

AGENDA FOR

LICENSING AND SAFETY PANEL

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To: All Members of Licensing and Safety Panel

Councillors : S Walmsley (Chair), J Grimshaw, T Holt,
S Hurst, G Keeley, K Leach, C Morris, I Schofield,
M Smith, C Walsh, S Wright and Y Wright

Dear Member/Colleague

Licensing and Safety Panel

You are invited to attend a meeting of the Licensing and Safety Panel which will be held as follows:-

Date:	Thursday, 22 April 2021
Place:	Virtual meeting via Microsoft Teams
Time:	7.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	The meeting will be live streamed: https://councilstream.com/burycouncil

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Licensing and Safety Panel are asked to consider whether they have an interest in any of the matters on the agenda, and if so, to formally declare that interest.

3 MINUTES OF PREVIOUS MEETING *(Pages 3 - 10)*

The Minutes of the Meeting held on the 4th March 2021 are attached. Members of the Licensing & Safety Panel are asked to consider whether these are a correct record of the meeting, and if so, to formally approve them.

4 PUBLIC QUESTION TIME

Questions are invited from members of the public present at the meeting on any matters for which this Panel is responsible.

Approximately 30 minutes will be set aside for Public Question Time if required.

5 OPERATIONAL REPORT *(Pages 11 - 14)*

A report from the Executive Director (Operations) is attached.

6 URGENT BUSINESS

Any other business, which by reason of special circumstances, the Chair agrees may be considered as a matter of urgency.

7 EXCLUSION OF PRESS AND PUBLIC

To consider passing the appropriate resolution under section 100 (A)(4) of the Local Government Act 1972 that the press and public be excluded from the meeting during consideration of the following item of business since it involves the likely disclosure of the exempt information stated.

8 SUSPENSION/REVOCATION OF PRIVATE HIRE DRIVER LICENCES *(Pages 15 - 28)*

A report from the Executive Director (Operations) is attached.

9 APPLICATIONS FOR PRIVATE HIRE DRIVER LICENCE *(Pages 29 - 36)*

A report from the Executive Director (Operations) is attached.

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)

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Classification	Item No.
Open / Closed	

Meeting:	Licensing & Safety Committee
Meeting date:	22 nd April 2021
Title of report:	Operational Report
Report by:	Executive Director (Operations)
Decision Type:	N/A Report for information only
Ward(s) to which report relates	N/A

Executive Summary: A report to advise members on operational issues within the Licensing service.

Recommendation(s)

That the report be noted.

Key considerations

Not applicable

Community impact / Contribution to the Bury 2030 Strategy

Equality Impact and considerations:

24. *Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

25. *The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
None	.

Consultation:

Legal Implications:

Not Applicable

Financial Implications:

Not Applicable

Report Author and Contact Details:

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Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
None	

1.0 **BACKGROUND**

1.1 The report advises Members on operational issues within the Licensing service.

2.0 **Easing of Lockdown – Assistance to Businesses**

2.1 Officers from the Licensing Service have been working with colleagues within the Public Protection Service to inform businesses of the requirements for re-opening on the 12th April 2020. 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 which went for first class postage today, and 907 letters have been emailed.

3.0 **RECOVERY ACTION PLAN**

3.1 Officers of the Licensing service are working with Greater Manchester Police and other Council departments to assist businesses to recover. This have 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.

4.0 LICENSING HEARINGS PANEL – 1ST APRIL 2021

4.1 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 1st 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.

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

5.0 TAXI MATTERS – Grants/Enforcement

5.1 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.

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