



Licensing and Public Safety Committee

Agenda and Reports

For consideration on

Wednesday, 6th March 2013

In the Council Chamber, Town Hall, Chorley

At 2.00 pm

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Dear Councillor

LICENSING AND PUBLIC SAFETY COMMITTEE - WEDNESDAY, 6TH MARCH 2013

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, 6th March 2013 commencing at 2.00 pm.

AGENDA

1. **Apologies for absence**

2. **Minutes (Pages 1 - 2)**

To confirm the minutes of the Licensing and Public Safety Committee held on 12 December 2013 (enclosed)

3. **Declarations of Any Interests**

Members are reminded of their responsibility to declare any pecuniary interest in respect of matters contained in this agenda.

If you have a pecuniary 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.

4. **Licensing Act 2003 Sub-Committee Minutes (Pages 3 - 4)**

To confirm the minutes of the Licensing Act 2003 Sub-Committee held on 14 January 2013 (enclosed)

5. **General Licensing Sub-Committee Minutes (Pages 5 - 6)**

To confirm the minutes of the General Licensing Sub Committee held on 6 February 2013 (enclosed)

6. **DVLA V5 DOCUMENT REQUIREMENT (Pages 7 - 12)**

Report of the Director of People and Places (enclosed)

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

Yours sincerely



Gary Hall
Chief Executive

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Distribution

1. Agenda and reports to all Members of the Licensing and Public Safety Committee (Councillor Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Matthew Crow, David Dickinson, Doreen Dickinson, Graham Dunn, Keith Iddon, Hasina Khan, Paul Leadbetter, Adrian Lowe, Mick Muncaster, Steve Murfitt, Pauline Phipps, Alan Platt, Ralph Snape and John Walker for attendance.
2. Agenda and reports to Zeynab Patel (Solicitor), Dianne Scambler, Paul Carter (Public Protection Co-ordinator) and Legal Services for attendance.
3. Agenda and reports to Licensing and Public Safety Committee reserves (Councillors Julia Berry and Daniel Gee) for information.

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

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کیجئے:

Licensing and Public Safety Committee

Wednesday, 12 December 2012

Present: Councillor Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Matthew Crow, David Dickinson, Doreen Dickinson, Graham Dunn, Keith Iddon, Hasina Khan, Paul Leadbetter, Adrian Lowe, Mick Muncaster, Steve Murfitt, Pauline Phipps, Alan Platt, Ralph Snape and John Walker

Also in attendance

Officer: Zeynab Patel (Solicitor), Paul Carter (Public Protection Co-ordinator) and Dianne Scambler (Democratic and Member Services Officer)

12.LPS.53 APOLOGIES FOR ABSENCE

There were no apologies for absence.

12.LPS.54 MINUTES

RESOLVED – That the minutes of the Licensing and Public Safety Committee meeting held on 12 September be confirmed as a correct record for signing by the Chair.

12.LPS.55 DECLARATIONS OF ANY INTERESTS

No declarations of interests were received.

12.LPS.56 APPROVAL OF THE MINUTES OF THE GENERAL LICENSING SUB COMMITTEE'S

RESOLVED - That the meeting of the General Licensing Sub Committee's held on the 7 and 21 November 2012 be held as correct record.

12.LPS.57 APPROVAL OF THE MINUTES OF THE LICENSING ACT 2003 SUB COMMITTEE'S

RESOLVED - That the meeting of the Licensing Act 2003 Sub Committee held on 20 September 2012 be held as a correct record.

12.LPS.58 AMENDMENT TO CONDITIONS RELATING TO HACKNEY CARRIAGE & PRIVATE HIRE DRIVERS LICENCE

The Committee received a report of the Director of People and Places that sought approval for the removal of the condition of the requirement to provide a fire extinguisher in hackney carriage and private hire vehicles.

At a meeting of the Licensing Liaison Panel meeting comments had been made that the requirement to have a fire extinguisher was contradictory to current guidance provided by the fire service. Concerns also highlighted the lack of training and understanding on their use. Officers were asked to research this issue and report their findings to this Committee.

The Council had consulted with Lancashire Fire and Rescue Services about the matter and whilst they had the opinion that the carrying of a fire extinguisher was generally a good idea, there was an appreciation of the concerns from taxi operators in relation to personal safety and felt that it was a condition that should not be insisted upon.

It was proposed by Councillor Adrian Lowe, seconded by Councillor Paul Leadbetter and subsequently **RESOLVED to approve the removal of the condition for the requirement to provide a fire extinguisher in hackney carriage and private hire vehicles from the conditions of application.**

12.LPS.59 AMENDED GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003

The Director of People and Places submitted a report to inform the Committee of the revised guidance pursuant to Section 182 of the Licensing Act 2003 issued on 31 October 2012.

The revised Guidance had been anticipated following the Live Music Act 2012 (the 2012 Act) coming in to force on 1 October 2012, along with provisions of the police Reform and Social Responsibility Act 2011 concerning Early Morning Restriction Orders (EMRO's)

A number of changes had been made and these were outlined in the report along with notification of an amendment to correct a sentence within the document that had been made in error.

RESOLVED – That the information within the report be noted.

12.LPS.60 SEASONS GREETINGS

The Chair wished everyone a Happy Christmas and New Year.

Chair

Licensing Act 2003 Sub-Committee**Monday, 14 January 2013**

Present: Councillor Marion Lowe (Chair) and Councillors Keith Iddon and Pauline Phipps

Also in attendance

Officers: Alex Jackson (Senior Lawyer), Matthew Swift (Public Protection Officer) and Dianne Scambler

12.LAS.22 APOLOGIES FOR ABSENCE

There were no apologies for absence.

12.LAS.23 DECLARATIONS OF ANY INTERESTS

There were no declarations of any interests.

12.LAS.24 PROCEDURE

The Chair outlined the procedure for the hearing.

12.LAS.25 APPLICATION FOR A PREMISES LICENCE UNDER SECTION 17 OF LICENSING ACT 2003 - PANSHI, 24 TOWN ROAD, CROSTON PR26 9RB

The Licensing Sub Committee considered an application for the granting of a premises licence made by Mr Alawar Rahman in respect of Panshi, 24 Town Road, Croston, in light of representations made towards the application.

Mr Rahman attended the meeting with his representative Mr Anikur Rahman and Mr Dhar who would be the designated premises supervisor should the licence be granted.

The premises currently operated as a 56 cover restaurant that operated on a "Bring your own bottle" basis to allow the consumption of alcohol with table meals. The applicant wished to extend the provisions of business to offer the sale of alcohol as a way of making the business financially stable.

Should the application be granted as applied for there would be no difference in the current operating hours of the premises and the applicant felt that the licence would in reality allow greater management controls to be placed on the consumption of alcohol by patrons.

Representations were received from the owners of the apartment above and concerns raised by the current tenant. The representations focused around the licensing objective of the Prevention of public nuisance, mainly associated with noise and odours emanating from the business, other management issues were also discussed relating to waste management and public health.

The Sub Committee carefully considered the officer's report outlining the application, the applicant's written and verbal representations and the written and verbal representations from the interested parties. The Sub Committee also gave regard to the Council's Statement of Licensing Policy; in particular those paragraphs referred to within the report and gave consideration to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003. The Sub Committee also

considered Human Rights implications, in particular Article 6, Article 8 and Article 1 of the First Protocol.

Members **RESOLVED** to grant the application as set out in the report subject to the following amendment:

The permitted hours for the supply of alcohol in Panel M of the application shall be 30 minutes earlier than applied for. The reason for this is to enable better management of dispersal of customers on closure and prevent public nuisance.

Therefore the hours for the supply of alcohol would be:

Mon	12.00 - 21.00
Tues	12.00 - 21.00
Wed	12.00 - 21.00
Thu	12.00 - 21.00
Fri	12.00 - 22.00
Sat	12.00 - 22.00
Sun	12.00 - 21.00

The reasons for the decision were as follows:

1. Member's attention was drawn to the leading case law on public nuisance in which it has been held that it must be sufficiently widespread and indiscriminate to amount to something more than a private nuisance.
2. Members noted that no responsible authorities had made representations about the application, including the Environmental Health Department of the Council in respect of noise nuisance.
3. The problems identified by the interested parties relate to only one premises.
4. Members noted that paragraph 2.19 of the statutory Guidance describes public nuisance at the lower end of the scale as affecting a few people living locally whereas no other residents had made representations apart from those connected with the apartment above.
5. Members noted that some of the activities complained of by the interested parties such as noise from kitchens and conversations of customers would occur in any food premises and are not a consequence of licensable activities.
6. Members noted that the problems identified by the interested parties had made it more difficult to tenant their apartment. This further reinforced member's views that a public nuisance had not occurred as opposed to a potential private nuisance.

Members noted the comments of the interested parties about outstanding obligations required following a building or fire inspection regarding sound proofing. Whilst recognising that such obligations (if any remain to be performed) fall outside the licensing authority's remit Members expressed concern and requested that Public Protection Officers contact the bodies concerned and encourage them to ensure that any such legally enforceable obligations are fully complied with.

Chair

General Licensing Sub-Committee

Wednesday, 6 February 2013

Present: Councillor (Chair) and Councillors Doreen Dickinson, Graham Dunn, Hasina Khan and Alan Platt

Also in attendance

Officer: Dianne Scambler (Democratic Services Officer), Stephen Culleton (Public Protection Officer) and Alex Jackson (Senior Lawyer)

13.LSC.1 APOLOGIES FOR ABSENCE

No apologies were received.

13.LSC.2 DECLARATIONS OF ANY INTERESTS

There were no declarations of any interests.

13.LSC.3 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 ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

13.LSC.4 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 SECTION 51

The Sub Committee considered a report of the Director of People and Places to determine whether or not a driver should be granted a Private Hire Driver's licence.

Members were informed that the Council had received an application on 3 September 2012. The driver had satisfactorily completed the Council's Knowledge Test, the DSA Driver Assessment and the DVLA Group 2 Medical.

The driver's declaration of convictions and CRB contained a number of driving convictions that had been recorded in 2006 and 2007. The driver had been banned from driving for 20 months that had been reduced to 15 months on the completion of a driver rehabilitation course taken on 17 June 2008. The driver received his entitlement to drive on 18 November 2008 and had not received any further driving convictions since the reinstatement of his licence.

The driver attended the meeting along with a representative who was the joint proprietor for one of the Council's Operator's Licences. The driver said that he had grown up a lot over the past few years and was now a family man who had a responsibility to provide for his family.

His representative also gave representations in support of his application and stated that the company were prepared to employ the driver if the Private Hire Driver's licence was granted, adding that the driver had shown great determination, commitment and maturity to correct his previous errors and that she had every confidence in him.

Members carefully considered the representations from the driver, his prospective employer and the Public Protection Officer and **RESOLVED to grant the application for a private hire driver's licence for the following reasons:**

- **The applicant had no convictions since the period of disqualification of the driving licence had expired.**
- **Members noted that the driver had admitted to his past mistakes and is now more mature and responsible.**
- **Members noted the comments made by the prospective employer that she was satisfied about his reliability.**

13.LSC.5 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SCHEDULE 3, PARAGRAPH 17, REVOCATION OF LICENCE.

The Sub Committee considered a report of the Director of People and Places to determine whether or not the licence holder was a suitable person to continue to hold the Sex Shop Licence in light of recent convictions and other matters contained within the report.

Members carefully considered all representations and **RESOLVED to request that Public Protection Officers issue a written warning as to the conduct of the licence holder to remain on file.**

Chair



Report of	Meeting	Date
Director of People & Places	Licensing & Public Safety Committee	6 March 2013

DVLA V5 DOCUMENT REQUIREMENT

PURPOSE OF REPORT

1. To bring to Members attention that representatives of the Chorley taxi trade have expressed concerns relating to a long standing condition relating to Hackney Carriage and Private Hire vehicle licences which require the DVLA V5 vehicle registration document to be presented as part of the licence application process for a hackney carriage or private hire vehicle licence.

RECOMMENDATION(S)

2. Members are recommended to note the concerns of the representatives of the Chorley taxi trade, consider the issues raised in the report and determine a preferred course of action.

BACKGROUND

3. At a meeting of the Licensing Liaison Panel on 11th February 2013, representatives of the taxi trade requested that the requirement to present the DVLA V5 vehicle registration document is reconsidered by Members. The request was agreed by the Chair of the Licensing and Public Safety Committee at that meeting.
4. Members have previously considered this issue at a meeting of Licensing and Public Safety Committee on 9th March 2011 following similar concerns raised by the taxi trade and subsequently unanimously resolved–

That the original condition be retained unchanged to ensure that there was a traceable and accurate document which identified the registered vehicle keeper in order that the vehicle licence applicant and vehicle keeper could be identified as one and the same person at the time of the vehicle licence application as well as confirmation of the date of first registration of the vehicle in the UK.

5. The report submitted to the Licensing and Public Safety Committee on 9th March 2011 is attached as Appendix 1 and the issues highlighted in that report and the reasons for the requirement to provide the DVLA V5 document are still current today. Therefore this report does not seek to reproduce the original report in full.

ALTERNATIVE CONSIDERATIONS

6. Should Members be minded to change the current condition requiring submission of the DVLA V5 document, then a possible alternative, where the V5 document cannot be produced at the time of application, would be to require production of **all** of the following:
 - The new keepers supplement (V5C2) – this is the V5 slip handed to the new keeper when the vehicle is sold

- A bill of sale indicating details of the vehicle (including plate no. if applicable or vehicle registration number), the name and address of the buyer and seller and the date of sale
- Photocopy of the existing V5 as issued to the existing registered keeper as this has the date of first registration in the UK for the vehicle.

Members should note that this process is not as robust as the production of a DVLA issued V5 and potentially more administratively burdensome, however the production of this information as an alternative enables the Council to perform the same checks as are currently undertaken should there be any concerns regarding the integrity of the vehicle.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

7. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	

IMPLICATIONS OF REPORT

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

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE MONITORING OFFICER

9. The Council is entitled to impose reasonable requirements on vehicle licences. The proposed amendment to the licensing policy and conditions are in accordance with the Council legal powers under the Local Government (Miscellaneous Powers) Act 1976.
10. It is open to the Committee to change the current condition based on all the relevant information and following consideration of the requirements set out in the report.

MR JAMIE CARSON
DIRECTOR OF PEOPLE AND PLACES

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Mr Paul Carter	5738	19/02/13	V5 2013

Report of	Meeting	Date
Director of People and Places	Licensing and Public Safety Committee	9 March 2011

Appendix

DVLA V5 DOCUMENT REQUIREMENT

PURPOSE OF REPORT

- To bring to Members attention concerns raised by the taxi trade relating to a long standing condition relating to Hackney Carriage and Private Hire vehicle licences which require the DVLA V5 vehicle registration document to be presented as part of the licence application process for a hackney carriage or private hire vehicle licence.

RECOMMENDATION(S)

- Members are recommended to note the concerns of the taxi trade and resolve to retain the condition unchanged.

EXECUTIVE SUMMARY OF REPORT

- Members of the taxi trade have raised concerns that one of the Councils conditions of a vehicle licence being granted is delaying their ability operate a vehicle as quickly as they would like.

- The relevant condition is as follows:

“Proprietors must produce the following documents in order to progress the application:

The DVLA V5 ‘log book’ or other certificate or document in the name of the vehicle proprietor that declares the first date of registration of the vehicle. Only vehicles declared as new at first registration in the UK will be considered for licensing, except stretched limos etc. Such vehicles will be licensed at the discretion of the Council.”

- The V5 vehicle ‘logbook’ is the document issued by the DVLA which declares the date of first registration of the vehicle and names the registered keeper of that vehicle. (Appendix A refers)
- When a vehicle is purchased and in particular second hand vehicles, the V5 ‘log book’ is sent away by the vehicle vendor to the DVLA and the new owner of the vehicle receives a handwritten slip containing their name and address which links them by a serial number to the old V5 registration document in the possession of the vendor or in transit to the DVLA. This slip is effectively a receipt for the full V5 document should a new version not be forthcoming from the DVLA. It is officers opinion that the slip is not a replacement for the full V5 ‘logbook’ document.
- The DVLA service standards indicate that over 97% of V5 documents are issued within 14 days of receipt from the vehicle vendor which amounts to a possible 2 to 3 week delay in the new owner receiving the V5 ‘logbook’. (Appendix B refers) Therefore whilst the Council can process any application for a hackney carriage or private hire vehicle licence, until the V5 document has been presented and is in order the licence cannot be issued.



8. This methodology is fully in keeping with case law and its subsequent interpretation and Members are referred to Cannock Chase District Council v Alldritt 1993. The details of this case are given below.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

9. To ensure that there is a traceable and accurate document which identifies the registered vehicle keeper in order that the vehicle licence applicant and vehicle keeper can be identified as one and the same person at the time of vehicle licence application as well as confirmation of the date of first registration of the vehicle in the UK.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

10. At the point of sale of a vehicle the new keeper is given a hand written tear off slip form the V5 document by the vendor. This handwritten tear off slip could be used as the required document trace, however due to its hand written nature and the fact that it has not been verified and registered with the DVLA means it does not provide a robust means of identifying the registered keeper of the vehicle at the time of the vehicle licence application.

BACKGROUND INFORMATION

11. The Local Government (Miscellaneous Provisions) Act 1976 section 57(1) provides that : " A district council may require any applicant for a licence under the Act of 1897 or under this part of the Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.
12. In the case referred to above which related to an appeal against Cannock District Council by Mr Alldritt for the refusal of a hackney carriage licence on the grounds of unmet demand, the judge, Lord Justice Mann, noted that the provision of insurance documentation was entirely reasonable as such information necessary to determine an application.
13. The interpretation of this has been expanded upon in the licensing standard text book 'Taxis Licensing Law and Practice' 2nd Edition published by Tottel where it is stated that the principle relating to insurance documentation appears to be extendable to the requirement for vehicle registration documentation to be provided in determining an application.
14. Therefore officers are of the opinion that the requirement to provide the full V5 'logbook' as part of the vehicle licence application process is reasonable and provides third party confirmation (via the DVLA) as to the proprietorship of, or interested parties (keeper) in the vehicle to be licensed.
15. Members will note that the Council condition referred to above (para 4) does provide for "other certificate or documentation in the name of the proprietor that declares the date of first registration of the vehicle" to be presented as an alternative. This allows applicants of brand new vehicles to submit other documentation which both indicates that it was registered in the UK as a new vehicle and details the name and address of the vehicle proprietor.
16. However in respect of second hand vehicles presented for licensing, the main document that meets this criteria is the V5 'logbook'.

CORPORATE PRIORITIES

17. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	
Safe Respectful Communities		Quality Community Services and Spaces	
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			X

IMPLICATIONS OF REPORT

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

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

COMMENTS OF THE HEAD OF GOVERNANCE

19. There are no additional legal issues to raise over and above the references in the report. It is a matter for the Licensing Authority to assess whether the requirement to provide the V5 document or other documentation that serves the same purpose is reasonable.

JAMIE CARSON
DIRECTOR PEOPLE AND PLACES

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Simon Clark	5732	15 February 2011	V5doc

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