

SPEAKERS PANEL (LICENSING)

17 January 2023

Commenced: 10.00 am

Terminated: 10.55 am

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

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

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

25. DECLARATIONS OF INTEREST

There were no declarations of interest.

26. MINUTES

The Minutes of the Speakers Panel (Licensing) meeting held on 15 November 2022 were agreed as a correct record.

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

28. REVIEW OF A PRIVATE HIRE DRIVER'S LICENCE - 9/2022

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 8 December 2017.

The Panel were notified that on 2 December 2022, the Licensing Department received documentation from the driver regarding the renewal of their driver's badge. Due to the expiry of their Disclosure Barring Service check, a Police National Computer (PNC) check request was sent to Greater Manchester Police on 7 December 2022. The findings from the check showed that the driver was involved in a traffic stop by Greater Manchester Police on 13 December 2020. The traffic stop resulted in the driver testing positive for a Class B Drug, namely cannabis. Furthermore, the PNC check received from Greater Manchester Police detailed arrest attempts in relation an alleged sexual assault from Merseyside Police on 25 September 2022.

On 9 December 2022, a meeting took place between the Regulatory Services Manager (Licensing), the Regulatory Compliance Officer and the driver to discuss the matter detailed within the PNC check and obtain the driver's version of events. During the meeting, the driver indicated that they did not inform the Licensing Department about their arrest in December 2020 in accordance with the relevant Private Hire Driver Conditions. Furthermore, they admitted to smoking cannabis in relation to the traffic stop. However, with regards to the alleged sexual assault in Merseyside, they stated that they were the owner of a vehicle that was leased to a licensed driver in Sefton. The licensed driver had since been charged with this offence, which had been confirmed by the Police.

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 driver then addressed the Panel and explained that they had nothing to do with the alleged sexual assault in Merseyside. Concerning the traffic stop in December 2020, they explained that as they were not working at the time and were driving their private vehicle, they believed that they did not need to notify the Council about their arrest. Furthermore, the Police had advised them at the time of their arrest that if they did not receive any documentation within 6 months then no further action would be taken against them; therefore, as they had not been prosecuted and had received no correspondence about the matter from the Police, they considered the matter closed. The driver further explained that they had been surprised to discover when they reapplied for their Private Hire Driver's Licence that this incident was on their record and they had forgotten all about it until it had been brought to their attention by Licensing officers.

The driver told the Panel that this had been their only mistake, which they had learnt from, and expressed remorse. Since passing their driving test in 2015 they had never received any speeding tickets or points and had not been stopped by the Police or arrested other than this one incident. They had been driving for Tameside Council since 2017 and had no complaints against them.

The driver informed the Panel that prior to the lockdown in March 2020, they had never smoked cannabis and no longer did so, including tobacco, and did not drink alcohol. They stated that they struggled with the impact of the lockdown and were not working as a licensed driver at the time due to there being no work. The driver advised the Panel that they had been an irregular user of cannabis and had stopped smoking it following their arrest in December 2020, as they were worried about going to court as they had never been in trouble or arrested before.

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

At this juncture the driver and the Regulatory Services Manager (Licensing) 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. 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 accepted that the driver had completed their renewal application for a Private Hire Driver's Licence correctly, as they were not required to declare that they had been arrested for any offences. The Panel noted, however, that the licensing policy required them to inform the Licensing Authority that they were arrested for driving whilst under the influence of drugs within 7 days of the arrest and that they had failed to do so.

The Panel were concerned that private hire drivers could have contracts to drive children to school. The Panel noted that the driver was driving their own private vehicle when they were under the influence of drugs and that they were not working at that time, however, the Panel were of the view that driving any vehicle whilst under the influence of drugs was not acceptable. The Panel also noted that during an interview with the Licensing Authority on 9 December 2022, the driver made a comment about why they “got away with” the incident.

In mitigation, the Panel acknowledged that the driver had been driving for 8 years and this was the only incident with the Police that they had been involved in.

The Panel considered all available options. Driving under the influence of drugs, whether it was in a personal vehicle or a licensed vehicle, was not acceptable within this Borough. The Panel took this very seriously and concluded that this was not behaviour of a fit and proper person and therefore determined to suspend the licence immediately for a period of 3 months. The Panel were satisfied that an immediate suspension was necessary in the interests of public safety.

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.

29. DATE OF NEXT MEETING

RESOLVED

That the date of the next meeting of Speakers Panel (Licensing) scheduled for 14 March 2023 be noted.

30. URGENT ITEMS

There were no urgent items.

CHAIR