

SPEAKERS PANEL (LICENSING)

17 November 2020

Commenced: 10.00 am

Terminated: 12.35 pm

Present: Councillors Drennan (Chair), Gosling (Vice-Chair), J Homer, S Homer, J Lane, McNally, Quinn, Sharif, Sidebottom, Taylor, Ward and Chadwick

In Attendance:	David Joy	Legal Representative
	Ashleigh Melia	Lawyer
	Mike Robinson	Regulatory Compliance Manager
	Rebecca Birch	Regulatory Compliance Officer
	James Horton	Regulatory Compliance Officer

Apologies for Absence: None

6. DECLARATIONS OF INTEREST

There were no declarations of interest.

7. MINUTES

The Minutes of the Speaker's Panel (Licensing) meeting held on 18 August 2020 were agreed as a correct record.

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

9. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE - 3/2020

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 licence in accordance with the provisions of Section 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 Private Hire Driver's Licence on 23 October 2019. As part of the application process, the Licensing Department carried out criminal background checks with the Disclosure and Barring Service (DBS). The DBS certificate showed that the applicant had four criminal convictions, three of which related to motor offences in 2014.

The Regulatory Compliance Officer conducted an interview with the applicant on 24 September 2020 to discuss the offences stated on the DBS. During the interview the applicant declared an offence that was not stated on the statutory declaration or DBS as it predated the conviction. The applicant had been convicted on 22 September 2020 of perverting the course of justice following a road traffic collision on 7 October 2019.

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

GENERAL POLICY

5. *A person with a conviction for a serious offence or a number of separate offences need not be automatically barred from obtaining a licence, but would normally be expected to:*
 - a. *Remain free of conviction for an appropriate period, which will depend on the nature of the offence(s); and*
 - b. *Show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to provide such evidence).*

A. Offences of Dishonesty

Drivers of hackney carriages and private hire vehicles are in a position of trust. It could be comparatively easy for a dishonest driver to defraud the public by, for example, demanding more than the legal fare, or by other criminal means.

Passengers of hackney carriages and private hire vehicles may include especially vulnerable people and children.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. In certain situations drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station.

The widespread practice of delivering unaccompanied property is indicative of the trust which businesses put into drivers.

For these reasons a serious view is taken of any offences involving dishonesty. An applicant with conviction(s) for dishonesty, which are less than 5 years old, is unlikely to be considered favourably and should be referred to Panel for determination.

In particular, an application will 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 5 years prior to the date of application:*

xiv. Attempting to or perverting the course of justice

**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).*

The applicant then addressed the Panel and acknowledged their convictions, stating that these had occurred during a particularly turbulent period in their life. They explained that their life and character had changed significantly since then. The applicant stated they had gone through a number of changes in their personal life including getting married and securing employment. The applicant expressed remorse for their previous actions and told the Panel they had worked hard to turn their life around. They felt they were a fit and proper person to hold a Private Hire Driver's Licence and would appreciate the opportunity.

At this juncture the applicant, the Regulatory Services Manager and the Regulatory Compliance Officers 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 submitted in advance of the hearing. They noted the nature and circumstances of the various offences, including the applicant's most recent conviction in September 2020 for perverting the court of justice, the seriousness of which was reflected in the suspended sentence that they had received. The Panel also noted the Council's policy on convictions, which categorised the offence of perverting the course of justice as an offence of dishonesty and that suggested that where an applicant had such a conviction they would not usually be granted a licence for a period of 5 years post-conviction.

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 3/2020 be refused.

10. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE - 4/2020

The Assistant Director of Operations and Neighbourhoods submitted a report requesting that the Panel determine whether the licence holder remained a fit and proper person to hold the relevant licences 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 licence holder had held a Hackney Carriage Driver's Licence with the authority since 21 January 2006. On 17 October 2020 the Licensing Office received an email from another licensed driver detailing an altercation regarding a disagreement over a fare that had taken place at approximately 08:45am at Droylsden Hackney Carriage Rank. The complainant had reported the incident to Greater Manchester Police as an alleged assault. The Panel had been provided with written statements and photographs from each driver and heard an update on the investigation into the incident that had been undertaken by the Regulatory Compliance Officer.

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

5. *The policy is intended to give guidance on deciding whether a person is or is not a fit and proper person. The policy cannot cover every eventuality, but does give guidance in relation to individuals with previous convictions and cautions, other offences, such as motoring offences, and on the application of the "fit and proper test" to individuals when other information or intelligence may call into question their suitability to hold the relevant licences.*
6. *The Council is concerned to ensure:*
 - (a) *That an individual is a fit and proper person.*
 - (b) *That the public are not exposed to persons with a history of dishonesty, indecency, violence or other serious criminal matters.*

The licence holder then addressed the Panel and gave their account of the incident. They expressed their remorse and read out a character statement that also outlined the high standard of service they provided to their customers. The licence holder explained they were hard working and had been a licensed driver for a number of years with a clean record and no complaints ever made against them.

At this juncture the licence holder, the Regulatory Services Manager and the Regulatory Compliance Officers 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 review the Panel considered all the information presented at the hearing in addition to the report and appendices submitted in advance of the hearing. They noted that the licence holder was involved in an incident whilst working as a licensed driver with another licensed driver on 17 October 2020 at Droylsden Hackney Carriage Rank, the precise details of which were not agreed by the licence holder and the complainant. The incident had been witnessed by the passenger, who was an elderly lady and who was likely to have been frightened and distressed. Unfortunately, despite the efforts of the Licensing department it had not been possible to obtain a written witness statement from the passenger.

The Panel agreed that the incident was below the standard that the Council expected of its licensed drivers and reflected badly on the trade as a whole. In mitigation they took into account that the licence holder had been a licensed driver since 2006 with no recorded complaints against them. They noted the good reference and the licence holder's remorse about the incident.

The Panel determined that they were satisfied that the licence holder remained a fit and proper person to hold a Hackney Carriage Driver's Licence and it was:-

RESOLVED

That no formal action would be taken on this occasion.

11. URGENT ITEMS

There were no urgent items.