

Minutes of:	LICENSING AND SAFETY PANEL
Date of Meeting:	10 October 2013
Present:	Councillor J Grimshaw (In the Chair) Councillors: N Bayley, I Bevan, D M Cassidy, A K Matthews, A Quinn, B Vincent and J F Walton
Apologies for absence:	Councillors T Holt, D Jones, J Frith, T Pickstone and S Southworth
Public Attendance:	There were 2 members of public present at the meeting

LSP.423 APPOINTMENT OF CHAIR

It was agreed that in the absence of Councillor Jones, who gave his apologies for the meeting, Councillor Grimshaw be appointed as Chair.

LSP.424 DECLARATIONS OF INTEREST

No declarations of interest were made in relation to any items considered at the meeting.

LSP.425 MINUTES OF THE LAST MEETING

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 3 September 2013, be approved as a correct record and signed by the Chair, subject to the amendment of the wording in LSP.299, Operational Report, regarding the outcome of a Forum that had taken place on 1 August with Officers and representatives of the hackney carriage and private hire trades.

The wording should in fact read 'The Chair proposed that these Forums be held three times a year and the Licensing and Safety Panel agreed'.

LSP.426 PUBLIC QUESTION TIME

There were no questions asked under this item.

LSP.427 OPERATIONAL REPORT

The Assistant Director (Localities) submitted a report setting out an update on operational issues within the licensing service, including:

- i. The findings of Licensing Enforcement Officers who took part in a multi agency operation involving Greater Manchester Police (GMP) and VOSA on vehicle checks. Twenty eight vehicles were checked and ten of the drivers were advised and warned in relation to faults identified. Of the twenty eight vehicles checked, nine were hackney carriages and only one hackney carriage had signage issues. None of the vehicles were taken off the road
- ii. On 25 September 2013, a private hire driver's licence was immediately revoked following information that had been received from GMP in relation to a serious sexual offence.
- iii. A licensing hearings panel took place on 4 October 2013 for a review of Bla Bla Bar, Silver Street, Bury (formerly Coco Lounge), in relation to drug dealing and money laundering. The Panel's decision was to revoke the licence.
- iv. At the last meeting of the Licensing and Safety Panel, on 3 September 2013, Councillor Holt had enquired about the use of bus lanes by Private Hire Vehicles and whether there had been any change to the legislation. The information obtained from Highways was that the situation was still the same and Greater Manchester combined authority was not minded to review the situation prior to the outcome of the Law Commission review of taxi licensing legislation.

Delegated decision:

That the report be noted.

LSP.428 URGENT BUSINESS

There was no urgent business reported at the meeting.

LSP.429 APPLICATION TO RENEW A HACKNEY CARRIAGE VEHICLE LICENCE CONTRARY TO CURRENT COUNCIL POLICY

Prior to presentation of the report from The Assistant Director (Localities) Mr Charles Oakes of the Hackney Drivers' Association Ltd, who attended the meeting and represented the applicant, Mr Majid, a licensed hackney carriage driver, enquired as to why this application was being dealt with in the public domain. The Council Solicitor explained that the default position was to hear all reports as public reports unless there are grounds for making them exempt under the relevant legislation. Mr Oakes was given an opportunity to make representations as to why the matter should be in private and stated they were always dealt with in private.

Mr Johnson, Head of Commercial and Licensing pointed out this was not the case as other similar matters had been dealt with on the same basis. Mr Oakes went on to comment that even matters dealt with in private would be dealt with in an open forum at the Magistrates Court in the event of an appeal. The Council Solicitor explained that the rules that apply to such matters are very different to those governing local authorities.

Mr Oakes expressed surprise and stated that he was unaware that this application would be heard in public and was unhappy that he had not been forewarned of this. The Chair asked that Mr Oakes had received a copy of the agenda that had been posted to his home the week before. Mr Oakes had received the agenda but had not had time to fully read the reports.

Members of the panel were then invited to decide whether they were satisfied that the matter should proceed in public and all indicated it should. The Assistant Director (Localities) submitted a report relating to a hackney carriage vehicle licence renewal application which fell outside the Council's current "5 fault rule" policy. The report set out the background to the application in terms of Licensing policy and the individual circumstances of the case. The Licensing Unit Manager reported that on the basis of the facts of the case, the Licensing Service had reasonably concluded that the application was not in accordance with Council policy. Consequently the application had been submitted to the Panel for a decision.

The applicant's vehicle, a Citroen Dispatch registration number LC51 URT was first registered on 9 November 2001 and has been a hackney carriage licensed with Bury Council since 14 October 2005. It was transferred into his name on 12 May 2011. The current vehicle licence is due to expire on 12 October 2013.

On 10 April 2013, the applicant's vehicle underwent a routine 6 month interim test at the Council's test centre at Bradley Fold and failed the test with 9 faults and 2 advisory observations being identified.

Mr Entwistle, a vehicle inspector at Bradley Fold, also attended the meeting to answer points of detail.

Mr Oakes then asked for a brief adjournment to confer with his client over this matter. This request was agreed by the Chair.

On returning to the meeting, Mr Oakes said the meeting could continue but that he had reservations on how the meeting was being conducted.

Mr Oakes also commented that had he been aware Mr Entwistle was to attend the meeting he would have prepared questions for him. The Chair asked Mr Oakes if he wished this item to be put back on the agenda to later in the evening to allow him and the applicant time to clarify and further prepare their case. Mr Oakes stated he did not and that they would continue at this time. Members then asked a couple of points by way of clarification of Mr Entwistle.

Mr Oakes was then invited to ask questions and questioned Mr Entwistle on all 9 faults and argued each point. The Chair stated that Mr Entwistle was 'not on trial' but offering his advice and expertise to the Licensing and Safety Panel. When asked, Mr Entwistle informed the members that he had first become a mechanic in 1960 and had been working for Bury Council for the past 15 years.

Mr Oakes stated the faults reported were only Mr Entwistle's opinion and that he felt the majority of them were only minor. He pointed out that the previous tests on the vehicle had only revealed a small number of minor faults and that the vehicle may have passed the test had it gone to another testing station. He requested that the Panel consider the circumstances of the applicant. Mr Majid had a family to support and he had to provide an income and he felt that the fact most of the current faults are minor did not justify taking the vehicle off the road and subjecting his family to financial hardship.

Members of the Licensing and Safety Panel asked various questions of the applicant. He was asked who had undertaken work to his vehicle and he stated it was a mechanic he usually used. He was also asked about whether he took pride in the condition of the vehicle and Mr Oakes stated that taxi drivers no longer took pride in their vehicles due to the passengers they carried in them. He went on to state that the majority of passengers let down others by damaging vehicles and the trade have to repair them.

Delegated Decision:

The Panel noted that the vehicle is over 10 years old from the date of first registration and 9 faults plus 2 advisory observations was well in excess of the Council's Policy known as the '5 fault rule' as set out in the report of the Assistant Director (Localities). Members of the panel accepted the evidence of Mr Entwistle and noted that even the historic tests referred to by Mr Oakes showed faults and suggested the vehicle had got progressively worse. There were serious issues identified with the vehicle and despite the representations made on behalf of the applicant, the Panel found no basis upon which to depart from the policy. In the interests of public safety, the Licensing and Safety Panel agreed unanimously to refuse the application.

(Note: The applicant was informed of the right of appeal to the Crown Court).

LSP.430 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.431 PROPOSED SUSPENSION/REVOCAION OF A PRIVATE HIRE DRIVER'S LICENCE AND A PRIVATE HIRE OPERATOR'S LICENCE

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 and a Private Hire Operator's Licence.

The licence holder was invited into the meeting room for their hearing and the Council Solicitor outlined the procedure to be followed. The Licensing Unit Manager read out the contents of the report which was accepted by the licence holder.

The licence holder took the opportunity to address the Panel.

Delegated decision:

Upon considering the written report, the oral representations made by the licence holder and taking account of relevant policy and guidance, the panel resolved that it was reasonable and proportionate to **take no action against the licensee** identified as 09/2013.

LSP.432 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVERS' LICENCES

The Assistant Director (Localities) submitted a report regarding applications for Public/Private Hire Vehicles Drivers' Licences.

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

The Licensing Manager read out the contents of the report for each application which were accepted by the applicants, who took the opportunity to address the Panel individually.

Delegated decisions:

1. That after careful consideration of all the representations and evidence submitted and taking into account the Council's Conviction Guidelines, the application for a Private Hire Driver's Licence by applicant 10/2013 **be granted for a twelve month period with an additional condition that if any complaints are received or concerns raised about the applicant within the next 12 months, he will be referred back to the Panel.**

The Chair, Councillor Grimshaw, stressed that common assault was considered a serious offence by The Panel.

2. That after careful consideration of all the representations and evidence submitted and taking into account the Council's Conviction Guidelines, the application for a Private Hire Driver's Licence by applicant 11/2013 **be granted for a twelve month period with an additional condition that if any complaints are received or concerns raised about the applicant within the next 12 months, he will be referred back to the Panel.**

The Chair stressed that common assault was a serious offence.

3. That applicant 12/2013 be deferred to a later meeting following a bereavement.

**COUNCILLOR GRIMSHAW
CHAIR**

Please note: The meeting started at 7.00 pm and finished at 9.10 pm