

SPEAKERS PANEL (LICENSING)

13 September 2022

Commenced: 10.00 am

Terminated: 2.10 pm

Present: Councillors S Homer (Chair), Chadwick (Deputy Chair), Alam, Cartey, Quinn and Reid

In Attendance: Ashleigh Melia Legal Representative
Mike Robinson Regulatory Services Manager (Licensing)
Rebecca Birch Regulatory Compliance Officer

Apologies for Absence: Councillors Gosling, Jones, T Sharif and T Smith

8. DECLARATIONS OF INTEREST

Name	Agenda Item	Personal / Prejudicial	Nature of Interest
Councillor Chadwick	Agenda Item 6	Personal	Employed by GMP

9. MINUTES

The Minutes of the Speakers Panel (Licensing) meeting held on 19 July 2022 were agreed as a correct record.

10. APPLICATION FOR A VARIATION OF HACKNEY CARRIAGE FARES

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

The Regulatory Compliance Officer reported that the current Hackney Carriage fares were last reviewed in March 2022 – a copy of the current table of fares was appended to the report. A request had been received in August 2022 from the Tameside Owners and Drivers Association for a variation to the fare structure.

The Panel were notified that an informal consultation had been undertaken with the 148 Hackney Carriages that were licensed by the Council and 45 replies had been submitted that supported the variation. A summary of the comments received was appended to the report alongside a comparison of the current and proposed tariffs detailing the impact of the proposed changes.

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 continued to be a significant increase in the cost of living and the price of petrol in addition to rises in insurance, road tax, running costs and the price of a Hackney Carriage.

In response to questions from Panel Members, examples of the proposed increase in fares for various journeys in the Borough were provided alongside the increase in fuel costs and other running costs for taxi drivers.

RESOLVED:

That the proposal to consult on the application for a variation of Hackney Carriage fares be noted.

11. 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 or licence holder and would therefore be in breach of Data Protection principles.

12. REVIEW OF A PRIVATE HIRE DRIVER'S LICENCE - 3/2022

The Assistant Director of Operations and Neighbourhoods submitted a report requesting that the Panel determine whether the driver was a fit and proper person to hold the relevant licence 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 (Licensing) case. He advised the Panel that the driver had held a Private Hire driver's licence since 5 June 2015. On 4 July 2022, a Police Officer from Greater Manchester Police (GMP) notified the Licensing department of a traffic stop that had occurred on 13 June 2022 at 00:22 on Manchester Road East, Little Hulton. The Police Officer had witnessed the driver travel at excess speed of 65-70 miles per hour (mph) in a residential 30mph zone in a Tameside MBC licensed vehicle. The Police Officer advised that the driver was unable to produce their licensed driver's badge upon request.

There had been four female passengers in the taxi when it was stopped. They notified the Police that they had not pre-booked the taxi and they had entered the vehicle upon leaving Park Life Music Festival at Heaton Park, Manchester. They complained about the manner of driving, excess speed and the route that was being taken. They also said that the driver had used their phone whilst driving. Following the traffic stop, Police Officers took the passengers to their eventual destination, Worsley Park Marriott Hotel and Country Club, Worsley Park, Worsley.

On 29 July 2022, the driver attended an interview with a Regulatory Compliance Officer (Licensing) to discuss the traffic stop that occurred on 13 June 2022 and to provide their version of events regarding the incident. During the interview, they stated that the reason for excess speed was due to a passenger being in distress and possibly hyperventilating. One of the passengers had enquired if she had an inhaler. This had led the driver to believe she was having some sort of attack. This did not corroborate with the version of events provided by GMP. The driver further explained that due to the commotion in the taxi they had missed the turning for Worsley.

Following the interview, the driver provided a copy of bank transactions showing that they received a payment of £100 from one of the passengers for the journey, which was returned in full to the passenger at the Police Officer's request during the traffic stop on 13 June 2022. The driver explained during the meeting that the journey had cost £50 and the customer, who had been the main point of contact over the weekend of the Park Life Festival, had owed the driver £50 from a journey that they had undertaken for them the day before.

On 10 August 2022, a member of staff from the operator 'Tameside', provided the vehicle tracking information and supplementary audio recordings regarding the driver's bookings during this period, which confirmed that the vehicle allocated to the booking belonged to the driver. GMP had provided body cam footage from the Police Officer who conducted the traffic stop on 13 June 2022.

Both the audio files and video footage had been circulated to all parties, including Panel Members, prior to the Speakers Panel (Licensing) meeting and were also played during the meeting. During

the playing of one of the audio files the driver can be heard telling the operator that they were speeding as they had overtaken the car in front of them as they suspected they were drunk due to their slow speed, which was estimated to be 20mph or less, and sharp braking.

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 and Operators.

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

The Police Officer from GMP had provided a written statement to the Licensing department detailing the incident on 13 June 2022 and notified the Panel that the driver was awaiting conviction at court for the offence of excess speed in a 30mph zone. They confirmed that the driver had not disclosed at any point during the traffic stop that the reason for excess speed was because one of the passengers were in distress and required an inhaler. The Police Officer informed the Panel that none of the four passengers had disclosed this information but were distressed due to the manner of driving, excess speed and the route they were being taken to their final destination.

Having heard the Police Officer's statement, the driver and the Panel were provided with the opportunity to ask questions.

The driver then addressed the Panel and gave a detailed account of how the booking for the job had been made. They explained that they had undertaken numerous jobs for a customer over the course of the weekend and the driver had made the bookings with the operator on the customer's behalf. When the driver had arrived at the pick-up point during the evening of Sunday 12 June 2022, having undertaken jobs for the customer the day before and on the morning of Sunday 12 June 2022, the customer asked the driver to take the four female passengers in his party, one of which was his girlfriend, to a different destination - Worsley Park Marriott Hotel and Country Club, Worsley Park, Worsley. The customer wanted the females in his party to leave first as he did not feel comfortable leaving them alone.

When the journey commenced the driver had been on a conference call with friends who were asking for directions to the pick-up point to undertake the journeys for the other passengers within the customer's party. The driver said that they had used obscenities during the call, as their friends did not know where they were going. The driver asked the female passengers in the taxi for a postcode and entered it into a sat nav and proceeded to the destination. Shortly into the journey as the driver entered the motorway one of the passengers started to panic and breathe heavily, which the driver believed to be a panic or anxiety attack. One of the other passengers enquired if she had an inhaler, which led the driver to believe she was having an asthma attack. The driver stated that the passengers were asking them how much longer the journey would take and for them to "hurry up". The driver said that due to the commotion in the vehicle, they missed the turning on the motorway and rather than return to the original journey, the sat nav re-routed and they decided to follow the new directions.

The driver told the Panel that they felt guilty, as it was their fault they had missed the exit, and explained that there was no financial benefit to undertaking a longer route to the destination due to the passengers pre-payment for the journey.

The driver expressed sincere remorse for speeding and told the Panel that they did so because of the circumstances and in order to get the passengers to their destination quickly. However, they stated that this was no justification for excess speed and now realised how dangerous it was and the potential harm that could have occurred. They added that speeding was not something they regularly did and it was out of character. The driver had never been in trouble with the Police before and were concerned they would lose the job they loved and livelihood and they had three children to support. The driver believed that they remained a fit and proper person to hold a private hire driver's licence and wanted to continue as a taxi driver.

In response to questions from the Regulatory Services Manager (Licensing) and Panel Members, the driver accepted that their language had been inappropriate given there were passengers in the taxi and categorically denied using their phone whilst driving stating that they had an ear piece and the phone never left its holder. They provided an explanation for being unable to produce their licensed driver's badge and confirmed that it was normally stored in a compartment under the seat. They stated again that the job had been booked with the operator and that the booking and payment methods for the journeys over the weekend were usual practice. Although the cost of the journey was approximately more than double what it normally would be, the driver said that the customer had been happy to pay that price as they had been overcharged by a significant amount in the past.

At this juncture the driver, their sister, the Regulatory Services Manager (Licensing), the Regulatory Compliance Officer and the Police 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 review, the Panel considered all the information presented at the hearing in addition to the report and appendices. The Panel, having heard from all parties and considering all of the evidence, determined that the Private Hire Driver's Licence be revoked with immediate effect.

The Panel were extremely concerned that the driver was driving at 70mph in a 30mph residential zone. Not only did this put the driver and passengers in serious danger but it put other road users and pedestrians in serious danger too. Anyone involved in an accident whilst driving at this excessive speed could have been killed.

The Panel noted that the driver had charged their customers £50 for a 6.6 mile journey, which they stated during oral submissions would normally cost around £25. The Panel were concerned that the driver had overcharged their customers by 50 percent and they had acted dishonestly by doing so. The Panel were also concerned by the convoluted booking method. Although it transpired that the operator had known about the booking they believed that customers should be contacting the operator to make their own bookings rather than the driver making the booking on their behalf. This would avoid any doubt or dispute in the future.

The Panel were not happy that the driver did not display their badge in their vehicle as per the conditions of their licence nor were they able to provide it to the Police Officer upon request. They were aware that badges should be displayed at all times for the safety of passengers.

The Panel noted that the driver provided different accounts as to the reason why they were speeding. When they were pulled over by the Police, they did not provide any reason why they were speeding. The audio recording at Appendix 8 revealed that the driver informed the Operator they were pulled over by the Police for speeding because the driver in front of them was driving slow and kept braking so they sped up to overtake them. During oral submissions at the meeting, the driver informed the Panel that they believed one of the passengers was having some sort of attack and also said that the driver in front of them was driving at approximately 20mph and braking sharply leading the driver to believe that they were drunk. The Panel could not comprehend why anyone would need to drive at 70mph to overtake someone driving at 20mph.

The Panel also noted that the driver informed the Regulatory Compliance Office (Licensing) during an interview with them on 29 July 2022, that they were speeding because they thought one of their passengers was having some sort of attack, however, it was apparent from the Bodycam footage at Appendix 10 that the driver did not inform the Police of this. The Panel acknowledged that if any of the passengers were distressed, it was probably due to the manner and speed in which they were driving. The Panel concluded that the driver had acted dishonestly by providing different accounts as to why they were speeding so excessively.

The Panel were also concerned with the language the driver used, whilst on the phone to their friends, with passengers in their vehicle and noted that the passengers informed the Police. This

was not appropriate conduct or behaviour that the Panel expected of a licenced driver and led them to wonder whether this was the manner in which the driver conducted themselves whilst working with members of the public within the Borough.

The Panel 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)* in which it stated that any breach of conditions, breach of bye-laws or a complaint relating to a licence holders conduct may be referred to the Panel. The Policy also stated that the Local Authority can take into account any information when determining whether an individual is a fit and proper person to hold a private hire drivers licence.

The Panel concluded that driving 70mph in a 30mph zone cannot be excused and that the licence should be revoked.

The Panel deliberated further and considered the evidence that had been gathered since the incident in readiness for the hearing today, specifically:-

1. The audio recordings, Police bodycam footage and the driver's interview with the Regulatory Compliance Officer (Licensing), which showed they had been dishonest by providing different accounts as to why they were speeding.
2. The oral submissions during the hearing where the driver confirmed that they overcharged their passengers by 50%.
3. The oral submissions during the hearing where the driver confirmed that they always kept their badge under a seat and the Police Officers evidence that the driver was unable to provide their badge upon request.
4. The bodycam footage showing the four young female passengers scared following their journey in the vehicle with one of them crying and stating the ride had been "like a rollercoaster" due to the manner of the driving.

The Panel therefore concluded that it was necessary and in the interest of public safety that the licence be revoked with immediate effect.

Members of the public entrusted themselves to the care of drivers both for their own safety and for fair dealing. The driver had behaved in a manner that was extremely dangerous and acted dishonestly. The Panel reiterated their concerns that the driver, passengers, other road users or pedestrians could have been killed if they were involved in an accident whilst the driver was driving at 70mph.

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 driver's Private Hire Driver's Licence be revoked with immediate effect.

13. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - 4/2022

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) 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 (Licensing) case. He advised the Panel that the applicant had applied for a Private Hire Driver's Licence on 1 August 2022. They had declared on their application form that they had received a Caution under the Public Order Act 1986 on 22 August 2015 and had received a conviction for an IN14 offence (causing or permitting the use of a vehicle uninsured against third

party risks) on 28 August 2018, for which they had received a 6-month disqualification and a £240 fine. The applicant also declared on their application form that they had previously been refused a Private Hire Driver's Licence by Oldham Metropolitan Borough Council on 7 September 2021 due to Fitness and Suitability.

As part of the application process, Licensing conducted a search on the Nation Anti-Fraud Network (NAFN) database. The Panel were informed that NAFN Data and Intelligence Services provided a membership service for Local Authorities by collating a list of all refused and revoked Private Hire and Hackney Carriage Drivers from each Authority. It was confirmed that the applicant's details were recorded on the NAFN database. Enquiries were made with Oldham Metropolitan Borough Council who confirmed that the application for a Private Hire Driver's licence was refused at a hearing on 7 September 2021 due to an IN14 offence on the applicant's driving licence.

On 3 August 2022, the applicant attended the Licensing Office at Tameside Metropolitan Borough Council to discuss the offences that were on their statutory declaration. In relation to the IN14 driving offence, they explained that they had let a friend drive their car and they were not insured. In relation to the Public Order Act caution dated 22 August 2015, the applicant explained that they were drunk at a bus station and someone had picked a fight with them.

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 and Operators.

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

The applicant then addressed the Panel and explained that they were unaware that when they applied for a Private Hire Driver's Licence to Oldham Metropolitan Borough Council in September 2021 they would be refused and the Council had advised them to reapply in one year. The applicant had originally applied to Oldham Metropolitan Borough Council as they knew the roads well due to previous employment as a delivery driver in that area. However, having spoken to family members who were taxi drivers in Tameside, the applicant decided to apply to Tameside Metropolitan Borough Council as they resided in the Borough and were familiar with the roads in the area.

The applicant told the Panel that they were currently unemployed following advice from their doctor to quit their previous job on the grounds of ill health. They had a family to support and a mortgage to pay and would be grateful for the opportunity to become a taxi driver. The applicant had held a Private Hire Driver's Licence with Rossendale Borough Council from March 2016 to March 2019 but had never utilised the licence as they had been on good wages at the time when they were in good health and had only applied for the licence as a "back-up". They understood that although the three-year period for their conviction had lapsed their application had to go to a Panel for determination.

In relation to the conviction for an IN14 offence in August 2018, the applicant said that a friend was eager to test drive their new car and had told them that they had fully comprehensive insurance. The applicant believed that this enabled them to drive their car and they would be covered by that insurance policy so did not ask to view the documents. They accepted that this was a mistake on their part and one they had learnt from. They had apologised in court and been appropriately penalised for it.

In relation to the caution the applicant had received in August 2015 under the Public Order Act 1986, the applicant told the Panel that they were young and had been drinking despite it being against their religion. They were drunk at a bus station in Longsight and a group of men started a fight. The Police arrested the applicant as part of the group and they subsequently received a caution. The applicant admitted it was a silly mistake that they had learnt from. They added that they had grown up since the incident and were now married with a family and had responsibilities.

In response to questions from the Regulatory Services Manager (Licensing) and Panel Members, the applicant stated they were different and no longer drank alcohol and wanted to get back on their feet.

At this juncture the applicant, the Regulatory Services Manager (Licensing) and the Regulatory Compliance 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 F relating to Major Traffic Offences, which stated that where an applicant had a conviction less than 5 years old it would be referred to Panel for determination. A conviction less than 3 years prior to the date of the application would generally be refused. Where the conviction resulted in a period of disqualification, an application would normally be refused unless a period of 3 years free from conviction had lapsed from the restoration of the DVLA licence.

The Panel noted that the applicant had declared their caution dated 22 August 2015 and their conviction dated 28 August 2018 on the application form and statutory declaration. The Panel acknowledged the explanation as to how these offences were committed and noted that the applicant had acted honestly by disclosing these offences.

The Panel accepted that the caution was over 7 years ago when the applicant was in their 20s, that the applicant had made a mistake and made submissions during the hearing that they had learnt from that mistake and were continuing to learn from that mistake. The Panel also accepted that the IN14 offence was due to a misunderstanding that the applicant's friend was fully insured on their car. They noted that it had been over 4 years since the conviction and the applicant's DVLA licence had been restored for over 3 years.

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

RESOLVED

That the application for a Private Hire Driver's Licence 4/2022 be approved.

14. APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - 5/2022

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) 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 (Licensing) case. He advised the Panel that the applicant had applied for a Hackney Carriage and Private Hire Driver's Licence on 20 July 2022. It was a requirement of the application that all previous convictions and cautions were declared to the authority. On both the application form and the statutory declaration, the applicant ticked that they had never been convicted of an offence, or received a caution. The DBS showed that an offence of common assault had occurred on 20 April 2021. On 21 April 2021, the applicant was issued a caution for common assault by Greater Manchester Police.

On 15 August 2022, the applicant attended the Licensing Office at Tameside Metropolitan Borough Council to discuss the caution on the DBS with a Regulatory Compliance Officer (Licensing). On 16 August 2022, the Licensing Manager requested further checks of the Police database to establish the circumstance of the offence.

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 and Operators.

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

The applicant then addressed the Panel and confirmed that they had attended an interview at the Licensing Office on 15 August 2022 to discuss the offence. They told the Panel in detail the circumstances of the events that led up to their caution for common assault on 21 April 2021. They disputed that they had pushed the security guard in the hospital but accepted that their tone to the receptionist and security guard was loud because they were panicking and concerned about their friend who was badly injured. They reiterated that nothing had happened and it was an unfortunate incident.

The applicant stated that they had never been in trouble with the Police nor were they a violent person in any way. The applicant was a family man with responsibilities and had graduated from Manchester Metropolitan University with a Business degree. They had worked in many different environments and the caution they had received in April 2021 had not been raised before in other lines of employment.

The applicant had not declared the offence on their application form and statutory declaration as they did not believe that they had a criminal record. They had heeded the words of the Desk Sergeant following their arrest and believed that it would not affect their future prospects. The first time the applicant discovered that the offence was on their record was when the Licensing department contacted them following their application for a Hackney Carriage and Private Hire Driver's Licence. They declared that it was confusion and a misunderstanding and they were not trying to intentionally hide the caution that they knew would be discovered through a DBS.

The applicant told the Panel that they understood the work of a taxi driver as they had family members who worked in the profession and they had worked as a taxi driver in Altrincham over the summer months whilst they were a student. The applicant's badge had since expired and they had applied to Tameside as they lived in the Borough and were familiar with the area. The applicant enjoyed working as a taxi driver as they were outgoing, liked meeting different people every day and having the opportunity to travel and see the countryside. They would know how to handle difficult customers due to their experience in other lines of customer facing roles and would welcome the opportunity to be granted a licence.

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

At this juncture the applicant, the Regulatory Services Manager (Licensing) and the Regulatory Compliance 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 B relating to Violence: Common Assault, which stated that an application would normally be refused where an individual

had a conviction for an offence of common assault if the date of conviction was less than 3 years from the date of application.

The Panel noted that the applicant failed to disclose their caution for common assault on the application form and statutory declaration. The Panel noted the explanation as to how the offence was committed and why the applicant did not disclose it.

The Panel noted that the date of the caution was April 2021 and that 3 years has not yet passed. The Panel considered whether it should depart from the Policy however determined that there was no reasonable justification for doing so therefore concluded 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 Private Hire Driver's Licence 5/2022 be refused.

15. DATE OF NEXT MEETING

RESOLVED

That the date of the next meeting of Speakers Panel (Licensing) scheduled for 15 November 2022 be noted.

16. URGENT ITEMS

There were no urgent items.

CHAIR