

SPEAKERS PANEL (LICENSING)

14 November 2023

Commenced: 10.05 am

Terminated: 12.50 pm

Present: Councillors Chadwick (In the Chair), Alam, Beardmore, Drennan, Howarth and Quinn

In Attendance: Mike Robinson Regulatory Services Manager (Licensing)
Ashleigh Melia Legal Representative
Rebecca Birch Regulatory Compliance Officer
Phil Morton (as an Regulatory Compliance Officer
observer)
Ashleigh Shaw (as an Regulatory Support Officer
observer)

Apologies for Absence: Councillors S Homer, Jones and Patel

23 DECLARATIONS OF INTEREST

Name	Agenda Item	Personal / Prejudicial	Nature of Interest
Councillor Howarth	Agenda Item 5	Personal	Father of applicant is known to the elected Member.

24 MINUTES

RESOLVED

The minutes of the Speakers Panel (Licensing) meeting held on 19 September 2023 were agreed as a correct record.

25 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.

26 APPLICATION FOR A HACKNEY CARRIAGE AND CHAUFFEURS DRIVERS LICENCE - 7/2023

The Assistant Director of Operations Neighbourhoods submitted a report requesting that the Panel determine whether the applicant was a fit and proper person to hold a Hackney Carriage and Chauffeurs 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 Chauffeur Driver's Licence on 4 October 2023.

The Regulatory Services Manager (Licensing) told the Panel that on 5 October 2023, a check was requested on the Police National Computer, which confirmed convictions for Driving a Motor Vehicle with Excess Alcohol on 30 April 2014 and 23 October 2015. In addition, there was a conviction for two counts of wounding/grievous bodily harm Section 20 Assault on 10 May 2019.

The Panel heard that the applicant attended the Licensing Office on 12 October 2023 to discuss the offences on their statutory declaration. During the interview, the applicant admitted to the offences of drinking with excess alcohol and advised that it occurred when they were young and that it had been a mistake. For these two offences, the applicant received a 12-month driving ban reduced to nine months following a course and a fine, and a subsequent three-year disqualification reduced to nine months following a further course and fine. Since the disqualification from driving in 2015, the applicant had no further driving offences.

Regarding the offences of wounding and grievous bodily harm, the applicant received a 16-month sentence suspended for two years, a 9pm curfew for the first four months and ordered to pay compensation of £500.

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 apologised for the two offences related to drink driving and offered no excuse for their actions. At the time of the incidents, the applicant was young and they had learned from their actions.

In relation to the convictions for wounding / grievous bodily harm, the applicant explained that they had a couple of drinks with their father at a pub in Stalybridge. A couple of other men in the pub had been causing trouble and had shoved into the applicant's father and the applicant then punched the man and another man as he came towards them. As the assaults had resulted in broken bones, the incident was classed as wounding with intent. The applicant believed that the offences appeared to be worse than they actually were.

Following the incidents, the applicant advised that the men had extorted money and they had eventually gone to the police to report the incident. The applicant advised that they had received a 16-month prison sentence suspended for two years, a curfew and ordered to pay compensation of £500.

The applicant informed the Panel that they had two children and were currently working as self-employed digital marketer. They advised that the income from this work was not particularly stable and that if they were granted a licence by the Panel they had a job lined up to work as a chauffeur. This would provide the applicant with a steady income and enable them to provide for their family.

In response to questions from the Regulatory Services Manager and Panel Members, the applicant stated that they were two stone heavier at the time of the offences and was often at the pub playing pool. Since the offences, the applicant had significantly reduced their alcohol intake, was taking regular exercise and aiming to be a responsible parent. The applicant had also attended an alcohol rehabilitation group as part of the convictions for driving under the influence of alcohol.

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 considered the applicant's explanation for their previous convictions and noted that alcohol seemed to be a recurring theme.

The Panel were of the view that the applicant gave credible and honest answers to their questions and were satisfied that they acknowledged their wrongdoings and hoped that these mistakes would not be made again, especially as a licensed driver.

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 Chauffeurs Driver's Licence 7/2023 be granted.

27 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - 8/2023

The Assistant Director of Operations and Neighbourhoods submitted a report requesting the Panel determine whether the applicant was a fit and proper person to hold a Private Hire Driver's 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 Private Hire Driver's Licence on 4 September 2023.

The Regulatory Services Manager (Licensing) told the Panel that on 5 September 2023 a check was requested on the Police National Computer (PNC) in relation to the applicant. The following convictions/cautions were highlighted:

- Common assault for which the applicant received a conditional discharge (1996)
- Possession of cannabis for which the applicant received a caution (1997)
- Violent disorder for which the applicant received six months imprisonment (05/02/2001)
- Common assault for which the applicant received a community order, ordered to pay costs of £250 and compensation of £350, an unpaid work requirement (60 hours) and an activity requirement (10 days)
- Commit Act/Series of Acts with intent to Pervert the Course of Justice for which the applicant received eight months imprisonment and ordered to pay a victim surcharge of £100

The Panel heard that the applicant attended the Licensing Office on 6 October 2023 to discuss their conviction history.

It was explained that the applicant had previously attended a Speakers' Panel hearing on 8 April 2011 for the Review of a Hackney Carriage Driver's Licence. This was following information received from Greater Manchester Police stating that the applicant was wanted for an offence of assault that had occurred on 28 January 2011. Panel Members were informed that at this hearing, the Panel determined that they were a fit and proper person to hold a Hackney Carriage Driver's Licence.

Following this Speakers Panel hearing, the applicant was convicted of Common Assault on 8 December 2011 but there was no record that they had contacted the Licensing Department to declare their conviction. The applicant's Hackney Carriage Driver's Licence subsequently lapsed on 11 October 2013 and a renewal application was not submitted.

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 acknowledged that they had let themselves down because of their previous convictions but they had served their sentence.

Addressing the conviction for possession of cannabis in 1997, the applicant explained that they had purchased a new vehicle at the time and they had been stopped by police as the car had a faulty brake light. The police then found a small quantity of cannabis in the glove compartment which the applicant claimed did not belong to them. The applicant advised that the cannabis belonged to the previous owner but decided to accept a police caution.

In relation to the assault conviction in 2011, the applicant highlighted that there had been an incident at a taxi rank, which had resulted in a scuffle. The applicant denied that they had punched anybody or that they had used racist language towards another individual. The applicant stated that they had been the victim of racist abuse and had walked away. They believed that had they punched somebody, they would have received a custodial sentence rather than a community order.

The applicant explained that the conviction for perverting the course of justice in 2015 related to their younger brother who had been involved in serious incidents related to drugs. The applicant had a contacted a witness in relation to a criminal trial. They had been under pressure from their family to assist their brother but now recognised that this had been a mistake.

The applicant told the Panel that they had three children, had run an Indian restaurant, had recently turned 50 years old and did not want to be involved in any further trouble.

Having heard the applicant's case, the Regulatory Services Manager (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 their previous convictions and noted that there were three incidents involving common assault and violent disorder in 1996, 2001 and 2011. The Panel noted the applicant had failed to contact the Licensing Authority following them being wanted for an offence of assault on 28 January 2011.

Panel Members were extremely concerned regarding the offence for perverting the course of justice as this had involved contacting a witness directly in relation to an ongoing trial.

The Panel felt that there was a pattern of dishonesty and criminal behaviour and the Panel were not satisfied that the applicant had demonstrated that they were a fit and proper person to hold a licence with this Authority.

The Panel acknowledged that they should be setting the highest standards for drivers licensed by this Authority.

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

RESOLVED

That the application for a Private Hire Driver's Licence 8/2023 be refused.

28 REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE - 9/2023

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 a relevant licence in accordance with the provisions of Section 61 of the Local Government Act (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 Hackney Carriage Driver's Licence since July 2004.

The Regulatory Services Manager (Licensing) told the Panel that on 19 September 2023, the Licensing Department received a complaint from a member of the public stating that on 15 September 2023 at approximately 5pm the licence holder had been driving in a dangerous manner at the junction of Clarendon Road and Clark Way, Hyde.

The Panel was informed that the complainant provided dash cam video footage of this alleged dangerous driving, which showed the vehicle swerve to run through a red set of traffic signals.

The licence holder attended the Licensing Office on 27 September 2023 to discuss the complaint. The licence holder explained that they had swerved and driven through the red traffic light signal so as to avoid being hit by the other vehicle. They also stated that they were likely to have been in a rush at the time.

The Panel were made aware of the relevant sections of the Policy and Guidelines relating to the Application of the "Fit and Proper Test" to Licensed Drivers and Operators.

Having heard the Regulatory Services Manager's (Licensing) case, the licence holder was provided with the opportunity to ask questions.

The licence holder addressed the Panel and explained that they could not remember how the incident occurred. The licence holder believed that something must have been causing an obstruction and this meant that they had no alternative but to swerve and proceed through the red traffic signal. The licence holder stated they did not wish to smash into another vehicle.

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, 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 considered the dash cam footage and were extremely concerned that the licence holder overtook a car that had stopped at a red traffic signal and then proceeded to drive through the red traffic signal. The Panel were confused by the licence holder's explanation that the licence holder had no choice but to overtake the vehicle as otherwise the other vehicle would have hit them. The Panel did not understand how a car that had stopped in front of the licence holder, could have hit them.

The Panel were of the view that the licence holder could not recall the incident and did not understand that they had done anything wrong.

In mitigation, the Panel noted that they had held a licence with the Authority since 2004 and that no other incidents had been reported.

The Panel considered all available options and, on balance, they determined that the most appropriate course of action would be to suspend the licence holder's licence for a period of three months, and for them to attend Mitchell's Driving School within that period to undertake a training course as recommended by the Licensing Authority.

RESOLVED

That the Hackney Carriage Driver's Licence 9/2023 be suspended for a period of three months and the licence holder attend Mitchell's Driving School within that period to undertake a training course as recommended by the Licensing Authority.

29 URGENT ITEMS

There were no urgent items.

30 DATE OF NEXT MEETING

RESOLVED

That the date of the next meeting of Speakers Panel (Licensing) scheduled for 16 January 2024 be noted.

CHAIR