

AGENDA FOR

LICENSING AND SAFETY COMMITTEE

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To: All Members of Licensing and Safety Committee

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

Dear Member/Colleague

Licensing and Safety Committee

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

Date:	Thursday, 22 July 2021
Place:	Council Chamber- Bury Town Hall
Time:	1.00 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 5 - 10)*

The Minutes of the Meeting held on the 24th June 2021 are attached. Members of the Licensing & Safety Committee 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 PROVISION OF A SECOND AUTHORISED TESTING STATION IN BURY FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES *(Pages 11 - 18)*

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/REVOCAION OF PRIVATE HIRE DRIVER LICENCE *(Pages 19 - 42)*

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

9 APPLICATIONS FOR THE GRANT/RENEWAL OF PRIVATE HIRE DRIVER LICENCES *(Pages 43 - 58)*

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

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)



Classification	Item No.
Open	

Meeting:	LICENSING AND SAFETY COMMITTEE
Meeting date:	22 nd JULY 2021
Title of report:	Provision of an Additional Authorised Testing Station in Bury for Hackney Carriage and Private Hire Vehicles
Report by:	EXECUTIVE DIRECTOR (OPERATIONS)
Decision Type:	Council
Ward(s) to which report relates	All

Executive Summary:

This report provides an update on the process and timelines associated with the provision of an additional authorised testing station in Bury for hackney carriage and private hire vehicles. It includes details of the work that needs to take place to fully understand the associated impacts and to set up the required arrangement.

Recommendation:

To approve the process and timelines associated with the provision of an additional Authorised Testing Station, as set out in Section 3.

Community impact / Contribution to the Bury 2030 Strategy

Not Applicable

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.*

The Licensing Service have considered the Equality Act 2010 and the proposed recommendations have no positive or negative impact on any of the protected characteristics.

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
Opportunity - Respond to trade feedback and demand and provide more choice and flexibility for the trade.	N/A
Risk - Loss of income to the Council	The opening of a second testing station will result in a loss of income to the Council. The full impact will be assessed, and an evaluation will need to take place to assess how costs of the

	existing site can be reduced accordingly to prevent a financial burden to the Council. This will be considered in the report to Cabinet in January 2022.
Risk - Reduction in vehicle standards	Details of the standards and requirements that will need to be met to become an approved testing station will be set out in the advertised concession and evaluated.
Risk - Potential impact on existing workforce	Staff and Trade Unions will be engaged throughout and appropriate governance arrangement will be followed. Initial Concession to be offered for a 12-month period to enable a robust review of the impact on the service at Bradley Fold.

Consultation:

At the point the impact of a second testing station is assessed, if required, all due governance in respect of workforce impact will be implemented in line with Council policy, process and legislative requirements. The Trade Union are briefed and they, along with the existing workforce will be engaged and communicated as the actions progress.

The Hackney Carriage and Private Hire Trade will be kept informed in relation to progress against the proposed timeline.

Legal Implications:

The introduction of an additional testing station engages procurement law and in particular the Concession Contracts Regulations 2016. Consequently, a formal process is required to ensure that only fit and proper persons are approved as operators and that the Council will retain the right to monitor the operation in practice and take remedial action, including the right to terminate the approval, in the event of any material breach of the Council’s terms and conditions. The process described in the report complies with those requirements.

In addition, the Monitoring Officer will need to be consulted once the implications of introducing an additional testing station are identified, to confirm the appropriate governance route/s for the final decision.

Financial Implications:

The opening of a second testing station will result in a loss of income to the Council, due to the reduction in the number of compliance checks carried out by the Council at Bradley Fold.

The full impact will be assessed, and an evaluation will need to take place to assess how costs of the existing site can be reduced accordingly to prevent a financial burden to the Council. This will be considered in the report to Cabinet in January 2022.

Report Author and Contact Details:

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Background papers:

None

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

Term	Meaning
DVSA	Driver and Vehicle Standards Agency

1.0 Introduction

- 1.1 This report provides an update on the process and timelines associated with the provision of an additional authorised testing station in Bury for hackney carriage and private hire vehicles.
- 1.2 There are 3 pieces of legislation that govern the licensing of hackney carriage and private hire vehicles, they are as follows:
 - The Town Police Clauses Act 1847.
 - Local Government (Miscellaneous Provisions) Act 1976.
 - The Transport Act 1985.
- 1.3 The majority of hackney carriage and private hire vehicles have two certificate of compliance checks a year. If a vehicle fails two consecutive certificate of compliance checks, with 3 or more MOT faults, then they are required to have 3 tests a year.
- 1.4 When a vehicle is examined at the Council's vehicle testing centre at Bradley Fold the checks ensure that the vehicle meets the required standard, thus enabling it to be issued with the appropriate vehicle licence. This provides the vehicle with a standard MOT exemption, as issued by DVSA, and therefore means that it does not require a separate MOT test and certificate. On each licence the following is printed:

MOT CERTIFICATE EXEMPTION: The vehicle to which this licence relates is exempt from the provisions of Section 44 of the Road Traffic Act 1972 (Annual MOT testing of vehicles) by reason of the Council being in possession of a certificate issued by the Secretary of State for Transport pursuant to regulations 30(n) of the Motor Vehicle (Tests) Regulations 1976 as amended.

2.0 Background

- 2.1 Following feedback and ongoing dialogue with the taxi trade, it was agreed that the Council would seek to introduce a second authorised testing station in Bury.
- 2.2 Bury Council requires all licensed vehicles to be tested at the Council's vehicle workshop and MOT testing station at Bradley Fold industrial estate.
- 2.3 The testing regime consists of a compliance check, which incorporates the safety elements of an MOT test along with other checks relating to customer safety, comfort and aesthetic appearance of the vehicle including general bodywork, interior and paintwork etc, as required by the Council.
- 2.4 The current compliance check fee is £56.

3.0 Introduction of an Additional Authorised Testing Station

- 3.1 The introduction of an additional testing station has procurement law implications. It represents the grant of concession to a suitable garage, but without any concession fee coming to the Council. No money will change hands between the Council and the successful applicant and there will not be a contract between the parties.
- 3.2 Initially this arrangement will be set up for a 12-month period to enable a review to take place to understand the actual impact on Bradley Fold.
- 3.3 There may be some costs to Bury Council associated with administering the required paperwork for the compliance checks. This will be considered as part of the process and any costs will be outlined.
- 3.4 It is in essence the creation of an approved garage, following applications by interested persons. However, in order to achieve this a formal process has to be carried out to ensure that:
- the applicants are fit and proper persons
 - they have the appropriate premises and technical equipment, registrations and certifications enabling them to carry out testing
 - the applicants agree to comply with the terms and conditions specified by the Council
 - failure to comply with the terms and conditions gives the Council the right the suspend or terminate their right to operate as an approved authorise testing station
- 3.5 To ensure that the process is deemed to be fair, open and transparent the opportunity will be advertised and conducted through the Council’s electronic tendering portal known as The Chest.
- 3.6 Prior to the introduction of an additional authorised testing station, a number of activities need to take place:

Activity	Timescale
Full assessment to confirm the financial and staffing impact of introducing an additional testing station on the operation of Bradley Fold and engagement with staff and unions.	July – End September 2021
Discussions with the hackney and private hire trade to explain the objectives, process and timelines.	August 2021
Soft Market Testing exercise in order to ascertain the level of interest from appropriately qualified garages within the borough.	August 2021
Prepare details of the standards and requirements that will need to be met to become an approved testing station.	On-going from August 2021

Activity	Timescale
Finalise all Concessionary documents and specification.	End September 2021
Advertise Concessionary opportunity on The Chest.	Early October 2021
Concession opportunity closes.	End of October 2021
Evaluation of Concession applications and site visits	End November 2021
Update report to Licensing and Safety Committee. (Subject to confirmation of the governance route by the Councils Monitoring Officer once all details are known – formal staff consultation may be required)	16 th December 2021
Report to Cabinet to outline the impact of introducing an additional testing station and to give consideration to the award of the concession. (Subject to confirmation of the governance route by the Councils Monitoring Officer once all details are known – formal staff consultation may be required)	12 th January 2022

4.0 Public Safety Considerations

- 4.1 Public confidence in the safety and comfort of licensed vehicles is paramount and therefore the selection of an additional testing station must be carefully considered to ensure that standards are not reduced. A loss of public confidence would directly impact negatively on the reputation of the Council to protect the public from a fall in standards.

5.0 Conclusion

- 5.1 The process and timeline outlined in the report will ensure the implications of introducing a second authorised testing station are understood and a fair, open and transparent process is carried out to procure an additional authorised testing station in Bury.

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of the Local Government Act 1972.

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