

**Minutes of: LICENSING AND SAFETY COMMITTEE**

**Date of Meeting:** 20 April 2022

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

**Also in attendance:** L Jones – Licensing  
M Cunliffe – Democratic Services  
B Thomson- Head of Public Protection  
J Witkowski – Council Solicitor

**Public Attendance:** 8 members of the public were present at the meeting.

**Apologies for Absence:** Councillor J Lewis

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**LSP.1 APOLOGIES FOR ABSENCE**

Councillor J Lewis.

**LSP.2 DECLARATIONS OF INTEREST**

Councillor J 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 24<sup>th</sup> March 2022 be approved as a correct record and signed by the Chair.

**LSP.4 PUBLIC QUESTION TIME**

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 asked about the situation where a licenced vehicle in Bury was involved in a road traffic collision causing damage to the vehicle and if that vehicle was not fixed in a certain timescale the driver loses the licenced plate and he enquired if more time of 3 to 4 months be granted.

In response to the question, the Licensing Officer confirmed the legislation stated 2 months before the licence was revoked.

**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:

The Licensing Service had dealt with a number of compliance and enforcement matters between the 7<sup>th</sup> March 2022 and the 3<sup>rd</sup> April 2022.

#### PARTNERSHIP WORKING

Licensing Enforcement Officers had worked alongside Trading Standards Officers, GMP and a tobacco dog on a multi-agency day on Wednesday the 23<sup>rd</sup> March. 8 shops across the borough were visited and in 3 stores licensed for the sale of alcohol, illicit cigarettes and tobacco were found. This was seized from stores in Ainsworth, Radcliffe along with Tottington and totalled £5000 worth of illegal cigarettes and tobacco.

On Thursday the 24<sup>th</sup> March Licensing Enforcement Officers and Trading Standards Officers visited a licensed scrap yard as part of a GMP Operation. The site was found to no longer be licensed due to the site manager having left and been replaced by a new owner without this being notified to the Licensing Section. A closure notice was served so that no further business could take place until the licence is in order.

#### SECOND TESTING STATION

The contract for the second testing station commenced on the 1<sup>st</sup> April 2022. Application forms were live on the Council's website and information about how to book with either garage had also been uploaded. An email has been sent to all vehicle owners to communicate this information.

#### TAX CHECKS FOR TAXI / PRIVATE HIRE / SCRAP METAL APPLICATIONS

From the 4<sup>th</sup> April 2022 the government would introduce mandatory tax checks through the Finance Act 2021 to confirm that an applicant for any of the licence types below is appropriately registered for tax.

Anyone applying for any of the licenses below must complete a HMRC Tax check and supply the Licensing Section with this code:-

- taxi driver licences
- private hire driver licences
- private hire vehicle operators' licences
- scrap metal site licences
- scrap metal collectors' licences
- renewing a licence
- applying for the same type of licence they previously held, that ceased to be valid less than a year ago
- applying for the same type of licence they already hold with another licensing authority

The Licensing Section must then use the tax check code to confirm that the tax check has taken place before they can proceed with processing an application. This information had been made available on the Council's Licensing webpages.

A member enquired if the second testing station was operating well and it was reported that it was too soon to produce figures.

A member asked if under the counter vaping products and underage sales were investigated along with illegal tobacco and it was reported that this would fall under the remit of Trading Standards and some test purchases for underage sales had been undertaken.

**It was agreed:**

That the report be noted.

**LSP.6 URGENT BUSINESS**

The Chair agreed that the following matter may be considered as a matter of urgency.

The Deputy Licensing Officer reported that three representations had been made in relation to an application for a new premises licence under the Licensing Act 2003, for Northern Social, Bury New Road, Whitefield. The Officer advised that pursuant to that Act and regulations made under it, once the application is advertised, objections and representations can be made within a set period of time. Once that statutory period ends, a hearing must to be arranged and notice provided to all parties within a further set timescale. It was noted that the statutory period for this falls within the period between the local government elections and the annual council meeting when appointments are made to the various committees of the Council. All Members of the Council up for election this year and the Licensing Committee membership will not be confirmed until the meeting at the end of May.

The Officer went on to advise the Committee that under the relevant legislation, time limits can be extended where it is in the public interest to do so and that by reason of special circumstances relating to the local government election and timing of committee appointments, a request was therefore made that the deadline for holding the hearing be extended until the week commencing the 13<sup>th</sup> June 2022. This would also allow for any new Members of the Licensing Committee to receive the appropriate training.

**It was agreed:**

That the premises licence application process be extended until week commencing the 13<sup>th</sup> June 2022.

**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 PRIVATE HIRE VEHICLE LICENCE CONTRARY TO**

## **CURRENT POLICY**

The Executive Director (Operations) submitted a report relating to an application for the grant of a private hire vehicle licence contrary to current Council policy.

The Applicant and his representative, Mr Muhammad Sajjad Warraich were 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 Deputy Licensing Officer, set out the reasons for the application being before the Committee.

The Deputy Licensing Officer reported that Members would recall a report relating to Stage 2 of the Common Minimum Licensing Standards (Vehicles) that was considered by this Committee on the 11<sup>th</sup> November 2021 and Full Council on the 24<sup>th</sup> November 2021. Members resolved to implement the Lead Officers recommendations in the report for vehicle standard 9 (Vehicle Design) which stated the following:-

‘Remaining glass or rear side windows (excluding the rear window) allow manufacturer’s tint to a minimum of 20% light transmission.’

Following the introduction of this standard the Licensing Service wrote to all licence holders informing them of the new changes that had been implemented and gave the link to the Council’s website to enable licence holders to view the changes.

The Licensing Service received an application from the Applicant to licence a private hire vehicle on the 21<sup>st</sup> March 2022. The details of the vehicle to be licensed along with the application form was attached at Appendix 1 of the agenda pack.

On the 23<sup>rd</sup> March 2022, the vehicle was presented at the Council’s testing station at Bradley Fold. The Council’s vehicle mechanic as part of the compliance test, checked the window tint on the vehicle to ascertain whether it was compliant with the Council’s Policy. It was found that the light transmission on the tinted windows was 10.3%. Attached at Appendix 2 of the agenda pack is a statement from the mechanic who undertook the vehicle compliance test.

Due to the vehicle’s windows not complying with the Councils Policy, the vehicle failed the compliance test. The Applicant therefore emailed the Licensing Service and stated that he wished for further consideration of his application as he believed that there are other vehicles licensed by Bury Council which have identical privacy glass. He stated that he has been told that the policy changed in November but stated that he didn’t receive the email regarding the changes. He went on to state that he had spoken to Mercedes about replacement glass but the only one they can provide is the privacy glass and if he is to change to other glass the Mercedes warranty is void. He stated that he has the invoice for the optional extras that were added when the vehicle was first ordered and has paid £25,000 for the vehicle and now would not be able to work.

During the meeting, the Applicant made reiterated his position regarding the glass. Members of the Committee clarified the position regarding current licenced vehicles operating with similar glass and it was confirmed that these would fail the tint meter

test when they undertook their next test. It was also asked as to how a buyer would know the level of tint and the Committee was advised it would be in the specification or enquiries could be made of the manufacturer.

Mr Warraich on behalf of the Applicant advised the Committee that the glass in the vehicle is manufacturers privacy glass and the removal of this would also increase the insurance premium and may result in reduced safety as the same standard of glass may not be used.

Members questioned if the glass was an optional extra on the vehicle and the Applicant stated he had paperwork from the dealership to prove it was a standard fitting on the vehicle. The Chair also enquired if the Applicant had seen or read the emails sent from the Licensing Department about changes to the common minimum standards and pointed out that there had been a full consultation and all trade representatives had been informed of the changes, but the Applicant could not recall the email.

Mr Warraich in summing up again commented that if the privacy glass was replaced the insurance premium would increase due to vehicle modification and thinks it would compromise the safety of the vehicle along with the considerable costs for the Applicant. He felt this was a special circumstance and said the trade did update the new rules on social media.

**Delegated decision:**

The Committee carefully considered the report, and oral representations by the Applicant and his representative and after giving due consideration to the application the Committee resolved, **to refuse to grant** the vehicle licence application.

The reasons for the Committee's decision were as follows:

- The reasons behind the introduction of the standard were to ensure that;
  - all licensed drivers and vehicles could be properly monitored by the police and enforcement officer and this was hampered by tints below 20% light transmission
  - public safety including for vulnerable people who may feel unsafe in a vehicle that they could not be seen in and which may appear dark inside
- The vehicle was purchased 4 months after the minimum licensing standards were introduced
- Minimum licensing standards had undergone extensive consultation with the taxi trade prior to introduction, had been the subject of a number of reports to Licensing Committee and then to the Council over many months and also individual emails had been sent to all current holders of vehicle licenses including the Applicant vehicle.
- It was the Applicants responsibility to ensure his vehicle meets the required standards

- The Licensing Service would have provided advice if asked for it.

## **LSP.9 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVER LICENCES**

### **Licence Holder 38/2021**

The Executive Director (Operations) submitted a report relating to Applicant 38/2021 who was in attendance at the meeting along with 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 Applicant and presented by the Deputy Licensing Officer, set out the reasons for the Applicant being before the Committee.

The report stated that the Applicant had previously held a Private driver's licence from the 26<sup>th</sup> December 2017 until its expiry on the 25<sup>th</sup> September 2020. The Applicant submitted an online application for a new private hire drivers licence on 7 March 2022. As part of the application the applicant provided a copy of his DVLA driving licence which detailed a conviction on 4<sup>th</sup> April 2020 for using a vehicle without insurance for which he was fined £300 and received 6 penalty points. This conviction had not be declared during the period of his previous licence

The Applicant explained that he was living in London and working as a parcel delivery driver at the time of the offence and had purchased a van which he had mistakenly believed was insured in that his insurance policy started at midday. When stopped by the police, he was advised that it started at midnight. Consequently, he was without insurance when driving the vehicle in the afternoon. He explained that the vehicle was not seized but he did receive a roadside fixed penalty notice. The communication from the Applicant was attached at Appendix 1 in the agenda pack.

The Applicant apologised for the mistake and stated that a family friend had made calls to the insurance company on his behalf to set up his insurance cover and had then provided him with the wrong information. The Applicant's relative then stated that the Applicant had undergone some family problems which resulted him having to work in another part of the country and as a result this one off situation occurred.

### **Delegated decision:**

The Committee carefully considered the report, and oral representations by the Applicant and family member, noting that the Applicant had been open and honest about the conviction, declaring it at the first opportunity. He had shown remorse for his actions and the Committee also noted that this was an understandable error.

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.

## **LSP.10 SUSPENSION/REVOCAION OF PUBLIC/PRIVATE HIRE DRIVER LICENCES**

### **Licence Holder 36/2021**

The Executive Director (Operations) submitted a report relating to Licence Holder 36/2021 who was in attendance at the meeting alongside his representative Mr Oakes.

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 Deputy Licensing Officer, 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 the 19<sup>th</sup> May 2012. His most recent licence commenced on the 20<sup>th</sup> May 2021 and is due to expire on the 19<sup>th</sup> May 2022.

The report went on to state that the Licensing Service had received a complaint from a member of the public which included a video file taken from their dashcam. This footage had been circulated for Members of the Licensing Committee to view and the verbatim complaint from the road user was included in the agenda pack.

From the footage supplied by the complainant, showed a licensed vehicle mounting the pavement and undertaking at least 2 vehicles on a main road. The Licensing Service was able to identify the vehicle and subsequently the driver of that vehicle. It was confirmed by the Private Hire Operator, that this Licence Holder had been driving the vehicle in question at the time the footage was recorded. A still image of the video incident was included in Appendix 1 of the report.

This Licence Holder was subsequently interviewed by Enforcement Officers from the Licensing Service. He attended the interview with his representative and upon viewing the dashcam footage, accepted immediately that he had been the driver of the licensed vehicle in question. He explained that he had been desperate for the toilet which was brought on by his tablet-controlled diabetes. This Licence Holder subsequently supplied medical documents and the excerpts detailing diabetes were included in Appendix 2 of the agenda pack.

The Licence Holder through his representative explained that he was heading towards a car wash on Bolton Road where he intended to use the toilet. He was unable to explain why he had not used the facilities at two petrol stations which he would have driven past on his way from Summerseat. It was stated that he had not been carrying passengers at the time and has supplied documentation from his operator confirming he had been on a break prior to the incident (This was detailed in Appendix 3 of the agenda pack). It was pointed out to him that he would not have been able to see pedestrians on the pavement and would not have seen or have been seen by road users potentially travelling on the concealed exit of Woodhill Road on his left. The Licence Holder stated that he knew his actions were wrong and had been very apologetic whilst accepting that his actions could have potentially endangered the public. It was again reiterated that his actions were due to his need to go to the toilet.

The Licence Holder's representative confirmed acceptance that the driving was not up to standard and had put people at risk, but that the Licence Holder's medical condition was a factor for the incident. It was stated that the Licence Holder was lucky there was no one on the pavement and unlucky to have been caught on the dashcam. It was noted that there are no previous complaints reported against the Licence Holder and an apology was submitted and a request for a short suspension rather than revoke of the licence was mentioned.

Members queried why a number of venues with toilet facilities were not utilised which were closer to where the Licence Holder was heading. The Licence Holder thought he was not allowed to use the toilet at some of the locations mentioned by Members and that he usually works in a different area to the one where the incident occurred. He indicated that the need to go to the toilet happens often but that he usually near to a supermarket where he can use the facilities. Members also questioned the speed the Licence Holder was travelling at and he indicated around 20 miles per hour.

The Chair questioned the Licence Holder on the driving incident and the fact that he would not have been able to see pedestrians or vehicles exiting the side street adjacent to where the van was turning off the main road due to a blind spot and sightlines. This was noted by the Licence Holder and he apologised for his actions.

**Delegated decision:**

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

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 **revoke the licence with immediate effect.**

The reasons for the Committee's decision were as follows:

- The actions of the Licence Holder were extremely serious and could have resulted in the death or personal injury to pedestrians and other road users
- Public safety is paramount for a driver of any vehicle and the actions of the Licence Holder showed a disregard for pedestrians and other road users
- The standard of driving was dangerous and reckless driving, and not that expected of a licensed driver in Bury Council
- The Licence Holder showed no real understanding or remorse for his actions and the danger he placed pedestrians and other road users in
- The medical reasons provided by the Licence Holder did not provide a sufficient explanation or justification for the dangerous actions of the Licence Holder
- The explanation for the non-use of other nearby restroom facilities was not accepted as a reasonable explanation based upon the danger and lack on concern for public safety demonstrated by the action of the non-use of other nearby restroom facilities
- As a professional driver, the Licence Holders medical condition should have been better and more appropriately managed by planning and the use of regular breaks, and in the interests of public safety

- There were no assurances given that this had not happened on previous occasions or that it would not happen again in the future, or any proposals as to how the Licence Holder would act differently so as to ensure public safety at all times.

### **Licence Holder 39/2021**

The Executive Director (Operations) submitted a report relating to Licence Holder 39/2021 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 Licensing Manager, 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 the 14<sup>th</sup> August 2013 until its expiry on the 20<sup>th</sup> March 2022. Upon submitting an application to renew a private hire drivers' licence on the 1<sup>st</sup> March 2022, the Applicant selected no when asked "Do you have any convictions, fines or formal cautions?" and 'no' when asked "Have you been issued with any fixed Penalty notices." A subsequent check of this Applicants DVLA driving licence indicated that they had been convicted on 15 September 2021 for exceeding the speed limit on a motorway, for which he was fined £100 and his licence endorsed with 3 penalty points.

The Licensing Service had no record of this offence and consequently, it was not declared within the correct time frame as stipulated in the private hire drivers licence conditions.

This Licence Holder was subsequently contacted by a Licensing Officer, and they explained the background to the offence which was detailed in appendix 1 of the report attached to the agenda pack.

The Licence Holder apologised to the Committee and explained that the type of work they undertake was more a chauffeur service than regular taxi. They had very high standards and undertake work for high profile VIP's. On this occasion the journey was in relation to the transportation of Covid testing and there were time implications involved. The Licence Holder explained that due to having to complete the application form at home around a busy family life and having a disabled child, they forgot about the offence and 'no' was selected in relation any offences.

The Licence Holder admitted their error and that this was careless and it was a genuine mistake after 33 years of holding a clean driving licence. They stated they were extremely sorry.

The Committee reminded the Licence Holder of the email sent by the Licensing Department in relation to declaring conditions. The Licence Holder accepted they had probably received the email but had again forgotten about its contents.

### **Delegated decision:**

The Committee carefully considered the report, and oral representations by the Licence Holder. The Committee noted the record of the Licence Holder and how long they had held a licence without having any complaints or convictions. However they noted that recent date of the offence should have acted as a reminder to disclose the conviction to 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 admonish the licensee** as to future conduct via a written letter.

*At the close of the meeting, the Chair thanked Officers and Members for their valued contribution and help with the Licensing and Safety Committee throughout the municipal year 2021-2022. She also made special mention to those Members who would not be re-standing at the upcoming elections and stepping down from their duties as elected Members.*

**COUNCILLOR S WALMSLEY**

**Chair**

**(Note: The meeting started at 7.00pm and ended at 9.03pm)**