

Minutes of: LICENSING AND SAFETY COMMITTEE

Date of Meeting: 7 October 2021

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

Also in attendance: Michael Bridge – Licensing Unit Manager
Michael Cunliffe – Democratic Services
Ben Thomson- Head of Public Protection
Janet Witkowski – Council Solicitor

Public Attendance: 6 members of the public were present at the meeting.

Apologies for Absence: Councillors M Smith, S Walmsley and C Walsh.

LSP.1 APOLOGIES FOR ABSENCE

Councillors Leach, M Smith, C Walsh and S Walmsley.

LSP.2 DECLARATIONS OF INTEREST

Councillor Rydeheard declared an interest that in his employment he had worked on a number of cases involving Private Hire and Hackney Carriage drivers.

LSP.3 MINUTES OF PREVIOUS MEETING

Following the last Licensing and Safety Committee under the public questions agenda item it was reported that a number of topics raised at that meeting would be discussed at a future taxi trade meeting. These included topics on clean air and concerns in respect of an increase in the number of violent incidents and abuse towards taxi drivers.

Ben Thomson, Head of Public Protection provided the committee with an update about GMP data on reported incidents involving projectiles at vehicles. Figures suggested these incidents increased in the school holidays and it was confirmed that this was for the Bury area only and not across Greater Manchester. Information was also provided about a financial support scheme to upgrade or retrofit GM- licensed taxis and private hire vehicles to comply with the GM wide clean air zone and would be open to applications in January 2022.

Delegated decision:

That the Minutes of the last meeting held on the 2nd September 2021 be approved as a correct record and signed by the Chair.

LSP.4 PUBLIC QUESTION TIME

Members of the public were in attendance at the meeting and submitted the following verbal questions:-

Mr Shafqat Mahmood asked the Licensing Department Officers about driver badges expiring and the renewal timelines and made reference to a particular case. He made reference to a specific driver.

The Chair stated that the topic being discussed was a private matter related to individuals so could therefore not be classed as a public question. The Council Solicitor added that matters for individuals were confidential and personal information, therefore they should not be dealt with in a public meeting setting.

An additional comment was provided by Mr Mahmood about an individual and again the Council Solicitor advised that it was not the remit of this committee to deal with such matters and stated that Officers present had noted the points made.

Mr Shafqat Mahmood requested a meeting with the Acting Chair of the meeting and the Chair of the Licensing and Safety Committee to look into his concerns.

Mr Muhammad Sajjad Warraich asked why some drivers who had points on their driving record had managed to keep their taxi licence whilst other had lost their licence. The Council's Solicitor commented that the decision was decided on a case-by-case basis on individual circumstances.

A member of the public asked a question in relation to driver dress codes in relation to the proposed GM wide Minimum Licensing Standards (MLS), particularly in relation to wearing shorts. He requested details as to the source of the information. The Licensing Unit Manager explained that was included in a standard report produced by Greater Manchester Licensing Network and a request could be made for which area it came from along with examples of poor dress code.

The same member of the public then asked about proposals within the MLS that private hire vehicles need to be white in colour with yellow stickers and stated that this could make taxis a bigger target for anti-social behaviour. The Licensing Unit Manager stated this was currently only a proposal and may be subject to change following consultation.

Mr Shafqat Mahmood then asked if a meeting could be arranged with the trade and Councillors on the Committee before decisions are taken on MLS and how would they go about it. Information was provided about writing to the Licensing Department, Chief Executive or Chair of the relevant committee to submit a request.

The Licensing Unit Manager added there had been a full consultation undertaken in relation to the MLS with over 1,650 responses received from the public, taxi trade and other organisations.

Mr Muhammad Sajjad Warraich commented that there would be a risk of cross border drivers coming into the borough due to the MLS.

Mr Shafqat Mahmood then commented that taxi drivers were CRB checked as part of the application process and asked if the Council checked that staff who worked in the Licensing Department were regulated under the same process.

LSP.5 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:

AMENDMENTS TO THE LICENSING ACT 2003

The Licensing Service had been made aware that there had been some amendments to the Licensing Act 2003 which came into force on the 16th September 2021. The changes were detailed in the report.

Members of the Committee asked if the licence trade had been consulted with in relation to Licensing Act changes.

PARKLIFE

The annual Parklife festival at Heaton Park took place on Saturday 11th and Sunday 12th September with New Order on Friday 10th. Public Protection Officers worked throughout all the events over the three days and were joined by the Covid marshals.

Officers carried out checks found the following issues: -

- Licensed vehicles with incorrect signage
- Large number of licensed private hire vehicles from outside of Bury being moved on
- Various street traders (including 2 ice cream vans) were moved on for not having a valid street trading consent for Bury.
- Visits to Licensed premises including off licences were undertaken
- Pedlars who did not hold a valid pedlars certificate issued by the police were moved on.
- People trading from their driveways closed down due to lack of street trading consent despite prior warning being given.

Officers are currently reviewing their findings to inform any future events that take place at Heaton Park.

Councillors commented on the Parklife section of the report, querying its licensing arrangements and raising the question why Covid Marshals were present at the event and requested a job description of the role. Members also questioned the issue of trading from private driveways.

COMPLIANCE/ENFORCEMENT

Details were listed in the report about the Licensing Service dealing with Licensing Act and Hackney Carriage/Private Hire compliance and enforcement matters (Between the period 30th August- 27th September).

ENGAGEMENT WITH THE TAXI TRADE – Stage 2

On the 22nd September 2021, a taxi trade liaison meeting took place, the Licensing Unit Manager briefed national and local trade representatives on the stage 2 proposals of the common minimum licensing standards relating to vehicles.

GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES

The Licensing Authority (the Council) are consulting on the 3-year review of the Councils Statement of Principles. The consultation period will close on 22 October 2021. At the end of the consultation period, the review will be brought before the Licensing and Safety Committee for consideration. The new Statement of Principles including any amendments to the existing policy will become effective from the 31 January 2022.

EV CHARGING POINTS

The Licensing Service had been liaising with the Hackney Carriage and Private Hire Trade regarding the siting of dedicated electric vehicle charging points that are specifically for the trade. 2 proposed locations detailed in the report had been identified and they are currently undergoing feasibility studies.

The Licensing Service had asked trade representatives to identify another suitable location and this work was ongoing.

It was agreed:

That the report be noted.

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 18/2021

The Executive Director (Operations) submitted a report relating to Licence Holder 18/2021 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 Unit 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 24th October 2018 until its expiry on the 23rd October 2021. He had also held a private hire operator's licence since 21st August 2020.

On the 17th August 2021, the Licence Holder had made an application to renew his private hire operator's licence and declared fixed penalties for two motoring convictions for speeding on 17th November 2018 and 26th May 2019, for which he received fines of £100 and penalty points for each conviction. Due to a technical issue this declaration relating to fixed penalties did not appear on the application form that was considered by the licensing service; therefore, his private hire operator's licence was renewed until the 20th August 2022. Prior to the application to renew his private hire operator's licence he had emailed the licensing department on 5th July 2021 to inform them that he had received two motoring convictions following an email that went 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 7 days, as stipulated in the private hire drivers licence conditions.

The Licence Holder explained that he thought he had notified the Licensing Service but did so a second time when he received the email. He went on to state that it would be devastating to suspend or revoke his licence as he didn't work during the Covid pandemic due to a family member suffering with an illness. His business had built up and he may employ another driver. The majority of his work was within the Jewish community, and he was a trusted person providing services to both women and children.

Upon questioning by the Licensing Unit Manager, the Licence Holder confirmed he had read the licensing conditions and apologised for the mistake.

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, the Committee resolved to admonish the License Holder as to his future conduct and reminded him of his responsibility for declaring future convictions within the timescales printed on the licence.

Licence Holder 22/2021

The Executive Director (Operations) submitted a report relating to Licence Holder 22/2021 who was in attendance at the meeting along with a family member. 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 Unit 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 17th July 2015 until its expiry on the 2nd September 2021. He submitted an online application for the renewal of this Private Hire drivers' licence on the 12th August 2021. As part of the online application the Applicant was asked to declare if he had any traffic offences. The Licence Holder selected 'no' when asked "Do you have any convictions, fines or formal cautions?" The client selected 'yes' when asked "Have you been issued with any fixed Penalty notices and stated 'SP50: exceeding speed limit on a motorway'. A subsequent check of this at DVLA indicated the Licence Holder had a speeding conviction for which he had received a fixed penalty, fined £100 and received 3 penalty points.

The Licensing Service has no record of this offence. Consequently, it was not declared within 7 days 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.

The Licence Holder explained that this had been a mistake but that he had not been driving as had been ill and forgot to inform the Council of the offence and apologised for the mistake.

Upon questioning by the Licensing Unit Manager, the Licence Holder confirmed he had read the licensing conditions and apologised for the mistake.

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, the Committee resolved to admonish the License Holder as to his future conduct and reminded him of his responsibility for declaring future convictions within the timescales printed on the licence.

Licence Holder 23/2021

The Executive Director (Operations) submitted a report relating to Licence Holder 23/2021 who was in attendance at the meeting along his wife. 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 Unit 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 13th June 2019 until its expiry on the 12th June 2022. He emailed the Licensing Service on 9th September 2021 to inform them that he had received a conviction by way of fixed penalty, for speeding for which he received a fine of

£100 and 3 penalty points, following an email sent to all licensed drivers to remind them of the conditions attached to their licence.

The Licence Holder had therefore failed to declare this motoring conviction within 7 days as stipulated in the private hire drivers licence conditions.

The 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.

The Licence Holder and wife explained at the meeting that the Licence Holder had not been working as a private hire driver at the time of the offence and had been working as a long-distance driver due to Covid. He therefore thought he didn't need to inform of the Licensing Service of the conviction until he returned to private hire work.

The Licence Holder apologised for the error provided background information about his family background and stated that in the future he would make sure any offences were declared in the correct timescale.

Upon questioning by the Licensing Unit Manager, the Licence Holder confirmed he had read the licensing conditions and apologised for the mistake.

Delegated decision:

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

Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, the Committee resolved to admonish the Licence Holder as to his future conduct and reminded him of his responsibility for declaring future convictions within the timescales printed on the licence.

Licence Holder 24/2021

The Executive Director (Operations) submitted a report relating to Licence Holder 24/2021 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 Unit Manager set out the reasons for the Licence Holder being before the Committee.

The report stated that the Licence Holder had held a private hire driver's licence continually since 2nd October 2009 until its expiry on the 1st October 2021. On the 7th September 2021, the Licence Holder made an application to renew his private hire drivers licence. On his online application he declared that he had a motoring conviction for speeding for which he had received a fixed penalty by way of a fine of £100 and 3 penalty points. This conviction had not previously been notified to the Licensing Department.

The Licence Holder had therefore failed to declare this motoring conviction within 7 days 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.

The Licence Holder explained at the meeting that he was very sorry and there would be no repeat in the future.

Upon questioning by the Licensing Unit Manager, he admitted not reading the licensing conditions recently.

Members asked the licence holder how much it means to him to hold the licence and work in Bury. He stated that it means a lot to him as he enjoys his job and also required the financial income.

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 Licence Holder as to his future conduct and reminded him of his responsibility for declaring future convictions within the timescales printed on the licence.

LSP.9

APPLICATIONS FOR THE GRANT/RENEWAL OF PRIVATE HIRE DRIVER LICENCES

Licence Holder 25/2021

The Executive Director (Operations) submitted a report relating to Applicant 25/2021 who was in attendance at the meeting along with Mr Khan his legal representative and a family member. 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 Unit Manager set out the reasons for the Applicant being before the Committee.

This Applicant was first granted a hackney carriage driver's licence on the 24th February 2015 which was held continuously until it was revoked at a meeting of the Licensing and Safety Panel on the 19th October 2017. This was due to a complaint from a female passenger which alleged that the Applicant, whilst driving her to her destination, had continually touched his private parts. This had resulted in the passenger feeling upset and shaken, reporting the matter to his operator and also the police. As a result, the Panel had decided the Applicant was no longer a fit and proper person to hold his driver's licence.

The Applicant appealed that decision to the Crown Court which enabled him to drive until that appeal was rejected on the 22nd May 2018.

The Applicant then reapplied for a hackney carriage driver's licence in 2019. The application was put before the Licensing and Safety Panel who determined to refuse the application due to his previous actions and that they were still not satisfied he was a fit and proper person to hold a driver's licence.

On the 16th March 2021 the Applicant submitted a new online application for a hackney carriage driver's licence. Due to his previous Panel appearances this licence application was before the Licensing Safety Committee to determine his suitability as a fit and proper individual to hold a hackney carriage driver's licence.

A character reference in relation to this case was circulated to the Chair and Members of the Committee.

The Applicant's legal advisor Mr Ahmed spoke on behalf of the Applicant and stated that the Applicant had set up a direct debit to pay off the costs and that in the past had been provided with very poor legal advice in relation to appealing previous decisions. He went on to explain that since the incident, the Applicant now understands the serious nature of the offence and means no harm or disrespect to any females. The misunderstanding would not happen again as he would not wish to cause any other offence. Due to the appeal costs he needed to earn more money to pay off the debt as he was only able to deliver food. Mr Ahmed went on to offer an apology to the female passenger and that he had had 4 years to contemplate his actions.

The Licensing Unit Manager confirmed with the Applicant that an English and maths assessment test had been undertaken and passed by the Applicant. Due to concerns by some Members with communication issues a request was made to be provided with a copy of the English and Maths test drivers must pass which was produced by Bury Adult Learning Services.

The Applicant was asked a number of questions directly by the Committee which were responded to by Mr Ahmed and he apologised on behalf of the Applicant for the previous incident and stated he had worked hard in the community over the past few years especially with the local mosque. The Committee asked the Applicant to answer himself and he stated he understood and would be more mindful.

Members asked for the Applicant's reflection on the offence from his own perspective rather than his legal representative answering the questions when nothing had been said by the Applicant requiring translation. Mr Ahmed stated he had spoken with the Applicant twice and could answer on his behalf. The Applicant asked for a chance and stated he would be a professional driver.

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, the Committee resolved to refuse the licence application as they were not satisfied the

Applicant was a fit and proper individual to hold a hackney carriage driver's licence. The reasons for the decision were that;

1. The previous allegations against the Applicant were of a very serious nature and could have been a terrifying experience,
2. The Applicant said very little and showed no real understanding of his actions or the impact on the passenger,
3. The Applicant showed no contrition, remorse or regret for his previous actions,
4. The Applicant provided no information as to how he would ensure that passengers in the future could feel safe in his vehicle,
5. The Applicant provided no information upon which the Committee could be satisfied this would not happen again, and
6. The Committee did not hear any evidence upon which they could be satisfied the Applicant was fit and proper.

The Applicant was informed of their right to appeal.

COUNCILLOR T HOLT
Chair

(Note: The meeting started at 7.00pm and ended at 9.29pm)