

<b>Minutes of:</b>	<b>LICENSING AND SAFETY PANEL</b>
<b>Date of Meeting:</b>	5 September 2017
<b>Present:</b>	Councillor D Jones (in the Chair), Councillors: N Bayley, J Grimshaw, I Bevan, G Keeley, A McKay, O Kersh, R Hodgkinson, Sarah Southworth, J Walker and S Wright
<b>Apologies for absence:</b>	Councillor P Adams
<b>Public Attendance:</b>	There was one member of the public in attendance

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### **LSP. XXX    DECLARATIONS OF INTEREST**

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

### **LSP. XXX    MINUTES**

#### **Delegated decision:**

That the Minutes of the Licensing and Safety Panel meeting held on 27 July 2017, be approved as a correct record and signed by the Chair.

### **LSP. XXX    PUBLIC QUESTION TIME**

There were no questions raised under this item.

### **LSP. XXX    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 are continuing to be undertaken by the adult learning team. From 7 July 2017 until 18 August 2017 there have been 33 assessments booked, of which 30 passed, 3 failed and 0 failed to attend.
- Following the introduction of the pre-requisite requirements being introduced prior to making an application to become a hackney carriage/private hire driver, an appeal had been lodged at Manchester Magistrates' Court by a previous private hire/hackney carriage driver. The appeal was dismissed and it was concluded that the Licensing Authority had not refused to renew the driver's licences and the application to renew had not been made in the correct timeframe. The applicant was going to further appeal to the Crown Court, however, this appeal was withdrawn by the applicant via email on 4 August 2017.

- A notice of application prior to judicial review was received by the Licensing Service in relation to the proposed exceptional conditions test considered by the Committee at the last Panel. The Licensing Service responded to the notice, however, this is now no longer being considered by the client.

**It was agreed:**

That the report be noted.

**LSP.XXX 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 condition 28 from his 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 stated that 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.

Animal boarding licence AB0003 in the name of Stay N Play Doggy Day Care was issued on the 16 December 2016, valid for one year from 1 January 2017 to 31 December 2017 and licences are renewed annually.

The Licensing and Safety Panel considered a request on 19 January 2017 from Mr Millington, Managing Director of Stay N Play Doggy Day Care to remove condition 28 from the Animal Boarding Establishment Licence, however the Panel decided at that time to refuse the request. The Panel did Mr Millington's experience and the training undertaken by him and his staff, but felt that as the crèche had only be open for a short time, further time was needed to enable him to demonstrate safety standards were met, the best care and welfare was provided and there were no complaints or concerns raised.

Subsequently on 19 May 2017, the Licensing Service received another request from Mr Millington to remove condition 28 and further information was received on 7 July 2017 from Millington's representative.

Mr Millington and his representative, Mr Malcolm Hope, attended the

meeting. Mr Hope explained to the Panel the importance of dogs socialising from a very young age and that over 90 % of aggression in dogs is due to fear which could be addressed in a puppy for it to learn how to act and react with other dogs to give it confidence and find its place within a pack. Mr Millington also explained how the dogs are integrated and any aggressive dogs are not accommodated.

Mr Hope informed the Panel that Mr Millington was having to turn away a number of customers due to being unable to accept puppies under 6 months old. Mr Millington provided a number of references and certificates to the Panel and general feedback from very satisfied customers and it was requested that with his knowledge, experience and practice that condition 28 be removed from his licence.

**Delegated decision:**

After carefully considering the written report, oral statements from the licence holder and his representative, and taking into consideration the written evidence, the Panel agreed unanimously to remove condition 28 from the licence.

**LSP.XXX**

**REPORT RELATING TO GROUP 2 MEDICALS**

A report by the Assistant Director (Localities) was submitted to the Licensing and Safety Panel relating to medical reports that are required by the Licensing Service to be provided by Applicants for hackney carriage/private hire driver licences, which are considered under Section 51 or Section 59 of the Local Government (Miscellaneous Provisions) Act 1976. These provisions require that applications of this nature shall not be granted unless the Council are satisfied that the Applicants are 'fit and proper' persons to hold such licences.

In addition, on reaching 45, current licensed drivers are required to obtain a medical report and are required to be passed fit every five years and from the age of 65 an annual certification is required.

The Council's current policy is that all drivers must meet the requirements of the Group 2 standard for category C1 vehicles as set out by the DVLA and additional requirements are specified in respect of drivers who are insulin dependent diabetics.

At present the Licensing Service require the medical assessment to be carried out by the Applicants/licence holder's own doctor by completing a Council template medical report.

Mr Oakes, Chairman of the Hackney Drivers' Association Limited, has asked the Council to permit Applicants/licence holders to have their medical assessment undertaken by an alternative provider as the fees charged will be cheaper than that of their own doctor.

It was explained that the Licensing Service has contacted alternative providers and received detailed information on how the assessments are carried out.

Various issues were raised by the members of the Panel including who the alternative medical provider would be and if the assessment would be as thorough as an Applicants/licence holders own GP.

**Delegated decision:**

It was agreed, on a majority decision, in addition to medical assessments being undertaken by the Applicant/licence holders own doctor, to permit them to obtain a medical assessment from a pre-approved alternative provider and to delegate to the Head of Service (Trading Standards and Licensing), following consultation with the Chair of the Licensing and Safety Panel, to approve alternative providers to carry out the driver assessments.

**LSP.XXX URGENT BUSINESS**

There was no urgent business reported.

**LSP.XXX 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.XXX SUSPENSION/REVOCATION OF A HACKNEY CARRIAGE DRIVER'S LICENCE**

**(E)** Licence holder 19/2017 attended the meeting and was accompanied by his wife.

The Chair outlined the procedure to be followed and the Licensing Unit Manager presented a report submitted by the Assistant Director (Localities) which was accepted by the Licence Holder.

The report explained that the Licence Holder was before the Licensing and Safety Panel following a complaint on 10 July 2017 about his poor driving. The Licensing and Safety Panel were shown dashcam footage which was submitted by the complainant of the incident, which took place on Tenterden Street with Jubilee Way whilst both the Licence Holder and complainant were waiting to pull out to the right towards Manchester Road.

The complainant stated that as he waited to pull out, the Licence Holder's vehicle overtook from behind and came onto the complainant's left nearly causing a collision. The Licence Holder then put his arm out of the window and swerved from left to right.

The Licence Holder addressed the Panel along with his wife and explained he had his 17 year old son in the car with him and that the complainant had been rudely gesticulating to him and that is why he had swerved his vehicle. He explained that he was not working as a private hire driver at that time and that unfortunately, his Father in Law had passed away very suddenly not long before and it had been a very stressful time for him, his wife and four children. He stated he was sorry for the incident and explained that he is the sole financial provider for his family and now his mother-in-law also. He had made a mistake on that occasion and he was remorseful for his actions.

Various questions were asked from members of the Licensing and Safety Panel.

**Delegated decision:**

The Panel carefully considered the report and the oral representations by Licence Holder 19/2017 and his wife and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, resolved unanimously, to **admonish the Licence Holder as to his conduct but to take no further action.**

The Panel noted that the Licence Holder was remorseful for his actions and accepted the seriousness of the situation. The Chair reiterated to the Licence Holder how important careful and considerate driving was and the high expectations placed upon him as a Licence Holder in Bury.

**LSP.XXX APPLICATIONS FOR PUBLIC/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.

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 20/2017 attended the meeting and was represented by his solicitor Mr Ahmed and accompanied by a friend. The Applicant accepted the report which explained that he had previously appeared before the Licensing and Safety Panel on 3 September 2015 and had been refused a private hire driver licence. The Applicant had appealed the decision to the Magistrates' Court, but the appeal had been

dismissed and the Applicant was ordered to pay the Council's costs of £650.

The report went on to explain that the Applicant had previously held a private hire drivers licence. In June 2015 checks revealed that he had been convicted of theft on 9 August 2012 at Bury and Rochdale Magistrates' Court, for which he had been fined £100 with costs of £150 and a victim surcharge of £15. The Applicant, as a Licence Holder at that time failed to disclose the conviction both at the time it was received and upon subsequent renewals of his licence.

Mr Ahmed explained that the Applicant had been with a friend in a pub in Bury and his friend had accessed the gambling machine and stolen the money from it. The Police had viewed CCTV footage from the evening and the Applicant had been identified. The Police had visited him the week after for information on who had been responsible for the theft but he had refused to disclose the identity of his friend. However, both were subsequently identified following a police investigation and both were charged with theft and appeared before Bury and Rochdale Magistrates' Court. The Applicant entered a guilty plea.

In relation to the issue of failing to declare the conviction, Mr Ahmed explained that he thought it was a minor offence for which he had received a fine and therefore did not need to declare it. In addition, Mr Ahmed explained that the Applicant was dyslexic and struggled to complete forms and had been very depressed and stressed about the conviction, had no issues since the conviction and had a clean driving licence.

The Applicant then addressed the Panel and explained that he was an honest person and had made a mistake. He no longer drinks and wants to provide for his family financially. Although he had made a mistake in the past he was now focusing on the future. The Applicant explained that he was very sorry, could not change the past and wanted to look forward. He stated that he is currently working for a PPI company and had learnt so much to do with technology since starting there in February 2016, however, he was not suited to office work and wished to drive taxis for a living once again. He enjoyed driving and interacting with the customers. He had waited until now, 2 years after his last Panel hearing, to return with his Application.

His friend, a licenced operator in Bury addressed the Panel and explained that he had known the Applicant for a long time and had never encountered any problems with him and was happy to give a character reference for him.

### **Delegated decision:**

The Panel carefully considered the report and the oral representations by the Applicant, Mr Ahmed and his friend 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, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 20/2017 be granted.**

The Panel noted that although a serious offence, the conviction was more than 5 years ago. In addition the Applicant had shown remorse and had an otherwise unblemished record.

2. Applicant 21/2017 attended the meeting and was unaccompanied. The Licensing Unit Manager read the report which was accepted by the Applicant and which explained that as part of an application process for a private hire driver licence, the Applicant had declared a minor speeding conviction in February 2015. However a further check revealed 14 separate convictions for possessing goods with a false trademark for sale or hire contrary to the Trademarks Act 1994. The Applicant was convicted at Manchester and Salford Magistrates' Court for the offences on 7 January 2015 and received a community order on 28 April 2015 and a curfew requirement with electronic tagging and costs of £500 with a victim surcharge of £60.00

The Applicant addressed the Panel and explained that he was formally a Director of a company and ran a shop on Bury New Road, Manchester. Manchester Trading Standards visited the shop and found a number of board games that were not trademarked and were counterfeit. The Applicant stated that he was not aware of this as he bought them from a wholesaler and they were CE marked and correctly packaged. The Applicant also explained he currently holds a taxi badge for Rossendale but he would like to drive in Bury as it is nearer his home.

The Applicant explained that following the conviction his marriage had broken down and he was now in rented accommodation. The Applicant acknowledged he had made a mistake but that he really needed a private hire licence to help him financially. He also explained that he had not declared the offences as they had been committed when he was the Director of a company and didn't think he needed to declare them. The Applicant further stated that he had notified Rossendale of the convictions, but enquiries of that Council by the Licensing Service revealed he had not.

**Delegated decision:**

- The Panel carefully considered the report and the oral representations by the Applicant and taking into account the Council's conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and concluded that the Applicant was not a fit and proper person to be driving a private hire vehicle in Bury. The Panel therefore **resolved, on a majority decision, that the application for a private hire driver's licence by Applicant 21/2017 be refused.**

The Panel noted the following:

- The offence had taken place in September 2013 and the Applicant was convicted in January 2015, less than 3 years ago.
- The Applicant had failed to disclose the conviction for 14 serious offence
- The Panel was not satisfied the Licence Holder was fit and proper to hold a licence.

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

**COUNCILLOR D JONES**

**CHAIR**

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