

Licensing and Public Safety Committee

Agenda and Reports

For consideration on

**Wednesday, 16th September
2009**

In the Council Chamber, Town Hall, Chorley

At 2.00 pm



This page is intentionally left blank

8 September 2009

Dear Councillor

**LICENSING AND PUBLIC SAFETY COMMITTEE - WEDNESDAY, 16TH
SEPTEMBER 2009**

You are invited to attend a meeting of the Licensing and Public Safety Committee to be held in the Council Chamber, Town Hall, Chorley on Wednesday, 16th September 2009 commencing at 2.00 pm.

AGENDA

1. **Apologies for absence**

2. **Declarations of Any Interests**

Members are reminded of their responsibility to declare any personal interest in respect of matters contained in this agenda. If the interest arises **only** as result of your membership of another public body or one to which you have been appointed by the Council then you only need to declare it if you intend to speak.

If the personal interest is a prejudicial interest, you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

3. **Minutes (Pages 1 - 4)**

To confirm and sign as a correct record the minutes of the meeting of the Licensing and Public Safety Committee held on 10 June 2009 (enclosed).

4. **Minutes of the Licensing Sub-Committees**

To confirm and sign as a correct record the minutes of the meetings of the Licensing Sub-Committees on the following dates (enclosed):

- a) 25 June 2009 (Licensing Act 2003) (Pages 5 - 6)
- b) 25 June 2009 (General Licensing) (Pages 7 - 10)
- c) 5 August 2009 (General Licensing) (Pages 11 - 12)
- d) 14 August 2009 (Licensing Act 2003) (Pages 13 - 16)

- e) 25 August 2009 (Licensing Act 2003) (Pages 17 - 18)
- f) 2 September 2009 (General Licensing) (Pages 19 - 20)

5. **Amendment to the Scheme of Delegation** (Pages 21 - 24)

To receive and consider a report from the Corporate Director (Governance) (enclosed).

6. **Hackney Carriage and Private Hire Vehicle Licensing Condition - Review**
(Pages 25 - 26)

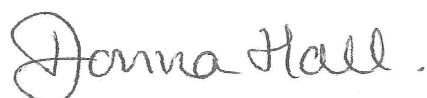
To receive and consider a report of the Corporate Director (Neighbourhoods) (enclosed).

7. **Licence Liaison Panel - Review** (Pages 27 - 28)

To receive and consider the enclosed report from the Corporate Director (Neighbourhoods) (enclosed).

8. **Any other item(s) that the Chair decides is/are urgent**

Yours sincerely



Donna Hall
Chief Executive

Cathryn Barrett
Democratic and Member Services Officer
E-mail: cathryn.barrett@chorley.gov.uk
Tel: (01257) 515123
Fax: (01257) 515150

Distribution

1. Agenda and reports to all Members of the Licensing and Public Safety Committee (Councillor Keith Iddon (Chair), Councillor Pat Haughton (Vice-Chair) and Councillors Edward Smith, Judith Boothman, Terry Brown, Magda Cullens, David Dickinson, Doreen Dickinson, Anthony Gee, Hasina Khan, Adrian Lowe, Marion Lowe, Thomas McGowan, Debra Platt, Ralph Snape, John Walker and Stella Walsh for attendance.
2. Agenda and reports to Stephen Culleton (Licensing Manager), Bob Beeston (Licensing Enforcement Officer), Janet Brereton (Legal Assistant (Licensing and Registration)) and Cathryn Barrett (Democratic and Member Services Officer) for attendance.

**This information can be made available to you in larger print
or on audio tape, or translated into your own language.
Please telephone 01257 515118 to access this service.**

આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા
માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپ کی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون
کیجئے: 01257 515823

This page is intentionally left blank

Licensing and Public Safety Committee**Wednesday, 10 June 2009**

Present: Councillor Keith Iddon (Chair), and Councillors Judith Boothman, Terry Brown, Doreen Dickinson, Anthony Gee, Pat Haughton, Hasina Khan, Marion Lowe, Thomas McGowan, Debra Platt, Edward Smith, Ralph Snape, John Walker and Stella Walsh

09.LPS.11 WELCOME

The Chair welcomed everyone to the meeting.

09.LPS.12 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Magda Cullens, David Dickinson, and Marie Gray.

09.LPS.13 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest on any item.

09.LPS.14 PRESENTATION ON TAXI CCTV

Mr Gary Jarvis from Extron Ltd did not attend the Committee to give his presentation on taxi CCTV and subsequently the item was withdrawn from the agenda.

09.LPS.15 TAXI CAB PROTECTOR DEMONSTRATION

Mr Alan Johnson from Cabprotector gave a presentation on a new product of the same name. The Committee was advised that Cabprotector is a removable protective screen that is fixed to the taxi driver's seat the aim of which is to minimise the risk of assault/robberies to taxi drivers. The product is being retailed at £145 and would be purchased by individual drivers at no cost to the Council.

Mr Johnson attended the Committee to demonstrate the product and to seek permission from the Committee to approach taxi operators in the borough with the view to selling this product to taxi drivers.

After a short discussion it was **RESOLVED:** - the Committee had no objection to Mr Johnson meeting with taxi operators in the borough. However, it was stipulated that the Council would not endorse the product and the purchase of it would be solely down to drivers' individual choice.

09.LPS.16 APPOINTMENT OF VICE-CHAIR

The Chair introduced this item by advising the Committee that Councillor Edward Smith had decided to relinquish his role as Vice Chair of the Committee. The Chair continued by thanking him for all his hard work in that role, and wished him well for the future.

The Committee was then asked to put forward nominations for the position of Vice Chair. Councillor Walker nominated Councillor Haughton, and Councillor Smith seconded the nomination.

RESOLVED: - The Committee unanimously agreed to appoint Councillor Pat Haughton as Vice Chair of the Licensing and Public Safety Committee.

09.LPS.17 MINUTES

The minutes of the meeting of the Licensing and Public Safety Committee held on 11 March 2009 were confirmed as a correct record and signed by the Chair.

09.LPS.18 MINUTES OF THE LICENSING SUB-COMMITTEES

The minutes of the General Licensing Sub-Committees for 4 March 2009, 1 April 2009 and 29 May 2009 were confirmed as a correct record and signed by the Chair.

09.LPS.19 LICENSING LIAISON PANEL MINUTES 16 MARCH 2009

The minutes of the last meeting of the Licensing Liaison Panel were noted.

09.LPS.20 TAXI AND PRIVATE HIRE CONSULTATION ON DEPARTMENT OF TRANSPORT GUIDANCE

The Committee received a report from the Corporate Director of Neighbourhood which advised Members of a consultation currently taking place by the Department of Transport concerning revised guidance to local authorities on taxi and private hire vehicles.

Previous guidance had been well received and utilised by local authorities. The Licensing Enforcement Officer explained that this review provides the Council an opportunity to influence future guidance that is issued. The draft guidance posed twenty-four questions and the Committee were asked to consider the proposed response from the Council.

The Committee had a short discussion.

RESOLUTION: - The Committee approved the proposed responses.

09.LPS.21 LICENSING AND REGISTRATION - SUMMARY OF ACTIVITY FROM 10 JANUARY 2009 - 18 MAY 2009

The Committee received a report of the Corporate Director of Neighbourhoods on the work of the Licensing Section showing the number of licences and permits issued, registrations effected and enforcement activity undertaken and complaints dealt with between 10 January – 18 May 2009.

The Licensing Manager highlighted key issues: -

- 19 suspension notices had been issued to taxis on the grounds of public safety.
- There had been 2 joint operations during this period, which has resulted in 1 Operators Licence being revoked.
- 28 new vehicle licences had been issued since November 2008.

In addition to the report the Licensing Manager added that in the last 8 months there are 30 relatively new cars have been added to the total fleet.

In response to a question raised about the need for collection permits for charity workers packing shopping for supermarket customers, the Licensing Manager advised that as charities would be collecting money on private land they would not require a collection permit.

RESOLVED: – That the report be noted.

Chair

This page is intentionally left blank

Licensing Act 2003 Sub-Committee**Thursday, 25 June 2009**

Present: Councillor Pat Haughton (Chair) and Councillors Ralph Snape and John Walker

09.LAS.01 APOLOGIES FOR ABSENCE

Apologies from absence were received from Councillor Keith Iddon.

09.LAS.02 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest by any of the Sub-Committee Member in the principal agenda item.

09.LAS.03 APPLICATION TO TRANSFER A PREMISES LICENCE UNDER SECTION 42 OF THE LICENSING ACT 2003 RELATING TO THE PREMISES KNOWN AS THE SWAN WITH TWO NECKS, HOLLINSHEAD STREET, CHORLEY

The Corporate Director of Neighbourhoods submitted a report on an application to transfer the premises licence for The Swan with Two Necks.

On 13 May 2009 the Council was notified that the company to which the premises licence for The Swan with Two Necks had been dissolved by Companies House on 12 May 2009 for non production of accounts. In this instance, the premises licence lapses under Section 27 of the Licensing Act 2003. The Designated Premises Supervisor was notified of the situation on the same day and advised that the premise was no longer licensed.

On 14 May 2009 an application to transfer the premises licence with respect to The Swan with Two Necks was received by the Licensing Authority.

The Police had lodged an objection to the application as they felt there were exceptional circumstances that would undermine the licensing objective 'Prevention of Crime and Disorder' as required at Section 42(6) of the Licensing Act 2003 if the transfer of the premises licence were granted.

The Sub-Committee noted that there had been one conviction in relation to the applicant for the sale of alcohol to a person under 18 years of age relating to an offence committed at the premises on 21 December 2008. On that occasion the applicant admitted the offence and accepted a caution.

The Sub-Committee also noted that there had been a pending prosecution for alleged offences of providing unlicensed activity at the premises under the Licensing Act 2003 and that the premises was subject to a closure warning notice under Section 19 of the Criminal Justice and Police Act 2001 due to the same unlicensed activity.

During cross examination the Police confirmed that The Swan with Two Necks was one of four establishments that had failed the test purchase during the same operation. The Police also confirmed that The Swan with Two Necks had passed a further test purchase.

The Sub-Committee carefully considered the applicant's representations, the verbal and written submissions by Lancashire Constabulary to this application, and the

guidance issued under Section 182 of the Licensing Act 2003 together with the Council's Statement of Licensing Policy.

The Sub-Committee were mindful that it had to achieve a balanced approach to the difficult issues it had heard throughout the hearing, and considered the Human Rights implications, specifically Article 1, Article 6 and Article 8 of the First Protocol and the proportionately principles.

The Sub-Committee were satisfied that there are no exceptional circumstances that would undermine the Crime Prevention Objective of the Licensing Act 2003. Members were also satisfied that the evidence submitted by the Police was not sufficient to demonstrate there was significant crime and disorder and the Police evidence was not robust enough to reject the application.

The Sub-Committee was mindful that the Swan with Two Necks was one of four establishments that had failed the test purchase. The outcome of the latest test purchase invoked confidence in the Sub-Committee that the Crime Prevention Objective was being satisfied.

Since the date of the application there had been no reports that the Sub-Committee was made aware of that had connected the establishment with disorderly or anti-social activity. Members were satisfied that the alleged unlicensed activity pre-dated the last six months and the outstanding prosecution and Closure Notice proceedings are contested by the applicant.

The Sub-Committee recognised that the applicant had some experience working in this establishment, particularly as she was the Designated Premises Supervisor.

Members of the Sub-Committee were also encouraged by the announcement that the Swan with Two Necks had recently received an award and that it was the only establishment in the area to employ for four door supervisors.

At the conclusion of their deliberations, the Sub-Committee **RESOLVED: -**

- (1) That after taking all due account of the representation made from the applicant, the applicant's husband and Legal representative, the Police and the Licensing Manager the Sub-Committee agreed that the application to transfer a premises licence be granted.**
- (2) The applicant should co-operate with the Police and work with them in the event that any crime and disorder occurs.**
- (3) The Sub-Committee trusts that these recommendations will encourage the applicant and give her the confidence to fulfil her role in a responsible manner. The applicant must not allow her personal integrity be influenced by other persons connected to the establishment.**

Chair

General Licensing Sub-Committee

Thursday, 25 June 2009

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

09.LSC.01 APOLOGIES FOR ABSENCE

There were no apologies for absence received.

09.LSC.02 DECLARATIONS OF ANY INTERESTS

None of the Sub-Committee Members declared an interest in any of the item for discussion on the meeting's agenda.

09.LSC.03 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED: - That the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act.

09.LSC.04 SECTION 51 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 APPLICATION FOR A PRIVATE HIRE DRIVERS LICENCE

The Sub-Committee considered a report of the Corporate Director of Neighbourhoods seeking instructions on an application for a Private Hire Drivers Licence.

The Council's adopted policy states that applicants for a private hire vehicles driver's licence should be over 21 years and have at least 3 years driving experience as the holder of a full driving licence. Although the applicant was over the age of 21 he had only held a full driving licence since 29 April 2008. Consequently under normal circumstances, he would not qualify for a private hire driver's licence.

The applicant advised Members that since he had passed his driving test he had driven approximately 20,000 miles. His father advised Members that his son had a vehicle ready in his own name, and if the licence was granted, he would be employed in a family run taxi business. The applicant would be expected to drive a few nights each week, and that he was aware of the responsibilities associated with driving a private hire vehicle. In addition the applicant's father informed Members he was currently arranging for all his drivers, including the applicant, to undertake the NVQ Course relevant to taxi licensing.

The Sub-Committee considered all aspects of the application, including the representations of the applicant and his father; driving experience; the fact that the applicant has passed the knowledge test and the statement of the Council's adopted Policy.

The Sub-Committee **RESOLVED:-** to grant a Private Hire Drivers Licence as they had been satisfied that applicant was a fit and proper person to hold a driver's licence.

09.LSC.05 APPLICATION TO RENEW HACKNEY CARRIAGE DRIVERS LICENCE

The Sub-Committee considered a report of the Corporate Director of Neighbourhoods seeking instruction on the renewal of a hackney carriage drivers' licence.

The applicant first applied for a hackney carriage driver's licence on 24 November 2005. At this time the applicant had failed to declare relevant driving convictions, although a copy of his driver's licence, which was produced at the same time, indicated that he did have a number of driving convictions. A copy of the applicants driving licence produced at the time of his original application was annexed to the report for the Committee's consideration. The original application for a hackney carriage driver's licence for Chorley Council had been successful and a licence was granted on 31 January 2006.

The applicant had also held a hackney carriage drivers licence issued by Preston City Council. On 13 October 2005 Preston City Council suspended his licence in response to complaints that the applicant routinely charged a higher tariff.

On 8 March 2006 the applicant appeared before the Licensing and Safety Committee at Chorley Council for failure to disclose that his licence had been suspended. The Committee resolved that the applicant could continue to drive his hackney carriage in Chorley and issued him with a warning by letter dated 13 March 2006, a copy of which was attached to the Committee report.

On 17 December 2008, the applicant reported to Chorley Council offices to renew his hackney carriage licence. At this time, as part of routine questions, the Licensing Enforcement Officer asked if the applicant had ever been refused a licence to drive a hackney carriage or private hire vehicle, or had a licence suspended or revoked. The applicant became agitated, and after speaking to his wife in his own language, they both left the office.

Officers later became aware that the applicant had appeared before Preston City Council Taxi and Miscellaneous Sub-Committee on 11 December 2008. On that occasion members of the Sub-Committee at Preston City Council resolved to revoke his licence with immediate effect. Preston Magistrates Court upheld the decision of the Committee at an appeal heard on 8 April 2009, and the appeal was dismissed.

A CRB check, which the applicant completed as part of the licence renewal application on 10 June 2009 revealed relevant driving convictions. The applicants licence was endorsed and he was disqualified from driving for 6 months.

The applicant, accompanied by this wife and legal representative attended the meeting to put forward representations urging the Sub-Committee to renew his hackney carriage licence.

The applicant's legal representative explained that the applicant had been confused when he filled in his original application form and that it had not been a deliberate attempt to deceive the Licensing Officers, particularly as the application was supported with a copy of his driving licence which had a record of all driving offences. It was accepted that the applicant failed to disclose his convictions on the November 2005 application form. The Applicant's legal representative confirmed that the convictions were revealed to Preston City Council in 2001, which further supported that the Applicant did not intend to deceive the Council.

The applicant's legal representative informed the Committee that the Applicant denies driving under the influence of alcohol. On the applicant's behalf, he explained the circumstances which led to his Hackney Carriage drivers licence being revoked by Preston City Council. The Committee was advised that in relation to the incident on 12 December 2007, it was the applicant who contacted the Police and that it was strange for the Applicant to take such action at the time. Members were informed that the

CPS, after all due consideration of the facts, decided there was insufficient evidence to proceed with a prosecution.

The Licensing Enforcement Officer drew members' attention to an incident which took place on 15 December 2007 at Preston Railway Station, when after taking an alcohol test from Mr Singh, his alcohol reading was 16 mg. The maximum amount allowed is 35mg.

The Applicant's legal representative asked the Committee to consider that Mr Singh had been taxi driver since 2001, The applicant worked as a taxi driver for 6 -7 years with Preston City Council and in that time, the Applicant was convicted of speeding.

The Sub-Committee assessed all elements and aspects of the case, including the implications and relevance of the convictions to the renewal applied for; the seriousness of the offences; the driver's representations; the public safety considerations, the Council's Licensing Policy and the optional course of actions available to the Sub-Committee.

The Sub-Committee had been concerned about the number of convictions the application had acquired in a relatively short space of time. Although Members acknowledged that the drink driving conviction was spent Members were concerned that he had received the maximum penalty for a first offence, which implied the seriousness of the offence. Members were also concerned about the applicant's drinking habits, the fact that he refused to provide a specimen 4 times to the Police and the result of the alcohol test taken at the taxi rank demonstrated a calendar of events relating to the applicant's alcohol-related conduct. There were some dishonesty issues which were supported within the report that the applicant was found charging a higher tariff and did not declare his convictions in the November 2005 Licence application. The Committee took into account the dismissal of the appeal by Preston Magistrates' Court, in respect of Preston City Council's revocation of the applicants licence and the grounds on which the appeal was dismissed. The Committee acknowledged that there had been no complaints against the Applicant during the Applicant's 12 months licence period with Chorley Council.

The Sub-Committee, **RESOLVED:-** that after taking account of all relevant factors, had not been satisfied that the applicant was not a fit and proper person to hold a hackney carriage licence, and in the interest of public safety refused the application for his hackney carriage licence to be renewed. In accordance with Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the refusal to renew was on the ground of 'any other reasonable cause'.

The applicant had a right to appeal to the Magistrates Court within 21 days of notification of the decision.

Chair

This page is intentionally left blank

General Licensing Sub-Committee

Wednesday, 5 August 2009

Present: Councillor Pat Haughton (Chair) and Councillors Anthony Gee, Marion Lowe, Debra Platt and John Walker

09.LSC.01 APOLOGIES FOR ABSENCE

There were no apologies for absence.

09.LSC.02 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest submitted by any Members of the Sub-Committee.

09.LSC.03 EXCLUSION OF THE PUBLIC AND PRESS

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

09.LSC.04 SECTION 51 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 APPLICATION FOR A PRIVATE HIRE DRIVERS LICENCE

The Sub-Committee considered a report of the Corporate Director of Neighbourhoods seeking the Sub-Committee's decision on an application for a Private Hire Driver's Licence.

The application could only be determined by the General Licensing Sub-Committee as the applicant had been convicted of offences falling under part E (Violence and Abusive Behaviour) of the Council's Statement of Policy Concerning the relevance of Criminal Convictions Relating to the determination of an application or renewal for a Hackney Carriage or Private Hire Vehicle Driver's licence.

When the applicant completed his application for a Private Hire Driver's License he did not disclose any previous convictions. A CRB check later revealed that the applicant had been convicted at Preston Magistrates' Court on April 15, 2004 for a public order offence which occurred on January 3, 2004.

On July 8, 2009 the applicant attend an interview with Licensing Officers to discuss the omission to disclose the offence and explained the circumstances of the conviction. Up to this point the applicant said that he had been unaware of the conviction.

The applicant attended the meeting to put forward arguments why he considered that the Sub-Committee should consider granting him a licence. The applicant explained the circumstances of the conviction, advising Members that he had written a letter explaining what had happened to the Magistrates' Court. In response the Magistrates' Court sent him a letter that said he had received an Absolute Discharge by way of punishment of the offence and presumed that it meant he had not been convicted. The applicant only realised he had been convicted for this offence when the Licensing Manger brought it to his attention.

The applicant is currently the holder of a Private Hire Driver's Licence in Preston, but advised Members, if the application was granted he intended to only work in the Chorley area.

The Sub-Committee considered all aspects of the application, including the applicant's representations, the statement of the Council's adopted policy, and the relevance of the conviction.

After taking account of all relevant factors and considerations the Sub-Committee felt that the applicant was a fit and proper person to drive a private hire vehicle. The Sub-Committee therefore **RESOLVED unanimously to grant the applicant a private hire vehicle driver's licence.**

Chair

Licensing Act 2003 Sub-Committee**Friday, 14 August 2009****Present:** Councillor Keith Iddon (Chair) and Councillors Judith Boothman and Ralph Snape**09.LAS.04 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

09.LAS.05 DECLARATIONS OF ANY INTERESTS

None of the Sub-Committee members declared an interest in the principal agenda item under consideration.

09.LAS.06 APPLICATION FOR A REVIEW OF A LICENCE IN RESPECT OF THE CROWN, 46-48 CHAPEL STREET, CHORLEY PR7 1BW MADE UNDER SECTION 52 OF THE LICENSING ACT 2003

The Sub-Committee considered a report from the Corporate Director of Neighbourhoods on an application for a review of a premises licence in respect of The Crown, 46-48 Chapel Street, Chorley.

The Sub-Committee considered guidance issued under Section 182 of the Licensing Act 2003 together with the Council's Licensing Policy, in particular those paragraphs referred to in the report.

The Sub-Committee had to achieve a balanced approach to the difficult issues it had heard throughout the hearing and considered the Human Rights implications, specifically Article 1, and Article 6 of the First Protocol and the proportionately principles.

The Sub-Committee considered carefully the representations submitted by the Police, the Premises Licence Holder, Scottish and Newcastle Brewery and the Licensing Officer.

The Sub-Committee were satisfied that there had been repeated incidents at the premises which undermined the licensing objective of the prevention of crime and disorder.

After carefully considering representations from the Police, the Premises Licence Holder and Scottish and Newcastle Brewery the Sub-Committee considered the Premises Licence Holder had failed to effectively manage the premises leading to the licensing objective of the prevention of crime and disorder being undermined.

The report indicated that the Premises Licence Holder regularly employed unregistered door supervisors working at the premises, even though he had been warned on several occasions that by doing so he was breaching his Premise Licence, and that an offence was being committed.

In response the Premises Licence Holder pointed out that the security company were supplying the unregistered staff. However members noted that it was ultimately the responsibility of the Premises Licence Holder to comply with the condition on his licence. The Premises Licence Holder stated that he had used his vast experience to

decide who was suitable to work as door staff. The Sub-Committee felt this was not acceptable where this involved a breach of the licence.

The Sub-Committee had also felt that as the Premises Licence Holder was also Designated Premises Supervisor (DPS) that he should have been aware that an individual employed to carry out security activity on the premises should be licensed by the SIA and display a badge while on duty. Even after the police representative had explained repeatedly that it was a breach of his licensing conditions, the Premises Licence Holder ignored the advice offered and continued to employ non registered door supervisors.

The Sub-Committee had been informed of a serious incident which took place on 1 January 2009 where a customer's ear had been bitten off. The Sub-Committee accepted that this incident could have happened elsewhere but felt that had the premises been better managed the incident may not have occurred.

Members of the Sub-Committee had been informed that drug paraphernalia had been found in the toilets of The Crown. As a result Sgt Bushell and the Licensing Enforcement Manager attended The Crown to discuss the matter. It was highlighted that there was evidence of customers using drugs in the toilets and the Premises Licence Holder asked what provisions had been put in place to stop this. The Sub-Committee was concerned that Mr Davies had stated he had done nothing and did not think notices would be a deterrent although they noted that he had now installed notices and made changes to the toilet facilities to make drug use more difficult.

The Sub-Committee noted that at the meeting of Pubwatch in June an individual had been nominated by a member of staff at the Crown to be banned as he had been witnessed openly taking drugs in the premises on 14 May 2009. It was stated in the police application that the Premise Licence Holder had not been happy about the individual being banned and refused to support the decision and had taken the member of his staff to task for raising the matter at the Pubwatch meeting. The Premises Licence Holder disputed that he had taken his employee to task and said that instead he had wished to raise the issue privately with a third party. The Sub-Committee also noted that the member of staff was still working at the Crown. Members however, considered that dealing with the issue privately would undermine the aim of Pubwatch which was to ensure that banned individuals are notified to all participating premises.

The Sub-Committee was informed that the police had information that on a number of occasions The Crown had served alcohol to banned persons on the Pubwatch scheme. The Sub-Committee were reminded that it was not an offence to serve alcohol to any person on the banned Pubwatch list and was not a breach of a licence condition. However members considered that by doing so the whole purpose of the scheme would be undermined and the licensing objectives could also thereby be compromised.

The Sub-Committee were made aware that the Premises Licence Holder had submitted notice to quit to Scottish and Newcastle Brewery, in relation to The Crown from 21 September 2009, and that this notice had been accepted. Scottish and Newcastle Brewery indicated that an interim management company might be installed until a new Premises Licence holder could be found.

The Sub-Committee did not accept the claim, which had not been supported by any evidence, that the Premises Licence Holder had been victimised by the Police. Members had noted with particular concern that the Premise Licence Holder had attended an interview with the Police on 24 February 2009 and had been given a warning that future weaknesses in the management of the premises could result in formal action. Members considered that the Premises Licence Holder had been offered the opportunity to improve but that his management of the premises continued to undermine the licensing objectives.

Members also noted that the Premises Licence Holder claim that he had “changed his ways” had been an admission of problems with his management of the premises. However the Sub-Committee did not agree that his management, after previous warnings by the police, were sufficiently robust.

The Sub-Committee considered that the conditions suggested by Police were reasonable and proportionate to achieve the licensing objectives given the history of incidents of crime and disorder and drug use at the premises.

After taking all due account of all representations the Sub-Committee did not feel that the Premises Licence Holder was a fit an proper person to hold a Premises Licence as the repeated incidents at the premises undermined the licensing objectives of the prevention of crime and disorder, therefore the **Sub-Committee RESOLVED: -**

- a) **To suspend the current Premises Licence for three months or until such earlier date as the Premises Licence may be transferred to another person .**
- b) **The Premise Licence Holder be removed as Designated Premises Supervisor.**
- c) **To accept the changes to the Premise Licence conditions as recommended by the police in their report and as modified at the Sub-Committee hearing which are as follows: -**

Annex 1

Mandatory Conditions

Conditions to be retained.

Public Entertainment Licence Conditions

These conditions to be removed in their entirety.

Annex 2

- a) **General - to be removed.**
- b) **The prevention of crime and disorder
Conditions 1, 2 and 3 to be retained**
 - 4) **To be removed and replaced with – A minimum of 2 Door Supervisors will be used at the premises from 00:00 until close on Friday and Saturday and New Year’s Eve.**
 - 5) **To be removed and replaced with – The premises will have a CCTV system installed, maintained and operated on the premises to the satisfaction of Lancashire Constabulary.**
 - 6) **The premises will operate a day book to the satisfaction of Lancashire Constabulary. This will be made available for inspection on reasonable request by any responsible authority.**
 - 7) **The premises will operate a drugs policy and all staff will be regularly trained in the policy.**
 - 8) **Hourly toilet checks will be carried out and recorded in the day book.**

- 9) All staff training will be documented and provided for inspection on reasonable request by any responsible authority.
 - 10) No persons will be allowed to consume drinks outside the front of the premises after 00:00.
-
- c) **Public Safety**
Conditions 1, 2 and 3 to be retained
Condition 4 to be removed
 - d) **Prevention of Public Nuisance**
Conditions 1 to be removed
Conditions 2, 3 to be retained
Conditions 4, 5 and 6 to be removed
 - e) **Protection of Children from Harm**
This condition to be removed and replaced with:-
 - 1) The premises will operate a Challenge 21 Policy
 - 2) All Staff will be regularly trained with regards age related sales.

The Premise Licence Holder was informed that he had a right to appeal to the Magistrates Court within 21 days of notification of the decision.

Chair

Licensing Act 2003 Sub-Committee**Tuesday, 25 August 2009****Present:** Councillor Keith Iddon (Chair) and Councillors John Walker and Stella Walsh**09.LAS.07 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

09.LAS.08 DECLARATIONS OF ANY INTERESTS

None of the Sub-Committee Members declared in the principal agenda item under consideration.

09.LAS.09 APPLICATION FOR THE REVIEW OF A PREMISES LICENCE UNDER SECTION 53A OF THE LICENSING ACT 2003 (PREMISES ASSOCIATED WITH SERIOUS CRIME OR DISORDER)

The Sub-Committee considered an application under Section 53A of the Licensing Act 2003 for a summary review by Lancashire Police in relation to the premises known as The Clayton Brook.

The Sub-Committee considered relevant legislation and the guidance issued by the Department for Culture, Media and Sport in relation to Expedited/Summary Licence Reviews.

The Sub-Committee noted the seriousness of an incident which took place on 23 August 2009, and had been satisfied that the premises was associated with both serious crime and serious disorder.

The Sub-Committee heard from the Premises Licence Holder's solicitor that the incident had been an opportunistic attack. However the Sub-Committee noted the use of weapons which suggested an element of pre-meditation.

The Sub-Committee noted with concern the repeated absences of the Designated Premises Supervisor (DPS). Although the Sub-Committee sympathised with the DPS's personal circumstances and his bereavement, they considered personal factors could not be allowed to seriously prejudice the licensing objectives.

The Sub-Committee had also been concerned about the police evidence of lack of co-operation from members of staff at the premises regarding the incident. From Police evidence the Sub-Committee considered that there would have been a risk of reprisals if the premises remained open. The Sub-Committee noted that the parties involved in the incident were local to the area and concluded that there was a real risk of a recurrence of serious crime and disorder at the premises.

The Sub-Committee did not consider that the imposition of conditions was a practical way of preventing the recurrence of serious crime and disorder at the premises in the immediate future.

Given the weaknesses in the management of the premises the Sub-Committee had not been confident that a recurrence of serious crime and disorder could have been prevented by the DPS barring the families concerned.

At the conclusion of their deliberations, the Sub-Committee **RESOLVED - that the premises licence be suspended with immediate effect pending a review of the licence within 28 days.**

The Premises Licence holder was advised that he may make representations against these interim steps. On receipt of representations the Council must hold a hearing within 48 hours of receipt to consider whether the interim steps should continue.

Chair

General Licensing Sub-Committee

Wednesday, 2 September 2009

Present: Councillor Keith Iddon (Chair) and Councillors Magda Cullens, Doreen Dickinson, Hasina Khan and Stella Walsh

09.LSC.05 APOLOGIES FOR ABSENCE

There were no apologies for absence.

09.LSC.06 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest submitted by the Sub-Committee Members.

09.LSC.07 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – that the press and public be excluded from the meeting for the following item of business on the ground that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

09.LSC.08 APPLICATION TO DRIVE HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES

The Sub-Committee considered a report of the Corporate Director of Neighbourhoods seeking instruction on an application for a licence to drive hackney carriage/private hire vehicles.

The Council's adopted policy stated that applicants for a hackney carriage private hire drivers' licence should have at least 3 years driving experience as the holder of a full UK driving licence. The applicant has held a full UK drivers licence since 2 November 2007. Therefore the applicant did not meet the criteria, and consequently under normal circumstances would not qualify for a driver's licence.

The applicant accompanied by a representative attended the meeting to put forward representations in support of the application.

The Sub-Committee considered all aspects of the application, including the applicant's representation; driving experience, and the potential job appointment for the applicant.

The Sub-Committee, **RESOLVED – that the application for a hackney carriage/private hire driver's licence be granted.**

09.LSC.09 APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE

The Sub-Committee considered a report of the Corporate Director of Neighbourhoods seeking instruction on an application for a licence to drive hackney carriage/private hire vehicles.

The application could only be determined by the General Licensing Sub-Committee as the applicant had relevant convictions.

On 16 June 2009 the applicant submitted his application to drive a hackney carriage/private hire vehicle. The applicants CRB check revealed one conviction on 16 September 1999 at Preston Crown Court for an offence of dangerous driving which occurred on 14 September 1998, while working as a hackney carriage driver in Chorley. The applicant was disqualified from driving for 18 months and until an extended driving test was passed, and was fined £100, and ordered to pay £300 compensation. The applicant also had convictions of exceeding the speed limit on 17 October 2005 and 4 December 2006.

As a result of the conviction, the Licensing Sub-Committee revoked the applicant's hackney carriage licence on 5 October 1999. Chorley Magistrates Court upheld the decision of Licensing Sub-Committee to revoke the applicant's hackney carriage licence at a hearing on 24 February 2000.

On 5 February 2007 the applicant appeared before South Ribble Borough Council's General Licensing Committee. At that meeting his hackney carriage and private hire drivers licence's was revoked.

The applicant attended the meeting to put forward representations in support of the application.

The applicant felt that the extended driving test which he had to complete as part of his conditions imposed by Preston Crown Court had improved his driving skills.

The applicant accepted that on four separate occasions he had lost his temper with the Licensing Officer at South Ribble.

The Sub-Committee was informed that there had been an incident at Runshaw College while the applicant was trying to enrol on a relevant BTEC training course. The applicant had a disagreement with a College representative over fees. The applicant has since enrolled on a course at Lancaster and Morecombe College.

The Sub-Committee considered all aspects of the application, including the applicant's representations, the statement of the Council's adopted policy, and the relevance of the convictions.

The Sub-Committee, **RESOLVED – that after taking account all relevant factors, they were not satisfied that the applicant was a fit and proper person to hold a hackney carriage/private hire drivers' licence. The applicant had admitted that he had lost his temper on four occasions with the Licensing Officer at South Ribble and Members did not feel that his reasons were sufficient to justify that action. Members were also concerned about the applicant's representations as he did not answer Members questions satisfactorily or with sufficient clarity, making inappropriate unrelated comments.**

The applicant has a right to appeal to the Magistrates' Court within 21 days.

Chair

Report of	Meeting	Date
Corporate Director (Governance)	Licensing & Public Safety Committee	16/09/2009

AMENDMENT TO THE SCHEME OF DELEGATION – LICENSING COMMITTEE

PURPOSE OF REPORT

1. To propose alterations to the Council's Scheme of Delegation to delegate to the Corporate Director of Neighbourhoods in consultation with the Chair of the Licensing and Public Safety Committee the authority to make decisions on defined Licensing Applications.

RECOMMENDATION(S)

2. That the Licensing and Public Safety Committee approve the delegation to the Corporate Director of Neighbourhoods in consultation with the Chair of Licensing and Public Safety Committee the authority to approve applications for Driver's Licences (either Hackney Carriage or Private Hire Vehicle) which fall outside the Council's usual policies for approval.
3. That the Licensing and Public Safety Committee approve the alteration for the arrangements for Licensing Sub-Committee briefings.

SUMMARY OF REPORT

4. Under the terms of the current scheme of delegation all applications for drivers licences (either Hackney Carriage or Private Hire Vehicles) where the application does not comply with Council Policy must go before a Sub-Committee.
5. This has lead to inappropriate matters being brought before the Sub-Committee, which is particularly frustrating to committee members when the matter is the only agenda item.
6. This report proposes that the scheme of delegation is amended to enable the Corporate Director of Neighbourhoods to consider and make decisions to grant Drivers' Licence applications in limited circumstances and after consultation with the Chair of Licensing and Public Safety Committee. The report further recommends a change to the current Committee briefing arrangements.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

7. The adoption of the recommendation will allow for a more efficient resolution of Drivers' Applications and will prevent the convening of Sub-Committee's to consider straight forward applications.

CORPORATE PRIORITIES

8. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region		Develop local solutions to climate change.	
Improving equality of opportunity and life chances		Develop the Character and feel of Chorley as a good place to live	
Involving people in their communities		Ensure Chorley Borough Council is a performing organization	X

BACKGROUND

9. At the meeting of the Sub-Committee on 5 August 2009 an application for a private hire drivers licence was heard. The applicant had a relevant conviction. The sentence was an absolute discharge. Council Policy requires that all applications that disclose a relevant conviction must be referred to the Sub-Committee for consideration. Members of the Sub-Committee expressed concern that this application, which was straight forward and a certain grant, should necessitate convening a Sub-Committee. This report proposes a mechanism for addressing Members' concerns.

USE OF DELEGATED POWER

10. Historically, Officers in Chorley have been able to grant taxi licences only where the application meets the Council's usual policy requirements. Other applications were formerly referred to the full committee but since last April there have been delegated to Sub-Committees.
11. In light of the concerns expressed by the Sub-Committee on 5 August 2009 the Licensing and Public Safety Committee is invited to consider amendments to the Scheme of Delegation which would avoid such a situation arising again.
12. It is proposed that the scheme of delegation be amended to authorise the Corporate Director of Neighbourhoods to make decisions in consultation with the Chair of the Licensing and Public Safety Committee to approve applications that are contrary to Council Policy. Applications the Corporate Director does not feel able to grant following consultation would continue to go before the Licensing Sub-Committees.
13. The advantage of the amendment to the scheme of delegation is that Sub-Committees would not be convened to address straight forward matters. Framing the discretion in a positive way, ie the Corporate Director has the discretion to grant, would mean that the Corporate Director alone could not refuse any applications and applicants would still have the right to be heard by Committee. The main disadvantage would be reduced member input into these applications.

BRIEFING PROCESSES

14. The current procedures would be amended to use the current briefing meetings for Licensing and Public Safety Committee as a combined consideration of delegated applications, agenda setting and briefing for the Sub-Committee meeting. The briefing would be moved to an earlier date than the date of the meeting to enable the Corporate

Director to consult the Chair on the exercise of the delegation and where it is decided not to use delegated powers those matters can go onto the next Sub-Committee's agenda.

- 15. It would further be proposed that the Corporate Director would bring a report to each Licensing and Public Safety Committee detailing the occasions on which the discretion has been exercised.

IMPLICATIONS OF REPORT

- 16. This report has implications in the following areas and the relevant Corporate Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	No significant implications in this area	

ANDREW DOCHERTY
CORPORATE DIRECTOR (GOVERNANCE)

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Chris Moister	5160	14 August 2009	***

This page is intentionally left blank

Report of	Meeting	Date
Corporate Director (Neighbourhoods)	Licensing and Public Safety Committee	16/09/2009

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING CONDITIONS - REVIEW

PURPOSE OF REPORT

1. To advise Members of the progress made since the introduction of revised hackney carriage and private hire vehicle licensing conditions and seek permission to review them.

RECOMMENDATION

2. Members are asked to approve that the current hackney and private hire licensing conditions are reviewed in consultation with the trade in order to reduce the regulatory burden on business, increase administrative efficiency within the Council and maintain the public protection that the licensing regime provides.

EXECUTIVE SUMMARY OF REPORT

3. The Licensing and Public Safety Committee agreed the implementation of new conditions for hackney carriage and private vehicle licenses at its meeting on 17 September 2009.
4. The new conditions imposed several layers of bureaucracy including the dating of licence plates, a revised vehicle testing regime and conditions relating to vehicle capacity.
5. During the past 10 months the implementation of these conditions have led to several representations from the licenced taxi trade and seen an increase in the administrative burden placed on licensing team staff in dealing with the new requirements.
6. Whilst the ultimate aim of the licensing regime for hackney and private hire vehicles is to ensure public safety, the Council does have a statutory obligation to reduce the regulatory burden on business and ensure its administrative processes are efficient.
7. It is proposed that the Public Protection and Business Process Teams within the Neighbourhoods Directorate undertake a review of the current conditions and through consultation with the trade and allied bodies propose revised conditions that meet the objectives above.
8. It is anticipated that the review will be undertaken in over the next four weeks with a report to this Committee on any recommended changes to the conditions imposed on hackney carriage and private hire vehicles

REASONS FOR RECOMMENDATION

(If the recommendations are accepted)

9. The review of conditions will ensure that we are actively seeking to reduce the regulatory burden on business whilst ensuring the Councils public safety remit and providing an efficient administrative process in the processing and issuing of hackney carriage and private hire vehicle licences.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

10. Leaving the conditions without a review was considered and rejected on the grounds that the integration of the licensing function into the Neighbourhood Directorate provides an opportune time to undertake such a review.

CORPORATE PRIORITIES

11. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region		Develop local solutions to climate change.	
Improving equality of opportunity and life chances		Develop the Character and feel of Chorley as a good place to live	√
Involving people in their communities		Ensure Chorley Borough Council is a performing organization	√

IMPLICATIONS OF REPORT

12. This report has implications in the following areas and the relevant Corporate Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		No significant implications in this area	

ISHBEL MURRAY
CORPORATE DIRECTOR (NEIGHBOURHOODS)

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
S Clark	5732	3 September 2009	Lic/review

Report of	Meeting	Date
Corporate Director (Neighbourhoods)	Licensing and Public Safety Committee	16/09/2009

LICENCE LIAISON PANEL - REVIEW

PURPOSE OF REPORT

1. To seek Members agreement to review the current arrangements for liaison with the licensed trade in Chorley

RECOMMENDATION(S)

2. It is recommended that Members approve the reviewing of the current liaison arrangements with the licensed trade in Chorley to provide a forum which is fit for purpose and contributes to the licensing objectives.

EXECUTIVE SUMMARY OF REPORT

3. There are currently two forums in Chorley by which Council officers are able to liaise with the licensed trade on matters relating to the Licensing Act 2003 and the licensing of hackney carriage and private hire vehicles. One forum is specific to the licensed premises trade and is the Bar Watch or Pub Watch meeting. The other is the Licence Liaison Panel, hosted by Chorley Council and is open to anyone with an interest in licensed business. Neither forum have any legal standing or status.
4. The Bar Watch forum meets on a monthly basis and is seen as an effective channel for Council Officers to discuss premises licence issues with the trade and was effective during the introduction of recent smoke free legislation.
5. The Licence Liaison panel meets on a quarterly basis and its purpose is to provide a forum for all businesses subject to the Councils licensing regime. However of late the panel has been predominantly exercised on issues relating to hackney and private hire issues with other business types unable to get a 'hearing'.
6. In order to provide an equitable business liaison framework it is proposed that the existing arrangements are reviewed in consultation with business to establish a liaison framework that is fit for purpose and meets the varied needs of the licensed business community and the Council.
7. It is anticipated that if approved this review and consultation will be undertaken over the next two months and recommendations brought back to Members on a framework that meets the Councils licensing objectives.

REASONS FOR RECOMMENDATION

(If the recommendations are accepted)

8. To ensure the Council provides the most appropriate framework for liaison with the licensed trade.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

9. The option of not undertaking a review and leaving the current arrangements in place was

considered and rejected on the basis that recent liaison meetings have failed to provide a satisfactory forum for the wide spectrum of licensed business.

CORPORATE PRIORITIES

10. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region		Develop local solutions to climate change.	
Improving equality of opportunity and life chances		Develop the Character and feel of Chorley as a good place to live	√
Involving people in their communities	√	Ensure Chorley Borough Council is a performing organization	√

IMPLICATIONS OF REPORT

11. This report has implications in the following areas and the relevant Corporate Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		No significant implications in this area	√

ISHBEL MURAY
CORPORATE DIRECTOR (NEIGHBOURHOODS)

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
S Clark	5732	3 Sept 2009	Lic/liaise