

Minutes of: LICENSING AND SAFETY COMMITTEE

Date of Meeting: 13 January 2022

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

Also in attendance: Councillor C Morris
D Ball- Executive Director Operations
M Cunliffe – Democratic Services
L Swann- Assistant Director of Operations Strategy
B Thomson- Head of Public Protection
J Witkowski – Council Solicitor

Public Attendance: 9 members of the public were present at the meeting.

Apologies for Absence: Councillors K Leach and C Walsh
M Bridge – Licensing Unit Manager

Prior to opening the meeting, the Chair, Councillor Sandra Walmsley read a short statement to report she had just attended a meeting with Greater Manchester Police and would like to place on record her shock and disgust at the recent violent attack on a taxi driver in Bury. On behalf of the Licensing and Safety Committee, she stated that Member's thoughts and prayers are with the victim and this kind of incident is not welcomed in society and that Members stand with taxi drivers who should be shown dignity and respect with no violence tolerated in any form. She noted that the people of Bury have shown an outpouring of love and solidarity and stated that the Council will tackle the issue with GMP robustly. She advised that detectives are working on this case as a high priority with information on the identity of the suspect to be released and anyone with information should contact the police so justice can be served. Councillor Walmsley concluded by stating that the Council will continue to work alongside GMP and the trade to improve driver safety.

LSP.1 APOLOGIES FOR ABSENCE

Councillors K Leach, C Walsh and M. Bridge (Licensing Unit Manager).

LSP.2 DECLARATIONS OF INTEREST

Councillor Rydeheard declared an interest that in his employment he had worked on a number of cases involving Private Hire and Hackney Carriage drivers.

LSP.3 MINUTES OF PREVIOUS MEETING

Delegated decision:

That the Minutes of the last meeting held on the 16th December 2021 be approved as a correct record and signed by the Chair.

LSP.4 PUBLIC QUESTION TIME

The Chair explained to the meeting two public questions had been submitted in writing prior to the meeting from the same person.

Mr Khalid Hussain representing the Bury Hackney Association as Chair asked questions regarding the following issues: -

1. The facilities provided by Bury Council in relation to MOT testing and other matters together with licensing department policies and rules at present are different compared to those before 1996, when there were no members of the trade of a minority. An explanation for the reason for the differences was requested.

The Head of Public Protection, Ben Thomson responded that the Council has recently undertaken a tender exercise in relation to a second testing station, this is currently being evaluated. Once the evaluation has been completed consideration will be given to awarding of the contract. As you are aware the Council policy for the testing of Hackney Carriage and Private hire vehicles is that each vehicle is tested twice a year. Due to the common minimum licensing standards Stage 2 (vehicles) that was considered on the 11th November 2021 by Licensing and Safety Committee and the 24th November 2021 at full Council, members implemented new standards which removed the five fault rule for Hackney Carriages and the exceptional condition criteria for Private Hire vehicles.

The Question that you raise in relation to limit the number of Hackney Carriage Plates, Bury Council removed the limit in 1996 to allow market forces to dictate the numbers required. Bury Council has not as far as I am aware had any limit on private hire vehicles.

The Licensing Service currently reviewing the fees methodology with all of the other 9 Greater Manchester Authorities and will use this in the future to calculate fees. Vehicle Licences can be applied for up to 8 weeks in advance, but unfortunately vehicle proprietors do not apply in advance and as you will no doubt appreciate this can cause issues with appointments for those drivers who have not taken advantage of applying early to renew their vehicle licence.

Due to the Covid Pandemic, the licensing service had to act quickly to enable the trade to submit applications for vehicles/operators and drivers, therefore the trade can make online applications whenever they are able to and upload documentation that is required for consideration by the Council. One of the Council's priorities is to embrace digitalisation of services, therefore the online service supports this priority.

Over the years the policies and procedures have been reviewed and implemented, but what we need to remember is that the policies and procedures of the Council are put in place to protect both the licensed drivers and passengers travelling in licensed Hackney Carriage and Private Hire vehicles in Bury.

2. Issues regarding Bradley Fold MOT station and problems encountered with staff behaviour that have been the subject of complaints made and a signed petition, but no action has been taken. In addition, concerns about following VOSA

guideline on emissions and the failure to provide computer print outs for emission results.

The Head of Public Protection noted that Mr Hussain had previously asked these questions directly to the manager at Bradley Fold and had already received a response.

He went on to advise that the DVSA guidelines state the following in relation to Hackney Carriages and Private Hire Vehicles: -

Taxis and private hire vehicles that are licensed by certain Authorities do not need to have an MOT certificate. This applies only where the Authorities are certified by the Secretary of State as empowered to issue their own exemption certificates. Exemption certificates cannot be issued until the relevant vehicle has been tested by or on behalf of the Authority to standards that at least equal those for MOT tests. When a taxi or private hire vehicle ceases to be licensed, its owner must obtain a normal MOT certificate; the vehicle must not continue to be use on the strength of an exemption certificate, even if not yet expired.

Such Authorities may, if they see fit, impose test methods, items or standards that exceed the MOT requirements for these vehicles. DVSA has no involvement in setting these higher standards so any appeal against them has to be dealt with by the Authority, not DVSA.

The Head of Public Protection went on to the question raised in relation to Bradley Fold and advised that the Council have authorised the garage to undertake the testing of Hackney carriage and private hire vehicles, but that as he will be aware, the Council have recently conducted a tender process which is currently being evaluated. In respect of the emission issue, the DVSA guidance is being adhered to in accordance to 8.2.2.2 of the DVSA MOT guidance as to reasons for failure, which are as follows:

When the vehicle presented for compliance test and it fails the emission criteria, a copy of the emissions is now being given to the driver. I can confirm that any complaint received from the trade is investigated and a response sent to the complainant.

Members of the public were in attendance at the meeting and submitted the following verbal questions: -

Mr Muhammad Sajjad Warraich from the Private Hire Drivers Association in Bury had a number of questions and explained that he was still not happy with the Licensing Department and the situation regarding booking a vehicle test when there is no choice as to the date or timeslot for the appointment. He also had concerns with the test centre finding more faults after repairs had been fixed.

The Chair reported that the Council was committed to a second testing station and the Head of Public Protection reported that the online application and the process for booking system is being looked at with a view to providing online booking at a future date. In relation to the issue of testing, he advised that there is manual to follow for inspectors, they had regular training and quality control checks were undertaken. Mr Warriach commented that there was an instance where the tester

could not read the plates and mileage on a vehicle. The Chair added if you come across anything of concern in relation to vehicle testing then please inform the Licensing Department with full details so investigations could take place.

Mr Sharif then asked a question regarding common minimum licensing standards, which he felt were targeted towards the taxi trade and he queried why pubs, clubs and other licensed premises were not subject to similar requirements. He asked whether the standards could be reconsidered.

The Head of Public Protection advised that the minimum licensing standards only apply to licensed vehicles (hackneys carriage vehicles and private hire vehicles) and he reported that the work undertaken on these standards was aimed at ensuring consistency and to produce higher standards across all the Greater Manchester authorities and also that engagement had been conducted with the trade.

The Chair, having obtained advice from the Council Solicitor, stated that the licensing legislation and regimes differ for pubs and clubs and so therefore there is a different approach.

The Assistant Director of Operations Strategy reported that information would be released to the media and the taxi trade in relation to the clean air zone in the next few days. There was new evidence as to issues with the supply chain for vehicles and questions were being asked as to whether the financial support package from central Government was sufficient and for a review to take place which may provide greater financial support and a request is to be made for the clean air funding window for vehicles to be paused.

Mr Amir Abdin from the Private Hire Drivers Association commented on the issues of safety of drivers and stated that vehicles are targeted due to excessive signage. He stated that taxis from Burnley and Rochdale hardly have any signs and called for a consideration of a reduction.

The Chair reported that the common minimum standards would reduce the number of signs although the final decision on this had been deferred for 2 years. She advised that the Council, GMP and the trade would all work together to improve driver safety and it was stressed that there was a need to report any incidents to the police no matter how big or small. The Head of Public Protection added he would commit to Council officers attending trade meetings in relation to this matter.

Mr Sharif further commented on this matter and noted there may be a shortage of drivers. The Chair advised that she hoped she had already provided reassurance that this would be looked at and as being taken seriously.

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:

COMPLIANCE/ENFORCEMENT

The Licensing Service have dealt with compliance and enforcement matters on a number of occasions between the 6th and 19th December and these details were included in the report attached to the agenda packs.

SECOND TESTING STATION

The Licensing Service have been working with the Council's Procurement Section in respect of a concession to provide a second testing station for the testing of Hackney Carriage and Private Hire vehicles. The opportunity closed at 12 noon on 22 December 2021.

THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENTRY TO VENUES AND EVENTS) (ENGLAND) REGULATIONS 2021

The Health Protection (Coronavirus, Restrictions) (Entry to Venues and Events) (England) Regulations 2021 came into force on the 15th December 2021 and provide new legal requirements for;

- All nightclubs
- any other venue that is open between 1am-5am with alcohol, music and dancing.

The Regulations have provided a new legal requirement for venues (as detailed above) and events to check that all visitors aged 18 years or over are either:-

- fully vaccinated (currently a full course of vaccination without the need for a booster, but this will be kept under review), OR
- have proof of a negative test in the last 48 hours, OR
- they have a legal exemption.

This means to gain entry into these venues or be inside a venue between 1am – 5am anyone aged 18 years or over must

- show their NHS COVID Pass, or
- show alternative documented proof of a negative test result, such as an email or text proof (from NHS England). A physical lateral flow test kit must not be accepted – the person who undertook the test must upload the result to the NHS England website who will then issue the individual with a text or email notification.

Letters and emails have been sent out to those premises licensed for the sale of alcohol after 1am to inform them of these new regulations.

Members asked when the implementation date was for the second testing station and would it go ahead with a drop in licensed vehicles which could impact upon revenue. The Assistant Director of Operations Strategy reported that they were finalising the evaluation process and the timeline was to award a contract for the start of April this year. The Head of Public Protection confirmed the second station would go ahead and there had been applications submitted before the deadline. Revenue issues would be looked at if there were any issues or concerns.

A Member of the Committee asked about viewing historic revenue figures and the Chair stated this information would be available for the Councillor to view via available past Council budget papers. The Chair advised that other comments

made were not relevant to the report on the agenda and should be dealt with outside of the Committee meeting.

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 APPLICATION TO GRANT A HACKNEY CARRIAGE VEHICLE LICENCE CONTRARY TO COUNCIL POLICY DEFERRED FROM 16 DECEMBER 2021

The Executive Director (Operations) submitted a report relating to an application for the grant of a hackney carriage license. The Applicant was not in attendance at the meeting.

The Applicant's representative, Mr Charles Oakes requested the application be considered in the absence of the Applicant who was suffering with ill health.

The Head of Public Protection reported that prior to February 2006, Hackney Carriage vehicles over 10 years old were not licensed by Bury Council unless the vehicle was in 'exceptional condition'. On the 2 February 2006, following a request from the Hackney Carriage Association, the Licensing and Safety Panel reviewed the 'exceptional condition' criteria and resolved to allow vehicles to be licensed beyond 10 years of age subject to the vehicle passing requisite inspections with no more than 5 faults being identified ('the 5 fault rule'). The Council's Policy in relation to Hackney Carriages has been reviewed on a number of occasions since this date and on the 27 July 2017, the Licensing and Safety Panel considered a report following a request from the Hackney Carriage Association that the Council consider a 15 year age policy and to review whether the 5 fault rule or the exceptional condition criteria should apply to all hackney carriage vehicles over 10 years of age. Members resolved unanimously to continue with the policy in relation to Hackney Carriage vehicles over 10 years old in that the vehicles would continue to be subject to the 5 fault rule.

The Head of Public Protection also reported that the decision on the 24 November 2021, of Council to adopt the minimum licensing standards, had no impact on this application as it was received before that date.

In relation to the vehicle application in question, it was reported that, Bury Council has licensed the vehicle in question, as a hackney carriage since the 3rd May 2007. On the 12th July 2021, the vehicle was transferred to the Applicant, a licensed hackney carriage driver. The vehicle licence expired on the 18th November 2021.

On the 15 November 2021, the Applicant contacted the Licensing Service to advise that due to the age of the vehicle from date of first registration, he was unable to make an online application to renew his vehicle licence. This was due to the online application process configured so as to not allow vehicles that were over the age policy to make online applications.

Following the notification from the Applicant, a member of the Council's Licensing Team sent an email to him the same day containing the application form for him to make a renewal application for this vehicle

The Licensing Service did not receive the renewal application from the Applicant until the 21st November 2021 which was after his vehicle licence expired. In light of the difficulties that the Applicant had experienced the Licensing Service agreed to treat the application as a renewal application even though the vehicle licence has expired.

On the 24th November 2021, the vehicle underwent a test at the Council's test centre at Bradley Fold and failed the test with 16 faults, 9 of which were MOT faults. Due to the fact that the vehicle is now over 10 years old from the date of first registration and the number of identified faults (copy attached at appendix 2 in the agenda pack), the Council's policy in terms of applying the 5 fault rule to this vehicle prevents the Licensing Service from renewing the vehicle licence under delegated authority when it expires.

There were no questions from the Committee or Mr Oakes.

Mr Oakes explained that the Applicant is ill and reported that the Applicant had only one day to prepare the vehicle previously for testing and felt this had been unreasonable. He advised that although the Applicant was not well, if the vehicle licence was granted, it would be repaired and if it met standards it may be able to provide some income by being rented to another driver. He therefore asked for the licence to be granted, as he is in a desperate situation.

Members raised concerns as to the costs of the repairs and that the cost may not be much different to buying a newer vehicle. This was acknowledged by Mr Oakes, who reiterated the Applicant's position in summing up.

Delegated decision:

The Committee carefully considered the report, and oral representations by the Applicant's representative and whilst it noted the poor condition of the vehicle, it also noted that it was for the Applicant to ensure the vehicle met the required standard and it therefore resolved, to grant the application subject to the vehicle being presented once for test within 6 months time and passing that vehicle test, to the required standard.

LICENCES

Licence Holder 31/2021

The Executive Director (Operations) submitted a report relating to Licence Holder 31/2021 who was in attendance at the meeting. 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 and presented by the Head of Public Protection, set out the reasons for the Licence Holder being before the Committee.

The report stated that the Licence Holder had held a private hire driver's licence continually since 4th July 2003 and that on the 24th November 2021 he had emailed the Licensing Service to give notification of a speeding offence on 2nd July 2021 for which he had received 3 penalty points and a fine of £100. The Licensing Service had no record of this offence and it had not previously been notified to the Licensing Department in accordance with the requirement within the conditions on his licence that such matters should be notified in writing within 7 days.

This Licence Holder was subsequently contacted by a Licensing Officer, and he explained the background to the offence which was detailed in the report attached to the agenda.

The Licence Holder apologised and explained at the meeting that he had been in the taxi trade for a number of years and thought he only need to notify the Licensing service when he renewed his licence.

Upon questioning by Officers and Members he explained that a friend had mentioned that the Council must be informed of any convictions and he needed the licence as he was the sole provider for his household. The Licence Holder confirmed he would re-read the conditions on the back of his licence.

Delegated decision:

The Committee carefully considered the report, and oral representations by the Licence Holder.

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 take no action against the Licence Holder and reminded him of his responsibility for declaring future convictions within the timescales printed on the licence.

LSP.10 APPLICATIONS FOR THE GRANT/ RENEWAL OF PRIVATE HIRE DRIVER LICENCES

Licence Holder 32/2021

The Executive Director (Operations) submitted a report relating to applicant 16/2021 who was in attendance at the meeting. 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

applicant and presented by the Head of Public Protection, set out the reasons for the applicant being before the Committee.

The report stated that the Applicant had held a Private driver's licence continuously since 12th November 2015 until its expiry on 11th November 2021.

The Applicant emailed the Licensing Service on 28th October to declare a speeding conviction on 31st May 2021, for which he received 3 penalty points and a fine of £100. This conviction had not previously been declared to the Licensing Service.

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 as a new Applicant the matter had therefore been referred to the Committee.

This Applicant has been contacted by the Deputy Licensing Officer for an explanation. The Applicant explained that he was caught by a speed camera. When asked why he had failed to declare the conviction he stated that he was not aware that he had to, then he was told about reporting convictions and on hearing that he did so immediately. The communication from the Applicant was attached at Appendix 1 in the agenda pack.

The Applicant stated to the Committee that he was very sorry and was not very good with email communication and had requested a telephone discussion with the service. He stated he had forgot to report the offence but had provided details on the application form. This was the first time in over 30 years that he had received any penalty points and would have liked the case decided before Christmas.

The Head of Public Protection asked if the Applicant had read the conditions on the back of the licence and he stated he had familiarised himself with them over the last couple of months.

Delegated decision:

The Committee carefully considered the report, and oral representations by the Applicant.

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 grant the application for a three year period. The Chair informed the Applicant to report any licence breaches if they occur in the future within the required timescale.

Licence Holder 33/2021

The Executive Director (Operations) submitted a report relating to applicant 16/2021 who was in attendance at the meeting accompanied by a representative. 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 Applicant and presented by the Head of Public Protection, set out the reasons for the applicant being before the Committee.

The report stated that the Applicant has held a private hire driver's licence since 6th August 2003. His most recent Private Hire Driver's licence commenced on the 4th October 2017 and expired on the 3rd October 2020. Following the expiry of that drivers licence he submitted an application for the grant of a private hire driver's licence on the 9th October 2020. Upon examination of that application, it became apparent that he had failed to disclose a motoring conviction and consequently breached condition 13 of his private hire drivers licence.

The Application was therefore brought before the Licensing and Safety Panel in November 2020 and it was refused. The report from that hearing and subsequent decision notice were included in Appendix 1 of the agenda pack. The Applicant appealed the decision but subsequently withdrew it.

On the 21st November 2021 the Applicant submitted an online application for the grant of a private hire driver's licence. The Licensing Service is unable to process the application due to the previous refusal to grant in November 2020.

The Applicant stated to the Committee that he had held a licence for 17 years and there had been no issues until those outlined in the report. He advised that he was suffering from financial difficulties and would like to hold a licence again to provide income for his family. The Applicant's representative provided some background information on how the financial impact was affecting the Applicant personally.

In response to questions from the Committee as to assurances for the future and his conduct, the Applicant confirmed he had learnt a lesson.

Delegated decision:

The Committee carefully considered the report, and oral representations by the Applicant and his representative.

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 grant the application for a period of 12 months.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 7.00pm and ended at 9.45pm)