

Minutes of: LICENSING AND SAFETY COMMITTEE

Date of Meeting: 24 June 2021

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

Also in attendance: Michael Bridge – Licensing Manager
Janet Witkowski – Council Solicitor
Ben Thomson – Head of Public Protection
Michael Cunliffe – Democratic Services

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

Apologies for Absence:

LSP.1 APOLOGIES FOR ABSENCE

There were no reported apologies for absence.

LSP.2 DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

LSP.3 MINUTES OF PREVIOUS MEETING

Delegated decision:

That the Minutes of the last meeting held on the 27th May 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 continued to work 7 days a week assisting the Public Protection team by visiting premises to observe whether restrictions are being adhered to if complaints are received or to give general guidance and assistance. In addition to this they had been assisting at surge vaccine and testing sites helping to manage queues and carrying out visits to residential premises where individuals should be self-isolating but had been uncontactable over the telephone by the hubs.

Working in partnership with Greater Manchester Police, Licensing Enforcement Officers and the Covid marshals would be carrying out visits to licensed premises during upcoming England matches.

LICENSING AND SAFETY SUB COMMITTEE

A hearing for an application of a Grant of a Premises Licence in respect of the Den, Victoria Mills, Wellington Street, Bury, BL8 2AL to which representations were received from Greater Manchester Police, Greater Manchester Fire and Rescue Service and an interested party. The Sub-Committee considered the request for an adjournment of the applicant's solicitor on 9th June 2021. Having heard representations and having received legal advice, Members resolved unanimously that the hearing be adjourned to allow extra time for mediation between interested parties in the public interest to the 7th July 2021.

A hearing for another Grant of a Premises Licence in respect of Bury Off Licence, 319 Bolton Road, Bury, BL8 2PD which representations were received from Greater Manchester Police and four interested parties and a petition, took place on the 16th June 2021. Having heard representations and having received legal advice, Members resolved unanimously to grant the licence subject to additional conditions being attached to the licence.

PUBLIC / PRIVATE HIRE DRIVERS COVID VACCINES

The Licensing Service have been sent 983 emails to all licensed drivers at the request of other departments of the Council to encourage them to attend walk in clinics to receive a vaccine if they have not already done so.

It was agreed:

That the report be noted.

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 LICENCE

Licence Holder 4/2021

The Licensing Unit Manger informed the committee that Licence Holder 4/2021

had requested an adjournment and had provided evidence that he could not attend the meeting due to a wedding of a close family member.

Delegated decision:

That the case be adjourned until the next meeting on the 8th July.

Licence Holder 5/2021

The Executive Director (Operations) submitted a report relating to Licence Holder 5/2021 who attended the meeting with his legal representative. The Chair made introductions and the Council Solicitor outlined the procedure to be followed and clarified that all those in attendance had read the report. The report, which was accepted by the Licence Holder, was presented by the Licensing Unit Manager. This set out the reasons for the Licence Holder being before the Committee.

The report stated that the License Holder had held a Private Hire Driver's licence since 14th December 2007 and has a current licence until 21st December 2021. It further stated that the Licence Holder had previously held licences for four private hire vehicles, licensed by Bury Council the first of which was licensed in 2008 and the last of which expired on 15/09/20 and had also completed transfer applications for private hire vehicles in 2008 and 2019. The report went on to outline that on the 25th January 2021 the Deputy Licensing Officer was made aware that the Licence Holder had been using a vehicle for private hire whilst the vehicle was unlicensed. Following an investigation and interview the Licence Holder admitted this offence but advised that he had purchased the vehicle in question and then left the vehicle in his operators car park during a trip abroad. On his return he had applied to extend the vehicles licence and then used the vehicle. He admitted that he had not checked the extension had been granted and accepted the offence and was offered a simple caution which he had accepted and signed on 4th June 2021.

Representations were made by the Licence Holder's legal representative, during which it emerged that the witness statement in relation to this case had not been circulated to Members of the committee. The legal representative for the Licence Holder read this statement out on his behalf. He also provided an explanation to the committee that a friend had completed the extension application for the Licence Holder, but he did not check the details and the email address on the application was incorrect. As a result, it was accepted that when the Licence Holder was then emailed on 22nd December 2020 by the Licensing Service to inform him that his application could not be accepted as he was not the licence holder of the vehicle. However, the Licence Holder did not receive this email due to the email address on the application form being incorrect. He then started work on the 22nd December 2020 without a licence in force.

The License Holder accepted he was aware of the transfer process and the ability to make contact with the Licensing Service to clarify the licence position before using the vehicle. He apologised and said that he had made a mistake and was no threat to the general public.

Delegated decision:

The Committee carefully considered the report, the additional statement presented by the Licence Holder and oral representations by the Licence Holder and his legal representative. It was viewed that this was a serious issue having carried out over 400 journeys without the relevant insurance cover in place and that it was the Licence Holder's responsibility that all paperwork submitted was correct and up to date.

However, having taken into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, the committee resolved to admonish the Licence Holder and warn him as to future conduct.

LSP.9 APPLICATIONS FOR THE GRANT/RENEWAL OF PRIVATE HIRE DRIVER LICENCES

Licence Holder 6/2021

The Executive Director (Operations) submitted a report relating to Applicant 6/2021 who attended the meeting with his legal representative and a family member. The Chair made introductions and the Council Solicitor outlined the procedure to be followed and clarified that all those present had read the report and received the witness statement. The report, which was accepted by the Licence Holder, was presented by the Licensing Unit Manager. This set out the reasons for the Licence Holder being before the Committee.

The report stated that the Applicant had previously held a private hire driver's licence continually since 3rd July 2019 until its expiry on the 21st May 2021. He submitted an online application for the renewal of a Private Hire driver's licence on the 15th May 2021.

As part of the application process any traffic offences must be declared irrespective of when they occurred. The Applicant selected 'no' when asked if he had any convictions, fines or formal cautions or had been issued with any fixed penalty notices.

Prior to submitting the completed application the Applicant was reminded of the need to show all current endorsements and to positively declare that the information provided on his application is true. The final part also clearly indicates that applicants should include all convictions they may have including motoring convictions.

Checks via the DVLA's online portal found the Applicant had a conviction for speeding on 11th May 2020 and his licence had been endorsed with 3 penalty points. The applicant had therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions and had failed to declare it on his renewal application.

This applicant was subsequently interviewed by the Deputy Licensing Officer. He explained that the offence had occurred due to being caught by a speed camera. The applicant was asked why he had not declared the conviction in 2020 and he explained that he was not aware that he had to. He also stated that he had made a mistake and explained that his son had completed the application for him and

had not put the points information on the form. This was stated again before the Committee.

As a point of clarity in response to comments made by the applicant's legal representative, the Council's legal officer provided the definition of a conviction which includes a fixed penalty notice under the licensing policies.

Delegated decision:

The Committee carefully considered the report, the witness statement presented by the Licence Holder and oral representations by the Licence Holder and his legal representative. The Committee noted that it is for the Applicant to take responsibility for providing accurate information on their application and reminded the Applicant that help and advice was available from the Licensing service.

Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, the Committee resolved to grant the licence application for a period of 12 months.

Licence Holder 3/2021

The Executive Director (Operations) submitted a report relating to Applicant 3/2021 who attended the meeting accompanied by a family member. The Chair made introductions and the Council Solicitor 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, was presented by the Licensing Unit Manager. This set out the reasons for the Licence Holder being before the Committee.

The report stated that the Applicant was first granted a private hire driver's licence on the 28th August 2003. His current private hire driver's licence was issued on the 19th April 2018 and expired on the 18th April 2021. He was first granted a private hire operator's licence on the 31st December 2008. His current private hire operator's licence was issued on the 27th April 2021 and expires on the 26th April 2022.

On the 21st April 2021 the Applicant submitted two private hire applications, one for a private hire driver's licence and one for a private hire operator's application. As part of the application process, the Applicant was asked to declare any convictions. The on-line system used explained that any traffic offences must be declared irrespective of when they occurred. The Applicant made no declarations and operators licence was issued.

In relation to the Applicant's online application for a new Private Hire driver's licence, the Applicant was again asked to declare that any traffic offences must be declared irrespective of when they occurred. To this the Applicant selected yes and disclosed two fixed penalties for speeding in April and May 2021 for which he received 3 penalty points for each and was fined £100.

The Licensing service had no record of the above offences. Consequently, the Applicant has failed to declare these motoring convictions within the correct time frame as stipulated in both the private hire drivers licence conditions and private hire operator conditions.

The Applicant was subsequently interviewed by a licensing enforcement officer. He explained that the circumstances around the two offences but stated that he was unaware of the requirement to tell the licensing service in writing of any motoring convictions and believed the requirement only extended to accidents or incidents. He stated that he was very sorry for his actions.

Members of the Licensing Safety Committee were made aware of previous case in 2012 when the Applicants operators licence and private hire drivers licences were suspended after he was convicted of operating a private hire vehicle without holding a private hire operators licence and driving a private hire vehicle without the requisite insurance.

The Applicant addressed the Committee and provided background information in relation to his recent serious ill health which was covid related and had impacted on him managing the business. He indicated that he also employs 3 drivers who were also impacted. A family member who was in attendance at the meeting reported he had completed the online applications on behalf of the Applicant and mistook the question relating to convictions as criminal acts. The Applicant offered his apologies for the mistake and stated he would be more vigilant in the future so the mistake would not happen again.

Delegated decision:

The Committee carefully considered the report, oral representations by the Licence Holder and his family member. They acknowledged the personal circumstances involving the Applicant and the impact of his health in relation to the situation that he found himself in. A reminder was also made that speeding is a form of conviction and this was stated on the back of his licence.

Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, that the committee resolved to:-

- (1) Grant the licence application for a period of 12 months and to admonish the Licence Holder as to future conduct.
- (2) No action would be taken on his private hire operator's licence issued in Bury.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 7.00pm and ended at 9.19pm)