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SPEAKERS PANEL (LICENSING)

Day: Tuesday
Date: 18 June 2019
Time: 10.00 am
Place: Committee Room 1, Tameside One, Market Place, Ashton-under-Lyne. OL6 6BH

Item No.	AGENDA	Page No
1.	APOLOGIES FOR ABSENCE To receive any apologies for the meeting from Members of the Panel.	
2.	DECLARATIONS OF INTEREST To receive any declarations of interest from Members of the Panel.	
3.	MINUTES The Minutes of the proceedings of the meeting of the Speakers' Panel (Licensing) held on 19 March 2019 to be signed by the Chair as a correct record.	1 - 6
4.	EXEMPT ITEMS 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 license holders and would therefore be in breach of Data Protection principles.	
5.	APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - 4/2019 Report of the Assistant Director, Operations and Neighbourhoods, attached.	7 - 16
6.	APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - 5/2019 Report of the Assistant Director, Operations and Neighbourhoods, attached	17 - 28
7.	REVIEW OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - 6/2019 Report of the Assistant Director, Operations and Neighbourhoods, attached	29 - 40
8.	URGENT ITEMS	

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Charlotte Forrest, Senior Democratic Services Officer on 0161 342 2346 or charlotte.forrest@tameside.gov.uk, to whom any apologies for absence should be notified.

To consider any items which the Chair is of the opinion shall be considered as a matter of urgency

Agenda Item 3.

SPEAKERS PANEL (LICENSING)

19 March 2019

Commenced: 10.00 am

Terminated: 12.30 pm

Present: Councillors Drennan (Chair), Jackson (Deputy Chair), Fowler, Gosling, Lewis, Newton, Sharif, Sidebottom, Wild and Chadwick

In Attendance: Aileen Johnson Head of Legal Services
Mike Robinson Regulatory Compliance Officer (Licensing)

Apologies for Absence: Councillors J Lane and D Lane

12. DECLARATIONS OF INTEREST

There were no declarations of interest.

13. MINUTES

The Minutes of the Speakers' Panel (Licensing) meeting held on 31 July 2018 were approved and signed as a correct record.

14. 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 1,2 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 license holder and would therefore be in breach of Data Protection principles.

15. APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - 2019/1

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 license in accordance with the provisions of Sections 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. He advised the Panel that the applicant applied for a Hackney Carriage and Private Hire Driver's Licence on 8 November 2018.

The Panel were informed that the applicant was a former licensed Hackney Carriage and Private Hire driver, whose driver's licences were revoked by Speaker's Panel (Licensing) on 23 January 2018.

Following the revocation of the applicant driver's licences on 23 January 2018, the applicant submitted an appeal against the revocation of his licences to Tameside Magistrates Court. The submission of his appeal meant that he could continue to work as a Hackney Carriage and Private Hire Driver until his appeal had been determined.

A month later, on 20 February 2018, the applicant was driving his hackney carriage when he was involved in a road traffic accident at the roundabout junction between Lancaster Road and Two Trees Lane in Denton. Witnesses stated that the accident occurred because the applicant had failed to give way at the roundabout and his passenger stated that he was on the phone at the time of the accident.

It was alleged that the applicant stopped momentarily at the scene of the accident, but that he failed to exchange any details with the other party involved in the accident, and that he left the scene of the accident very shortly afterwards.

The passenger at the time was a young mother, who was travelling with her two children aged 3 and 18 months. Her 3 year old son received minor injuries in the accident when he was thrown out of his seat. When the applicant dropped her at her home address, she told him that her son had been injured, and that she wanted his details. He took her £5 fare and told her that he would wait whilst she went into the house to get a pen and paper. When she came back outside he had driven away.

The passenger says she then received a telephone call from the applicant later that evening, during which he demanded that she provide false evidence that he was not at fault in the accident.

As a result of this incident, a decision was made by the Director for Operations and Neighbourhoods in consultation with the Director of Governance and Pensions/Borough Solicitor, and the Chair of the Speakers' Panel (Licensing) to revoke the applicant's driver's licences with immediate effect in the interest of public safety. This action meant that he was no longer able to drive a licensed vehicle.

The applicant appealed the decision and the matter was heard by Tameside Magistrates on 1 May 2018. The court upheld the Director's decision.

The applicant then appealed the magistrates court's decision to Manchester Crown Court on 7 September 2018, the Judge upheld their decision and the appeal was dismissed.

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

The applicant then submitted a letter from his Solicitors and asked that this be circulated for the Panel to read. The letter made reference to the circumstances of the incident in 2017 which led to his conviction for two offences namely use of a mobile phone and inconsiderate driving.

The letter sought to reassure Members in relation to the application by making them aware that the applicant had made an application for a private hire licence in the Manchester area and this had been granted with him having worked in this line of employment now for 26 days. The letter concluded that the applicant wished to renew his licence in this area, as this was his home district and his preference was to work in this area. The letter was circulated to Panel Members and read out by the Legal Officer.

The applicant then addressed the Panel. He explained the circumstances of the road traffic accident on 20 February 2018, which led to the immediate revocation of his licence in the interest of public safety.

The applicant further stated that he currently worked for a taxi company and had received 30 compliments. With reference to the incidents in 2017, which led to his conviction for two offences; use of a mobile phone and also inconsiderate driving, he added that he knew he was not supposed to take his mobile phone out of the cradle, however he only did so in order to clean it.

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

At this juncture, the applicant and the Regulatory Services Manager 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 and based on the evidence before them, the Panel were not satisfied that the applicant was a fit and proper person to hold a hackney carriage and private hire drivers' licence and with reference to the relevant section of the Local Authority Policy and guidelines relating to the application of the Fit and Proper Test to Licensed Drivers and Operators, resolved that the applicant not be granted a Hackney Carriage and Private Hire Drivers licence. The policy stated that where an individual had had a licence revoked the Panel would normally refuse any subsequent application made within 5 years of the date of the previous revocation unless there were substantial material changes in the individual's circumstances. There was no evidence before the Panel that the applicant was a fit and proper person to enable them to grant the licence.

The letter from the applicant's solicitors only referred to the convictions of 2017 and did not address what happened in 2018 to cause the revocation of the applicant's licence by Tameside Council's Director of Operations and Neighbourhoods on 28 February 2018, a decision that was upheld by Tameside Magistrates Court on 1 May 2018 and again by Manchester Crown Court on 7 September 2018.

The Panel were not satisfied that the applicant was a fit and proper person to hold a Hackney Carriage and Private Hire driver's licence and it was:

RESOLVED

That the application for a Hackney Carriage and Private Hire Driver's Licence 2019/1 be refused.

16. APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - 2019/2

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 license in accordance with the provisions of Sections 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. He advised the Panel that the applicant had applied for a Private Hire and Hackney Carriage Driver's Licence on 16 October 2018.

The Panel was further informed that the applicant had previously applied for a Hackney Carriage and Private Hire Driver's licence in November 2016 and, as part of that process, had been required to complete a topographical test. During the test he was observed to be using his mobile phone despite being previously informed that mobile phones must be turned off for the duration of the test. It was suspected that he was using his mobile phone in order to cheat.

As a result, the applicant was referred to Speakers' Panel (Licensing) on 20 June 2017, where the Panel determined that he was not a fit and proper person to hold a Hackney Carriage and Private Hire Drivers Licence.

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

The applicant then addressed the Panel and explained that he made a mistake and apologised for using his mobile phone. He said that he was only using the phone to contact a friend for a lift and was not cheating, however, he realised that he shouldn't have done so until he left the room and he apologised for this.

The applicant further explained that he had had a difficult time following the death of his mother and subsequent loss of employment, through spending a period of time in Pakistan for her funeral. Following the Panel's decision not to grant him a licence in 2017, he had attended Tameside College in order to broaden his knowledge and skillset and gained a BTEC Level 2 qualification by completing a City and Guilds, Professional Taxi and Private Hire Driver course.

Following the applicant's case, Panel Members and the Licensing Manager were provided with the opportunity to ask questions. The applicant confirmed that he had no criminal convictions.

At this juncture the applicant and the Regulatory Services Manager left the meeting whilst the Panel deliberated on the application. 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.

In determining your application, the Panel commended your commitment to obtaining the BTEC qualification at Tameside College, which was not a mandatory requirement for taxi drivers.

Having considered all the information presented at the hearing and based on the evidence before them, the Panel determined that the applicant was a fit and proper person and resolved to grant the applicant a Private Hire and Hackney Carriage Driver's Licence. The Panel further commended the applicant's commitment to obtaining the BTEC qualification at Tameside College, which was not a mandatory requirement for taxi drivers.

RESOLVED

That the Hackney Carriage and Private Hire Driver's Licence 2019/2 be granted.

17. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - 2019/3

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 license in accordance with the provisions of Sections 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. He advised the Panel that the applicant had applied for a Private Hire Drivers Licence on 8 October 2018. As part of that application process the Licensing Department carried out checks with the Disclosure and Barring Service (DBS). The Regulatory Services Manager had reviewed the information provided following the application to the DBS along with intelligence from the Police and arranged a meeting at the Licensing office.

The Panel were further informed that the applicant attended the Licensing Office on 26 February 2019 to discuss the offences that were on his DBS and Statutory Declaration which included convictions for violence and major traffic offences.

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. He explained that he received a basic DBS in the past however he did not know why he had received it and did not recall applying for it. He also stated that he was not aware that an enhanced DBS check was required when he completed his

application on 8 October 2018 and realised when it came that he had missed out one of the charges and had requested a fresh application form in order to complete it fully and correctly, however he was informed by a member of staff at the Licensing office that there would be a meeting arranged to discuss his application and he would be invited to attend.

The Regulatory Services Manager and the Panel were then provided with the opportunity to ask questions. In answer to queries raised in respect of charges in addition to those detailed on the enhanced DBS, the applicant explained the circumstances of his attendance at Liverpool Crown Court charged with robbery, causing GBH with intent, possessing an offensive weapon in a public place, theft from person and battery, where he was found not guilty and discharged; and that on 2 July 2018, he appeared at Minshull Street Crown Court, Manchester, charged with kidnapping, where he was also found not guilty and discharged.

In respect of convictions/warnings detailed on the enhanced DBS in 2010, 2012 and 2013, the applicant explained that these happened when he was younger and still in school and that he had matured since then.

At this juncture, the applicant and the Regulatory Services Manager 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 and based on the evidence before them, were concerned that not enough time had passed since the applicant's 12 month disqualification from driving in 2013, given his current age (23) and previous and subsequent pattern of behaviour documented in the report, to satisfy them that he was a fit and proper person to hold a drivers licence at this moment in time. The panel were required to assess an applicant as a whole and should not grant a licence unless they are so satisfied.

The Panel were not satisfied that the applicant was a fit and proper person to hold a Hackney Carriage and Private Hire driver's licence.

RESOLVED

That the application for a Hackney Carriage and Private Hire Driver's Licence 2019/3 be refused.

18. URGENT ITEMS

There were no urgent items.

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