

SPEAKERS PANEL (LICENSING)

19 September 2023

Commenced: 10.00 am

Terminated: 2.15 pm

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

In Attendance:

Ashleigh Melia	Legal Representative
Mike Robinson	Regulatory Services Manager (Licensing)
James Horton	Regulatory Compliance Officer (Part)
Lydia Sidebottom (as an observer)	Regulatory Support Officer

Apologies for Absence: Councillors Jones and Patel

15. DECLARATIONS OF INTEREST

There were no declarations of interest.

16. MINUTES

RESOLVED

The Minutes of the Speakers Panel (Licensing) meeting held on 18 July 2023 were agreed as a correct record.

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

18. REVIEW OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE - 4/2023

The Assistant Director of Operations and Neighbourhoods submitted a report requesting that the Panel determine whether the driver remained 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 27 November 2018.

The Regulatory Service Manager's (Licensing) told the Panel that on 2 December 2022, Mr James Horton, Regulatory Compliance Officer in the Licensing Team at Tameside MBC, received an email from Mr Michael Diggle, an Integrated Transport Unit Commissioner, Tameside MBC, in relation to the potential installation of an additional seat within a licensed vehicle belonging to the Licence

Holder and their Father. It was later established that the reason for the request was to accommodate an extra passenger in the front of the vehicle.

The Panel were informed that following the information received via Tameside MBC Integrated Transport Unit, a telephone discussion took place on 16 December 2022 between the Licence Holder and Mr Horton. The nature of the discussion was to advise the Licence Holder directly in relation to the correct installation of any additional seating within the licensed vehicle. Mr Horton said that he directed the Licence Holder to contact the Driver and Vehicle Standard Agency (DVSA), as they would need to inspect the vehicle and the log book would need to be updated to reflect an increased number of passenger seats.

It was explained that Mr Horton carried out a vehicle inspection on 20 December 2022 and discovered that the additional seat was already installed and, in its current state, was not suitable to convey passengers under any circumstances due to the restricted space between the seat and the dashboard. It was observed that the seatbelt did not feel safe or secure. During the inspection, Mr Horton advised that he instructed the Licence Holder to remove the seat and to contact the DVSA to rectify this matter and ensure that the seat be installed to a safe and sufficient industry standard. Due to the findings during the inspection, the passenger limit on the licensed vehicle was not increased to seven passengers and remained at six passengers.

The Panel were made aware that on 4 July 2023, the vehicle was presented at Tame Street Depot for its six monthly compliance test. Following the test, an email was sent to Mr Mike Robinson, Regulatory Service Manager (Licensing) from Mr Ian Robinson, Tameside MBC Workshop Manager. The email stated that the licensed vehicle was presented for test with an un-safe passenger seat installed in the front of the cab. The tester who carried out the compliance test also noted a cutting board was placed at the bottom of the seat to hide the severity of the poor installation. They advised that if the airbags were to be deployed in the vehicle in this state, it would cause serious injury or death to the front seat passenger. Images taken at the time of the compliance test were appended to the report and considered by the Panel.

It was stated that on 5 July 2023, Mr Horton had a meeting with the named proprietors of the licensed vehicle. The outcome of the discussion ascertained that the reason for the seat installation was to carry a schoolchild for a Home to School contract that the Licence Holder had been assigned to. It was also established that the Licence Holder had predominant day-to-day use and control of the vehicle, not their Father. Another meeting took place on 7 July 2023 between the Licence Holder and Mr Horton, in order for them to provide a version of events relating to the seat installation.

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 Licence Holder, their Father, their representative and the Panel were provided with the opportunity to ask questions.

The Licence Holder's representative then addressed the Panel and told them that the Licence Holder had misunderstood the instruction to contact the DVSA and had mistakenly contacted the DVLA, which was an honest mistake. The representative advised the Panel that the Licence Holder had contacted the DVLA in December 2022 who had told them that no action was required on their part. The Licence Holder submitted their licensed vehicle for a six monthly compliance test in January 2023 and were issued with a compliance certificate. It was emphasised that this led the Licence Holder to believe that the tester was satisfied with the seat installation and, as the vehicle was fully compliant, they believed it was appropriate to use the seat. It was further emphasised that this, along with the information the Licence Holder had received from the DVLA, reinforced the belief that the seat was satisfactory and they could continue to drive with it.

The representative proposed that a fault could have occurred with the seat in the interim period between the two six monthly compliance tests, which was picked up during the compliance test in

July 2023. The Panel were informed that as soon as the issue was highlighted to the Licence Holder in July 2023, they took immediate remedial action by removing the seat and it was suggested that this corrective action placed into doubt why, if the Licence Holder had been advised about the unsatisfactory seat installation prior to July 2023, they would not have taken remedial action at that time. The Panel were told that the Licence Holder had cooperated fully with the Council on the matter and they had no wish to put anyone at risk; it was stressed that the Licence Holder had not deliberately and knowingly made the vehicle unsafe for financial gain.

The representative highlighted the Licence Holder's good character, their clean licence, the fact that they had no cautions or convictions and there was no history of complaints made against them as a licensed driver. A number of character references were circulated to the Panel for their consideration.

The Regulatory Services Manager (Licensing), the Regulatory Compliance Officer and Panel Members, were provided with the opportunity to ask questions.

At this juncture the Licence Holder, their Father, their representative, the Regulatory Services Manager (Licensing), the Regulatory Compliance Officer and the Regulatory Support Officer left the meeting whilst the Panel deliberated on the application. The Council's 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 noted the catalogue of events from December 2022 to July 2023. They considered the email from Mr Ian Robinson, Tameside MBC Workshop Manager, dated 4 July 2023, who concluded if the vehicle was involved in an accident and the airbag were to be deployed, this could cause serious injury or death to the front passenger seat. The Panel were extremely concerned that despite the information Mr Horton provided the Licence Holder with on 20 December 2022, they continued to use the seat whilst transporting children to and from school.

The Panel acknowledged that the Licence Holder had now taken remedial action and the seat has been removed from the licensed vehicle. They noted the Licence Holder's good character, as enforced by the references that were circulated during the Hearing, their clean licence and an absence of complaints on their file.

The Panel considered all available options and, on balance, they determined that the most appropriate action would be to suspend the Licence Holder's licence for a period of 4 months.

RESOLVED

That the Hackney Carriage and Private Hire Driver's Licence 4/2023 be suspended for a period of 4 months.

19. APPLICATION FOR A HACKNEY CARRIAGE, PRIVATE HIRE AND CHAUFFEUR DRIVER'S LICENCE - 5/2023

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, Private Hire and Chauffeur 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 applied for a Hackney

Carriage, Private Hire and Chauffeur Driver's Licence on 13 July 2023. The applicant stated on their application form that they had never held a licence, been refused a licence or had a licence revoked by Tameside Metropolitan Borough Council or any other authority.

The Panel were told that, following receipt of the application, Licensing Officers carried out a search on the Nation Anti-Fraud Network (NAFN) NR3 database, which was a membership service for Local Authorities that collated a list of all refused and revoked Private Hire and Hackney Carriage Drivers from each Authority. It was discovered that the applicant's details were recorded on the NAFN database by Oldham Metropolitan Borough Council. Licensing Officers made enquiries with Oldham Metropolitan Borough Council who confirmed that the applicant had previously held both a Private Hire and Hackney Carriage Driver's licence with them and these were revoked following a Panel hearing held on 15 July 2014.

It was explained that the referral to Oldham Metropolitan Borough Council's Licensing Panel to review the Private Hire and Hackney Carriage Driver's licence on 15 July 2014 occurred following information provided to them by Greater Manchester Police, who advised that on 23 May 2014 a vulnerable female (Female A) had been a passenger in a Private Hire vehicle that belonged to the applicant. This vehicle had pulled up at an address on Suffolk Street, Oldham where a second female (Female B) was picked up. This was witnessed by support staff based at an address on Suffolk Street who notified support staff based at an address on Hawthorn Crescent. The staff from the Hawthorn Crescent address contacted the Operator to determine where the two females had been dropped off. The Operator contacted the applicant as the driver and owner of the vehicle, and it was stated that they had told them that a single female was dropped off at Oxford Street, Oldham.

The Panel heard that the following morning, 24 May 2014, Female A returned home after being reported missing by support staff. Female A stated to the support staff that the taxi driver took her, and Female B, to Saddleworth and offered them £40 to perform sex with them. She went on to say they refused, and the driver made a second offer of £30 for just Female B to perform sex. Female A went on to tell staff that Female B took the £30 but stated nothing happened. Female A stated to support staff that the driver said to them he heard the Police were looking for them, so he told the office he had dropped a lone female passenger off on Oxford Street, Oldham. This corresponds to what staff at Hawthorn Crescent were told when they made enquiries with the Operator as to where the females were.

Following an investigation by Greater Manchester Police, the applicant admitted that they had illegally picked up the females and had dropped them off on Oxford Street, Oldham but strongly denied the offer of sexual favours for payment or otherwise. The investigating officer issued the applicant with a Child Abduction Warning Notice, which was read, understood and signed by the applicant, and they were provided with a copy of the Notice. Licensing Officers from Oldham Metropolitan Borough Council spoke to the applicant about the allegations; they admitted picking up the first female without a booking and taking her to Suffolk Street where another female got in your vehicle. The applicant had denied going anywhere near Saddleworth, where it was alleged they took the two females, and denied offering money to the females' for sexual favours.

The Panel were made aware that, following revocation of both of the applicant's licences, they had initially exercised their right of appeal against the Panel's decision but later withdrew the appeal before it was heard.

The Panel were notified that on 19 March 2015, Oldham Metropolitan Borough Council received an application from the applicant for a Private Hire and Hackney Carriage Driver's licence. The application was referred to Panel due to a previous revocation where the decision was made to refuse the application.

The Panel were informed that the applicant had attended Tameside Metropolitan Borough Council's Licensing Office in August 2023 to discuss their application and the information that had been provided by Oldham Metropolitan Borough Council.

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 provided their version of events with regards to the incident on 23 May 2014. The applicant accepted that they had made a mistake by picking up passengers without a booking and stressed that they had done so with the best of intentions but they had since learnt from this mistake. They strongly refuted the allegations the females had made against them and said that they had continued to work for the rest of the evening with bookings made through the Operator. The applicant told the Panel that they had attempted to retrieve a log of your bookings from that night to prove this was the case but the Operator had merged with another Operator and invested in a new system so there was no longer a record of the applicant's jobs from the evening of 23 May 2014.

The applicant explained that they realised after they had lodged their appeal that they were not in a financial position to see it through so they had to withdraw their appeal. The applicant further explained that they had to return to Pakistan to look after their ailing Mother, who later died; therefore they were not in the country to attend court.

The applicant highlighted that English was not their first language and, as a result, they had made an honest mistake when filling in their application form with regards to answering "no" to the questions concerning having a licence refused or revoked by Tameside Metropolitan Borough Council or any other authority.

The applicant told the Panel about the impact the incident has had on their life and that driving was the only skill they possessed. The applicant said that they had been a licensed driver with Oldham Metropolitan Borough Council, a delivery driver and had owned a business in Stalybridge for three years and, when they made the decision to sell this business, they had continued working there for another three years.

In conclusion, the applicant stated that they had made a big mistake in picking up passengers with no booking but they were not guilty of the things they had been accused of. The applicant added that they had never committed a crime or been in trouble of any sort of form and, if they were to be granted a licence, they would uphold standards and only do jobs booked through the office.

Having heard the applicant's case, the Regulatory Services Manager's (Licensing) and the Panel were provided with the opportunity to ask questions. In response to questions, the applicant admitted that they had recently had an application to Wolverhampton Council refused as they had accused the applicant of cheating on the test.

At this juncture the applicant, the Regulatory Services Manager (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)*.

The Panel acknowledged that whilst working as a taxi driver for Oldham Metropolitan Borough Council, the applicant illegally picked up two young female passengers, which resulted in a Child Abduction Warning Notice being issued against them. The Panel noted that an allegation of sexual assault was made against the applicant but also noted that no further action was taken in respect of this. Nevertheless, the Panel were extremely concerned that the applicant had picked up two young

female passengers with no booking and it was alleged that they had dropped one of them off the following morning at 7am.

The Panel noted that the applicant did not have any evidence from their previous employer that would confirm their whereabouts during the time the young females were missing. Although the applicant explained that the company they were working with had merged with another company, resulting in a change in systems meaning that records were no longer available, the Panel queried why that information was not included in the report to the Panel for review of the applicant's licence by Oldham Metropolitan Borough Council on 15 July 2014.

Whilst the applicant had accepted during their closing statement that they were guilty of plying for hire, the Panel felt that it was more serious than that – as a result of plying for hire the applicant had invalidated their insurance, two young females were reported missing and a Child Abduction Warning Notice was issued against the applicant.

The Panel noted that the applicant had failed to disclose on their application form that their licence at Oldham Metropolitan Borough Council was revoked and their second application to Oldham Metropolitan Borough Council was refused. The Panel queried whether the applicant had omitted this information intentionally.

The Panel were further concerned that the applicant disclosed during the hearing that they applied for a licence with Wolverhampton Council and that their application was refused as they were of the view that the applicant had cheated on the test.

The Panel balanced all of the evidence and information and were of the view that the applicant had demonstrated a pattern of dishonesty. The Panel concluded that they should be setting the highest standards for drivers licenced by this Authority and the safety of passengers was paramount to this Authority.

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

RESOLVED

That the application for a Hackney Carriage, Private Hire and Chauffeur Driver's Licence 52023 be refused.

20. APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE - 6/2023

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 applied for a Hackney Carriage and Private Hire Driver's Licence on 19 July 2022. They declared on their statutory declaration the following convictions / cautions:-

- Battery for which the applicant received an 18 month community order (conviction date 21/10/2015)
- SP30 where the applicant received 3 points
- TS10 where the applicant received 3 points

The Regulatory Services Manager's (Licensing) told the Panel that on 2 August 2022, a check was requested on the Police National Computer, which confirmed the conviction for Battery on 21/10/2015 that was stated on the statutory declaration form, in addition to an allegation of sexual

assault of a female child under 13 between 01/09/2012 and 19/03/2013 where no further action was taken.

The Panel heard that the applicant attended the Licensing Office on 2 August 2022 to discuss the offences on their statutory declaration and the allegation of sexual assault and were informed that they would be required to attend a Speakers Panel (Licensing) Hearing to determine their application. Following this, the applicant withdrew their application.

The Panel were told that on 23 June 2023, the applicant submitted another application for a Hackney Carriage and Private Hire Driver's Licence. On 30 August 2023, they attended the Licensing Office to confirm that the notes from the meeting on 2 August 2022 were correct.

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 through a very difficult period in their life from 2012 to 2016 and had been in an abusive relationship. They provided their version of events with regards to the conviction of Battery and the allegation of sexual assault. The applicant stated that no further action was taken with regards to the allegation of sexual assault but they had been interviewed by Social Services and a psychologist, who confirmed that they were 99% positive that the applicant was not guilty of the offence. The applicant explained that the psychologist was unable to give a score of 100%. The applicant further explained that the allegation was purely malicious and had been made by family members of their then partner, because they had not accepted the relationship.

The applicant told the Panel that they had moved on with their life and had no contact with those who had caused them problems in the past. They said that they had matured greatly since 2016, had learnt lessons from the Battery conviction and had learnt how to deal with issues that caused them to feel anger. The applicant stated that they were a different person now and had remarried with children and stepchildren.

The applicant said that they were licensed with a different authority and had been working as a taxi driver in the Borough for 9 months and had been doing an excellent job. However, they explained that as a Tameside resident working in the Borough they would like to be licensed by the authority where they resided and worked, Tameside Metropolitan Borough Council.

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 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)*.

The Panel considered the applicant's explanation for the Battery offence and the alleged sexual assault allegation that was made against them. The Panel accepted that the allegation was made maliciously and noted that the psychologist was 99% certain that they did not commit the offence and the reason they did not say 100% was because they are unable to do so.

The Panel accepted that the applicant went through a difficult time around the time the Battery offence was committed and noted their explanation as to how this incident occurred. The Panel acknowledged that the applicant had changed their life and commended them for this.

The Panel were satisfied that the applicant gave credible and honest answers to their questions and presented well at the hearing.

The Panel determined that the applicant was a fit and proper person to hold a licence and that the application be granted.

RESOLVED

That the application for a Hackney Carriage and Private Hire Driver's Licence 6/2023 be granted.

21. DATE OF NEXT MEETING

RESOLVED

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

22. URGENT ITEMS

There were no urgent items.

CHAIR