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| Minutes of: | LICENSING AND SAFETY PANEL |
| Date of Meeting: | Monday 11 April 2016 |
| Present: | Councillor D Jones (in the Chair), Councillors: P Adams, N Bayley, R Caserta D M Cassidy, J Grimshaw, R Hodgkinson, T Holt, J Kelly, N Parnell, Sarah Southworth, J Walker and M Wiseman |
| Apologies for absence: | - |
| Public Attendance: | There was one member of the Public in attendance |

LSP.855 DECLARATIONS OF INTEREST

There were no declarations of interest raised in relation to any items on the agenda.

LSP.856 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 29 February 2016, be approved as a correct record and signed by the Chair.

LSP.857 PUBLIC QUESTION TIME

There were no Public questions raised under this item.

LSP.858 OPERATIONAL REPORT

The Assistant Director (Localities) submitted a report advising Members on Operational issues within the Licensing Service.

The Licensing Unit Manager informed Members of the following matters in relation to the immediate Suspension/Revocation of Private Hire Drivers' Licences:

- Following two accidents by a Private Hire Driver since granting his Licence on 1 March 2016, it has been agreed with the Chair of Licensing, Councillor Jones, that this Private Hire Driver's badge should be suspended, with immediate effect, until he undertakes and passes a Driver and Vehicle Standards Agency Taxi Standard Driving Test, known as a Hackney and Private Hire Saloon Vehicle Test.
- Following a complaint on 3 March 2016 by a member of Public in relation to a Private Hire Driver's inappropriate conduct, which was subsequently reported to Greater Manchester Police, it was agreed with the Chair of Licensing that this Private Hire Driver's badge should be revoked with immediate effect.

Also included within the Operational Report and in order to keep the members of the Licensing and Safety Panel updated were statistics of the Licensing Service, which incorporated the types of work carried out by the Service.

LSP.859 CONDITIONS RELATING TO A DOG CRECHE

A report by the Assistant Director (Localities) was submitted to the Licensing and Safety Panel in relation to a request from a Licence holder to remove a condition from her Animal Boarding Establishment Licence. The Licensing Unit Manager read the report explaining that the Animal Boarding Establishment Act 1963 is the relevant legislation which relates to the boarding of dogs and cats. The Council has specific conditions which relate to Kennels, Catteries and boarding of animals at domestic premises.

On 12 October 2010, the Licensing and Safety Panel considered and approved Licence conditions relating to dog crèches in order to give more specific control in this growing market. The report is in relation to condition 28 which states 'full males, bitches in season and puppies under six months of age must not be boarded with other dogs'. Bury Council adopted this particular condition in order to ensure the safety of all dogs attending a crèche.

Following a complaint by a member of the public concerning Mrs Carol Plumridge, the holder of the Animal Boarding Establishment Licence in relation to Goody 4 Paws, Whitefield, the Council's Animal health inspector visited the establishment and was made aware that the Licence holder admitted that she had breached condition 28 by accepting a puppy into the crèche which was approximately 12 weeks old. This resulted in a formal warning letter being sent to the Licence holder.

The Licence holder subsequently made a request to the Council's Licensing and Safety Panel that condition 28 is removed from her licence to ensure she continues to operate her business in the way that she desires and will no longer be in breach of this particular condition.

Mrs Plumridge attended the meeting and explained to the members of the Licensing and Safety Panel that no dogs are kept overnight at the Premises, only between the hours of 7 am and 6 pm, therefore the word boarding is not accurate. It was explained that puppies are introduced into the day care in a caring, positive way to ensure a pleasant, rewarding experience through play.

Mrs Plumridge stated that Goody 4 Paws was the first dog day care in North Manchester, opening in 2007 and has not had an injured puppy during that time and only vaccinated dogs are allowed into both day care and training classes. It is a family owned business, with no volunteers or work experience staff, as they feel this could compromise the safety of the dogs in their care if persons without behaviour qualifications were allowed to supervise play.

Mrs Sandra Coombes, Enforcement Officer in Animal Health, then addressed the Panel and explained that following her enquiries and having considered the depth of experience and qualifications that Mrs Plumridge and her family have, she stated that she would have sufficient confidence in her ability to run the establishment without the condition attached and would be happy to advise the Licensing Panel to remove condition 28 from her Licence.

Delegated decision:

It was agreed unanimously by the Licensing and Safety Panel to remove condition 28 from the Licence.

LSP.860 URGENT BUSINESS

There was no urgent business to report.

LSP.861 EXCLUSION OF THE 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.862 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENSES

(E)

The Licensing Unit Manager presented a report submitted by the Assistant Director (Localities) on the proposed suspension/revocation of a Private Hire Driver's Licence.

Licence Holder 15/2016 attended the meeting and was represented by Mr Charles Oakes, Hackney Drivers' Association Ltd. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report, which was accepted by the Licence Holder and Mr Oakes, explaining that on 18 March 2016, the Licensing Service had received a complaint via a Private Hire Operator. This complaint had originated from a member of staff at Greater Manchester West Mental Health Hospital, Prestwich, and related to the Licence Holder's inappropriate conduct whilst transporting a service user and the member of staff in his Private Hire Vehicle on 16 March 2016.

A written statement had been presented to the Licensing and Safety Panel members prior to the meeting from the member of staff, explaining that on 16 March 2016 he had booked a Private Hire Vehicle to take him and a service user from Tesco, Prestwich to the Edenfield Unit at the hospital in Prestwich. During the journey, the Licence Holder made conversation about the weather and then stated that the sun brings all the girls out in their 'naughty clothes'. The Licence Holder also stated that he got a lot of his sexual conquests in summer and records them on his phone in case they cry rape.

When they arrived at the Edenfield Unit, the complainant paid and obtained a receipt with the Licence Holder's number on it. The Licence Holder offered to leave this blank so that a claim for more than the actual journey could be made, which the complainant declined.

When the member of staff subsequently reported the matter to the Private Hire Operator, the Licence Holder's data head was immediately removed from his vehicle so he could no longer work for them.

Mr Oakes explained to the Panel that the Licence Holder had made these comments in jest and hadn't meant what he said. He stated that the

complainant had taken them out of proportion, in a man to man conversation and that the Licence holder has been very worried about this hearing as he needs to provide for his family. Mr Oakes went on to suggest that the scenario would be different if the conversation had been with a female passenger, the Licence Holder had received no complaints in the past and that his actions merited no more than a suspension.

The Licence Holder then addressed the Panel and stated he did not know why he had made these comments as it is not something he had said before and he would never make inappropriate comments again.

Mr Oakes requested that the Licensing Panel consider a suspension rather than a revocation as although he appreciated the comments were unacceptable they were made only in jest.

Delegated decision:

After carefully considering the written report, the oral statements from the Licence holder and his representative and taking into account the Council's Convictions Policy and Guidelines, pursuant to the Local Government (Miscellaneous Provisions) Act 1976, the Panel resolved, on a majority decision, that the Licence Holder was not a fit and proper person to hold a Private Hire Driver's and decided **to suspend the Licensee for a period of 6 months.**

The Panel noted the following;

- That Licence Holder admitted that inappropriate comments of a sexual nature had been made, albeit he denied offering to leave the receipt blank,
- That the Panel believed the complainant to be telling the truth regarding the Licence Holder's behaviour,
- That the comments and behaviour of the Licence Holder was of a totally completely unacceptable nature,
- That the comments of a sexual nature had been made to two strangers one of whom could have been a vulnerable adult,
- That the seriousness of the complaint about the Licence Holder's behaviour was further demonstrated by the action of the Private Hire Operator.

The Applicant was notified of their right to appeal to the Magistrates' Court within 21 days.

LSP.863 APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

(E)

The Licensing Unit Manager presented a report submitted by the Assistant Director (Localities) regarding applications for Public/Private Hire Vehicles Drivers' Licences.

The Applicants were invited to attend the meeting for separate hearings and the Chair outlined the procedure to be followed. The Applicants were invited to address the Panel separately on their applications and any matters referred to in the Officer's report.

1. Applicant 10/2016 attended the meeting and was accompanied by a local business man as a character referee. The Licensing Unit Manager read the report which was disputed by the Applicant.

The report explained that during the application process for a Private Hire Driver's Licence, the Applicant had declared that he had no relevant convictions, cautions or fines, which was also confirmed on his DBS Disclosure Certificate. In response to a specific question on the form, as to whether the Applicant had ever had an Application for a Private Hire or Hackney Carriage Driver's Licence refused by this or any other Council or had a Licence suspended or revoked, the Applicant had ticked 'No' and had stated when questioned by officers, that he had misread the question.

The Applicant was due to be issued with a Private Hire Driver's Licence on 7 March 2016, however on 3 March 2016, due to information received from a member of the public, Bolton Council's Licensing Service were contacted about the Applicant. They stated that this Applicant had in fact held a Private Hire Driver's Licence issued by the Council between 1 October 2006 and 27 July 2015, when the Applicant had appeared before Bolton Council's Licensing Committee and his licence was revoked with immediate effect on the grounds of Public safety. The Council's representative then provided details of 3 incidents regarding which complaints had been made to the Council regarding the Applicant's conduct towards female passengers, based upon which the action had been taken.

The incidents set out in the report where;

1. 4 June 2015 – a member of the public had complained that the Applicant had texted a female after taking her on two journeys from Chorley to Bolton and then back again. The journey from Chorley to a bar in Bolton had been booked via a Private Hire operator; however the return journey from Bolton to Chorley had been booked directly with the Applicant, via his mobile phone, in response to the Applicant telling the female that this was his last job and that he was only doing personal calls after that. He told her to add him to Facebook so that she could contact him directly if she ever needed a taxi in the future. He then provided her with his mobile phone number which she used to arrange the return journey home.
2. In September 2013 the Applicant had attempted to grab hold of a female passengers hand and then her leg and the incident had been reported to Greater Manchester Police (GMP), following which, the complainant had subsequently accepted an apology from the Applicant, who had accepted he had done wrong and no further action was taken as she did not to take the matter any further.
3. In July 2013, a Mother of a 15 year old female had made a complaint against him in relation to a journey when the Applicant had been the Private hire Driver and had asked her daughter if he could 'contact her on Facebook; text her later; if she was still in school and what her friends did for fun'. The Council had taken no further action on this occasion as it was unable to subsequently make contact with the complainant.

As the Applicant indicated he disputed the report, the Chair then asked the Applicant which of the complaints made against him he disputed.

The Applicant stated that in relation to the complaint in June 2013, he was not aware of this complaint, denied it and stated he had not been contacted Bolton Council over this issue.

The Applicant stated that in relation to the complaint in September 2013, he was aware this had been made to GMP but that he denied it and had not apologised to the complainant.

The Applicant stated that in relation to the complaint on 4 June 2015, he accepted that he had contacted the complainant but that it was unintentional as he thought the number was that of a 'prankster' who had been texting him asking for money. He had sent the text by mistake.

The Applicant did indicate when asked, that he had stated 'no' to the question regarding the previous licence, as he needed a licence from Bury Council.

The Applicant explained that he has 4 children and his family depend on him financially. He has been in this Country since September 1996 and is a good citizen. His character referee then stated he had known the Applicant for around 8 years and was a very genuine man. He, his wife and daughter had all been on regular journeys with him with no issues. He knew the Applicant and his family well and described him as 'salt of the earth'.

The Licensing Unit Manager stated that the Applicant had not complied truthfully with Bury Council's application and that all other incidents had been dealt with by Bolton Council, however he requested to speak with Bury Council's Solicitor in private, to obtain legal advice before making further representations.

The Chair agreed to adjourn so that the Licensing Unit Manager and the Council's Solicitor could speak and they subsequently left the meeting.

On their return the Council's Solicitor explained that the Licensing Unit Manager had additional information but the Applicant had not had sight of this and needed to be given the right to consider this information, before the matter proceeded further. The Chair agreed to adjourn again so that the Licensing Unit Manager and the Applicant could speak and they subsequently left the meeting.

On their return it was confirmed by the Applicant that he had been made aware of the additional representations the Licensing Unit Manager wished to make and was happy to continue. The Licensing Unit Manager then stated that Bolton Council had provided a witness statement explaining that 3 text messages had been sent to the complainant in Chorley on 30 May, 31 May and 3 June 2015 and he outlined their content. The Applicant stated that he did not deny sending these messages but he thought they were going to the person (woman) he described as the 'prankster', whom he did not know.

The Applicant explained that he had made a mistake but it would not happen again and requested that the Licensing and Safety Panel gave him the chance to prove this.

Delegated decision:

The Panel carefully considered the report and taking into account the relevant Policy and the Council's Conviction Guidelines, the Panel determined the Applicant not to be a fit and proper person in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and therefore resolved that **the application for a Private Hire Driver's Licence by Applicant 10/2016 be refused.**

The Panel noted the following;

- that the Applicant had provided false information as part of the application process for Bury Council.
- that the Applicant had contacted young females passengers via his mobile phone or Facebook
- that the totality of the Applicants words and behaviour was found to be completely unacceptable and inappropriate.

The Applicant was notified of their right to appeal to the Magistrates' Court within 21 days.

2. Applicant 11/2016 attended the meeting and was accompanied by his brother-in-law and his son. The Licensing Unit Manager read the report, which was accepted by the Applicant, which stated that the Applicant had been convicted at Bury and Rochdale Magistrates' Court on 6 December 2012 of an offence of theft and sentenced on 10 December 2013, to a Community Order, with costs of £85.00 and an unpaid work requirement. This related to the theft of fuel from vehicles operated by First Bus Bury, with whom he had been employed for 30 years.

At the time of the conviction the Applicant was employed as night time supervisor and had been on duty with another employee. A third individual, who was not an employee, was also on site when Senior Management and the Police attended and a search of the other employee's and the third individual's vehicles resulted in the recovery of drums of diesel which had been siphoned from buses parked in the depot. The Applicant had also been charged with theft on the basis that he had knowledge of the attempted theft of fuel. He was subsequently dismissed.

The Applicant explained to the Licensing and Safety Panel that he currently has no job and needs to provide for his family. He does not feel there are many jobs he could do as he has worked so long for First Buses and therefore working as a Private Hire Driver would be ideal. He had the opportunity of driving with two Private Hire Operators in Bury if his Licence was granted.

The Applicant's son explained that he had made a mistake but this was his first conviction and he needed the opportunity now to provide for his family.

Delegated decision:

The Panel considered the written report, the oral representations and references, and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and taking into account the relevant Policy and the Council's Conviction Guidelines, the Panel determined that Applicant 11/2016

was a fit and proper person and resolved, unanimously, to **grant the application for a Private Hire Driver's Licence**.

The Panel noted that although the offence was of a serious nature, it was satisfied that the Applicant was not directly involved with the theft and that he was remorseful for his involvement. It also noted that the convictions was more than 3 years ago.

3. Applicant 12/2016 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report, which was accepted by the Applicant, which explained that he had been convicted at Leeds Magistrates' Court on 13 January 2015 of a failure to give information as to the identity of a driver. He had received 6 penalty points on his DVLA Licence and was fined £300.

The Applicant addressed the Panel and explained that the offence was unintentional and that he had loaned his car to his brother who was captured on camera speeding in Bradford. The Applicant stated that when the Police sent him a notice requiring him to disclose the details of the driver of his vehicle at that time, he handed the notice to his brother to complete but he failed to ensure it was returned to the Police, and his brother did not return it.

The Applicant also explained that he needed to financially support his wife who was in Pakistan. When asked why he had not notified the Licensing Service of the conviction he stated he was not aware he had to although he accepted that this information was within the paperwork he had completed but he had made a mistake, which would never be repeated.

Delegated decision:

The Panel considered the written report and the oral representations made by the Applicant and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and taking into account the relevant Policy and the Council's Conviction Guidelines, the Panel determined that Applicant 12/2016 was a fit and proper person and resolved, unanimously, to **grant the application for a Private Hire Driver's Licence**.

The Panel noted that the conviction for a major traffic offence was a serious one but the Applicant accepted he had made a mistake and seemed genuinely remorseful for his actions.

4. Applicant 13/2016 attended the meeting and was represented by Mr Oakes and supported by his friend, who also acted as a character referee. The Licensing Unit Manager read the report which was accepted by the Applicant, which explained that the Applicant had previously held a Hackney Carriage Driver's Licence with Bury Council but on 5 September 2012 the Applicant had appeared before the Licensing and Safety Panel in relation to an allegation of rape which resulted in his Hackney Carriage Driver's Licence being revoked. He appealed the Panel's decision to Bury Magistrates' Court, but this was dismissed.

The female complainant had reported the matter to the police in July 2012 and the police had investigated the matter. During interview the Applicant had denied raping her but did admit having consensual sex in the rear of his vehicle. The complainant subsequently declined to pursue the matter due to the impact the investigation was having on her health. The circumstances were considered by the Crown Prosecution Service who concluded that whilst the evidential test to authorise a charge had been met, and that there was a realistic prospect of conviction, it was not in the female's interest to compel her to pursue a prosecution, therefore, no further Police action took place.

As part of the current application, a DBS check was undertaken, and information regarding the alleged rape was found to be recorded against the Applicant and disclosed at the discretion of the Chief Police Officer Greater Manchester Police, who believed it should be disclosed despite the fact the Applicant was not charged with an offence, because the application involved working directly with the public, the evidential burden had been met and it was as recent as 2012.

Mr Oakes addressed the Licensing and Safety Panel and explained that the Applicant has been adamant all along that although the sex did take place, it was consensual, although he accepted it should never have happened. No formal charges were made and the case had been dropped. Mr Oakes provided a written statement from the Applicant and his wife to the Panel members and explained that he has four children to financially provide for and that nothing like this would ever happen again. This incident did not result in a conviction or prosecution.

The Applicant's friend also explained that he has learnt by this mistake and has the deepest respect for women. He acknowledged he had shamed himself but he needed the chance now to provide for his family.

Delegated decision:

The Panel carefully considered the report and taking into account the relevant Policy and the Council's Conviction Guidelines, the Panel determined the Applicant not to be a fit and proper person in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and therefore resolved that **the application for a Private Hire Driver's Licence by Applicant 13/2016 be refused.**

The Panel noted the following;

- That the allegation of rape was very serious and that despite the fact the Applicant was not charged with any offence, it is directly relevant to a working role with members of the Public, and drivers are placed in a position of trust.
- That the Crown Prosecution Service considered that the evidential criteria for a charge had been met and that there was deemed to be a realistic prospect of conviction.
- That GMP's Chief Officer of Police had sufficient concerns regarding the Applicants conduct that it disclosed the information regarding the alleged rape.
- That the Applicant admitted having sex in the rear of his vehicle whilst operating as a Hackney Driver in Bury, which in itself was found to be unacceptable and inappropriate.

- That the incident had occurred within the last 4 years.

The Applicant was notified of their right of appeal to the Magistrates' Court within 21 days.

5. Applicant 14/2016 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report, which was accepted by the Applicant, which explained that the Applicant had been convicted at Bury Magistrates' Court on 19 September 2012 of using a vehicle uninsured against third party risks, for which his DVLA Licence was endorsed with 6 penalty points.

The Applicant addressed the Panel and explained that he had been stopped by a Police motorcyclist and accused of driving whilst using a mobile phone. The Applicant had denied this at the time and was also accused of driving without insurance, which he also denied. He explained that he had used the same insurance company for the past 6 years and he had moved home at this time and therefore did not receive the summons to attend Court. By the time he had got this, it was too late to attend court or to appeal the conviction.

The Applicant explained he has the prospect of work with a Private Hire Operator in Bury if he gets his Licence.

Delegated decision:

The Panel considered the written report and the oral representations made by the Applicant and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and taking into account the relevant Policy and the Council's Conviction Guidelines, the Panel determined that Applicant 14/2016 was a fit and proper person and resolved, unanimously, to **grant the application for a Private Hire Driver's Licence.**

The Panel accepted that the Applicant had genuine reasons for the conviction and that the offence, although serious, had been committed over 4 years ago.

As this was the last meeting of the Municipal year, the Chair took the opportunity to thank both Councillor Cassidy and Councillor Wiseman, who were both standing down as Councillors in Moorside Ward and Pilkington Park respectively, for their dedication, service and hard work over the years and wished them both all the very best.

Councillor Parnell thanked Councillor Jones for his Chairing expertise and professionalism over the past year.

COUNCILLOR D JONES

CHAIR

(Note: The meeting started at 7.00 pm and finished at 9.40 pm)