence on an application that he had originally submitted, however as it was too early, he needed to re submit. He did this but using his mobile phone to do so. He stated that he couldn't explain why he had failed to disclose it on the second application. The applicant stated that he was really sorry, he felt bad and had no excuse. The Panel unanimously agreed that this was not a deliberate decision to evade disclosing the offence 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. A letter would be sent to remind of the correct application process and be worded to reflect the Committees view on this application.

LSP.10 APPLICATIONS FOR PRIVATE HIRE DRIVER LICENCE

Councillor T. Holt chaired the Licensing and Safety Panel for this agenda item only.

Licence Holder 26/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 26/2020 who attended the virtual meeting via audio only.

The Chair made introductions of the panel and the Legal Officer present 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 was first granted a private hire driver's licence on the 22nd September 2011 which was valid for 12 months. The applicant held a private hire driver's licence from the 18th September 2015 until the 9th October 2017. The applicant was issued with a three-year private hire driver's licence on the 3rd January 2018 which expired on the 2nd January 2021.

On the 21st January 2021, this applicant submitted an online application for a private hire driver's licence. Within the application he declared a conviction for battery and criminal damage dating back to 18th October 2018. The licensing service does not have a record of this applicant having ever declared these convictions previously.

The applicant has subsequently provided a DBS certificate which indicated the following:

Offence	Offence Date	Expiry Date	Sentence
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Destroy or Damage Property (value of damage £5000 or less – offence against Criminal Damage Act 1971 only) contrary to Criminal Damage Act 1971 s.1(1)	12th August 2018	18th October 2018	Compensation £100
Battery contrary to Criminal Justice Act 1988 s.39	12th August 2018	18th October 2018	Fine £450 Costs £300 Victim Surcharge £45 Restraining Order – Protection from Harassment 17/10/23 on conviction

The service was not aware of these offences previously.

This applicant was before the committee for the following reasons: - A) Failing to declare the convictions during his previous licence period as required by condition 13 of a private hire driver's licence. B) The offence falls within the Conviction Guidelines.

The applicant was subsequently interviewed by a licensing enforcement officer. He explained that the convictions occurred when a relationship came to an end. The applicant explained that he has never previously been in trouble with the Police and he believes this conviction resulted in a possible job with Greater Manchester Police failing to materialise. The applicant strongly regrets the incident citing stress and personal issues he was facing at that time. When asked why he had failed to notify the service, as per his licence conditions, the applicant explained that he was not aware of this requirement as taxi driving is not his main occupation but is merely something, he likes to keep valid as a means to fall back on to supplement his income. The applicant was emailed a summary of what had been discussed over the telephone and asked whether he agreed with this or wanted to amend anything. He agreed with the summary which was attached to the restricted agenda pack as Appendix 1.

The Council's convictions policy and guidelines state: Members of the Licensing & Safety Panel are required to have regard to Bury Council's convictions policy and guidelines when considering an application for a private hire or a hackney carriage driver licence. Members should adhere to the policy and guidelines unless there are exceptional circumstances for them to depart from them

Delegated decision:

The Panel heard from the licence holder who stated that this was a not intended to be his main employment, it was intended as a back-up position. He told the panel that he had not considered that the Licensing Panel would need to know about a civil matter and that is why he had not previously reported it. He told the

Panel that he was embarrassed by the whole incident.

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 26/2020 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, to refuse the Licence application. The panel agreed that the matter was not civil in nature but criminal, the offences being committed contrary to criminal statutes, this being supported by the fines and compensation information. The Panel determined that the convictions were less than 3 years old and they had heard nothing that would move them to detract from the licencing policy. Therefore, the panel unanimously agreed that the applicant was not a fit and proper person to be granted a taxi licence.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 7.00pm and ended at 8.03pm)