

## **SPEAKERS PANEL (LICENSING)**

**23 January 2018**

**Commenced:** 10.00 am

**Terminated:** 11.55 am

**Present:** Councillors Bray (Chair), Reid (Deputy Chair), Buglass, Fowler, Sharif, Sidebottom, F Travis and Wild

**In Attendance:**

Peter McCaughley	Principal Solicitor General Law
John Gregory	Regulatory Services Manager
Mike Robinson	Regulatory Compliance Officer (Licensing)

**Apologies for Absence:** Councillors Jackson, Kinsey, D Lane and Newton

### **15. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **16. MINUTES**

The Minutes of the Speakers Panel (Licensing) meeting held on 21 November 2017 were approved and signed as a correct record.

### **17. EXEMPT ITEMS**

#### **RESOLVED:**

That under Section 100A of the Local Government Act 1972 (as amended) the public be excluded for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 2 and 3 of Part 1 of Schedule 12A of the Act and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, because disclosure of the personal information contained in the reports would not be fair to the applicants / licence holders and would therefore be in breach of Data Protection principles.

### **18. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - 7/2017**

The Assistant Director of Operations and Neighbourhoods submitted a report requesting that the Panel determine whether the applicant was a fit and proper person to hold the relevant licence in accordance with the provisions of Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

The Panel considered the written information submitted and heard the Regulatory Services Manager's case. The Manager advised the Panel that the applicant had previously held a Private Hire Driver's Licence with Tameside from August 2009 until 28 January 2016 when their licence was revoked with immediate effect in the interests of public safety. The applicant's licence had been revoked due to their arrest on suspicion of rape following an incident that had taken place in the early hours of New Year's Day 2016. The applicant was subsequently charged with an offence of rape and appeared at Crown Court in June 2017 and, following a 7 day trial, was found not guilty of the offence.

The application form included an enhanced DBS check, which included information from the Chief Officer of Police relating to the incident on New Year's Day 2016. A representative from Greater Manchester Police was in attendance at the meeting and provided the Panel with a summary of the events that led up to the applicant's arrest and charge.

Having heard the Regulatory Services Manager's case and heard from the Police the applicant and the Panel were provided with the opportunity to ask questions.

An associate of the applicant then addressed the Panel on their behalf. They advised that the applicant had been under significant pressure for the past 18 months both financially and emotionally, and their arrest, charge and subsequent trial had had a big impact on their social and family life. The applicant had a wife who did not work and four children who they had to support.

They outlined that prior to the incident the applicant had a clear record and had worked for a local private hire firm for a long time. They reiterated that the applicant had been found not guilty of the offence and had tried to get their life back on track and return to normality and wanted to return to work.

Following the applicant's case Panel Members and the Regulatory Services Manager were provided with the opportunity to ask questions.

**At this juncture the applicant, their associate, the Police representative, the Regulatory Services Manager and the Regulatory Compliance Officer (Licensing) left the meeting whilst the Panel deliberated on the review. The Solicitor to the Panel and the Senior Democratic Services Officer remained in the meeting to give legal and procedural advice and took no part in the decision making process.**

The Panel considered all the information presented at the hearing. The Panel noted that the applicant had been acquitted of the offence of rape following trial. However the Panel had concerns that the Police and the Crown Prosecution Service considered there to be sufficient evidence to charge the applicant with that offence. In addition the Panel had concerns about the details of the complainant's journey in the applicant's vehicle, and in particular the fact that they turned their PDA set off for the duration of the journey and that they told the complainant that they would take them to Manchester. In all the circumstances the Panel was not satisfied that the applicant was a fit and proper person to hold a licence and resolved that their application for a Private Hire Driver's Licence be refused.

**RESOLVED:**

**That the application for a Private Hire Driver's Licence 7/2017 be refused.**

## **19. APPLICATION FOR A VARIATION OF THE HACKNEY CARRIAGE FARES**

The Assistant Director of Operations and Neighbourhoods submitted a report requesting that the Panel determine an application for a variation of the Hackney Carriage fares in accordance with the provisions of Section 65 of the Local Government (Miscellaneous Provisions) Act 1976.

The Regulatory Services Manager reported that the current Hackney Carriage fares were last reviewed in October 2012 using the key decision process. A request had been received in November 2017 from the Tameside Owners and Drivers Association for a variation of the fare structure.

John Vickerstaff and Asam Mehdi, Tameside Owners and Drivers Association, attended the meeting and outlined the reasons for the request for a variation of the fare structure. They explained that there had been an increase in fees since the fares were last reviewed in October 2012. In addition, there had been a rise in insurance, road tax, running costs and the price of a Hackney Carriage.

A consultation had been undertaken with all 150 Hackney Carriage owners and 56 letters supporting the application for review had been submitted and there had been 4 letters opposing the application. A comparison of the current and proposed tariffs was outlined in the report and highlighted to the Panel and the consultation procedure following a request for a fare increase was also detailed in the report.

Discussion ensued with regard to the proposed increases and it was:

**RESOLVED:**

**That the proposed fare increases to Hackney Carriage fares be approved.**

**20. REVIEW OF A PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER'S LICENCE - 8/2017**

The Assistant Director of Operations and Neighbourhoods submitted a report requesting that the Panel determine whether the licence holder remained a fit and proper person to hold the relevant licences in accordance with the provisions of Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The Panel considered the written information submitted and heard the Regulatory Services Manager's case. The Manager advised the Panel that the driver had held a Private Hire and Hackney Carriage Driver's Licence with Tameside Council since October 2010. On 23 November 2017, the Manager received information from a colleague in Oldham that the driver had appeared in court having been charged with using a mobile phone whilst driving.

The driver was invited to attend the Licensing office on 29 November 2017 to be interviewed about the incident. During the interview the driver said that they had been stopped by the Police on 5 August 2017 whilst driving along the M60 near Oldham for driving without due consideration in lane 2 whilst using a mobile phone.

The Manager notified the Panel that the driver had appeared at Tameside Magistrates Court on 17 November 2017 and pleaded guilty to the offence. The driver was fined £715 and imposed with 6 penalty points on their DVLA driver's licence. Despite the conviction taking the total penalty points on the driver's licence to 12, they had been allowed to keep their driving licence after claiming that disqualification would cause them exceptional hardship.

The driver had applied to renew their Private Hire and Hackney Carriage Driver's Licence on 18 October 2017 but did not list the pending matters on the form despite having been summoned to court for the offences and being aware that the Police intended to prosecute them. The driver listed two red traffic light offences from 22 November 2014 and 6 June 2015, which they had received a total of 6 penalty points for.

The Panel were aware that under the conditions of Private Hire and Hackney Carriage Driver's Licences, drivers must within 7 days disclose to the Council details of any convictions, cautions or any other orders imposed on them during the period of their licence. The driver had not complied with this condition.

Having heard the Regulatory Services Manager's case the driver and the Panel were provided with the opportunity to ask questions.

The driver then addressed the Panel and said that they had been wiping clean their PDA as it had frozen and were unable to accept jobs when the Police stopped them on 5 August 2017 and it was not a mobile phone. The driver also provided an explanation for driving without due consideration in lane 2. They advised the Panel that 3 points had been taken off their driving licence as they were over 3 years old, taking the total to 9 penalty points, and a further 3 penalty points would be taken off the licence in June 2018, taking the total to 6 penalty points.

The driver further added that they had been a driver for a considerable length of time and had a good reputation. This was the first time they had appeared in front of the Panel and apologised for taking up the Panel's time.

Following the driver's case Panel Members and the Regulatory Services Manager were provided with the opportunity to ask questions.

**At this juncture the applicant, the Regulatory Services Manager and the Regulatory Compliance Officer (Licensing) left the meeting whilst the Panel deliberated on the review. The Solicitor to the Panel and the Senior Democratic Services Officer remained in the meeting to give legal and procedural advice and took no part in the decision making process.**

The Panel considered all the information presented at the hearing. The Panel had particular concerns about the nature of the driving on 5 August 2017, which resulted in the driver's licence being endorsed with 6 penalty points, the fact that at the time of the offences they already had 6 penalty points on their licence, and the fact that they failed to notify the Council within 7 days, or at all, that they had been convicted of a driving offence.

In these circumstances the Panel could no longer be satisfied that the driver was a fit and proper person to hold a Private Hire and Hackney Carriage Driver's Licence and with reference to the relevant section of the Local Authority's Convictions Policy resolved that their Private Hire and Hackney Carriage driver's licence be revoked in accordance with section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

**RESOLVED:**

**That the Private Hire and Hackney Carriage Driver's Licence 8/2017 be revoked.**

**21. APPLICATION FOR A NEW HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - 9/2017**

The Assistant Director of Operations and Neighbourhoods submitted a report requesting that the Panel determine whether the applicant was a fit and proper person to hold the relevant licences in accordance with the provisions of Section 51(1)(a) and 59(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

The Panel considered the written information submitted and heard the Regulatory Services Manager's case. The Manager advised the Panel that the applicant had applied for a Hackney Carriage and Private Hire Driver's Licence with Tameside Council on 21 October 2016. Checks undertaken by the Licensing Department revealed that they had a total of 9 penalty points on their DVLA Drivers Licence. The offences were dated 27 April 2015 (exceeding the statutory speed limit on a public road) and 9 September 2015 (using a vehicle uninsured against third party risks).

Having heard the Regulatory Services Manager's case the applicant and the Panel were provided with the opportunity to ask questions.

The applicant then addressed the Panel and apologised for breaking the law with regards to their speeding offence and not insuring their car in a timely manner, which had been an oversight on their part but they had learnt from their mistakes and had been extra careful since 2015 and were pleased that there had been no further incidents.

The applicant told the Panel that they had a good work ethic and wanted to become a taxi driver on a part time basis (as they had a job) to earn some extra income for them and their family. They were local and knew the Tameside area well and were aware that passenger safety was of the utmost importance. The applicant concluded by saying that they were prepared to be patient for their licence and thanked the Panel for their time.

Following the applicant's case Panel Members and the Regulatory Services Manager were provided with the opportunity to ask questions.

**At this juncture the applicant, the Regulatory Services Manager and the Regulatory Compliance Officer (Licensing) left the meeting whilst the Panel deliberated on the review. The Solicitor to the Panel and the Senior Democratic Services Officer remained in the meeting to give legal and procedural advice and took no part in the decision making process.**

The Panel considered all the information presented at the hearing. The Panel had regard to the Local Authority's Convictions Policy, in particular Section F which identifies the offence of driving without insurance as a Major Traffic Offence and which states that a conviction for such an offence less than 3 years prior to the date of the application will generally mean the application will be refused. For this reason the Panel was not satisfied that the applicant was a fit and proper person at this time to hold a driver's licence and resolved that their application for a Hackney Carriage and Private Hire Driver's Licence be refused.

**RESOLVED:**

**That the application for a Hackney Carriage and Private Hire Driver's Licence 9/2017 be refused.**

**22. URGENT ITEMS**

There were no urgent items.

**CHAIR**