

SPEAKERS PANEL (LICENSING)

18 July 2023

Commenced: 10.00 am

Terminated: 12.55 pm

Present: Councillors Chadwick (Deputy Chair), Beardmore, Drennan and Howarth

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

Apologies for Absence: Councillors S Homer, Alam, Jones, Newton, Quinn and T Smith

8. DECLARATIONS OF INTEREST

There were no declarations of interest.

9. MINUTES

RESOLVED

The Minutes of the Speakers Panel (Licensing) meeting held on 13 June 2023 were agreed as a correct record.

10. 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.

11. APPLICATION FOR RENEWAL OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - 2/2023

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 a Hackney Carriage and Private Hire Drivers Licence 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 (Licensing) case. He advised the Panel that the applicant had held a Licence with Tameside Council since 15 April 2020, which had expired on 11 April 2023; the applicant's DBS Certificate had expired on 9 March 2023 and, although they had applied for a new one, they were still awaiting on their DBS Certificate.

The Regulatory Services Manager told the Panel that the applicant had submitted a renewal application to the Licensing Department on 11 April 2023 and, in the absence of an up to date DBS Certificate, Licensing staff contacted the Police Licensing Officer to carry out a check on the Police National Computer. This check revealed that the applicant had been arrested on 6 January 2023

regarding an alleged rape that had taken place in their licensed vehicle. The Police Officer had provided a statement in relation to this for the purposes of the hearing.

The Panel were informed that GMP had notified the Licensing Department on 6 January 2023 of the applicant's arrest on suspicion of committing a serious sexual offence. It had been alleged that at some time in November 2022, the applicant had picked up the victim from Fairfield Street, Manchester and took her to Gorton Cemetery where a sexual assault took place. The applicant did not inform the Licensing Department of their arrest regarding the sexual offence, which was a requirement of their licence.

The applicant was invited to attend a meeting at the Licensing Office on 12 January 2023 to discuss their arrest and provide their version of events. During the meeting, the applicant denied the allegations and said that they had never met the alleged victim, nor had they had any contact with them. The applicant also denied that they were in the area where the alleged offence took place. At the end of the meeting, the applicant said that they had made a few phone calls to the victim on the day of the alleged incident, however she did not answer the phone and they said that they could not remember why they had tried to call her.

The Panel were told that GMP had advised the Licensing Department that phone records showed that the applicant and the victim were connected to the same phone mast, which indicated that they were in the same area at the relevant time. There was also evidence that the applicant had been in communication with the victim on the day that the alleged incident took place. The Licensing Department were concerned that, although GMP were taking no further action regarding the alleged offence, the applicant had not been honest in the account that they had provided to the Police or to the Licensing Department.

The Regulatory Services Manager made the Panel aware of a previous complaint on the applicant's file relating to information from a Manchester City Council Licensing Officer who had found the applicant in a taxi pick up point at Parklife Music Concert on 14 June 2022. The vehicle they were driving was not displaying plates and was not licensed at the time. The applicant had provided an explanation in regards to this matter and said that they were using the vehicle for personal use in order to pick up their nephew. This account differed slightly to the explanation the applicant had given to the Licensing Officer from Manchester City Council, who said that the applicant had told them that they were picking up friends and did not know their names.

The Panel were made aware that the statement submitted by the Police Licensing Officer detailed intelligence with regards to two incidents in 2021, in July and August, and a further incident in March 2022 relating to suspicious activity, drug supply at an associated address linked to the applicant and a car linked to drug dealing that was insured in the applicant's name.

The Panel were reminded that this matter had been scheduled to be considered by Speakers Panel (Licensing) on 13 June 2023, however it had been adjourned, at the applicant's request, to 18 July 2023 as they had notified the Licensing Department on the morning of 13 June 2023 that they were unable to attend. The Panel were told that the applicant could not drive a licensed vehicle in the interim period as their licences had expired.

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 said that they had not been feeling well or been themselves lately as the allegations and accusations had taken a toll on them and they were traumatised. The applicant told the Panel that the Police had no evidence or proof of the alleged sexual assault and no further action would be taken in relation to this matter. They said that

someone had tried to “set them up” and they strongly expressed that if there were any truth in the allegation then the victim would pursue it and the Police would investigate it.

The applicant informed the Panel that they had five children and a beautiful family and their extended family were well respected in the community. The applicant said that they were well known by various, local professionals, who had known them since their childhood, who could vouch for their character. The applicant stated that they had no complaints against them and they were a normal person trying to earn a living for their family.

The applicant concluded by saying that they were not a bad person and had never been in trouble before or had got in any fights. They said that they had a beautiful wife and did not deserve to be accused.

In response to questions from the Regulatory Services Manager and Panel Members, the applicant stated that none of the allegations made any sense and explained that, because they had changed their name, there had been a delay with their DBS certificate as staff could not locate the applicant or confirm their identity. The applicant explained the reason why they had made contact with the phone number of the victim on the day of the alleged sexual assault by saying that they had received a missed call off that number 6-7 months ago and had saved the phone number in their phone as “nobody”. The applicant said on the night in question they were curious whom the phone number belonged to so they had rung it.

At this juncture the applicant 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 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 felt that the applicant did not provide a satisfactory explanation of their version of events regarding the alleged sexual assault that took place in November 2022. The Panel were concerned that the applicant had previously denied contacting the alleged victim and being in the area of Fairfield Street despite the Police providing evidence from their mobile phone records that they were in the area at the time of the alleged assault and that the applicant had contacted the victim.

The Panel did not accept that the applicant had saved the alleged victim’s number in their mobile phone 7 months ago as “nobody” and had contacted them on the day of the alleged sexual assault to see who it was. The Panel felt that this explanation was not credible and that the applicant was being dishonest.

The Panel took allegations of sexual assault extremely seriously. The applicant gave a “no comment” interview to the Police and failed to provide any plausible explanation at the Hearing as to why they were in the area or why they had contacted the victim.

The Panel felt that the applicant dismissed all of the evidence put before them during the Hearing, including evidence from the Police, stating that “nothing makes sense” and they failed to answer the majority of questions put to them and frequently replied by counteracting with a question.

The Panel concluded that the applicant had demonstrated a pattern of dishonesty and had failed to cooperate with the Police and the Licensing Authority on a variety of matters.

The Panel must uphold the high standards this Authority has for its licensed drivers to ensure the safety of passengers within the Borough.

The Panel determined that the applicant was not a fit and proper person to hold a licence and their application was refused.

RESOLVED

That the application for renewal of a Hackney Carriage and Private Hire Driver's Licence 2/2023 be refused.

12. APPLICATION FOR RENEWAL OF A HACKNEY CARRIAGE DRIVER'S LICENCE - 3/2023

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 a Hackney Carriage Drivers Licence 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 (Licensing) case. He advised the Panel that the applicant had held a Licence with Tameside Council since January 2003, which was due for renewal on 18 June 2023. The applicant had submitted an application for the renewal of their Hackney Carriage driver's badge on 14 June 2023.

As the applicant's DBS report had not been received by 15 June 2023, a search of the Police National Computer was requested, which revealed details of a speeding incident from 13 April 2021. The vehicle involved in this incident was recorded speeding at 37mph in a 30mph speed limit area. Although the registered keeper with the DVLA at the time of the speeding offence was the applicant, a different person at an address in Oldham had been nominated as the driver of the vehicle at the time of the offence; however, no person of this name could be identified as living at this address.

The applicant attended an interview at the Licensing Offices on 19 June 2023 to provide their version of events regarding the speeding offence on 13 April 2021. During this interview, they stated that they could not recall the incident or the Notice of Intended Prosecution by the Police. They also stated that nobody else used the vehicle and that they did not know the person who had been nominated. The applicant was advised that their renewal application would be referred to Speakers' Panel (Licensing) on 18 July 2023 and that a temporary badge would be issued, without prejudice, until this date.

On 23 June 2023, the applicant contacted the Licensing Authority and requested another interview to provide further information regarding the speeding offence on 13 April 2021. This second interview took place on 26 June 2023, during which the applicant said that they had contacted somebody on Facebook who provided services to 'get rid' of driving tickets. They said that they did not want to accept the penalty points, having already completed a speed awareness course in 2020, due to their annual insurance renewal being imminent and the risk of their insurance premium increasing.

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 said that they had been caught by a camera speeding during covid and, at the time, as they were spending a lot of time on social media, they had seen a post on Facebook from someone offering to get rid of traffic offences. The applicant said that they contacted this person to help them, had met them in a park, paid them £100 and handed over the

necessary documentation. The applicant said that they believed it would be done legally as this person had advised them that there was an element of leniency during the period of covid, due to the roads being quieter, and there was a discretion of 10% plus 5. The applicant explained that this information that they had been provided with led them to believe that the maximum they could drive, without being prosecuted, was 38mph and, as they had been caught driving at 37mph, they thought that speed was subject to this discretion.

The applicant reiterated to the Panel that they believed it was legal but, in hindsight, they had realised that they had made a silly mistake, which they regretted and had learnt from it. The applicant told the Panel that they had held a Licence with Tameside since 2003 and prior to that they had been a taxi driver in London. They said that they had a clear DBS certificate, driving licence and had never done anything like this before.

In response to questions from the Regulatory Services Manager and Panel Members, the applicant stated that they had always been honest when they had found passengers belongings in their taxi and had gone out of their way to make sure they were returned to their rightful owner. The applicant said that they always helped their passengers and in 20 years of driving there had never been any complaints made against them. They stated that they were a self-employed taxi driver who was struggling during difficult times.

At this juncture the applicant 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 application, the Panel considered all of the information presented at the hearing in addition to the report and appendices. They further considered relevant statute and case law, which stated that the personal circumstances of an applicant must not be taken into account when considering an application and a Panel were required to consider whether an applicant was a fit and proper person to hold a licence. They also considered the Council's *Convictions Policy (Policy & Guidelines relating to the Application of the "Fit and Proper Test" to Licensed Drivers and Operators)*.

The Panel were aware that Section 172 of the Road Traffic Act 1988 placed a legal obligation on the registered keeper of a vehicle to supply details of the driver of a vehicle at the time of an alleged offence of speeding. They knew that the applicant had been aware that they had committed the alleged offence and the Panel felt that the applicant had acted dishonestly when they had failed to provide their details and had paid someone else to 'get rid' of their speeding ticket.

The Panel noted that the applicant made several references to there being a degree of discretion for speeding by 10% plus 5 and that the applicant had been of the view that going up to 37mph in a 30mph zone might be subject to this discretion as they said that they had been advised the maximum they could drive was 38mph. This led the Panel to question whether the applicant went above the 30mph speed limit on a regular basis, which was a cause of some concern. The Panel noted that the applicant alluded to having previously attended a speed awareness course.

The Panel also felt that the applicant had acted dishonestly when they informed the Licensing Authority on 19 June 2023 that they could not recall the speeding incident however, several days later on 23 June 2023 they were able to recall it. The Panel did not accept that the applicant could not recall this incident on 19 June 2023 and were of the view that this was not a credible response and that they had been dishonest during the first interview with the Licensing Authority on 19 June 2023.

The Panel felt that, whilst the applicant had been naïve in trusting what a stranger on Facebook had said, they had acted dishonestly by failing to supply their details to the Police as required by Section 172 of the Road Traffic Act 1988, which led to documents being falsifying on the applicant's behalf. The Panel noted that this constitutes an offence of perverting the course of justice, which, if the

applicant had been prosecuted, may have resulted in a custodial sentence. Due to the severity of this, the Panel felt they had to act accordingly.

The Panel acknowledged that the applicant had had no previous complaints made against them and, whilst this was a difficult decision for the Panel, they felt that they must uphold the high standards this Authority has for its licensed drivers.

The Panel concluded that the applicant was dishonest to the Police by failing to provide their details and that they were dishonest to the Licensing Authority on 19 June 2023. As there had been a pattern of dishonesty to Authorities, the Panel determined that the applicant was not a fit and proper person to hold a licence and that their application be refused.

RESOLVED

That the application for renewal of a Hackney Carriage Driver's Licence 3/2023 be refused.

13. DATE OF NEXT MEETING

RESOLVED

That the date of the next meeting of Speakers Panel (Licensing) scheduled for 19 September 2023 be noted.

14. URGENT ITEMS

There were no urgent items.

CHAIR