

Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 26 November 2020

Present: Councillor S Walmsley (in the Chair)
Councillors J Grimshaw, T Holt, G Keeley, K Leach, C Morris,
I Schofield, M Smith, Sarah Southworth, C Walsh, S Wright
and Y Wright

Also in attendance: Michael Bridge – Licensing Manager
Michael Caveney – Council Solicitor
Angela Lomax – Head of Trading Standards and Licensing

Public Attendance: No members of the public were present at the meeting.

Apologies for Absence:

LSP.1 DECLARATIONS OF INTEREST

Councillor S Wright declared a personal interest as his wife is employed at a local school.

Councillor J Grimshaw declared a personal interest as her daughter is employed by the Greater Manchester Combined Authority.

LSP.2 MINUTES OF PREVIOUS MEETING

Delegated decision:

That the Minutes of the last meeting held on 15 October 2020 be approved as a correct record and signed by the Chair.

LSP.3 PUBLIC QUESTION TIME

There were no public questions submitted to the Panel.

LSP.4 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:

COMMON MINIMUM LICENSING STANDARDS/CLEAN AIR

The Licensing Service would like to inform the Members of the panel that the consultation relating to the common minimum licensing standards/clean air finishes on the 3rd December 2020.

The Licensing Service have been working with the Council's Communication team to promote the consultations with the Hackney Carriage and Private Hire trade to ensure that licence holders engage with the consultation. The Licensing Service

receive updates relating to how much engagement has been happening within Bury, unfortunately at the moment there has been little engagement from the Hackney Carriage and Private Hire trade in Bury.

COVID 19 – TRACK AND TRACE

Officers of the Public Protection Service including licensing officers have undertaken training to assist Public Health England by contacting individuals who have tested positive for COVID 19 to ascertain who they have been in close contact with. This work will continue for the foreseeable future.

LICENSING HEARINGS PANEL -10th September 2020

Members will recall that the Licensing Service received an application to review the premises licence from an interested party in respect of the Goats Gate, Radcliffe New Road Whitefield. This application attracted five representations. Members considered the evidence with care and following the evidence of all parties, having understood the application and equally understanding the representations made, the Panel therefore unanimously decided it reasonable, balanced, appropriate and proportionate, based on all of the evidence and in accordance with its duties, that in order to promote the licensing objectives set out in the Licensing Act 2003, in particular the prevention of public nuisance, that the 21 conditions put forward by the respondents would be attached to the licence.

The Licence Holder has appealed the Licensing Hearings Panel, this is currently being dealt with by the Council's Legal Department

COVID 19

Following the announcement by Central Government regarding a second lockdown, licensing officers have been working additional hours to ensure that businesses are compliant.

They carried out the following between the 9th until 15th November 2020:

- 1 licensed restaurant/cafe open with breach (action to be taken this week)
- 2 pool halls closed
- 1 club closed
- 1 pub closed
- 8 restaurants closed
- 3 takeaways closed
- 7 takeaways open with issues – face coverings
- 3 takeaways given advice re QR codes, making front of premises appear closed for 10pm
- 16 restaurants open and in order
- 1 hotel open and in order
- 5 takeaways open and in order

TAXI MATTERS

The Licensing service have between the 9th and 15th November 2020 have undertaken the following actions in relation to Hackney Carriage and Private hire Vehicles:

- Suspended 8 vehicles due to vehicles missing interim tests
- Advised and warned a licence holder for signage missing on the vehicle
- One vehicle licence has been surrendered.

Delegated decisions:

1. That the contents of the report be noted.
2. That all of the Licensing Team and other staff that have supported them be thanked for their hard work and dedication during the ongoing difficult period in relation to COVID 19.

LSP.5 REVIEW OF DECISION TAKEN BY THE COUNCIL IN RESPECT OF ANNUAL FEES UNDER THE LICENSING ACT 2003 DUE DURING THE COVID 19 PANDEMIC URGENT BUSINESS

The Chair of the Licensing and Safety Panel explained that she had agreed that the following item could be considered under urgent business.

The Licensing Manager reported that on the 14th July 2020, the Emergency Powers Group considered a report in relation to the suspension of Annual fees payable under the Licensing Act 2003 in respect of Premises Licences and Club Premises Certificates.

The Greater Manchester Combined Authority had agreed a consistent approach which has been referred to the Wider Leadership Team as part of a number of measures to assist licensed premises as part of the lockdown easing as businesses reopen.

Members of the Emergency Powers Group agreed not to suspend any Licensing Act 2003 premises licences for non-payment of the annual fee until 1 December 2020. In addition it was agreed that a review of this urgent decision will be referred to the Licensing and Safety Panel for consideration in November 2020.

The Licensing Manager presented a report from the Executive Director (Operations) which explained that the second lockdown was implemented by Government on 5th November 2020 and ends on the 2nd December 2020. It is anticipated that the next Government restrictions that may be implemented on 2nd December will further increase financial pressures on licensed premises under the Licensing Act 2003.

The Licensing Service have reviewed the decision of the Emergency Powers Group and request Members to consider the impact of the previous decision on the holders of Premises Licences and Club Premises Certificates.

Members should be aware that the Licensing Act 2003 requires the Council to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

The Licensing Service can confirm that a number of annual fees have been paid, but due to the demands on the service as a result of the pandemic we are not able to provide the numbers in any detail at this time.

In light of this, it is proposed that the Licensing Service will review how many annual fees have been received during the pandemic and how many are still outstanding and prepare a report for Members to consider.

Delegated decision:

That the implementation of the decision of the Emergency Powers Group be deferred so that a further detailed report can be prepared for consideration at the next meeting of the Licensing & Safety Panel in January 2021.

LSP.6 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.7 SUSPENSION/REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCES

Licence Holder 20/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 20/2020 who attended the meeting. The Chair made introductions. The Legal Officer outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the Licence Holder set out the reasons for the Licence Holder being before the Panel.

On 16th October 2020, a compliant was made to the Deputy Licensing Officer that this client had returned from Pakistan on 13th October 2020 and had returned to work as a private hire driver when he should be self-isolating for 14 days due to Covid 19 travel restrictions.

The Deputy Licensing Officer telephoned this client and asked him whether he was working, he replied "no", she asked if he was aware that he should be self-isolating for 14 days, he replied that he was aware.

The Deputy Licensing Officer then contacted this client's operator, Elton Bullitt who confirmed that this client had worked on the 15th October and provided booking

records to show that he completed 12 jobs between 5pm and 10.30pm, see Appendix 1.

The Deputy Licensing Officer telephoned this client again. She asked him why he had just lied when asked whether he had been working. He replied that he had a negative test so he could go back to work. The Deputy Licensing Officer advised him that a negative test made no difference to the fact that he must be self-isolating and that as well as obstructing an officer of the Council's Licensing Service, he had also put members of the public at risk.

The Deputy Licensing Officer then went on to inform him that the matter would be passed to Greater Manchester Police for consideration.

The matter was passed to Bolton Covid unit as the driver does not reside within Bury. A borders checks carried out by them confirmed he had returned from Pakistan, see Appendix 2. An officer from Greater Manchester Police informed the client, on 20th October 2020, that he would be served with a fixed penalty. The client received the fixed penalty in the post on 4th November 2020.

In informing the Deputy Licensing Officer that he had not worked the client committed an offence under s73 of the Local Government (Miscellaneous Provisions) Act 1976 which states;

73 Obstruction of authorised officers.

(1) Any person who—

(c) without reasonable cause fails to give such an officer or constable so acting any other assistance or information which he may reasonably require of such person for the purpose of the performance of his functions under this Part of this Act or the Act of 1847;

shall be guilty of an offence.

The driver stated at the meeting that it was a misunderstanding on his part when he had told the Deputy Licensing Officer that he was not working as he had thought she had meant at that point in time therefore he had answered no. He also explained that he was a father to 5 children, one of which was disabled and his children and wife relied on him to provide for them and pay the mortgage.

The driver stated that he had checked when he was in Pakistan and had been told that he would need a COVID test which he had done and this had come back negative. He wasn't aware that he also had to self-isolate upon his return.

Delegated decision:

The Panel carefully considered the report, and oral representations by the Licence Holder 20/2020 and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, as amended by the Road Safety Act 2006, **resolved, on a majority basis, to invoke Section 52 and to suspend the Licence Holder for a period of 6 months with immediate effect.**

The Panel found as follows:

- That the Licence holder had travelled to Pakistan during a worldwide pandemic when it was well known that travel restrictions were in place and self-isolation required upon return.
- That the Licence holder had lied to the Deputy Licence Officer by stating that he wasn't working when in fact he was.
- That the Licence Holder had stated that he was not aware of the rules concerning self-isolation. He also stated that he was not made aware of any rules when he arrived back in the country even though these rules have been in place since March 2020 and have been widely publicised.
- That the Licence Holder did not realise the seriousness of the public health implications relating to him returning to work straight after his return from abroad.
- That the licence holder was not a fit and proper person to hold a licence in Bury.

Licence Holder 21/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 21/2020. The Licence holder did not attend the meeting and was represented at the meeting by Mr Charles Oakes. The Chair made introductions. The Legal Officer outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the Licence Holder's representative set out the reasons for the Licence Holder being before the Panel.

This client has continuously held a Private Hire Drivers licence since 17th January 2013. His current licence was granted for a period of three years and is due to expire on the 16th January 2021.

On the 22nd October 2020; the Licensing Service received an email from the Private Hire Driver's Association claiming to be acting on behalf of this client. In the email they disclose the offence of speeding. The email and attachment can be viewed at Appendix 1.

The DVLA's online portal was accessed to check this client's driving licence and the following conviction was found:

Offence	Offence Date	Expiry Date	Sentence
SP30 - Exceeding statutory speed limit on a public road	27 th December 2018	27 th December 2021	Licence endorsed with 3 points Fixed Penalty Notice

The client has therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions.

Condition 13 of this clients Private Hire Drivers Licence states:

Convictions – If you are formally cautioned for an offence or convicted of an offence you must tell us in writing, within seven days. Write to the Licensing Unit Manager, 3 Knowsley Place, Duke Street, Bury, BL9 0EJ.

The client was contacted by the Licensing Enforcement Officer and he stated that he thought he had notified the service at the time of the offence. The applicant was aware of the condition to disclose the conviction but had failed to do so. He has not tried to mislead the licensing service but had made a mistake. He apologised for not notifying the licensing service.

This client was emailed a summary of what had been discussed over the telephone and asked whether he agreed with this or wanted to amend anything. He agreed with the summary which is attached at Appendix 2.

The client is before members for consideration to be given as to his suitability to be a private hire driver in Bury.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 21/2020s representative and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, **resolved, on a majority basis, grant the renewal application and to admonish the licence holder as to future conduct.**

LSP.8 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVER LICENCES

The Executive Director (Operations) submitted a report relating to Licence Holder 19/2020 who attended the meeting. The Chair made introductions. The Legal Officer outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the Licence Holder set out the reasons for the Licence Holder being before the Panel.

Members are asked to address themselves to the question as to whether the applicant is a "fit and proper" person to hold a public / private hire driver licence.

The applicant had previously held a private hire driver's licence continually since 4th August 2011 until its expiry on the 3rd August 2020. He submitted an online application for the grant of a new Private Hire drivers licence on the 11th October 2020.

When completing the licence application applicants should "include all convictions that you may have including motoring convictions"

When a licensing advisor used the DVLA's online portal to check this applicants driving licence the following conviction was found:

Offence	Offence Date	Expiry Date	Sentence
SP50 - Exceeding speed limit on a motorway	14 th July 2020	14 th July 2023	Licence endorsed with

			3 points Fixed Penalty Notice
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This applicant has therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions. Condition 13 of this clients Private Hire Drivers Licence states:
Convictions – If you are formally cautioned for an offence or convicted of an offence you must tell us in writing, within seven days. Write to the Licensing Unit Manager, 3 Knowsley Place, Duke Street, Bury, BL9 0EJ.

This applicant was subsequently interviewed by a licensing enforcement officer. He explained that he received notification by post that he had been travelling on the M62 smart motorway at a speed greater than the average speed restriction. He responded to the initial letter but did not get a response. At the end of September he received a further letter indicating that he had been fined £100 and that his licence would be endorsed. He accepted and paid that fine. The applicant accepts he is wholly responsible for the speeding offence and stated that he has not tried to deliberately mislead the licensing service but had made a genuine mistake and failed to fully understand the conditions on his private hire driver’s licence. He had intended to notify the service once his licence had been returned with the endorsements applied. He apologised for not notifying the licensing service. The applicant was emailed a summary of what had been discussed over the telephone and asked whether he agreed with this or wanted to amend anything. He agreed with the summary which is attached at Appendix 1.

Delegated decision:

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 19/2020 and taking into account the Council’s Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, **resolved, on a majority basis, grant the Licence application and to admonish the licence holder as to future conduct.**

LSP.9 RECORD OF THANKS

Councillor Walmsley explained that this was the last full meeting of the Panel before the end of the year.

Councillor Walmsley thanked the officers present at the meeting and asked that her thanks and the thanks of the Panel as a whole be sent to all of the Licensing team for their hard work over the last year.

Mike Caveney, the solicitor in attendance at the meeting thanked that Panel and the officers for their support over the past year.

Delegated decision:

That the thanks of the Panel and Mike Caveney be recorded.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 7.00 pm and ended at 9.20 pm)