

SPEAKERS PANEL (LICENSING)

30 July 2019

Commenced: 10.00 am

Terminated: 12.20 pm

Present: Councillors Drennan (Chair), Gosling (Deputy Chair), J Homer, S Homer, McNally, Sidebottom and Ward

In Attendance: Mike Robinson Regulatory Compliance Manager
Margaret Warner Principal Solicitor, Legal Services

Apologies for Absence: Councillors Chadwick, J Lane and Sharif

8. DECLARATIONS OF INTEREST

There were no declarations of interest submitted by Members.

9. MINUTES

RESOLVED

That the Minutes of the meeting of the Speakers' Panel (Licensing) held on 18 June 2019 be approved 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 1,2 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 license holder and would therefore be in breach of Data Protection principles.

11. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE 7/2019

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 license 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 case. He advised the Panel that the driver had held a Hackney Carriage Driver's Licence with Tameside Metropolitan Borough Council since October 1998.

He further advised the Panel that Licensed Hackney Carriage and Private Hire drivers were required to undergo a number of rigorous checks and an 'enhanced level' Disclosure and Barring Service (DBS) check was carried out upon any new application and every three years, thereafter.

The Panel was informed that the driver completed a DBS application prior to the expiration of their Hackney Carriage Driver's Licence. The renewal application was granted on 8 October 2018 pending the return of the driver's DBS check.

On 30 May 2019, the driver contacted the Licensing Manager to inform him that they had received their DBS check, dated 2 May 2019, however there was an issue that they needed to discuss and an appointment was made for them to attend the Licensing Office on 6 June 2019.

At the meeting the driver produced their DBS check, which disclosed details of an incident which had taken place on 7 April 2017, involving an argument between the driver and a customer regarding non-payment of a fare.

The Police were called and the matter was dealt with by Restorative Justice.

The Panel was further informed that the driver had not previously reported this matter to the Council until 30 May 2019.

The Speakers' Panel then considered the views of the driver who addressed the Panel, in respect of the Review. The driver advised that they had been a Taxi driver for over 20 years. During this time they had only received nine complaints against them and they circulated copies of letters received from the Licensing Department/Greater Manchester Police in respect of 7 of these incidents indicating that no further action would be taken. The driver further circulated a copy of a character reference petition signed by a number of friends and colleagues in respect of one of the complaints made in October 2009.

The driver explained that the remaining two incidents were referred to Speakers' Panel (Licensing), where on both occasions their licence was revoked, however, also on both occasions, these decisions were overturned by the Magistrates Court and their licence was reinstated.

The driver added that it was not stated anywhere that they had to declare the incident on 7 April 2017 and that the Police had confirmed at the time that the matter was dealt with. When they received their enhanced DBS check and became aware that details of the incident were documented, the driver contacted the Licensing Office and made an appointment to attend.

The driver's representatives and a witness also addressed the Panel in support of the driver. Letters of support commending the driver on his professionalism, reliability and empathy were also circulated.

The Regulatory Services Manager and the Panel were then provided with the opportunity to ask questions of the driver.

The driver, their representatives and witness and the Regulatory Services Manager then left the meeting whilst the Panel deliberated on the review. The Solicitor to the Panel 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.

Having considered all the information presented at the hearing and based on the evidence before them, the Panel determined that the driver was a fit and proper person and resolved that their Hackney Carriage Driver's Licence be retained.

RESOVLED

That the Hackney Carriage Driver's Licence – 7/2019 be retained.

12. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE 8/2019

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 license 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 case. He advised the Panel that the applicant had applied for a Hackney Carriage Drivers Licence on 24 May 2019. As part of that application process the Licensing Department carried out checks with the Disclosure and Barring Service (DBS). The applicant's DBS check dated 8 May 2019, revealed convictions relating to an offence of Riot (2003) and a Conspire/Supply a controlled drug offence (2011).

The Panel were further informed that the applicant was previously licensed by Tameside Council and held a Hackney Carriage Driver's Licence between May 2005 and April 2011 when the Licence expired.

On 5 April 2005, the applicant appeared before Speakers' Panel (Licensing) for the matter relating to riot and, at that time, the Panel determined that they were a fit and proper person to hold the relevant licence.

On 17 November 2009, the applicant again appeared before Speakers' Panel. This was following a police caution they received in respect of possessing an offensive weapon. On this occasion, based on the information that was available at the time, the Panel decided that the applicant was a fit and proper person to hold a licence.

On 13 November 2009, the applicant was arrested and subsequently convicted on 26 May 2011 for conspire/supply of a controlled drug. They did not make the Licensing Authority aware of these matters on any occasion, nor did they make the Speakers' Panel aware at the hearing on 17 November 2009 and continued to withhold this information until they allowed their Licence to expire in April 2011.

On 2 July 2015, the applicant submitted an application for a Private Hire and Hackney Carriage Driver's Licence with Tameside Council. In light of the aforementioned information, their application was refused by the Speakers' Panel on 26 January 2016. The applicant appealed this decision to Tameside Magistrates Court in May 2016, where the Magistrates upheld the decision of the Speakers' Panel.

Following the applicant's most recent application in respect of a Hackney Carriage Driver's Licence, they were invited to the Licensing Office on 28 May 2019 to provide an account for the convictions on their DBS.

The Panel were also made aware of the following sections from the Local Authority's Convictions Policy:

C. Drugs

An application will normally be refused or an existing licence will normally be revoked where the individual has a conviction for an offence related to the supply of drugs if the date of conviction for an offence related to the supply of drugs if the date of conviction or the date on which any custodial sentence is completed is less than 10 years prior to the date of application.*

An application will normally be refused or an existing licence will normally be revoked where the individual has more than once conviction for offences related to the possession of drugs if the date of conviction or the date on which any custodial sentence is completed is less than 5 years prior to the date of application.*

**Including any suspended sentence or any period where the individual is subject to licence on release (i.e. the custodial sentence will only be considered complete at the end of any licence period).*

Reapplication

Where an individual has had an application refused or a licence revoked, the Committee/Panel would normally refuse any subsequent application made within 5 years of the date of the previous refusal or revocation unless there are substantial material changes in the individual's circumstances. In addition, the individual must provide evidence that they are a fit and proper person before a licence will be granted.

The Speakers' Panel then considered the views of the applicant who addressed the Panel in relation to the application. The applicant explained the circumstances in respect of the most recent incident which led to their conviction on 26 May 2011. They explained that they were 'doing a favour for a friend' which they deeply regretted, as it has brought shame on themselves and their family and had turned their life 'upside down'.

The applicant's representative added that the applicant had realised their mistake and that they had worked hard since their imprisonment to turn their life around.

The Regulatory Services Manager and the Panel were then provided with the opportunity to ask questions of the applicant.

The applicant, their representatives and the Regulatory Services Manager then left the meeting whilst the Panel deliberated on the review. The Solicitor to the Panel 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.

The Panel considered all the information presented at the hearing and based on the evidence before them, were concerned that not enough time had passed since the applicant's conviction for the supply of drugs in line with Council policy, to satisfy them that they were a fit and proper person to hold a drivers licence at this moment in time. The Panel considered that the published Tameside MBC Licensing Policy stated that in such circumstances the application should normally be refused if the individual had a conviction for an offence related to the supply of drugs if the day of conviction or the day on which any custodial sentence was completed was less than 10 years prior to the date of application.

The Panel were further mindful that the applicant was convicted of supplying a controlled drug Class B and received an imprisonment sentence of 15 months and that they were in possession of 15kgs of drugs at the relevant time. The Panel further noted that they had also received a caution in respect of possessing an offensive weapon, in the past.

RESOLVED

That the application for a Hackney Carriage Driver's Licence 8/2019 be refused.

13. URGENT ITEMS

RESOLVED

The Chair reported that there were no urgent items received for consideration at this meeting.