

AGENDA FOR LICENSING AND SAFETY COMMITTEE



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To: All Members of Licensing and Safety Committee

Councillors : S Walmsley (Chair), R Brown, N Boroda,
S Donnelly, J Grimshaw, K Hussain, G Marsden, G McGill,
I Rizvi, J Rydeheard and M Walsh

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, 1 September 2022
Place:	Council Chamber, Bury Town Hall
Time:	7.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

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

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

The minutes of the meeting held on the 14th July 2022 are attached. Members of the Licensing and 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 OPERATIONAL REPORT *(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 APPLICATION TO GRANT A PRIVATE HIRE VEHICLE LICENCE CONTRARY TO CURRENT POLICY *(Pages 19 - 38)*

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

Minutes of: LICENSING AND SAFETY COMMITTEE

Date of Meeting: 14 July 2022

Present: Councillor S Walmsley (in the Chair)
Councillors R Brown, N Boroda, S Donnelly, K Hussain,
G Marsden, G McGill, I Rizvi, J Rydeheard and M Smith

Also in attendance: M Bridge- Licensing Unit Manager
M Cunliffe – Democratic Services
A Green – Council Solicitor
B Thomson- Head of Public Protection

Public Attendance: 6 members of the public were present at the meeting.

Apologies for Absence: Councillor J Grimshaw

LSP.1 APOLOGIES FOR ABSENCE

Councillor J Grimshaw.

LSP.2 DECLARATIONS OF INTEREST

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

Councillor Brown also declared an interest that in his employment he had worked with taxi drivers on cases in court but none of these were licensed via Bury Council.

Councillor Khalid declared he was a local magistrate and appeal cases may be heard in court.

LSP.3 MINUTES OF PREVIOUS MEETING

Delegated decision:

That the Minutes of the last meeting held on the 9th June 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 although no questions had been pre submitted or were verbally asked at 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:

The Licensing Service had dealt with a number of compliance and enforcement matters between the 16th May and the 3rd July 2022.

PARKLIFE

Officers from the Public Protection Service worked during the weekend of the Parklife concert that took place on the weekend of the 11th and 12th June 2022. Officers dealt with matters relating to:

- Unlicensed Taxi's
- Illegal Street Trading
- Pedlars
- Hackney Carriage and Private Hire Trade enforcement
- Assistance of residents surrounding the event relating to taxis, noise and street trading
- Visited and checked all licensed premises in the vicinity of the event for compliance including off licences.
- Intelligence gathering on the event and reported matters to the Community Impact team.
- Officers were accompanied by Councillors O'Brien, Quinn and Gold during parts of the event.

BURY HACKNEY ASSOCIATION

Correspondence of thanks had been received by Bury Hackney Association following Park Life and was detailed in the report. The Public Protection Service had also received correspondence from Councillors and the organisers of the event, thanking the service for the work that they had undertaken.

TRADE LIAISON MEETING

On the 16th June 2022, a joint trade liaison meeting (Licensing/Police and the Hackney carriage and Private hire trade) took place. Discussions took place on a number of issues relating to:

- Reporting of any incidents to Greater Manchester Police
- Praise was given for the work carried out by the Police, Licensing Officers and other officers of the Council.
- Application submission times – can apply up to 8 weeks in advance
- Driver Safety Initiative
- Update on EV Charge Points – Clean Air
- Wheelchair Accessible vehicles – Fiat Freedom/Peugeot Premier.
- Common Minimum Licensing Standards
- Compliance Test Certification

The Licensing Service are in the process of developing a webpage on the Council's Website to enable the minutes of the trade liaison meetings can be published to enable all the hackney carriage and private hire trade to view the minutes

IMMEDIATE REVOCATION OF A PRIVATE HIRE DRIVER

The Licensing Service have recently received a complaint regarding a Private Hire Driver. Due to the nature of the information received, the Licensing Service in conjunction with the Head of Public Protection and Chair of this Committee considered the information and through the Council's scheme of delegation on the 23 June 2022 revoked a licensed private hire driver's licence with immediate effect under the powers of the Road Safety Act 2006 in the interests of public safety.

ENGAGEMENT WITH HACKNEY CARRIAGE AND PRIVATE HIRE TRADE

Following the recent request from the Licensing and Safety Committee to remind all drivers regarding the declaring of convictions/fixed penalties, the Licensing Service sent information on the 1st July 2022 to all licensed drivers, operators and Trade representatives which was contained in the report.

TAXI DRIVER SAFETY INITIATIVE

The Licensing Service have contacted all licensed hackney carriage and private hire drivers to inform them of a six-week consultation (28 June until 9 August 2022) relating to a boroughwide (Licensed) Driver Safety Initiative. The consultation is being carried out to provide Licensed Drivers in Bury the opportunity to contribute their views and opinions on their own safety as a licensed driver in Bury. All responses obtained through the consultation will be used to contribute to the development and implementation of this new safety initiative. Licensed Drivers in Bury have been encouraged to take part in the consultation to ensure their concerns are addressed and appropriate crime reduction advice, guidance and control measures are included and considered.

Councillor McGill asked once the webpage was live detailing the trade liaison meetings could this be communicated and the Chair requested that the link be circulated to all Members of the Committee along with information on how to access the taxi driver safety initiative.

Councillor Rizvi sought clarity on unlicensed vehicles at the Parklife event and who was responsible. The Licensing Unit Manager reported that the Council only had enforcement powers on Bury Licensed vehicles and the Head of Public Protection added details would be noted of private hire vehicles plying for hire and sent to the relevant authority that vehicle was licensed to.

Councillor Donnelly asked if it was a requirement for a reply to the driver safety consultation and it was reported it was not and over 1,000 individual emails had been sent out.

The Chair on behalf of the Committee, Councillors, the taxi trade and general public thanked the Licensing Department Officers for their hard work over the weekend the Parklife festival took place.

It was agreed:

That the report be noted.

LSP.6 REQUEST FOR HACKNEY CARRIAGE FARE INCREASE

The Executive Director (Operations) submitted a report advising Members to a request from the Hackney Carriage Drivers Association to request a review of the Hackney Carriage Fare Table.

Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 allows a district Council to fix the rates or fares within the local authority for Hackney Carriage Vehicles by the production of a table of fares.

The Act requires the council to advertise a notice in a local newspaper for 14 days any proposal to change Hackney Carriage fares and the production of a table of fares to allow any objections to be made. If no objections are received the Table of Fares shall come into effect after the 14-day notice period.

If any objection is received a further date has to be set, not later than 2 months after the first specified date, on which the Table of Fares shall come into force with or without modifications as decided by them after consideration of the objections.

The Licensing Service had received a request from Hackney Carriage Association to increase the Hackney Carriage Fare Table within the Borough of Bury. This was last revised in 2020. The requested was included at Appendix 1 of the report. They confirm that the percentage, according to our calculations on second mile total figure, comes, 13.11%

The current Fare Table came into operation in 2020 a copy of which was attached at appendix 2 of the report. The proposed fare table was attached at appendix 3 of the report.

Mr Hussain from the Hackney Carriage Association was allowed by the Chair to speak on this item and he commented via the public gallery that the proposed increase was requested due to current fuel prices and inflation rates across the board.

Councillor Brown commented if the Hackney Carriage Association had taken note of bus journey subsidies and this would reduce the cost of bus fares between Bury and Tottington.

It was agreed:

To approve the review of the Hackney Carriage Fare Table and if no objections are received during the review process to implement the request. If objections are received, a further report would then be considered by the Licensing and Safety Committee.

LSP.7 A REPORT REQUESTING OFFICER DELEGATIONS

The Executive Director (Operations) submitted a report requesting that the Committee approve further delegation to Officers and to amend Council policy contained within the Council's Conviction Guidelines, the circumstances of which were set out within the report.

The Licensing Unit Manager reported Members are aware that the consideration of driver misdemeanours and new applications form a large percentage of the business brought before the Committee. The Local Government (Miscellaneous Provisions) Act 1976 at section 51 (1) provides that in respect of private hire drivers:-

A district council shall not grant a licence to drive a private hire vehicle:

- unless they are satisfied that the applicant is fit and proper to hold a driver licence. And similarly, Section 59 (1) provides that in respect of Hackney Carriage drivers:

A district Council shall not grant a licence to drive a hackney carriage:

- unless they are satisfied that the applicant is fit and proper to hold a driver licence.

At present, the Council Constitution required that the Licensing and Safety Committee determines driver, vehicle and operator licences applications where the applicants do not comply with the relevant criteria or where there are grounds for refusal. Grounds for refusal are often related to a driver's criminal record. Officers in the Council's Licensing Service have delegated authority to grant applications for private hire driver and operator licences and hackney carriage driver licences where the applicant meets all the criteria of the application process and there are no grounds for refusal on the fit and proper person test. In using those powers officers utilise the convictions policy and guidelines when determining whether or not an applicant meets the criteria with respect to convictions.

It follows that if there are grounds for refusal the application has to be considered at Committee no matter how unlikely to be granted or how often a repeat application is made. Accepting that each case must be assessed on its own merits this report seeks to identify those applications that could be dealt with other than at Committee, leaving Members to determine those matters which are more finely balanced.

Members were made aware of the Council's current Conviction Guidelines Policy which were last reviewed in December 2014. The current conviction guidelines were stated in the report attached to the agenda and detailed a breach of Conditions, bye-laws and complaints.

Following the request of the Committee to review the failing to declare offences, the Licensing Service requested Members to consider the delegation to licensing Officers the power forthwith to deal with applications where licence holders breach their conditions (including failing to declare offences), byelaws and complaints as currently permitted in line with the conviction guidelines as currently permitted in line with the conviction guidelines.

This would enable the Licensing Service to deal with breaches of all conditions as outlined at section 2.3 of this report unless the guidelines state otherwise but will give them flexibility to refer any matter to this Committee if the breach or complaint is so serious.

All other proposed suspension/ revocation of licensed drivers would continue to be referred to Committee; except those dealt with on immediate public safety grounds through the existing delegation contained in the Council's constitution.

The Licensing Service can report in the Operational Report on how many warnings for breaches of conditions, byelaws and complaints had been issued if delegation was approved.

If Members were minded to agree further officer delegations it was proposed that in circumstances where an applicant meets all the criteria, except those as described in the Council's Policy Guidelines relating to convictions, the Head of Public Protection / Licensing Unit Manager (or other duly authorised officer not below the level of Deputy Licensing Officer) would determine whether or not the application will be granted, refused or referred to the Licensing & Safety Committee subject to the restrictions below.

Additionally, the Licensing Service requested that the Committee consider delegation of the following matters to officers

- To suspend indefinitely any existing driver unable to produce a satisfactory medical report within 4 weeks of it becoming due for renewal until such time that a satisfactory medical report is produced;
- to refuse any similar licence application made within 12 months of a refusal unless there is a substantial and material change in circumstances.

If Members were minded to agree the further officer delegations outlined above, it was proposed in these particular circumstances, the Head of Public Protection / Licensing Unit Manager (or other duly authorised officer not below the level of Deputy Licensing Officer) will determine whether or not the application be refused or Hackney Carriage/Private Hire Drivers Licence will be suspended until a satisfactory medical is received. Where the driver's licence is suspended or the application is refused the Officer will make and retain a written record of the reasoning for the decision to suspend or refuse this will be regarded as the decision of the Council for the purposes of the statutory requirements. Any suspension or refusal of a licence application would be reported to the Licensing and Safety Committee in the Operational Report.

Councillor Khalid requested clarity if 7 days to declare just included working days and had concerns for those licence holders who may have to travel out of the country at short notice following the death of a family member. The Licensing Unit Manager reported that emails could be sent to the service to inform them and an online declaration form was being developed for the website.

Councillor Brown made comments that these types of decisions should be taken by Members on the Committee and not by Council Officers. He added that to save on appeal cases going to the Magistrate Courts and awarding costs against the Council, when Officers refuse and an appeal was made it should come back to this Committee.

It was agreed:

1. To delegate to Licensing Officers the power forthwith to deal with applications where licence holders breach their conditions (including failing to declare offences), byelaws and complaints as currently permitted in line with the conviction guidelines.
2. To delegate to Licensing officers the power to suspend indefinitely any existing driver unable to produce a satisfactory medical report within 4 weeks of it becoming due for renewal until such time that a satisfactory medical report is produced;
3. to delegate to Licensing Officers the power to refuse any similar licence application made within 12 months of a refusal unless there is a substantial and material change in circumstances.

LSP.8 URGENT BUSINESS

No urgent business was reported at the meeting.

LSP.9 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.10 SUSPENSION / REVOCATION OF PRIVATE HIRE DRIVER LICENCE

The Council Solicitor read out a statement to the committee following matters agreed in the previous agenda item. Before hearing the upcoming cases one of the items previously discussed was cases where drivers had breached the conditions of their licence by not declaring motoring convictions and fixed penalty notices within 7 days.

It had been decided previously by the committee that from now on, such cases could be dealt with by Officers rather than being brought before committee.

The officer would be able to deal with them by issuing a warning and all the cases included in the agenda pack fall into this category, and in future could be dealt with by a warning from the officer without coming to committee.

However, as the cases were already before committee contained within the agenda, the committee could still deal with the case now and give a warning which is exactly

how the officer would have dealt with it if it had been before him under the new delegated power

It was agreed:

That the Committee would allow the cases contained in the agenda pack to be dealt with in the same way as the delegated officer would have dealt with them under the new delegated power. This meant that the Licence holders would not be disadvantaged or treated unfairly due to the timing of their cases coming before Committee.

Licence holders were then invited into the meeting and given the option that they could accept a written warning from the Committee which is how the case would have been dealt with under the new delegated powers. The licence holders would not need to address the Committee on the issues of suspension or revocation and the Committee members all confirmed they had read the agenda pack.

Licence holders 4/2022, 5/2022, 6/2022 and 7/2022 all accepted the proposal that a formal written warning be issued by the Committee. Each licence holder was given the opportunity to address the Committee in private but none wished to do so.

It was decided by the Committee that each licence holder would be dealt with by a formal written warning.

Before the close of the meeting, the Chair thanked Councillor Mike Smith for his contributions to the Committee as he was stepping aside to allow more time for his political group work.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 7.00pm and ended at 8.04pm)



Classification	Item No.
Open / Closed	

Meeting:	Licensing & Safety Committee
Meeting date:	1 September 2022
Title of report:	Operational Report
Report by:	Executive Director (Operations)
Decision Type:	N/A Report for information only
Ward(s) to which report relates	N/A

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

Recommendation(s)

That the report be noted.

Key considerations

Not applicable

Community impact/ Contribution to the Bury 2030 Strategy

Equality Impact and considerations:

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

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

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

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

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
None	.

Consultation:

Legal Implications:

Not Applicable

Financial Implications:

Not Applicable

Report Author and Contact Details:

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

Term	Meaning
None	

1.0 **BACKGROUND**

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

2.0 **COMPLIANCE/ENFORCEMENT**

2.1 The Licensing Service have dealt with the following compliance and enforcement matters for the following periods

2.2 **4 – 10 July**

Client

Complaint 2

Enforcement 5

Operator

Complaint 2

Premises

Complaint 3

Compliance 1

Enforcement 4

Intel 1

Vehicle

Compliance 2

Enforcement 5

2.3 **11 – 17 July**

Client

Complaint 3

Enforcement 3

Premises

Advice 2

Complaint 2

Compliance 1

Enforcement 6

Intel 1

Vehicle

Enforcement 6

2.4 **18 – 24 July**

Client

Enforcement 5

Premises

Compliance 3

Enforcement 18

Vehicle

Enforcement 8

2.5 **25 – 31 July**

Client

Complaint 4

Enforcement 5

Intel 1

Premises

Enforcement 5

Vehicle

Complaint 2

Compliance 1

Enforcement 14

2.6 **1 – 7 August**

Client

Complaint 2

Enforcement 2

Operator

Enforcement 2

Premises

Complaint 2

Enforcement 3

Vehicle

Enforcement 9

2.7 **8-14 August**

Client

Complaint 2

Enforcement 2

Premises

Complaint 4

Compliance 2

Enforcement 24

Intel 3

Vehicle

Compliance 4

2.8 **15-21 August**

Client

Complaint 3

Enforcement 5

Premises

Complaint 3

Compliance 1

Enforcement 1

Multi agency 2

Vehicle

Complaint 2

Compliance 1

Enforcement 5

3.0 COMPLIANCE VISIT TO GAMBLING PREMISE

- 3.1 On the 9 July 2022, officers from the Public Protection Service carried out an informal test purchase exercise at a premises licensed under the Gambling Act 2005, children were able to play on category C machines without being challenged. Licensing Officers have issued a warning to the holder of the Licence and have notified the Gambling Commission.

4.0 SCRAP METAL DEALERS APPLICATION

- 4.1 Following a multi-agency operation, a scrap metal premises was visited by Greater Manchester Police and Licensing Officers. Officers were notified that the business had been sold this resulted in officers issuing a closure notice to the new owner. He was advised that a new application would have to be made under the Scrap Metal Dealers Act 2013.
- 4.2 The Licensing Service received an application which resulted in the Council's Authorised Officer (Head of Public Protection) holding a hearing on the 4 July 2022. After consideration of the application, it was determined that the application be refused.

5.0 DELEGATIONS TO OFFICERS

- 5.1 Following the decision of this Committee delegating to officers the power to issue warning letters, as of the 16 August 2022, seven warning letters have been issued following consideration by the Licensing Unit Manager.

6.0 CERTIFICATE OF THANKS

- 6.1 Members will be aware that the Licensing Service issue permits for charitable collections. The Licensing Service have received a Certificate of Special Thanks which was issued on the 11 July 2022 from the Christie organisation for supporting a collector who has been doing this for over 20 years.

7.0 OUTCOME OF APPEAL

- 7.1 Members will recall a matter that was considered in relation to a private hire driver who had his licence revoked with immediate effect due to his driving. The driver appealed the Council's decision to the Magistrates Court. The Magistrates dismissed his appeal and awarded the Council £1200 court costs.

8.0 HACKNEY FARE INCREASE

- 8.1 Members will recall that the proposed Hackney Fare increase was agreed at the last Committee. The advert for the proposed fares was placed in the Bury Times on 28th July and passed through the 14 day representation period without any being received. Therefore implementation of the new fares can now start to take place. It has been arranged for the

Hackney meters to begin being changed on the 6th September. Licensing Enforcement Officers will then test and seal the meters on 13th and 14th September.

9.0 CLEAN AIR UPDATE

- 9.1 Greater Manchester (GM) remains under a legal direction to deliver compliance with legal nitrogen dioxide (NO₂) limits in the shortest possible time and by 2026 at the latest. GM local authorities have submitted the case for a new Greater Manchester Clean Air Plan (GM CAP) to government. A response is expected from government after the new Prime Minister is in place.
- 9.2 The case for a new plan sets out evidence supporting an investment-led approach, with no charging Clean Air Zone, to address the city-region's NO₂ air pollution problem. An investment-led, non-charging GM CAP will aim to encourage upgrade to cleaner vehicles, leading to better air quality, by targeting financial support at category B vehicles, which includes buses, coaches, taxis, PHVs and HGVs. Funding is NOT proposed for vans, LGVs and minibuses (unless a minibus is licensed as a PHV), as these are category C classified vehicles. Private cars, motorbikes and mopeds are not included in Greater Manchester's Clean Air Plans.
- 9.3 Modelling shows that NO₂ exceedances become more localised from 2025 onwards, with breaches only forecast at specific locations in Manchester, Salford and Bury. New opportunities, via the approval of bus franchising and new funding for electric buses, mean GM could directly tackle sources of emissions in a different, more targeted way. Unlike the previous charging category C Clean Air Zone scheme defined by government guidance, the investment-led approach seeks to attend to the cost-of-living crisis, actively considers the ongoing impacts of the pandemic and the global vehicle supply chain.
- 9.4 The next steps while GM waits for feedback from government are that participatory policy development will take place with key stakeholders to develop and shape the new Clean Air Plan Policy, including proposals for funding support, in line with the investment-led, non-charging approach. A public consultation on the new Clean Air Plan proposals will then take place in early 2023, subject to government feedback.

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By virtue of paragraph(s) 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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