

Public Document Pack



ASHTON-UNDER-LYNE · AUDENSHAW · DENTON · DROYLSDEN · DUKINFIELD · HYDE · LONGDENDALE · MOSSLEY · STALYBRIDGE

SPEAKERS PANEL (LICENSING)

Day: Tuesday
Date: 17 January 2023
Time: 10.00 am
Place: Tameside One, Market Square, 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 Speakers Panel (Licensing) meeting held on 15 November 2022 to be agreed as a correct record.	1 - 8
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 licence holder and would therefore be in breach of Data Protection principles.	
5.	REVIEW OF A PRIVATE HIRE DRIVER'S LICENCE - 9/2022 To consider a report of the Regulatory Services Manager (Licensing).	9 - 34
6.	DATE OF NEXT MEETING To note that the date of the next Speakers Panel (Licensing) meeting is scheduled for 14 March 2023.	
7.	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 charlotte.forrest@tameside.gov.uk or 0161 342 2346 to whom any apologies for absence should be notified.

This page is intentionally left blank

SPEAKERS PANEL (LICENSING)

15 November 2022

Commenced: 10.00 am

Terminated: 12.35 pm

Present: Councillors S Homer (Chair), Chadwick (Deputy Chair), Carthey, Quinn and T Sharif

In Attendance: Ashleigh Melia Legal Representative
James Horton Regulatory Compliance Officer
Nicola Healey (as an observer) Regulatory Support Officer

Apologies for Absence: Councillors Alam, Gosling, Jones, Reid and T Smith

17. DECLARATIONS OF INTEREST

There were no declarations of interest.

18. MINUTES

The Minutes of the Speakers Panel (Licensing) meeting held on 13 September 2022 were agreed as a correct record.

19. 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.

20. APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - 6/2022

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 Compliance Officer's (Licensing) case. He advised the Panel that the applicant had applied for a Hackney Carriage and Private Hire Driver's Licence on 26 August 2022. 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 the applicant had sexually assaulted a customer in their licensed private hire vehicle. Following the

revocation of the licences, the applicant 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 told that the applicant then applied for a Private Hire and Hackney Carriage Driver's Licence on 16 June 2020. Due to the previous revocation having occurred less than five years prior, the application was considered by Speakers Panel (Licensing) on 21 September 2021 where they determined that the applicant was not a fit and proper person to hold the licences and the application was refused.

The Panel were notified that the applicant attended the Licensing Office on 6 October 2022 to discuss their most recent application that was submitted on 26 August 2022.

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.

Having heard the Regulatory Compliance Officer's (Licensing) case, the applicant and the Panel were provided with the opportunity to ask questions.

The applicant then addressed the Panel and told them that they had worked hard over the past five years since their revocation and had attended courses such as Safeguarding, Life in the UK, English and Mathematics. They had provided certificates for these in advance of the hearing. They had worked voluntarily for charities and in their community with vulnerable people. They had submitted a number of character references to support this. They currently worked for a delivery company and had good feedback from customers and the company.

The applicant told the Panel that they had made improvements and their circumstances had changed and wanted an opportunity to become a taxi driver again. They had children, a home and family that they had to support.

The applicant answered questions from the Regulatory Compliance Officer (Licensing) and Panel Members concerning their application for a Private Hire Driver's Licence to Wolverhampton in 2019.

At this juncture the applicant, the Regulatory Compliance Officer (Licensing) and the Regulatory Support Officer 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 an application or a licence revoked, the Panel would normally refuse any subsequent application made within 5 years of the date of the refusal or revocation unless there were substantial material changes in the individual's circumstances. In addition, an applicant must provide evidence that they were a fit and proper person.

The Panel noted that it had been 5 years since the revocation but only 13 months since the previous application was refused by Panel. The Panel was not satisfied that the applicant had demonstrated that there had been a material change in their circumstances to justify departing from its policy.

The Panel acknowledged that the applicant had undertaken a safeguarding course, completed a Life in the UK test and completed English and Mathematics courses. Whilst they credited them for this and noted they had commenced a journey of improvement, they did not feel it was a substantial improvement. Furthermore, they noted that it was mandatory for all drivers to complete safeguarding training prior to obtaining a licence.

The Panel were concerned that the applicant had made an application for a Private Hire Driver's licence to Wolverhampton in 2019 so they could drive a taxi in Tameside, despite Tameside revoking their licences on 29 June 2017 and the Magistrates Court upholding that decision in 2018. The Panel noted that, during questioning, the applicant accepted that they intended to work in Tameside if Wolverhampton had granted their licence in 2019.

The Panel determined that the applicant was not a fit and proper person to hold a Hackney Carriage and Private Hire Driver's 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 Hackney Carriage and Private Hire Driver's Licence 6/2022 be refused.

21. APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - 7/2022

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 Compliance Officer's (Licensing) case. He advised the Panel that the applicant had applied for a Hackney Carriage and Private Hire Driver's Licence on 13 October 2022. The application form and statutory declaration showed four separate convictions dating from 1997 to 2012. The offences included violent disorder, possession of a Class A controlled drug, possession with intent to supply a Class C drug, common assault, being concerned with supplying a Class A controlled drug and possession with intent to supply a Class B drug.

The Panel heard that the applicant was convicted of the offences at Oldham Juvenile and Minshall Street Crown Court with sentencing ranging from compensation, a community order, supervision requirement, restraining order and lastly imprisonment for 3 years, for which the applicant served 18 months in prison and the remainder of the term on licence.

The Panel were told that all of the offences were detailed in the DBS certificate. The applicant attended the Licensing Office on 21 October 2022 to discuss the convictions.

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 and Operators.

C. Drugs

An application will normally be refused or an existing licence will normally be revoked where the individual has a conviction for an offence related to the supply of drugs if the date of conviction or the date on which any custodial sentence is completed is less than 10 years prior to the date of application.*

An application will normally be refused or an existing licence will normally be revoked where the individual has more than one conviction for offences related to the possession of drugs if the date of conviction or the date on which any custodial sentence is completed is less than 5 years prior to the date of application.*

**Including any suspended sentence or any period where the individual is subject to licence on release (i.e. the custodial sentence will only be considered complete at the end of any licence period).*

SPENT CONVICTIONS

By virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002 taxi drivers are an exempted occupation for the purposes of the 1974 Act and convictions are therefore never spent.

The Council will only consider spent convictions if it appears to be relevant for deciding whether the individual is a fit and proper person to hold a licence and that justice cannot be done in the case, except by admitting or requiring evidence relating to that spent conviction. The Council will, in its consideration of the nature of the offence(s), take into account the history or pattern of offending, the lapse of time and whether all the convictions have previously been considered.

Having heard the Regulatory Compliance Officer's (Licensing) case, the applicant and the Panel were provided with the opportunity to ask questions.

The applicant then addressed the Panel and gave an account of the events around the four convictions. They explained that when they were younger they had a different circle of friends and were in an emotionally damaging relationship. They were leading a very different lifestyle to the one that they are now and the turning point for them that made them realise they wanted to change was when they were in prison.

The applicant acknowledged that they cannot change their past but had learnt valuable lessons from it and had turned their life around over the past 10 years and were now a very different person. They no longer had any association with their former friendship group and were in a happy marriage with a new spouse who provided invaluable support and encouragement. They had two stepchildren, who they wanted to be a good role model to, and two other very young children. The applicant stated that they had too many responsibilities to return to their former ways with too much to lose and wanted to provide for their family and stay on the right path.

The applicant told the Panel that they no longer drank or took drugs and had been in a variety of continuous employment since leaving prison. This included working as a residential care worker where they had used their life experiences to advise young people, which had a positive effect on them, and had helped them to make alternative life choices. The young people they had worked with liked and respected them, as they found the applicant to be relatable and had changed their ways because of their advice. The applicant felt proud that despite their DBS the employer had taken a chance on them and viewed their life experiences as an advantage. The applicant had proved themselves and achieved employee of the month.

The applicant notified the Panel that they were currently in their second year of University whilst also working as a courier driver but wanted a career change in order to have hours that were more flexible to give greater opportunities to spend time with their family. Although the applicant acknowledged their past, they did not want it to haunt them. They had changed as a person and

wanted to continue on their self-improvement journey to become a better person and to continue to make themselves and their family proud of the person they had become.

Following the applicant's case, the Regulatory Compliance Officer (Licensing) and Panel Members were provided with the opportunity to ask questions.

At this juncture the applicant, their spouse, the Regulatory Compliance Officer (Licensing) and the Regulatory Support Officer 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)*. Specifically section C relating to drugs, which stated that an application would normally be refused where an individual has a conviction for an offence related to the supply of drugs if the date of conviction or the date on which any custodial sentence was completed was less than 10 years prior to the date of the application.

The Panel considered the four offences in turn, including the sentencing and in particular, the 3 years imprisonment the applicant had received in September 2012 for being concerned with supplying a Class A controlled drug and possession with intent to supply a Class B drug. They noted the seriousness of the convictions but were aware that it had been over 10 years since the sentencing of the last offence.

The Panel were conscious that it had been less than 10 years since the completion of the custodial sentence but had the option to depart from the Policy if they were satisfied that there had been a significant change in circumstances. They acknowledged that the applicant had completely turned their life around over the past 10 years and noted that, in their own words, they had a moment of realisation when they were in prison that they would not get that time back and that they needed to change and become a different person.

The Panel commended the applicant for this and for their continued drive to better themselves. They also commended the support and encouragement their spouse provided. The Panel were satisfied that the applicant gave honest and credible answers to their questions.

The Panel were satisfied that the applicant had clearly demonstrated there had been a significant change in their circumstances since their last conviction and in light of this they determined that, on this occasion, they would depart from Policy.

The Panel determined that the applicant was a fit and proper person to hold a Hackney Carriage and Private Hire Driver's Licence and the application be granted.

RESOLVED

That the application for a Hackney Carriage and Private Hire Driver's Licence 7/2022 be approved.

22. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - 8/2022

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 Compliance Officer's (Licensing) case. He advised the Panel that the applicant had applied for a Private Hire Driver's Licence on 24 August 2022. They had previously held a Private Hire Driver's Licence with Tameside Council between 2 June 2021 and 12 November 2021.

The Panel heard that on 12 November 2021, the applicant's licence was immediately revoked by delegated officers in the interests of public safety, following a complaint received by the Council that in November 2021, the applicant appeared at Tameside Magistrates' Court in connection with two assaults that took place in September 2021 and November 2021. The nature of these offences related to domestic violence against the applicant's former partner, with one incident taking place in front of their young child.

The Panel were notified that in November 2021 the applicant was convicted of the offences of Battery contrary to s39 Criminal Justice Act 1988 and Assault Occasioning Actual Bodily Harm contrary to s47 Offences Against the Person Act 1861. They received an 18 month suspended sentence, an unpaid work requirement, a rehabilitation activity requirement and a restraining order – protection from harassment – of five years.

The Panel were told that the applicant attended the Licensing Office on 14 September 2022 to discuss their application.

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.

Violence

Members of the public entrust their personal safety to private hire and hackney carriage drivers whenever they take a journey.

Passengers often travel alone and are vulnerable to physical attack etc.

Users of private hire and hackney carriage vehicles have a right to expect that drivers are not individuals with a history of violent behaviour of any description.

Offences against Other Persons

An application will also normally be refused or an existing licence revoked where the individual has a conviction for an offence or similar offences listed below, if the date of conviction or the date on which any custodial sentence is completed is less than 3 years prior to the date of application: Including any suspended sentence or any period where the individual is subject to licence on release (i.e. the custodial sentence will only be considered complete at the end of any licence period).*

Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)

No favourable distinction will be made in relation to offences relating to domestic violence or abuse. The Council takes the view that domestic abuse and violence is completely unacceptable and the above guidelines will apply to any offence, including those relating to domestic violence or abuse.

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.

Having heard the Regulatory Compliance Officer's (Licensing) case, the applicant and the Panel were provided with the opportunity to ask questions.

The applicant then addressed the Panel and told them that they had made a drastic mistake that they had suffered from and apologised to everyone that had been affected. They explained that their actions were completely out of character and provided context. They now had a criminal record but wanted to move forward and continue to show and tell everyone how sorry they were.

The applicant had submitted evidence in advance of the hearing in the form of a letter from the Probation Service, which showed that they had undertaken a MEND programme and had successfully completed 100 hours of unpaid work, along with two character references.

The applicant told the Panel that they had a school contract in place through Stamford Cars if they were to be granted a licence and were keen to return to work, having never been out of work before, and had a good work ethic. The applicant's Mum was currently ill and they wanted to work in order to provide for their child. The applicant circulated an additional character reference from the owner of Stamford Cars to the Panel during the hearing.

Having heard the applicant's case, the Regulatory Compliance Officer (Licensing) and Panel Members were provided with the opportunity to ask questions.

In response to questions concerning the application form and why the applicant had answered "no" to not having held a Private Hire Driver's Licence before and "no" to ever having had a Private Hire Driver's Licence revoked, the applicant explained that they had photocopied and submitted an old application form and had amended the date. They said this had been explained to the Licensing officer when they had handed in their application form. The applicant also gave this explanation when asked why they had not declared the two convictions for assault that they were convicted of in November 2021 and added that the convictions were listed on their DBS.

The applicant had declared two motoring convictions on their application form, one of which was under appeal, as they told the Panel they were not the driver of the vehicle when the offence happened, which could be proved as the applicant was at work at the time of the incident.

The applicant answered questions in relation to fortnightly drug testing that their Probation Services Officer referred to in the letter that had been submitted to the Panel saying that they had attended and passed every single test. They also answered questions relating to the terms of the restraining order, which they said was no longer applicable.

At this juncture the applicant, their former partner, the Regulatory Compliance Officer (Licensing) and the Regulatory Support Officer 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 an application would normally be refused where the individual had a conviction for an offence of assault occasioning actual bodily harm and offences similar to assault (i.e. battery) if the date of conviction or the date on which any custodial sentence was completed was less than 3 years prior to the date of the application.

The Panel noted that the 18 month suspended sentence would end in May 2023 and the 3-year period would expire in May 2026. The Policy also 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's circumstances. The Panel noted that the applicant's licence was immediately revoked by delegated officers in the interests of public safety only one year ago in November 2021.

That Panel noted that the court had imposed a restraining order (protection from harassment) against the applicant for a period of 5 years preventing them from contacting their former partner. The Panel were concerned that the applicant attended the hearing with their former partner and by doing so, were breaching that court order. The Panel were concerned that the applicant was being dishonest when they said the restraining order had been discharged. The Panel queried whether the court would discharge a restraining order whilst a suspended sentence was still running and noted that the applicant did not produce a copy of the court order as evidence that would confirm this.

The Panel acknowledged that the applicant had attended the MEND programme and considered the letter from the Probation Service and the three character references, which were provided in support of the application. They queried the reference that the Probation Services Officer made to fortnightly drug testing, especially given that a specific drug was mentioned.

Having regard to its Licensing Policy, the Panel were not satisfied that the applicant had demonstrated there had been a substantial change in their circumstances since their conviction in November 2021. Therefore, the Panel decided that the applicant was not a fit and proper person to hold a Private Hire Driver's 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 8/2022 be refused.

23. DATE OF NEXT MEETING

RESOLVED

That the date of the next meeting of Speakers Panel (Licensing) scheduled for 17 January 2023 be noted.

24. URGENT ITEMS

There were no urgent items.

CHAIR

By virtue of paragraph(s) 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank