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SPEAKERS PANEL (LICENSING)

Day: Tuesday
Date: 16 November 2021
Time: 10.00 am
Place: George Hatton Hall - Dukinfield Town Hall

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 21 September 2021 to be agreed 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 applicant and would therefore be in breach of Data Protection principles.	
5.	APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - 4/2021 To consider a report of the Regulatory Services Manager.	7 - 28
6.	URGENT ITEMS To consider any items which the Chair is of the opinion shall be considered as a matter of urgency	

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.

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Agenda Item 3.

SPEAKERS PANEL (LICENSING)

21 September 2021

Commenced: 10.00 am

Terminated: 12.40 pm

Present: Councillors Taylor (Chair), Quinn (Deputy Chair), Cartey, S Homer, Jackson, Lewis, North and Sweeton

In Attendance: Ashleigh Melia Legal Representative
Mike Robinson Regulatory Services Manager (Licensing)

Apologies for Absence: Councillors J Homer, Lane, T Sharif and Chadwick

6. DECLARATIONS OF INTEREST

There were no declarations of interest.

7. MINUTES

The minutes of the Speakers Panel (Licensing) meeting held on 20 July 2021 were agreed as a correct record.

8. 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 and would therefore be in breach of Data Protection principles.

9. APPLICATION FOR A PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER'S LICENCE - 2/2021

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 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 June 2020. They had previously held a Private Hire and Hackney Carriage Driver's Licence with Tameside Council between 21 December 2016 and 29 June 2017.

The Panel heard that on 29 June 2017, the applicant's licences were immediately revoked by delegated officers in the interests of public safety, following a complaint received by the Council that they had sexually assaulted a customer in their licensed private hire vehicle. Following the revocation of the licences, the applicant had subsequently appealed to Tameside Magistrates Court.

At a hearing held in April 2018, Tameside Magistrates Court upheld the Council's decision to revoke the licences and the appeal was dismissed.

The Panel were made aware of the relevant sections of the Policy and Guidelines, as set out below, relating to the Application of the "Fit and Proper Person Test" to Licensed Drivers & Operators.

Reapplication

Where an individual has had an application refused or a licence revoked, the Committee / Panel would normally refuse any subsequent application made within 5 years of the date of the previous refusal or revocation unless there are substantial material changes in the individual's circumstances. In addition, the individual must provide evidence that they are a fit and proper person before a licence will be granted.

The Panel and the applicant were provided with the opportunity to ask questions of the Regulatory Services Manager.

The applicant then addressed the Panel and provided a detailed recollection of the events leading up to and after the incident. They categorically denied the allegation and explained that they had accidentally touched the thigh of the customer whilst removing her belongings from the front passenger seat in order for her to enter the vehicle and sit down. The applicant further explained that they had a conversation with the customer about her personal life and asked personal questions but stated that the customer initiated this conversation.

In response to questions from the Regulatory Services Manager and Panel Members, the applicant stated that they believed the allegation had been made due to a discrepancy over the fare. The applicant explained that they had not turned on their meter at the start of the journey. Once they had realised the mistake, approximately half way into the journey, they told the customer. The applicant said that they had pointed this out again once the journey had ended and the customer made payment.

The applicant told the Panel they believed they were a fit and proper person and had been employed as a delivery driver for the past 3 years and there had been no complaints made about them or their conduct.

In summary, the applicant reiterated that they had touched the customer accidentally and the incident was a long time ago. They said that they had respect for the job and would like another chance.

At this juncture the applicant, their spouse and the Regulatory Services Manager left the meeting whilst the Panel deliberated on the application. The Legal Representative 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 the application the Panel considered all the information presented at the hearing in addition to the report and appendices. They further considered relevant statute and case law and the Council's *Convictions Policy (Policy & Guidelines relating to the Application of the "Fit and Proper Test" to Licensed Drivers and Operators)*, which stated that where an individual has had a licence revoked, the Panel would normally refuse any subsequent application made within 5 years of the date of the revocation unless there were substantial material changes in the individual circumstances. In addition, an applicant must provide evidence that they were a fit and proper person.

The Panel noted that it had been 4 years since the date of the previous application. In addition, the Panel were not satisfied that the applicant had provided any evidence that they were a fit and proper person to hold a licence nor had they provided any evidence that there had been any substantial material changes in the personal circumstances since the last application to this Authority.

The Panel therefore decided that the applicant was not a fit and proper person to hold a licence and that the application be refused.

The Panel was of the view that the sanction imposed was appropriate and proportionate having regard to all the circumstances of this matter and having regard to the Council's adopted policy.

RESOLVED

That the application for a Private Hire and Hackney Carriage Driver's Licence 2/2021 be refused.

10. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - 3/2021

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 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 Driver's Licence on 1 August 2021. They had previously been refused a Private Hire and Hackney Carriage Driver's Licence at a Speakers Panel (Licensing) hearing on 2 August 2016.

Following submission of their previous application in 2016, enquiries within Environmental Services revealed that officers from Tameside Council's Trading Standards had many dealings with a shop the applicant owned and managed in Ashton-under-Lyne. Trading Standards had regularly received intelligence that the applicant had sold age-restricted goods such as tobacco products, DVD's and Legal Highs to minors. Since the Panel hearing in 2016, the shop had been inspected once in October 2018 and no issues were identified. Since 2018, Trading Standards had received three anonymous complaints relating to underage sales of tobacco and cigarettes.

The Panel heard that the applicant had previously held a Hackney Carriage Driver's Licence with Rossendale Borough Council between 15 October 2015 and 26 October 2016. Following notification of Tameside Council's refusal to grant them a Private Hire and Hackney Carriage Driver's Licence, Rossendale Borough Council revoked the Hackney Carriage Driver's Licence on 26 October 2016. The Panel were informed that the applicant had appealed to the Magistrates Court. At a hearing held in December 2016, the Magistrates Court upheld the Council's decision to revoke the licence and the appeal was dismissed.

The Panel were made aware of the relevant sections of the Policy and Guidelines relating to the Application of the "Fit and Proper Person Test" to Licensed Drivers & Operators.

The Panel and the applicant were provided with the opportunity to ask questions of the Regulatory Services Manager.

The applicant's solicitor then addressed the Panel and provided a detailed explanation of the mistakes the applicant had made on the application form and stated that these were due to a lack of understanding of the English language and were not examples of dishonesty or deception. He also highlighted the historic nature of the conviction, which was 13 years old, and that the last inspection of the shop, which had taken place in October 2018, revealed no issues. He also queried the lack of inspections by authorities following the three anonymous complaints, which were minor in nature that had been received about activities taking place in the shop since 2018.

The solicitor made reference to the Council's Policy and Guidelines relating to the Application of the "Fit and Proper Person Test" to Licensed Drivers and Operators. Specifically, he referred to the section on "re-application", which stated that where an individual has had an application refused, the Panel would normally refuse any subsequent application made within 5 years of the date of the

previous refusal or revocation unless there were any substantial material changes in the individual's circumstances. He highlighted that it had been 5 years since the last application and that the applicant had changed during these 5 years.

He notified the Panel that the applicant had sold the shop in March 2021 and had suffered hardship during the pandemic. He told the Panel that the applicant was currently out of work and on benefits. He stated that they had a clean driving licence with no convictions or penalty points and believed them to be a fit and proper person to hold a licence.

In response to questions from the Regulatory Services Manager and Panel Members, the applicant explained that they were honest and hardworking and had struggled financially during the pandemic. They had a desire to work and to provide for their family. They accepted they had made mistakes on the application form but insisted that these were due to a lack of education and understanding of English rather than an attempt to deceive and be dishonest. In relation to the items discovered in their vehicle during the inspections of the shop by the authorities, they explained they were for their personal use.

In summary, the solicitor reiterated that the applicant was an honest person and was fit and proper to hold a licence. The applicant was currently without a job and had sold the shop. They held a clean driving licence and had changed since 2016. He requested that all of these factors be taken into consideration when determining the application.

At this juncture the applicant, the solicitor and the Regulatory Services Manager left the meeting whilst the Panel deliberated on the application. The Legal Representative 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 the application, the Panel considered all the information presented at the hearing in addition to the report and appendices. They further considered relevant statute and case law and the Council's *Convictions Policy (Policy & Guidelines relating to the Application of the "Fit and Proper Test" to Licensed Drivers and Operators)*.

The Panel noted that the Policy does not state that they must grant an application for a licence if the previous application was over 5 years ago. The Policy stated that licences for operators of private hire vehicles may only be granted where the Licensing Authority was satisfied that an individual was a fit and proper person to hold a licence. The Licensing Authority's concern was the welfare of the public; it must ensure that the public were not exposed to persons with a history of dishonesty and whether or not a licence holder would be likely to take advantage of passengers.

The Panel noted that the applicant was previously refused a Private Hire and Hackney Carriage Driver's Licence at a Speaker's Panel (Licensing) hearing on 2 August 2016 and that the application was refused because the Panel were not satisfied that the applicant was a fit and proper person to hold a licence. They also noted that Rossendale Borough Council revoked the applicant's licence on 26 October 2016 and that the Magistrates Court had upheld this decision.

The Panel acknowledged that there was a spent conviction for the underage sale of fireworks on 28 October 2008 at a shop the applicant had owned and managed. However, the Panel noted that there were numerous incidents between 2010 to 2015 where the shop was raided and illicit goods were found, which included illegal banger fireworks, counterfeit DVDS, pornography and chargers used for legal highs. On one of these occasions, the applicant was witnessed selling tobacco products to minors. Furthermore, the Panel noted that the Council had received three anonymous referrals in 2018 relating to the underage sale of tobacco and cigarettes at the shop.

The Policy stated that the Licensing Authority may consider whether or not any incidents demonstrated a pattern of criminal behaviour. The Panel acknowledged that whilst the three anonymous referrals in 2018 were not investigated further, these referrals were not isolated

incidents and considered with the history of illicit goods being seized at the shop, the Panel were satisfied that this did demonstrate a pattern of criminal and dishonest behaviour.

After carefully considering all the evidence, the Panel decided that the applicant was not a fit and proper person to hold a licence and that the application be refused.

The Panel was of the view that the sanction imposed was appropriate and proportionate having regard to all the circumstances of this matter and having regard to the Council's adopted policy.

RESOLVED

That the application for a Private Hire Driver's Licence 3/2021 be refused.

11. URGENT ITEMS

There were no urgent items for consideration.

CHAIR

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Agenda Item 5.

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of the Local Government Act 1972.

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