

General Licensing Sub-Committee

Wednesday, 10 February 2010

Present: Councillor Keith Iddon (Chair) and Councillors Judith Boothman, Hasina Khan, John Walker and Stella Walsh

10.LSC.24 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Thomas McGowan.

10.LSC.25 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest.

10.LSC.26 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – that the press and public be excluded from the meeting of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

10.LSC.27 REVIEW OF A PRIVATE HIRE DRIVERS' LICENCE

The Sub-Committee received a report from the Director of People and Places, drawing Members of the Sub-Committee's attention to relevant convictions, and their non disclosure to the Council from a Private Hire driver.

On 7 October at South Ribble Magistrates Court the Private Hire driver was convicted of dishonesty offences. A copy of the court register in respect of the driver's conviction was presented to Members of the Sub-Committee, and detailed the following convictions:

- On 14 February 2008 at Blackburn, The driver failed to give information relating to the identification of the driver of a vehicle, who was alleged to have been guilty of an offence contrary to Section 172 (3) of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988, which resulted in a £350 fine and costs of £50.
- On or about 25 April 2006, with a view to obtaining for himself Housing Benefit and Council Tax Benefit dishonestly made a false representation, namely that the information given was correct and complete whereas he failed to declare his earning as a self-employed taxi driver contrary to section 112 (1)a and (2) of the Social Security Administration Act 1992 which resulted in a 2

year conditional discharge and ordered to repay £5,020 in Housing Benefit and £569 in Council Tax Benefit.

The driver and the driver's employer attended the meeting to put forward representations in support of the review. The Council's Benefit Fraud Investigator also attended the meeting to respond to any queries raised by Members of the Sub-Committee in relation to the conviction of benefit fraud.

The driver explained the circumstances which led up to the convictions and his failure to disclose those convictions to the Council.

The applicant's representative stated that the driver had been in his employment for the previous 12 months and had received positive feedback from customers. Provided that the outcome of the review was successful, the driver would be offered a PAYE position and offered suggestions of repayment methods which would be deducted from the driver's salary at source.

At the request of the Sub-Committee, the driver confirmed that his DVLA drivers licence had a 6 point penalty endorsement.

The Sub-Committee considered all aspects of the application, including the representations from the driver, the driver's representative, the Benefit Fraud Investigator and Public Protection Officer, the Council's conditions which are issued to all Hackney Carriage and Private Hire Drivers, and the relevance of the convictions. After careful conditions of all the relevant factors including the seriousness of the convictions the Sub-Committee unanimously **RESOLVED not to revoke the licence.**

10.LSC.28 APPLICATION FOR A HACKNEY CARRIAGE DRIVERS' LICENCE

The Sub-Committee considered a report from the Director of People and Places, seeking instruction on an application for a licence to drive a Hackney Carriage.

The applicant's Criminal Record Bureau check stated he had received a Police Caution under the Theft Act 1968 Section 1 on 3 November 2008 for an incident which occurred on 28 February 2008.

The applicant attended the meeting to put forward representations in support of his application and gave an account of the circumstances that led up to him committing the offence. The applicant also explained why he had failed to disclose the information on the application for a Hackney Carriage Driver's Licence.

The applicant informed Members of the Sub-Committee that he had previously assisted in operating from a taxi base and if his application was successful he would be employed in a family owned Hackney Carriage business.

After careful consideration of all the relevant factors, including the relevance of the Caution and the Council's Statement of Policy concerning the relevance of criminal convictions the Sub-Committee unanimously **RESOLVED to grant the applicant a Hackney Carriage Driver's Licence.**

10.LSC.29 APPLICATION FOR A PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS' LICENCE

The Sub-Committee considered a report from the Director of People and Places, seeking the Sub-Committee's decision on an application for a Private Hire and Hackney Carriage Driver Licence. The application could only be determined by the General Licensing Sub-Committee as the applicant had relevant convictions.

The applicant's Criminal Record Bureau check revealed the following convictions:

- On 29 January 2007 at Chorley Magistrates Court, the applicant was convicted of battery, under Section 39 of the Criminal Justice Act for an incident which took place on 7 July 2006. The applicant received a 12 month community order (without electronic tagging) with supervision. The order was revoked on 26 June 2007.
- On 26 April 2007 at Chorley Magistrates Court the applicant was convicted for breaching his community order on 14 March 2007 under SCH 8 of the Criminal Justice Act 2003. The applicant received a 3 year Conditional Discharge resulting from the original conviction on 29 January 2007
- On 29 June 2009 at Chorley Magistrates Court the applicant was convicted of being drunk and disorderly on 15 October 2008 under Section 91(1) of the Criminal Justice Act, which resulted in a fine £125 plus costs of £100 and £15

Members of the Sub-Committee were also informed (at the discretion of the Chief Officer of Lancashire Police), that other relevant information had been disclosed on the applicant's Criminal Records Bureau check which related to the conviction on 29 January 2007. Members of the Sub-Committee were advised that additional disclosures of this nature made by the Chief Officer of Police relating to taxi licence applications were extremely rare and that the disclosure should be considered when determining the application.

The Public Protection Officer informed the Sub-Committee the circumstances that led up to the applicant breaching his community order.

The applicant attended the meeting to put forward representations in support of his application, and explained the personal circumstances which led to his past convictions, employment history and offer of employment.

In response to a question raised by a Member of the Sub-Committee the Public Protection Officer explained that the Public Service Vehicle Licence,

which the applicant held, fell outside of the legislative framework of the Local Government (Miscellaneous Provision) Act 1976, for which the Council was responsible.

The applicant further produced a Private Hire Driver's Licence (valid from 7 October 2005 to 6 October 2006) and a Private Hire Vehicle Licence (valid from 31 January 2006 to 31 May 2006) that confirmed he had previously held a Private Hire Driver's Licence to driver a Private Hire Vehicle in Chorley, contrary to the records held by the Public Protection Team.

After careful consideration of all the relevant factors, including representations from the applicant and the Public Protection Officer, the Council's statement of Policy concerning the relevance of criminal convictions, the disclosure which was included at the discretion of the Chief Officer of Police in respect of the applicant's Criminal Records Bureau check.

The Sub-Committee unanimously **RESOLVED to grant that the application for a Private Hire Driver's Licence on the following conditions:**

- **That the Private Hire Driver's Licence be granted for 6 months, after which the licence will be reviewed by the Public Protection Officer.**
- **That applicant must notify the Council of any further convictions, as required by the standard licensing conditions.**

10.LSC.30 APPLICATION FOR A PRIVATE HIRE DRIVERS' LICENCE

The Sub-Committee considered a report from the Director of People and Places, seeking the Sub-Committee's decision for a Private Hire Driver's Licence. The application could only be determined by the General Licensing Sub-Committee as the applicant had a relevant conviction.

The applicant's Criminal Records Bureau check revealed that on 16 March 2005, the applicant was convicted at Chorley Magistrates Court for the offence of being in charge of a motor vehicle with excess alcohol on the 11 March 2005. The applicant received an Absolute Discharge, was ordered to pay £50 costs and was disqualified from driving for 6 months with no penalty points.

Members of the Sub-Committee were asked to discount paragraph 6 of the report as the information contained within that paragraph was incorrect.

The applicant attended the meeting to put forward representations in support of his application and gave an account of his actions that led up to his conviction.

In response to a question posed by a Member of the Sub-Committee the applicant confirmed that the medication that he had been prescribed for a medical condition did not have a detrimental effect on his driving capability, and that the applicant's doctor supported that the applicant was fit to drive.

The Public Protection Officer also confirmed that notification to the DVLA was not required for the applicant's medical condition.

The Sub-Committee considered all aspects of the application, including representations from the applicant, the Public Protection Officer, the Council's statement of policy concerning the relevance of criminal convictions in particular the relevance of part C of the Policy relating to Drunkenness and Drugs.

After careful consideration of all relevant factors, the Sub-Committee unanimously **RESOLVED to grant the application for a Private Hire Driver's Licence on the following conditions:**

- **The licence is to be granted for 12 months.**
- **The licence holder must contact the Council as soon as he has been employed as a driver, confirming his status(i.e. self-employed, associated with a taxi firm or the Hackney Carriage taxi trade), giving details of that taxi firm.**
- **After 6 months of taxi driving, the licence holder will complete the Council's medical questionnaire.**
- **The Council's Public Protection Officers will consider the response to the questionnaire. If the licence holder's doctor confirms he is fit to drive, the Public Protection Officers are given delegated authority to allow the licence to continue. However, if there are issues which are highlighted as a concern in the medical, the matter will be referred to a future General Licensing Sub-Committee.**

Chair