

## **SPEAKER'S PANEL (LICENSING)**

**17 March 2020**

**Commenced: 10.00am**

**Terminated: 10.40am**

**Present:** Councillors: Drennan (Chair), Gosling (Deputy-Chair), J Homer, S Homer, McNally, Sharif, Taylor and Ward.

**In attendance:** Mike Robinson – Regulatory Services Manager  
PC Martin Thorley – Greater Manchester Police  
Margaret Warner – Legal Representative

**Apologies for  
Absence:** Councillors: Lane, Quinn and Sidebottom

### **7. DECLARATIONS OF INTEREST**

There were no declarations of interest submitted by Members.

### **8. MINUTES**

The Minutes of the Speaker's Panel (Licensing) meeting held on 19 November 2019 were agreed as a correct record.

### **9. EXEMPT ITEMS**

#### **RESOLVED**

**That under Section 100A of the Local Government Act 1972 (as amended) the public be excluded for the following item of business on the grounds that it involved 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 outweighed 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 / applicant and would therefore be in breach of Data Protection principles.**

### **10. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE – 1/20**

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 licences in accordance with the provisions of Section 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 held a Private Hire Driver's licence with Tameside Local Authority since March 2014. Their Private Hire Driver's licence expired on 5 March 2020. As part of the Hackney Carriage and Private Hire Driver application process, the Licensing Department carried out criminal background checks with the Disclosure and Barring Service (DBS) every three years. The applicant's DBS had expired on 6 March 2020.

The Panel were further informed that the applicant attended the Licensing Office on 2 March 2020 to inform the Licensing Department that their DBS had not yet been returned and enquired about receiving a temporary Private Hire Driver's badge until their DBS had been received.

The Regulatory Services Manager contacted the Police Licensing Officer to check whether the applicant had been convicted of an offence since they had previously completed a DBS check in 2017. A check of the Police National Computer was completed, which revealed that the applicant was found guilty of a Section 39 Assault on 1 June 2018. A copy of the crime report in relation to the offence was also provided. This stated that the applicant had assaulted their spouse.

The Regulatory Services Manager informed the Panel that there was no record that the applicant declared to the Licensing Authority that they had been arrested or convicted in relation to the offence, as required by the conditions of their licence.

The applicant was then invited to attend a meeting at the Licensing Office on 3 March 2020 to provide an account for the conviction and explain why they had not previously declared the offence. During this meeting the applicant produced a completed private hire driver's licence renewal form dated 3 March 2020, on this form they did not state their conviction. They had also not declared their conviction on their previous renewal, dated February 2019. In mitigation, the applicant informed the Regulatory Services Manager that they did not consider the offence to be a serious matter.

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

### **Section 2 Offences against Other Persons**

*An application will also normally be refused or an existing licence revoked where the individual has a conviction for an offence or similar offences listed below, if the date of conviction or the date on which any custodial sentence is completed\* is less than 3 years prior to the date of application:*

- *Common assault*
- *Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)*
- *Affray*
- *S5 Public Order Act 1986 offence (harassment, alarm or distress)*
- *S.4 Public Order Act 1986 offence (fear of provocation of violence)*
- *S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)*
- *Harassment- breach of restraining order- on conviction Protection from Harassment Act 1997 s5(5) / s. 5(6)*
- *Obstruction*
- *Possession of offensive weapon*
- *Criminal damage*

*\*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).*

*No favourable distinction will be made in relation to offences relating to domestic violence or abuse. The Council takes the view that domestic abuse and violence is completely unacceptable and the above guidelines will apply to any offence, including those relating to domestic violence or abuse.*

*Any additional information gathered through this process may then be taken into account at any subsequent meeting of the Speaker's Panel (Licensing).*

The Police Licensing Officer added that Greater Manchester Police took such incidents of physical abuse very seriously.

Having heard the Regulatory Services Manager's case the applicant and the Panel were provided with the opportunity to ask questions. The Chair sought clarification of a Section 39 Assault/offence. The Regulatory Services Manager confirmed that this was 'common assault'.

The applicant then addressed the Panel and expressed remorse for their actions. The applicant was accompanied at the appeal hearing by the owner of a local Taxi firm who confirmed that they had known the applicant for 5 or 6 years, and that they had never received any complaints with regard to the applicant's behaviour.

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

In summary, the applicant stated that they were very ashamed of their actions and confirmed that such an incident would never happen again.

**At this juncture the applicant, their associate, the Regulatory Services Manager and the Police Licensing Officer left the meeting whilst the Panel deliberated on the application. The Solicitor to the Panel and the Principal 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 and the very serious nature of the incident. Since the granting of the applicant's licence in March 2014, the applicant had been convicted of a Section 39 assault (common assault). The Panel were mindful of the guidelines and Council policy in respect of such a conviction, in that an application would normally be refused or an existing licence revoked, if the date of conviction was less than three years prior to the date of application and the date of the applicant's conviction was 1 June 2018. The Panel also noted that the applicant did not disclose the conviction on 3 separate occasions when they had the opportunity to do so. The Panel further recognised the severity of the incident and considered the safety of the general public to be of the utmost importance.

The Panel determined that they were not satisfied that the applicant was a fit and proper person to hold a Private Hire Vehicle Licence and it was:-

**RESOLVED**

**That the application for a Private Hire Driver's Licence 1/20 be refused.**

**11. URGENT ITEMS**

There were no urgent items for consideration.