

**Minutes of: LICENSING AND SAFETY PANEL**

**Date of Meeting:** 22 April 2021

**Present:** Councillor S Walmsley (in the Chair)  
Councillors J Grimshaw, T Holt, G Keeley, K Leach, M Smith,  
C Walsh, S Wright and Y Wright

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

**Apologies for Absence:** Councillors S Hurst, C Morris and I Schofield.

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**LSP.1 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted by Councillors S. Hurst, C. Morris and I. Schofield.

**LSP.2 DECLARATIONS OF INTEREST**

There were no declarations of interest made at the meeting.

**LSP.3 MINUTES OF PREVIOUS MEETING**

That the Minutes of the last meeting held on the 4<sup>th</sup> March 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:

**Easing of Lockdown – Assistance to Businesses**

Officers from the Licensing Service had been working with colleagues within the Public Protection Service to inform businesses of the requirements for re-opening on the 12<sup>th</sup> April 2021. This involved the Covid Marshals delivering approximately 320 letters to licensed premises which included a checklist for licence holders.

In addition, to the work above an additional 2,356 letters were sent either by post or email to all hospitality businesses and close contact services.

**Recovery Action Plan**

Officers of the Licensing service are working with Greater Manchester Police and other Council departments to assist businesses to recover and this involved:

- Consideration to applications for Pavement Café Licences that have been submitted to the Council's Highways Department for approval.
- Undertaking of visits to licensed premises in partnership with Greater Manchester Police to ensure that businesses are compliant and operating in a covid secure way.

### **Licensing Hearings Panel- 1<sup>st</sup> April 2021**

The Licensing Service have received an application for the grant of a premises licence under the Licensing Act 2003 in respect of Prestwich Social, Unit 3, Radius Scheme, South East Side, Fairfax Road, Prestwich, M25 1AS. This application attracted representations from Greater Manchester Police in their capacity as a Responsible Authority and 10 representations from interested parties. Members considered this application at a Licensing Hearings Panel on the 1<sup>st</sup> April 2021 and resolved that the premises licence be granted as set out in the operating schedule subject to the operating amendments listed below under the grounds of prevention of public nuisance:

- A change to the supply of alcohol on a Friday and Saturday being amended to 12.30am from 1.00am;
- A change to the opening times on a Friday and Saturday being amended to 1.00am from 1.30am.

The Panel also attached 22 conditions to the premises licence following mediation between Greater Manchester Police and the applicant prior to the meeting.

### **Taxi Matters- Grant/ Enforcement**

The Licensing Service had 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.

### **Delegated decision:**

That the report be noted and the Chair placed on record her thanks to Officers in the Licensing Department.

### **LSP.6 URGENT BUSINESS**

No urgent business was reported at the meeting.

### **LSP.7 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.8 SUSPENSION/REVOCATION OF PRIVATE HIRE DRIVER LICENCES**

### Licence Holder 27/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 27/2020 who was not in attendance at the virtual meeting.

A request had been made by their legal representative to adjourn this case to a later date due to the bereavement of a close family member.

### **Delegated decision:**

That the Panel unanimously agreed to defer the case for Licence Holder 27/2020 and arrange a panel meeting for a later date.

### Licence Holder 28/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 28/2020 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 subject to the amendment below set out the reasons for the Licence Holder being before the Panel.

It was noted by the panel and accepted by the Licence Holder that there was an error in the report and he had notified the Licensing Service on the 9<sup>th</sup> March 2021 (Not 2020 as stated in the report) by email and that he had received 5 points for speeding (Not 3 as stated in the report).

This Licence Holder had previously held a private hire driver's licence continually since 5<sup>th</sup> April 2012 until its expiry on the 12<sup>th</sup> April 2021. The licence has been extended without prejudice until the date of this Committee hearing. He submitted an online application to renew his Private Hire driver's licence on the 1<sup>st</sup> April 2021. As part of the application the applicant was presented with the information shown in the agenda report.

The online application screen explains that any traffic offences must be declared irrespective of when they occurred. This client selected yes and disclosed a speeding offence. A subsequent check of this applicants DVLA driving licence indicated the following conviction:

<b>Offence</b>	<b>Offence Date</b>	<b>Expiry Date</b>	<b>Sentence</b>
SP50 - Exceeding speed limit on a motorway	30 <sup>th</sup> June 2020	30 <sup>th</sup> June 2023	Licence endorsed with 5 penalty points Fine - £440

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 that he was travelling on the M62 moving a vehicle for British Car Auctions (BCA) when he was caught by a speed enforcement camera travelling in excess of 90mph. The applicant explained that due to the nature of the employment there was a delay in him receiving the penalty notice as it had been incorrectly issued to the previous keeper of the vehicle and then BCA before being passed to himself. He stated that he had not tried to deliberately mislead the licensing service and as soon as he received the letter he had notified the licensing service as per the conditions of his private hire drivers licence

This client 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 1 of the report in the agenda pack.

This 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 28/2020.

They heard that the applicant had originally disclosed the offence but failed to declare this motoring conviction within the correct time frame as stipulated in the private hire driver's licence conditions. The Panel accepted the explanation for the long delay between the conviction date and the applicant receiving information of the penalty notice. It was noted that there had been no recorded complaints made against the applicant since being a licence holder in 2012.

The applicant stated that he was intending to follow the guidelines. 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 take no action against the licensee.

**LSP.9 APPLICATIONS FOR PRIVATE HIRE DRIVER LICENCE**

Licence Holder 29/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 29/2020 who attended the virtual meeting via audio only alongside his son to aid with any translation difficulties.

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.

The applicant had been continually licensed as a driver since the 12<sup>th</sup> September 2003. His current licence expired on the 12<sup>th</sup> March 2021. During that time frame he had held private hire and hackney carriage drivers' licences. His most recent licence entitled him to drive private hire vehicles.

On the 16<sup>th</sup> March 2021, the applicant submitted an online application for a private hire driver's licence. Within the application he declared a conviction for battery dating back to the 25<sup>th</sup> August 2020. The licensing service does not have a record of this applicant having ever previously declared this conviction.

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

<b>Offence</b>	<b>Offence Date</b>	<b>Expiry Date</b>	<b>Sentence</b>
Battery contrary to Criminal Justice Act 1988 s.39	16 <sup>th</sup> March 2020	25 <sup>th</sup> August 2020	Fine £333 Costs £85 Victim Surcharge £33

The licensing 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 conviction occurred because of an argument that had taken place within the marital home towards the end of his marriage. He explained that during the argument his ex-wife had hit him several times and wound him up. He therefore retaliated which left a mark on her face.

When asked why he had failed to notify the service of the conviction, as per his licence conditions, the applicant apologised and explained that he had made a mistake and was not aware of this requirement as he has not been working due to the covid-19 pandemic.

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 is 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 he had held a licence for 18 years and would like to continue in this role until retirement.

He told the panel that he had not considered that the Licensing Panel would need to know about what he classed as a family problem and apologised. His Solicitor had allegedly informed him that a family matter was not a criminal matter and that he didn't need to tell licensing. He told the Panel that he understood the conditions of having a licence.

The Panel also sought to clarify what the apology was intended for, either by not informing the Council of the criminal act or the battery incident, he stated he was apologising for not informing the Council.

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 29/2020 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 applicant was dishonest and minimised his actions for the offence. The Panel determined that the conviction was 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.

*Before closing the meeting the Chair paid thanks to Members of the panel who were not seeking re-election to the Council at the local elections in early May. She also thanked Council Officers and those members of staff who were leaving the authority.*

**COUNCILLOR S WALMSLEY**  
**Chair**

**(Note: The meeting started at 7.00pm and ended at 8.07pm)**