

Minutes of:	LICENSING AND SAFETY PANEL
Date of Meeting:	15 June 2017
Present:	Councillor D Jones (in the Chair), Councillors: P Adams, G Keeley, J Walker, N Bayley, J Grimshaw, O Kersh, A McKay and Sarah Southworth and S Wright and S Wright
Apologies for absence:	Councillors, R Hodgkinson, I Bevan and M Connolly
Public Attendance:	There were 12 members of the public in attendance

LSP.21 DECLARATIONS OF INTEREST

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

LSP.22 MINUTES

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 20 April 2017, be approved as a correct record and signed by the Chair.

LSP.23 MATTERS ARISING

In respect of Minute LSP.697, the Licensing Service confirmed that a letter had been sent on behalf of the Panel, thanking the Street Pastor Service for the valuable work they undertake.

LSP.24 PUBLIC QUESTION TIME

Mr Charles Oakes raised a question in relation to a case where a driver did not receive a fault sheet following his vehicle being tested at the Bradley Fold testing Centre. Mr Oakes expressed concerns and stated that drivers were entitled to be provided with a fault sheet. The Licensing Unit Manager explained the individual circumstances of the case, which related to a Hackney Carriage, stating that the information was initially provided directly to the Licensing Department as a safeguard for the Council and the driver to prevent them undertaking a large amount of work on a vehicle that would not be relicensed due to the 5 fault rule that is in place and would have applied to the vehicle in question. The driver was spoken to by the Licensing Unit Manager on the day of the test the 13th June 2017. The driver was then provided with the test sheet along with a letter dated 15th June 2017 which informed him that the application to renew the Hackney Carriage vehicle Licence was refused.

Mr Haroon Khan then raised further questions about the same case. The Licensing Unit Manager explained that the Council's age policy was such that vehicles over 10 years old are subject to a '5 fault rule' and will not be relicensed if found with that number of faults when tested. In this case, the large number of faults identified on the vehicle, raised concerns about the lack of maintenance throughout the trade generally and the lack of preparation of vehicles in readiness for testing. It was also noted that there are occasions when vehicles are tested and taken away for repair, returning with the same faults. The Licensing Unit Manager referred those present to the guidance on the Council's website in relation to the testing of vehicles.

Mr Oakes then asked that an open meeting be arranged between the Panel Members, Licensing Department and Taxi Trade. The Chair, Councillor Jones, referred to the ongoing liaison meetings that take place with representatives of the bodies Mr Oakes had referred to and the fact one had taken place on Tuesday 13th June 2017, but Mr Oakes had not attended.

Mr Hussain made a request for an increase in the number of testing stations in addition to Bradley Fold. Mr Oakes added that without competition there was no benchmark to which Bradley Fold could be measured. The Chair referred to the fact this issue had been considered by Panel Members on a number of occasions and highlighted that the use of Bradley Fold enabled the Council to maintain the highest standards and consistency in relation to vehicle testing.

In response to questions relating to the 10 year age policy, the Licensing Manager explained that a report on the issue of implementing an 'exceptional condition' requirement, was before the Panel this evening.

LSP.25 OPERATIONAL REPORT

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

The report set out updates in respect of the following issues:

- Pre- Application Assessments
- Immediate Revocation of Private Hire Driver Licence
- Appeal to the Magistrates Court
- Staffing - Deputy Licensing Officer
- Hackney Carriage Age Policy
- Taxi Liaison Meeting

It was agreed:

That the report be noted.

LSP.26 REVIEW OF CURRENT POLICIES RELATING TO THE LICENSING AND TESTING OF HACKNEY CARRIAGES

The Assistant Director (Localities) submitted a report relating to the licensing and testing of Hackney Carriages. The matter had previously been considered by this Panel in May 2014 which had resolved that the

Age Policy would be 10 years from the date of first registration with "exceptional condition" criteria being re-introduced and that existing licence holders be allowed a 3 year transition period. The transition period came to an end on 1 June 2017, but following a request from the Bury Hackney Drivers Association, implementation had been suspended pending consideration by the Licensing and Safety Panel. A request for the policy to be reconsidered and a petition from current drivers was appended to the report.

It was agreed:

That the implementation of the "exceptional condition" criteria for Hackney Carriages be deferred until a further report is considered by this Panel on 27 July 2017.

LSP.27 URGENT BUSINESS

There was no urgent business reported.

LSP.28 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.29 (E) SUSPENSION/REVOCAION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCE

Licence Holder 15/2017 was invited into the meeting and was represented by his solicitor Mr Ahmed.

The Chair outlined the procedure to be followed and the Licensing Unit Manager presented a summarised report submitted by the Assistant Director (Localities) which was accepted by the Licence Holder and his representative. This set out the reasons for the Licence Holder being before the Panel.

The report explained that the Licence Holder has been licensed as a Private Hire Driver since February 2015 and in March 2017 had been charged under Section 4A(1) and (5) of the Public Order Act 1986 in relation to the use of threatening language towards his wife following an argument as a result of him being refused access to the marital home.

The Licence Holder acknowledged that the argument did take place and stated that he regretted his actions during a stressful time when he and his wife were in the process of separating.

Delegated decision:

After carefully considering the written report, oral statements from the Licence Holder and his representative, Mr Ahmed, and taking into account the Council's Convictions Policy and Guidelines, pursuant to the Local Government (Miscellaneous Provisions) Act 1976, the Panel resolved, unanimously, **to take no further action.**

The Panel noted that although an extremely serious incident, the Licence Holder had expressed regret and sorrow over the incident. The Panel also noted that the original charge had been downgraded to a lesser public order offence and the mitigating factors presented by the Licence Holder. The Licence Holder had immediately informed the Licensing Service of the conviction and he is also the subject of a restraining order which would have to be adhered to during his working day.

LSP.30 (E)

APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

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

1. Applicant 11/2017 attended the meeting with his wife. The Licensing Unit Manager read the report which was accepted by the Applicant.

The Applicant and his wife both addressed the Panel and explained that the conviction possession of criminal property, for which he received a sentence of 15 months imprisonment, related to the actions of the Applicants brother-in-law who had used his property for the purpose of criminal activity. The Applicant stated that he had been unaware of the actions of his brother-in-law despite his home being used to store a substantial amount of money. Both the Applicant and his wife stated that they no longer had contact with the brother-in-law/brother.

Delegated decision:

That after carefully considering the written report, the oral representations made by the Licence Holder and his wife, 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 11/2017 be refused.**

The Panel noted the Applicants personal circumstances but found against the Applicant for the following reasons:

- The offence was of a very serious nature and was equivalent to an offence of dishonesty.
- The Applicant had been given 15 months imprisonment.
- The Applicant showed no remorse or contrition.
- There was a lack of mitigating facts put forward by the Applicant.

- That being unaware of the criminal activities of a family member within the Applicant's property was not a reasonable defence of such a serious offence.

The Applicant was informed of his right of appeal to the Magistrates Court within 21 days

2. Applicant 12/2017 attended the meeting and was represented by his solicitor Mr Ahmed. The Licensing Unit Manager summarised the report, which was accepted by the Applicant. The report explained that the Applicant had purchased car insurance through a student classmate which had been invalidated due to an incorrect date of birth being provided. The Applicant explained that he had wrongly trusted his classmate, who worked part time as an insurance broker, to apply for the insurance on his behalf online. He had been provided with a certificate of insurance but when he was stopped by the police, they revealed to him the policy was invalid as the classmate had provided incorrect details as to the Applicants date of birth. As a result he was fined £660 and given 6 penalty points.

Delegated decision:

The Panel carefully considered the report, the oral representations by the Applicant and his solicitor and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and resolved, , that **the application for a Private Hire Driver's Licence by Applicant 12/2017 be granted.**

The Panel noted that the Applicant was remorseful and stated he had learnt a lesson and that he wanted to work to pay for his studies. Although the conviction was recent the Panel felt he had been misled by a fellow student.

3. Applicant 13/2017 attended the meeting and was unaccompanied. The Licensing Unit Manager summarised the report, which was accepted by the Applicant. This explained that the Applicant had had a previous Private Hire Drivers Licence revoked by another Authority, as he breached the Authority's intended use policy by working in another Authority's area. The Applicant acknowledged his actions were wrong and explained that he had breached the conditions of his previous licence by driving outside of the Borough due to exhaustion as he was working as a joiner during the day and then as a Private Hire Driver at night. The Applicant expressed regret and sorrow for his actions and explained the financial difficulties he was facing, as he had lost a previous business and had a large amount of debt. He went on to explain he was trying to provide for his family.

Delegated decision:

The Panel carefully considered the report, the oral representations by the Applicant and the documents produced to the Panel regarding the Applicant's outstanding debt and after taking into account the Council's

Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, that **the application for a Private Hire Driver's Licence by Applicant 13/2017 be granted.**

The Panel noted the seriousness of failing to abide by the terms and conditions associated with a licence, but also noted the Applicants remorse and difficult financial situation.

4. Applicant 14/2017 attended the meeting and was accompanied by his employer, the owner of a local taxi firm. The Licensing Unit Manager summarised the report, which explained that as part of the application process for a Private Hire Drivers Licence, applicants are required to undertake and pass a 'knowledge test' of the locality. The Applicant had allegedly been found cheating on tests two and four of the five licence knowledge tests which he had undertaken. The Applicant denied cheating on test two but did acknowledge that he had taken in some revision papers into the exam room during test four. He explained that he was panicking as a result of failing previous tests and needed to ensure he could gain a licence as his current licence in Rossendale was due to expire. He accepted he had made an error of judgement and had been driving under his Rossendale licence for 3 years without complaint or issue.

Delegated decision:

The Panel carefully considered the written report, the oral representations made by the Applicant and his employer 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 14/2017 was a fit and proper person and resolved to **grant the application for a Private Hire Drivers Licence for a twelve month period.** The Applicant would not need to appear before the Panel again after this time if there was no breach of the conviction guidelines or other complaints against him during that period.

The Panel noted the seriousness of the Applicants action, but also noted his past history and personal circumstances and accepted that he made an error of judgement.

**COUNCILLOR D JONES
CHAIR**

(Note: The meeting started at 7.00 pm and finished at 10.10 pm)

(Note: The Panel voted to suspend Council Procedure Rule 9.6, in order to allow the meeting to proceed beyond 10pm in order for the business before the Panel to be concluded).