

Minutes of: LICENSING AND SAFETY COMMITTEE

Date of Meeting: 22 July 2021

Present: Councillor S Walmsley (in the Chair)
Councillors J Grimshaw, T Holt, J Lewis, G McGill,
J Rydeheard and Y Wright

Also in attendance: Michael Bridge – Licensing Manager
Janet Witkowski – Council Solicitor
Michael Cunliffe – Democratic Services

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

LSP.1 APOLOGIES FOR ABSENCE

Councillors Leach, M Smith, Walsh, S Wright and Ben Thomson, Head of Public Protection.

LSP.2 DECLARATIONS OF INTEREST

Councillor Walmsley declared an interest in the agenda item suspension/ revocation of Private Hire Driver Licence, number 15/2021.
This was due to Councillor Walmsley knowing the applicant.

Councillor Rydeheard declared an interest in the agenda item suspension/ revocation of Private Hire Driver Licence, number 4/2021 and applications for the grant/ renewal of private hire driver licence, number 17/2021.
This was due to Councillor Rydeheard knowing the solicitor representing both items.

LSP.3 MINUTES OF PREVIOUS MEETING

Delegated decision:

That the Minutes of the last meeting held on the 24th June 2021 be approved as a correct record and signed by the Chair.

LSP.4 PUBLIC QUESTION TIME

No public questions were submitted to the meeting.

LSP.5 PROVISION OF A SECOND AUTHORISED TESTING STATION IN BURY FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

The Executive Director (Operations) submitted a report providing Members with an update on the process and timelines associated with the provision of an additional authorised testing station in Bury for hackney carriage and private hire vehicles. It included details of the work that needs to take place to fully understand the associated impacts and to set up the required arrangement.

The process and timeline outlined in the report would ensure the implications of introducing a second authorised testing station are understood and a fair, open and transparent process is carried out to procure an additional authorised testing station in Bury.

It was agreed:

To approve the process and timelines associated with the provision of an additional Authorised Testing Station, as set out in Section 3 of the report attached to the agenda.

LSP.6 URGENT BUSINESS

No urgent business was reported at the meeting.

LSP.7 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.8 SUSPENSION/REVOCATION OF PRIVATE HIRE DRIVER LICENCE

Licence Holder 15/2021

Councillor Trevor Holt Chaired the meeting for this application only.

The Executive Director (Operations) submitted a report relating to Licence Holder 15/2021 who was in attendance at the meeting along with Mr Ahmed his legal representative. The Chair made introductions and the Council Solicitor outlined the procedure to be followed and clarified that all those in attendance had read the report. The report was accepted by the Licence Holder and the Licensing Manager set out the reasons for the Licence Holder being before the Committee.

The report stated the licence holder had held a private hire driver's licence continually since 8th December 2003 until its expiry on the 20th May 2022. He emailed the licensing department on 27th May 2021 to inform them that he had received two motoring convictions (SP30) following an email sent to all licensed drivers to remind them of the conditions attached to their licence. This licence holder had therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions.

This licence holder was subsequently interviewed by the Licensing Enforcement Officer and he explained the background to the offences which was detailed in the report attached to the agenda packs.

The licence holder and his legal representative explained at the meeting that he had been involved in an accident as a pedestrian not long after the second offence took place. This had resulted in four operations and medical paperwork had been presented to the Chair. He had also experienced family problems and non-disclosure of the offences was a mistake for which he submitted apologies and stated it would not happen again. He also thought the email from the Licensing Department which he replied to on the same day was an amnesty to declare any past convictions that may have not been declared.

Upon questioning by the Licensing Manager he admitted last reading the licensing rules a number of years ago and apologised for the mistake.

Delegated decision:

The Committee carefully considered the report, and oral representations by the Licence Holder and his legal representative.

Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, that the committee resolved to admonish the licensee as to future conduct and reminded the applicant to recognise the responsibility for declaring future convictions within the timescales printed on the licence.

Licence Holder 07/2021

The Executive Director (Operations) submitted a report relating to Licence Holder 07/2021 who was in attendance at the meeting. The Chair made introductions and the Council Solicitor outlined the procedure to be followed and clarified that all those in attendance had read the report. The report was accepted by the Licence Holder and the Licensing Manager set out the reasons for the Licence Holder being before the Committee.

Members were reminded this matter was scheduled to be heard on the 8th July 2021, but a request by the licence holder for an adjournment was granted due to working commitments

The report stated the licence holder had held a private hire driver's licence continually since 22nd December 2019 until its expiry on the 22nd December 2022. He emailed the licensing department on 1st June 2021 to inform them that he had received a motoring conviction (SP50) following an email sent to all licensed drivers to remind them of the conditions attached to their licence. This licence holder had therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions.

This licence holder was subsequently interviewed by the Licensing Enforcement Officer and he explained the background to the offence which was detailed in the report attached to the agenda packs.

The licence holder explained at the meeting that he had tried to arrange a speed awareness course which after attending would have resulted in no points being attributed to his licence and no need to declare the conviction. After trying to

arrange this via central ticket office without any success after a number of days he apologised for the mistake.

Upon questioning by the Licensing Manager, he confirmed he had read the licensing rules and this incident would not happen again.

Delegated decision:

The Committee carefully considered the report, and oral representations by the Licence Holder.

Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, that the committee resolved to admonish the licensee as to future conduct and reminded the applicant to recognise the responsibility for declaring future convictions within the timescales printed on the licence.

Licence Holder 12/2021

The Executive Director (Operations) submitted a report relating to Licence Holder 12/2021 who was in attendance at the meeting along with Mr Khan his legal representative. The Chair made introductions and the Council Solicitor outlined the procedure to be followed and clarified that all those in attendance had read the report. The report was accepted by the Licence Holder and the Licensing Manager set out the reasons for the Licence Holder being before the Committee.

A witness statement in relation to this case had been circulated to Members of the committee.

The report stated the licence holder had held a private hire driver's licence continually since 26th September 2013 until its expiry on the 15th October 2022. He emailed the licensing department on 27th May 2021 to inform them that he had received a motoring conviction (SP30) following an email sent to all licensed drivers to remind them of the conditions attached to their licence. This licence holder had therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions.

This licence holder was subsequently interviewed by the Licensing Enforcement Officer and he explained the background to the offence which was detailed in the report attached to the agenda packs.

The licence holder and his legal representative explained at the meeting that he thought he had to inform of conviction only upon renewal of the licence and when the Licensing email was received, he realised his mistake and declared the offence. The licence holder upon questioning stated he had read the conditions.

The Licensing Manager advised that if the licence holder was unsure of the conditions, then the licensing department could have been contacted to advise as they offer help and support.

As a point of clarity in response to comments made by the licence holder's legal representative, the Council's legal officer provided the definition of a conviction which includes a fixed penalty notice under the licensing policies.

Delegated decision:

The Committee carefully considered the report, and oral representations by the Licence Holder and his legal representative.

Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, that the committee resolved to admonish the licensee as to future conduct and reminded the applicant to recognise the responsibility for declaring future convictions within the timescales printed on the licence, not just at the start or renewal stage but throughout the licence duration.

Licence Holder 13/2021

The Executive Director (Operations) submitted a report relating to Licence Holder 13/2021 who was in attendance at the meeting. The Chair made introductions and the Council Solicitor outlined the procedure to be followed and clarified that all those in attendance had read the report. The report was accepted by the Licence Holder and the Licensing Manager set out the reasons for the Licence Holder being before the Committee.

The report stated the licence holder had held a private hire driver's licence continually since 30th October 2007 until its expiry on the 23rd January 2023. He emailed the licensing department on 3rd June 2021 to inform them that he had received a motoring conviction (SP30) following an email sent to all licensed drivers to remind them of the conditions attached to their licence. This licence holder had therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions.

This licence holder was subsequently interviewed by the Licensing Enforcement Officer and he explained the background to the offence which was detailed in the report attached to the agenda packs.

The licence holder explained at the meeting that the incident by was an oversight on his behalf due to having a lot on in January. He stated he understood the licensing conditions and confirmed that he had re-read the terms and conditions again to refresh himself with them.

Delegated decision:

The Committee carefully considered the report, and oral representations by the Licence Holder.

Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, that the committee resolved to admonish the licensee as to future conduct and reminded the applicant to recognise the responsibility for declaring future convictions within the timescales printed on the licence.

Licence Holder 14/2021

The Licensing Manager informed the committee that licence holder 14/2021 had requested an adjournment due to being poorly in hospital in another part of the country which had prevented him attending the meeting.

Delegated decision:

That the Committee passed on their best wishes and the case be adjourned until the next meeting in September.

LSP.9

APPLICATIONS FOR THE GRANT/RENEWAL OF PRIVATE HIRE DRIVER LICENCES

Licence Holder 17/2021

The Executive Director (Operations) submitted a report relating to applicant 17/2021 who was in attendance at the meeting along with Mr Ahmed his legal representative. The Chair made introductions and the Council Solicitor outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the applicant and the Licensing Manager set out the reasons for the applicant being before the Committee.

This applicant had held a Private driver's licence continuously since 15th April 2015 until its expiry on 11th April 2021.

On the 6th April 2021 the private hire drivers licence was extended without prejudice until the date of this committee meeting.

The online application explains that any traffic offences must be declared irrespective of when they occurred. This applicant selected no when asked "Do you have any convictions, fines or formal cautions?" The applicant also selected no when asked "Have you been issued with any fixed Penalty notices?" When a licensing advisor used the DVLA's online portal to check this applicant's driving licence a conviction (SP30) was found. This applicant had therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions.

This applicant was subsequently interviewed by the Licensing Enforcement Officer, and he explained the background to the offence which was detailed in the report attached to the agenda packs.

The applicant stated that English was not his first language since arriving in the UK 6 years ago. It was an error on his behalf when completing the online application form as he was not used to computers

The applicant apologised and added that he had visited the Council's reception area within 7 days to report the points but there was no record to confirm or deny this statement.

Delegated decision:

The Committee carefully considered the report, and oral representations by the Licence Holder and his legal representative.

Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, that the committee resolved to grant the licence application for a period of 12 months. They informed the applicant that their mitigation was contradictory and reminded the applicant to recognise their responsibility for any licence breaches if any occur in the future.

Licence Holder 16/2021

The Executive Director (Operations) submitted a report relating to applicant 16/2021 who was in attendance at the meeting. The Chair made introductions and the Council Solicitor outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the applicant and the Licensing Manager set out the reasons for the applicant being before the Committee.

This applicant had held a Private driver's licence continuously since 14th June 2018 until its expiry on 13th June 2021. He had submitted an online application for the renewal of a Private Hire drivers licence on the 25th May 2021.

The online application explains that any traffic offences must be declared irrespective of when they occurred. This applicant selected no when asked "Do you have any convictions, fines or formal cautions?" The applicant also selected no when asked "Have you been issued with any fixed Penalty notices?" When a licensing advisor used the DVLA's online portal to check this applicant's driving licence a motoring conviction (SP30) was found. This applicant had therefore failed to declare this motoring conviction within the correct time frame as stipulated in the private hire drivers licence conditions.

The applicant also holds a Private Hire Operators Licence which he was first granted on 26th July 2019 for one year. This then expired and he did not licence himself as an Operator again until 3rd February 2021.

The online private hire operators licence application asks "Do you have any convictions, fines or formal cautions?" The applicant also selected no when asked "Have you been issued with any fixed Penalty notices?"

The applicant's operator's licence was issued on the 3rd February 2021. The Licensing Service issued a private hire operator's licence to this applicant due to the fact that the application form did not request the declaration of fixed penalties. Due to this the application was granted due to the requirements being met.

This applicant was subsequently interviewed by the Licensing Enforcement Officer, and he explained the background to the offence which was detailed in the report attached to the agenda packs.

The applicant stated that he was very sorry and had held a clean driving licence for many years. There was no malice in his action and had last read the conditions a couple of years previously.

The Licensing Manager made Members aware of another fine which had recently been given by Greater Manchester Police for obstruction of a pavement and a £30 penalty. The incident happened on the 6th June, although the applicant notified the Deputy Licensing Officer immediately by email and emailed again on the 19th June to inform that the fine had been received.

Delegated decision:

The Committee carefully considered the report, and oral representations by the applicant.

(1) Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, that the committee resolved to admonish the licensee as to future conduct and grant the licence application for a period of 12 months. They informed the applicant to report any licence breaches if they occur in the future.

(2) Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, that the committee resolved to admonish the operator as to future conduct but no action would be taken in relation to the operators licence.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 1.00pm and ended at 2.59pm)