

LICENSING AND PUBLIC SAFETY COMMITTEE

MONDAY, 27TH MARCH 2017, 1.00 PM

COUNCIL CHAMBER, TOWN HALL, CHORLEY

AGENDA

APOLOGIES

1 **MINUTES OF MEETING WEDNESDAY, 1 FEBRUARY 2017 OF
LICENSING AND PUBLIC SAFETY COMMITTEE**

(Pages 3 - 12)

2 **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.

3 **PUBLIC QUESTIONS**

Members of the public who have requested the opportunity to ask a question(s) on an item on the agenda will be asked to put their question(s) to the Committee. Each member of the public will be allowed to ask one supplementary question within his/her allocated 3 minutes.

4 **MINUTES OF THE GENERAL LICENSING SUB COMMITTEES**

A **MINUTES OF MEETING WEDNESDAY, 25 JANUARY 2017 OF
GENERAL LICENSING SUB-COMMITTEE**

(Pages 13 - 16)

B **MINUTES OF MEETING WEDNESDAY, 8 FEBRUARY 2017 OF
GENERAL LICENSING SUB-COMMITTEE**

(Pages 17 - 24)

5 **HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITION
AND TESTING REQUIREMENTS**

Report of the Director of Early Intervention and Support (to follow).

6 **EXCLUSION OF PUBLIC AND PRESS**

To consider the exclusion of the press and public for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A to the Local Government Act 1972.

By Virtue of Paragraph 5: Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Condition:

Information is exempt to the extent that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town & Country Planning General Regulations 1992.

7 **HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE TESTING REQUIREMENTS THAT ARE SUBJECT TO A PROPOSED CLAIM FOR JUDICIAL REVIEW**

Report of the Director or Early Intervention and Support (to follow).

8 **ANY URGENT BUSINESS PREVIOUSLY AGREED WITH THE CHAIR**

GARY HALL
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Licensing and Public Safety Committee Councillor Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Gordon France, Margaret France, Tom Gray, Keith Iddon, Mark Jarnell, Hasina Khan (Chorley East), Sheila Long, Adrian Lowe, Mick Muncaster (Clayton-le-Woods West and Cuerden), Kim Snape, Ralph Snape and John Walker.

If you need this information in a different format, such as larger print or translation, please get in touch on 515151 or chorley.gov.uk

To view the procedure for public questions/ speaking click here

<https://democracy.chorley.gov.uk/documents/s67429/Appendix%203%20Standing%20Orders%20Aug%2016.pdf> and scroll to page 48.



MINUTES OF LICENSING AND PUBLIC SAFETY COMMITTEE

MEETING DATE **Wednesday, 1 February 2017**

MEMBERS PRESENT: Councillor Anthony Gee (Chair), and Councillors Jean Cronshaw, Gordon France, Margaret France, Hasina Khan, Sheila Long, Adrian Lowe, Mick Muncaster and John Walker

OFFICERS: Lesley Miller (Regulatory Services Manager), Alex Jackson (Legal Services Team Leader), Conrad Heald (Market Walk, Markets and Town Centre Manager), Carl Gore (Empty Properties and Enforcement Officer) and Nina Neisser (Democratic and Member Services Officer)

APOLOGIES: Councillors Marion Lowe, Tom Gray, Kim Snape and Ralph Snape

RESERVES: Councillors Aaron Beaver and Roy Lees

17.LPS.60 Minutes of meeting Wednesday, 23 November 2016 of Licensing and Public Safety Committee

RESOLVED – That the minutes of the Licensing and Public Safety Committee held on 23 November be confirmed as a correct record for signing by the Chair.

17.LPS.61 Declarations of Any Interests

No declarations of any interests were received for any of the items on the agenda.

17.LPS.63 Minutes of the General Licensing Sub Committees

RESOLVED – That the minutes of the General Licensing Sub Committees held on 25 November 2016 and 7 December 2016 be confirmed as a correct record.

17.LPS.64 Part Time Relocation of the High Street Taxi Rank

The Director of Early Intervention and Support submitted a report to advise the Licensing and Public Safety Committee on the results of the consultation to relocate the High Street taxi rank on Market days (Tuesdays); as part of the Market Walk Extension and wider town centre improvements.

The Licensing and Public Safety Committee gave approval on 23 November 2016 to consult on the proposed changes to the High Street taxi rank location, which is the responsibility of the Licensing and Public Safety Committee under the provisions of Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.

A consultation letter was sent directly to registered Hackney Drivers; 13 responses out of 153 (9.6%) were received. 4 were in agreement and 9 disagreed with the proposal – 122 didn't respond. The public consultation via Survey Monkey resulted in 56 responses of which 46 (75%) were in agreement and 15 (25%) disagreed.

It was also indicated that the Taxi Rank Relocation matter was taken to the Licensing Liaison Panel held in January 2017 where those present were in favour of the proposals. There was no Hackney Carriage representation at the meeting.

Relocating the rank on Tuesdays between 6am and 6pm around the corner to Cleveland Street would enable Chorley's outdoor market to take place along High Street, in addition to a number of other pedestrian streets in the town centre. Chorley Markets are an important part of the town's history and economy and the Council wants to ensure that the markets continue to thrive well into the future. The changes proposed in this report would support all existing stalls holders; both permanent and temporary to be offered a space when it relocates.

In addition to the proposed changes to the taxi rank location, there are a number of other changes to TRO's which would be required. These changes are the responsibility of the Highways Authority who responded indicating that it would be best facilitated under a Temporary Traffic Regulation Order (TTRO) which would enable changes to be made in the future should they be required if, after a period be operational practise, it proves necessary.

The committee addressed the public questions that had been submitted prior to the meeting and Conrad Heald, Market Walk, Markets and Town Centre Manager, provided responses to these questions. It was stated that the council could not give any reassurance in writing about the future location of the taxi rank as the new town centre masterplan proposed the redevelopment of High Street and Cleveland Street in conjunction with the new Civic Square. These outline proposals had already been consulted upon alongside the relocation of the Flat Iron market in October 2016 and further consultation would take place as plans are further developed. The committee were informed that this was a temporary location change in the initial instance, however if this was anticipated to change the Trade would be consulted.

Secondly, it was confirmed that the Portland Street car park could not be used as an alternative location for the market stalls on Tuesdays (Market Day). Following consultation on the proposed temporary relocation of the Flat Iron market, the preferred location given by traders, businesses and the public was for it to be centralised around the pedestrian zone. The parking provision on the Flat Iron car park would be halved by the new development so Portland Street car park would be used as a primary parking location for shoppers to the town centre.

Thirdly, members were informed that Cabinet Officer Guidance used to recommend that consultations run for 12 weeks. However, Cabinet Office Guidance, last updated in January 2016, stated that consultations should be for a proportionate amount of time. An informal consultation period lasting at least as long as the formal statutory consultation period is proportionate. Section 63 of the 1976 Act only requires the

formal 28 day statutory consultation. The council has had a voluntary consultation, not required by law since 24 November 2016; therefore the council has gone beyond the minimum legal requirement. The consultation period commenced immediately following the previous Licensing & Public Safety Committee on 23 November 2016 and ran for 8 weeks until 22 January 2017.

Finally, with regards to the process of changing the TRO, Lancashire County Council agreed that any changes to the TRO's will be done as Temporary Traffic Regulation Orders (TTRO's) due to the uncertain effect of all the changes occurring simultaneously around the town centre over the next 18 months and they can be implemented within approximately 12 weeks.

Following discussion, the committee was reassured that access to the service yard for deliveries at the bottom of high street would be managed by Chorley Council. The Council had consulted with tenants who have access to the service yard and it was agreed that they would be prepared to work with the council around this by organising deliveries at a different time or different day to make this change more convenient.

After careful consideration and much discussion it was proposed by Councillor John Walker, seconded by Councillor Adrian Lowe, and subsequently **RESOLVED unanimously;**

- 1. to authorise Officers to commence the formal statutory 28 day consultation required under the Local Government (Miscellaneous Provisions) Act 1976 and arrange for a notice in the local press and notice to the Chief Officer of Police.**
- 2. In the event that no further representations are made within the 28 day statutory consultation period which oppose the new rank (or only those which are deemed to be vexatious or frivolous by officers in consultation with the Chair of Vice-Chair) delegated power be given to the Director of Early Intervention and Support to appoint the temporary hackney carriage stand outlined in the report to take all necessary steps to effect this.**
- 3. In the event that further representations are received within the 28 day statutory consultation period which oppose the relocation of the rank on market days and which do not fall into the vexatious or frivolous category outlined above, a report will be submitted to a special meeting of the Licensing and Public Safety Committee for consideration as soon as possible after the expiry of the 28 day statutory consultation period.**

17.LPS.65 Introduction of a General Licensing Safeguarding and Suitability Policy

The Director of Early Intervention and support submitted a report for the Licensing and Public Safety Committee to consider the proposed General Licensing Safeguarding, Suitability and Convictions Policy to support the Council's licensing policies in the future.

Following the approval and adoption of the Safeguarding, Suitability and Convictions Policy for Taxi Licensing in 2015, a General Licensing Safeguarding, Suitability and Convictions Policy has been produced to cover a number of other licensing functions to ensure a consistent approach to all licensing matters in the future and enable efficient decision making.

Members were made aware that the legislation and byelaws associated with many of the Council's Licensing functions do not reflect our current thinking in relation to safeguarding and risks, and therefore do not allow the consideration of wider issues in determining or applying conditions to licences.

The Regulatory Services Manager drew Member's attention to the colour-coded table included in the report which indicated the risks and flexibility around this. Although legislation does not always support the implementation of conditions in relation to safeguarding considerations, members should note that there are also illustrations of good practice, promoted and encouraged by the Council. For example, Riding Schools commonly accommodate the teaching of children and also people with both physical disabilities and learning disabilities at their facilities. Legally we are unable to apply stringent safeguarding requirements. However, the British Horse Society has safeguarding guidelines and support for its members. The Council, through its policies, can encourage its licensed establishments to follow such guidelines and in this way provide as much reassurance to the public as possible.

Following adoption of the General Licensing Safeguarding, Suitability and Convictions Policy the Council would need to consider a programme for the review of the Licensing and Consent Policies and Procedures to ensure that they are updated and reflect the principles laid down by the Council in relation to Safeguarding, Suitability and Convictions. This would include the proposed introduction of a Street Trading Policy, and where applicable, Animal Welfare Licensing and HMO Licensing policies. It was anticipated that reviews and timetables would be reported to future Licensing and Public Safety Committees.

Members expressed concern at the wording included in the Policy with regards to a sex-shop licence stating that access for under 18's be 'limited'. However reassurance was provided that a condition was included within the sex shop license to ensure that no under 18's are allowed on the premises and therefore prohibition was already in place and covered by other parts of the legislation. It was verbally agreed that the wording of which on the Policy would be updated to 'prohibited'.

After careful consideration it was proposed by Councillor Adrian Lowe, seconded by Councillor Hasina Khan, and subsequently **RESOLVED unanimously**;

- 1. to agree the implementation of the proposed General Licensing Safeguarding, Suitability and Convictions Policy to support the Council's licensing policies in the future, where applicable.**
- 2. that delegated power be granted to the Director of Early Intervention and Support to make amendments to the policy from time to time to reflect any changes in legislation or case law.**

17.LPS.66 Street Trading Policy

The Director of Early Intervention and Support submitted a report for the Licensing and Public Safety Committee to consider the consultation responses to the draft Street Trading Policy and agree the timescale for review of the Policy.

The Street Trading Policy refers to the General Safeguarding, Suitability and Convictions Policy that was determined earlier in the meeting by the Committee to support the decision making process.

The Policy will be a living document, so where legislation changes occur or decisions that impact on the policy are made by the Licensing and Public Safety Committee over the life of the policy, the document will be updated to reflect this. However, the philosophy would be that the policy, which has been consulted upon, would be the basis for all decisions and in normal circumstances the policy would only be subject to revision at the regular, timetabled review dates, where the changes would be subject to consultation.

The draft policy was out for consultation for a period of 12 weeks to the end of December 2016; each current consent holder was written to and provided a link to the council's website, where the document was published.

The Council received one brief consultation response from a Consent Holder providing support for the introduction of a policy and suggested that the Council limit the number of Consents. However, other authorities operating a licensing scheme rather than a consent scheme have greater scope to limit numbers as the licensing provisions lend themselves to licensing pitches rather than providing a consent to operate within the wider borough limited only by prohibition on trading on certain streets and in specified areas.

There are currently 23 issued Consents, 17 of which are to applicants from within the Chorley Borough area, 6 from outside. Although Street Trading is very seasonal therefore the council often receives more applications in spring and requests to surrender and have the remaining months refunded as winter approaches, therefore putting a limit on this number was not recommended. It was suggested that this be monitored and brought back to committee if there were any significant issues.

The Street Trading Policy introduced a requirement for the applicant to complete a basic Disclosure and Barring Services (DBS) check, this may be by electronic update service. The cost of the DBS would be borne by the applicant. It was anticipated that this may naturally limit numbers.

The fees for Street Trading Consents have not been reviewed for a number of years. Chorley Council Finance Department have been asked to review the current fees in line with the requirement to ensure they reflect the cost of administering the consent and any additional enforcement or inspection costs associated with the consent.

Following discussion and careful consideration its was proposed by Councillor Adrian Lowe, seconded by Councillor John Walker and subsequently **RESOLVED unanimously;**

- 1. to note the consultation response received on the proposed Draft Street Trading Policy**
- 2. that the Street Trading Policy be implemented with immediate effect.**
- 3. that a formal review and consultation of the Street Trading Policy be timetabled for 3 years.**
- 4. that delegated power be granted to the Director of Early Intervention and Support in consultation with the Chair and Vice-Chair to make**

amendments to the policy from time to time arising from changes to legislation or case law.

- 5. the delegated power be granted to the Director of Early Intervention and Support in consultation with the Chair and Vice-Chair to review the fees for Street Trading Consents and apply the revised fees.**

17.LPS.67 Consolidated Taxi Licensing Policy

The Director of Early Intervention and Support submitted a report for the Licensing and Public Safety Committee to consider the consultation responses to the draft Consolidated Taxi Licensing Policy and agree the timescale for review of the Policy.

The Hackney Carriage and Private Hire Licensing Policy consolidates all previous Taxi Licensing policies, therefore the Licensing and Public Safety Committee has already carefully considered and made decisions on the details of each of the policies at previous committees. Members were informed that additional proposals were raised during the consultation period and were discussed at the Licensing Liaison Panel which were to be subsequently addressed at the meeting.

The Draft Policy was put out for consultation for a period of 12 weeks to the end of December 2016, each licensed driver, vehicle proprietor and private hire operator was written to and provided a link to the Council's website, where the document was published.

Due to the volume of recommendations included in the report, the committee agreed to consider and vote on each recommendation individually in turn.

The Regulatory Services Manager drew Members' attention to the first consultation response that was received from Coopers Taxis, the largest Private Hire Operator in the Borough. The email suggested the mandatory installation of CCTV in all vehicles, new and existing, for the following reasons; it had been recommended as part of the Safeguarding Awareness Training which was delivered to Members and the Trade in 2016. The cost of CCTV installation had reduced dramatically in recent years and camera systems could now be purchased for as little as £30. Responses from the Safeguarding Forum suggested that this practice was beneficial for drivers. For example, if a serious accusation is made against a driver they can be dealt with immediately and thus avoid the driver facing suspension whilst the incident is investigated. Members were made aware that this proposal had been raised with the Trade and the Licensing Liaison Panel in January 2017 and members present supported the suggestion.

With regards to a timescale for implementation it had been suggested at the Licensing Liaison Panel either the 1 January 2018 or 1 April 2018 for existing vehicles and new vehicles on grant. Members were informed that this time period would allow operators to install sophisticated systems if they desired. Members agreed that personal choice would suggest that they would want to install the systems as soon as possible and therefore recommended that this be exercised imminently but only mandatory by 1 January 2018. This also led members to suggest that no restrictions be made on the make or model as long as it was in compliance with the ICO guidelines.

Following further discussion and a verbal amendment to the recommendation by the Regulatory Services Manager, Members agreed to include a condition that the CCTV

footage must be kept for a minimum of 28 days. Ultimately, the responsibility for storage would lie with the proprietor.

Furthermore, members agreed that signage must be visible in vehicles at all times to indicate that CCTV footage was present and being filmed in the vehicle. However, the Trade were reassured that if required to observe CCTV footage, the authorised Council officer would only look at the specifics required to ensure no infringement on the privacy of the proprietor.

Further to this, the Legal Services Team Leader suggested the inclusion of an additional condition that Private Hire Operator or Vehicle Licence Holder's must ensure CCTV footage be made accessible and available for copying at Council premises when required by authorised Council Licensing Officers. Failure to abide by this would be a breach of their licence condition which would become a fit and proper issue to be settled at the general licensing sub-committee.

Following discussion and considering all the relevant factors it was proposed by Councillor Adrian Lowe, seconded by Councillor John Walker and subsequently **RESOLVED to; a) note the consultation responses received on the proposed Draft Hackney Carriage and Private Hire Licensing Policy and agreed that CCTV be installed in all vehicles licensed by Chorley Borough Council including the following conditions;**

- 1) **CCTV must be implemented in existing vehicles no later than 1 January 2018 and implemented in new vehicles on grant.**
- 2) **CCTV footage must be kept for a minimum of 28 days and comply with the data collection and storage rules set out by the Information Commissioner's Office. Appropriate conditions to secure this to be imposed as standard on grant of all private hire operator licenses, private hire vehicle licences and hackney carriage vehicle licences.**
- 3) **CCTV footage must be made accessible when required by an authorised Licensing Officer of the Council and available for copying by an authorised Officer on council premises; failure to do so would result in the breach of the operator's licence or hackney carriage proprietor's or private hire vehicle licence. Appropriate conditions to secure this to be imposed as standard on grant of all private hire operator licences, private hire vehicle licences and hackney carriage vehicle licences.**
- 4) **That signage indicating the use of CCTV must be visible in the vehicle at all times.**

Members were made aware that the second consultation response was from the Guide Dogs Association requesting the inclusion of the condition in relation to carrying assistance dogs. Chorley Council already have conditions in the Policy in relation to assistance dogs, however, it was suggested that the committee may want to consider whether the Council adopt the wording proposed by the Guide Dogs Association and also the requirement for Tactile Medical Exemption Certificates, which allows those partially sighted or blind passengers to ensure that the certificate is valid.

Following discussion it was proposed by Councillor Mick Muncaster, seconded by Councillor Tony Gee and subsequently **RESOLVED that; b) the Policy included the proposed wording suggested by the Guide Dogs Association and included a requirement for any medical exemption certificate in relation to assistance dogs to be produced in a tactile format.**

Members were reminded that at the last Licensing and Public Safety Committee in November 2016, following research into MOT pass and fail rates for Chorley Licensed Vehicles, Officers raised concerns about the clear lack of preventative maintenance carried out to a large proportion of the vehicles checked. Members recalled that there were high percentages of vehicles failing MOT's on numerous occasions and also issues with advisory notes, in particular with relation to tyres close to legal limits, worn brakes and suspension issues, where those issues were then being shown as the reason for failure at subsequent tests.

As a result, Members considered whether to introduce a change on the existing Chorley Council Taxi Test whereby a vehicle will fail the test where there are MOT advisory notes on the MOT certificate. Therefore, proprietors would be required to address these issues before a vehicle licence can be issued or renewed. Members were reminded that the Taxi Test endorsed by the Council must be equivalent to or better than the VOSA MOT test, which assesses the vehicle to a minimum mechanical standard.

Members also considered the lack of enforcement resources available to the Council which meant that there were limited opportunities for officers to carry out rank inspections and other proactive interventions such as ANPR events. Therefore, the Council's Enforcement Officers were less likely to pick up on defects and issues such as worn tyres in the routine work as proactive inspections are infrequent due to the volume of reactive work.

Following discussion and careful consideration it was proposed by Councillor Hasina Khan, seconded by Councillor Adrian Lowe and subsequently **RESOLVED to; c) include the condition that a Council's Taxi Test not only requires the vehicle to pass an MOT test as part of the testing regime, but that the vehicle will fail the Council's Taxi Test were there are advisory recommendations noted on that MOT.**

In addition, Members were asked to consider the removal of the existing procedure, which allows for a Licence to be renewed in the absence of a DBS certificate where the DBS application has been made in a timely fashion (28 days prior to the expiry date). This allowance was agreed in 2015 in order to be flexible to existing licence holders and renew on the basis that there was no evidence at renewal that the applicant did not meet the fit and proper test. However, it was suggested that this was not good practice and therefore it was recommended that Members change the policy to a 'No DBS Certificate – No Licence' approach.

Members were advised that applicants were invited to start their renewal application and obtain their DBS and Medicals up to 3 months prior to the expiry of their licence to limit the potential for the licence to lapse. Most delays in DBS certificates being returned were as a result of the applicant failing to provide all the information for the application in a timely manner. With the new online system they register then delay the process by waiting before they are reminded to complete the ID verification. If they complete all the application steps swiftly, then the DBS is usually processed within 7 days.

In considering this and following discussion amongst Members it was proposed by Councillor Gordon France, seconded by Councillor Cronshaw and subsequently **RESOLVED to; d) remove the allowance (when a driver has made a timely application for a DBS check i.e. 28 days before the renewal date) for a Licence to be renewed in the absence of the DBS certificate.**

Members were asked to resolve a deficiency in the vehicle conditions and attach an age limit of six weeks to the HPI check at the point it is presented with the vehicle for inspection, to prevent old checks being presented. At present the Council would have to accept these, as the Policy does not currently require the HPI to be recent in nature and does not support the need for a more up to date check. Six weeks was considered a suitable age for the HPI check, with officer discretion, as it would allow enough time for an applicant to have the check made before purchasing the vehicle and have the log book returned by the DVLA.

Following discussion it was proposed by Councillor Jean Cronshaw, seconded by Councillor Adrian Lowe, and subsequently **RESOLVED that; e) an age limit of six weeks be attached to the HPI check required by the vehicle conditions with Officer discretion included.**

Members were informed about a consultation response received from the Council's Customer Services Department. It was requested that with particular regard to new driver applications, the Policy require all supporting documentation, such as a DBS certificate, medical, driver qualifications be submitted before the application is accepted and the fee taken. This exercise was already encouraged, however not currently set out in the policy to support this.

It was felt that this would improve efficiency and reduce the administration in chasing up elements of the application or processing refunds for rejected applications. The only item outstanding after the acceptance of the application and fee would be the knowledge test and associated safeguarding training and test, which would be arranged with the Council on receipt of the application.

Following discussion it was proposed by Councillor Jean Cronshaw, seconded by Councillor Gordon France and subsequently **RESOLVED that; f) all supporting documentation be provided to Customer Services before a new driver application can be accepted.**

With regards to the implementation of the Consolidated Taxi Licensing Policy itself, it was proposed by Councillor Adrian Lowe, seconded by Councillor Jean Cronshaw and subsequently **RESOLVED that; g) the Consolidated Taxi Licensing Policy be implemented with immediate effect.**

Members agreed that the Consolidated Taxi Licensing Policy was a living document and therefore it was proposed by Councillor Adrian Lowe, seconded by Councillor Gordon France and subsequently **RESOLVED that; i) a formal review of the Consolidated Taxi Licensing Policy be timetabled for 3 years.**

j) delegated power be granted to the Director of Early Intervention and Support in consultation with the Chair and Vice-Chair to make amendments to the policy from time to time arising from changes to legislation or case law.

Chair

Date

**MINUTES OF GENERAL LICENSING SUB-COMMITTEE****MEETING DATE** **Wednesday, 25 January 2017****MEMBERS PRESENT:** Councillor Marion Lowe (Chair), and Councillors Kim Snape, Mark Jarnell, Sheila Long and Mick Muncaster**OFFICERS:** Stephen Culleton (Lead Licensing and Enforcement Officer), Tracy Brzozowski (Licensing Enforcement Officer) Alex Jackson (Legal Services Team Leader) and Nina Neisser (Democratic and Member Services Officer)**17.LSC.95 Declarations of Any Interests**

No declarations of any interests were received.

17.LSC.96 Procedure

The Chair outlined the hearing procedure that would be used to conduct the meeting.

17.LSC.97 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 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.

17.LSC.98 Determine Suspension Notices Issued Under Section 60, 61 & 68 of the Local Government (Miscellaneous Provisions) Act 1976

The Licence Holder attended the meeting and provided correspondence from his solicitor who could not attend the meeting at short notice. His solicitor therefore requested that the Sub Committee be adjourned to the next available hearing so that full representations could be made on behalf of the Licence Holder, or alternatively that the sub-committee merely continue the existing suspension of the licences and not revoke them.

Following discussion Members agreed to continue with the hearing with the Licence Holder present to make his representations to the sub-committee. Members noted that the Licence Holder was in attendance. The Licensing Officer also stated that Licence Holder's Solicitor had originally said that they would be in attendance. The letter from Licence Holder's Solicitor stated that the preferred solicitor was otherwise engaged which suggested that alternative representation could have been arranged. Members had to consider the cost to council tax payers of further adjourned hearings and

determined that the hearing was not arranged for the convenience of advocates. Members were satisfied that it was fair to proceed.

The Director of Early Intervention and Support submitted a report informing the sub-committee of the immediate suspension of the Licence Holder from driving his Hackney Carriage Vehicle and the suspension of the Hackney Carriage Vehicle Licence both under officer delegated powers. Members were asked to consider whether the Licence Holder was a fit and proper person to hold a Hackney Carriage Driver's Licence and whether he should hold a Hackney Carriage Vehicle Licence. The Council's records indicate that the Licence Holder has held both his Hackney Carriage Driver Licence (HCD) and Hackney Carriage Vehicle (HCV) licence since August 2006.

Officers were contacted by Lancashire Constabulary on 13 January 2017 regarding matters of a serious nature relating to the Licence Holder who had been stopped in his Hackney Carriage Vehicle and was arrested on suspicion of being in possession of a controlled substance with intent to supply. The matters raised were of such a serious nature that officers in consultation with the Deputy Chief Executive/Director of Early Intervention and Support suspended, on 13 January 2017, the Licence Holder's Hackney Carriage Driver licence under Section 61 (2B) (with immediate effect), and the Hackney Carriage Vehicle Licence under both Section's 60 (1)(c) and Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.

The arrest followed an intelligence report regarding the Licence Holder received by Lancashire Constabulary in October 2016. In response to this report the Police stopped the Licence Holder's Hackney Carriage Vehicle on 12 January 2017 with the intention of searching the vehicle for illegal drugs. The HCV was stopped on Bolton Street Chorley, where it was confirmed that quantities of different substances were recovered from beneath the driver's seat together with equipment (scales) for the weighing of small quantities. The Licence Holder was also in possession of £580.00 in cash and other drug paraphernalia. The Licence Holder was arrested and taken to Skelmersdale Police Station where he was bailed until 3 March 2017. Lancashire Constabulary have confirmed that the substances that were seized have been sent to the public analyst for determination, it is believed they are class B & C drugs.

The Licence Holder previously came to the attention of officers in March 2015, where he neglected to renew his HCV licence in a timely manner, on that occasion he was given the benefit of the doubt and allowed to continue with the process of renewing the HCV licence.

The Licence Holder assured the sub-committee that he had not been selling any form of illegal drugs or controlled substance. The Licence Holder explained that he found the white powder and scales in the back seat of his vehicle and placed them in the hinged compartment under the driver's seat with the intention of disposing of them, however he subsequently forgot to do so. He explained that he did not know who had left the white powder substance there but presumed it had been there for a few days before he found it. Upon questioning, the Licence Holder stated that he was unaware of the condition of his licence regarding lost property and therefore did not hand the

substance into the police. He admitted he had made a mistake in not doing so. The Licence Holder admitted that the cannabis in the hinged compartment belonged to him.

The Licence Holder informed Members that he had been smoking cannabis on a regular basis for medical reasons for the last couple of months and provided the sub-committee with medical reports to evidence his condition. He was unaware that he had to inform the council of this medical condition but stated that he did not smoke cannabis when on shift; it was only stored in the compartment under his seat. The Lead Licensing and Enforcement Officer stated that he had previously been unaware that the Licence Holder suffered from the medical condition disclosed to the sub-committee by the Licence Holder and would obtain further advice on the medical condition from the Council's medical adviser who is a doctor versed in Group 2 Standards.

When questioned on the intelligence report from Lancashire Constabulary, the Licence Holder initially stated that the details were not his own. He later confirmed that it was his vehicle, address and telephone number on the report however denied that he was addressed by the name included in the report. The Licence Holder confirmed that the vehicle was his own; no one else had access to the vehicle or was insured to drive the vehicle.

After careful consideration and taking into account all the relevant factors, the sub-committee **RESOLVED; to revoke the Licence Holder's Hackney Carriage Driver's Licence with immediate effect under Section 61[2B] and revoke his Hackney Carriage Vehicle Licence under Section 60(1)(c) of the 1976 Act on the grounds that he is not a fit and proper person for the following reasons;**

- 1. The Licence Holder admitted to smoking cannabis and this had been going on for a couple of months.**
- 2. Members did not find the Licence Holder's explanation that he did not smoke cannabis on shift credible because cannabis was stored in the hinged compartment situated under the driver's seat.**
- 3. Members were not satisfied with the Licence Holder's explanation that he simply found the other white powder substance in his vehicle and that it was not connected to him.**
- 4. Members did not consider that someone who admitted smoking cannabis and what is suggested by the circumstances of the arrest should have access to a Licensed Hackney Carriage Vehicle.**

Members were critical of the Licence Holder's failure to report his medical condition to licensing officers. The Council's Temporary Licensing Officer stated that the medical condition could affect driving capability. However, the Lead Licensing and Enforcement Officer conceded that he had never come across this particular medical condition as a fit and proper issue so members did not consider this as one of the grounds for revocation.

The Licence Holder has 21 days from receipt of notice of the decision to appeal to the local magistrates' court in respect of either licence.

Chair

Date

**MINUTES OF GENERAL LICENSING SUB-COMMITTEE****MEETING DATE** Wednesday, 8 February 2017**MEMBERS PRESENT:** Councillor Anthony Gee (Chair), and Councillors Hasina Khan, Mark Jarnell, Sheila Long and Mick Muncaster**OFFICERS:** Stephen Culleton (Lead Licensing and Enforcement Officer), Carl Gore (Empty Properties and Enforcement Officer), Alex Jackson (Legal Services Team Leader) and Nina Neisser (Democratic and Member Services Officer)**17.LSC.100 Declarations of Any Interests**

No declarations of any interests were received.

17.LSC.101 Procedure

The Chair outlined the hearing procedure that would be used to conduct the meeting.

17.LSC.102 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 they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

17.LSC.103 To Determine a Private Hire Driver Licence Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976

The Director of Early Intervention and Support submitted a report to the General Licensing Sub-Committee to bring to the attention of Members the conduct of a Chorley Private Hire Driver following a complaint. It was the responsibility of Members of the Sub-Committee to determine whether the Licence Holder was a fit and proper person to hold a Chorley Borough Council Private Hire Driver Licence

The Licence Holder attended the meeting alongside his representatives; Mr Charles Oakes and the Private Hire Operator who employed him. Sergeant Bushell of Lancashire Police was also in attendance.

In December 2016, the Council received a complaint in relation to the manner in which the Private Hire Vehicle (PHV) of the Licence Holder was being driven in November 2016. The nature of the complaint alleges that the PHV was being driven in a dangerous and reckless manner on the North bound carriageway of the M6 motorway. The complaint was in the form of a statement and was supported by a recording taken

by the complainant's on-board CCTV recording equipment. The footage from the CCTV statement was exhibited later during the hearing following the summary of the report.

The Licence Holder was first granted a Private Hire Driver's licence in August 2006 and since this time has not previously come to the attention of officers. The Private Hire Operator was the proprietor of the Private Hire Vehicle. It was confirmed that the vehicle was currently licensed by Chorley Council until May 2017. Officers were satisfied that the Licence Holder had the authority to drive the vehicle and the vehicle was properly licensed at the time of the incident.

The Licence Holder was invited to attend the Council's offices in November 2016 following a letter inviting him to do so. The Licence Holder responded to the invitation and attended the interview with his Private Hire Operator. The Licence Holder has regular use of the Private Hire Vehicle for both Private Hire work and Social and Domestic purposes.

The Licence Holder attended the meeting in January 2017 where following being shown the recordings of the CCTV he identified himself as being the driver of PHV at the time of the incident. He confirmed that he had his daughter with him in the vehicle at the time. The driver did remember the incident and stated that he was frustrated with the vehicle that belonged to the complainant; he stated that the complainant's vehicle was hogging the outside lane. The Licence Holder accepted that his response at the time got out of hand, and admitted that his driving fell below the standard expected. He denied that he was making any gestures or flashing his headlights at the complainants.

The CCTV footage was exhibited to the Sub-Committee whilst Sergeant Bushell provided an analysis of the incident. Members were informed that the Licence Holder had committed an offence under Section 3 of the Road Traffic Act 1988 as he was seen to be driving without due care and attention and presented a lack of consideration to other vehicles on the road. Sergeant Bushell indicated to members that the CCTV footage illustrated that the Licence Holder was causing an inconvenience to other drivers when undertaking and pulling in front of the complainant's vehicle in the outside lane before indicating his decision to do so. Although undertaking is not considered an offence it is not recommended as it suggests driving without due care and attention.

Sergeant Bushell informed Members that had a Police Officer witnessed the events first-hand the Licence Holder would have been spoken to although a charge was a different matter depending on what the Licence Holder might have said. He concluded that the Licence Holder's standard of driving was below that expected which consequently caused inconvenience and forced drivers to make alternative actions. However he understood that the manner of the complainant's driving could also be criticised and seen to be driving without due care and attention.

Having viewed the footage Members accepted Sergeant Bushell's analysis however agreed that the complainant's driving could also be seen to be causing a nuisance. On

occasion the complainant's vehicle appeared to undertake the Licence Holder to get a clearer view of him driving the vehicle on the CCTV. If the Licence Holder had been driving at 100mph as reported, it could be suggested that the complainant was travelling at such speed to stay close to his vehicle. Charles Oakes informed the Sub-Committee that the Licence Holder was not challenging that his driving was below standard but reassured Members that he was not driving at speeds of, or near, 100mph.

The Licence Holder subsequently justified his actions on the CCTV footage and assured Members that he was not driving at speeds of 100mph. The Licence holder stated that he has been driving for many years and used to be a HGV Class 1 driver therefore had plenty of experience. The Licence Holder expressed remorse in admitting that he was ashamed when he observed the CCTV footage and there was no excuse for his actions and he understood the potential consequences that could have occurred.

After careful consideration of all the relevant factors Members **RESOLVED that;**

- a) **The Licence Holder be given a warning in regards to future conduct which would lie on his licensing file.**
- b) **The Licence Holder should within the next 3 months demonstrate to the Lead Licensing and Enforcement Officer that he has successfully completed a course equivalent to the former DSA test.**

For the following reasons;

1. **The Licence Holder had admitted his standard of driving fell below the required standard, as shown on the CCTV video footage and expressed remorse.**
2. **Members accepted that there was fault on both sides – that of the Licence Holder but also the complainant.**
3. **Sergeant Bushell stated that depending on the attitude of the driver it might have resulted in only words of advice being given to the Licence Holder had the police witnessed the incident.**
4. **The Licence Holder has not previously come to the attention of the Sub-Committee.**

17.LSC.104 Application for the Grant of a Private Hire & Hackney Carriage Drivers Licence Made under Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976

The Director of Early Intervention and Support submitted a report to enable Members to determine whether the applicant was a fit and proper person to hold a Private Hire and Hackney Carriage Driver's Licence.

The applicant attended the meeting to make his representations to the Sub-Committee along with his representative, Charles Oakes.

The applicant submitted an application for the grant of a Private Hire and Hackney Carriage Driver Licence in December 2016. The applicant declared three motoring convictions on his application which were of concern to the Council, all of which involved speeding and fall within the Council's Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing. The applicant further breached his licence conditions by failing to inform the Council of a change of address during the period of his previous licence.

The applicant's DVLA Licence Summary details the following motoring convictions:

- The applicant received a fixed penalty for an offence of SP30 (exceeding the statutory speed limit on a public road) in February 2014 for which his DVLA Licence was endorsed with 3 penalty points.
- The applicant received a fixed penalty for an offence of SP30 (exceeding the statutory speed limit on a public road) in October 2014 for which his DVLA Licence was endorsed with 3 penalty points.
- The applicant received a fixed penalty for an offence of SP50 (exceeding the statutory speed limit on a motorway) in February 2015 for which his DVLA Licence was endorsed with 4 penalty points.

Members were advised that the applicant confirmed that the motoring convictions were committed in a vehicle licensed by Chorley Council. The applicant confirmed that he currently held 10 points on his licence and was not awaiting further convictions on this licence.

The applicant had successfully passed the Council's Knowledge Test and he meets the Council's Group II Medical requirements and DVSA Private Hire Driver Test Assessment. The Licence Holder was previously licensed as a Private Hire and Hackney Carriage Driver with Chorley Council from December 2013 until December 2016 when he allowed his licences to lapse. With regards to this, the applicant informed the Sub-Committee that this was unintentional and he thought that he had completed the required procedures in enough time however his DBS took longer to be issued than expected.

The applicant was interviewed under caution at the Council offices in January 2017 regarding his failure to report a change of address and notify the council of his motoring convictions. Officers have concerns that the applicant has used a number of addresses to reside at over the past three years whilst he has held his PHD and HCD licences and not informed the Council in writing as he is required to do.

The applicant advised that he was unaware that he had to inform the Council of his change of address. He stated that at the time all his time had been consumed by looking for a job. The applicant confirmed that he had moved to his brother's address which was in close proximity to his previous address at his father's house where he was subsequently rotating between the two addresses. Following this, the applicant moved away due to work commitments and therefore changed address again before moving back to his brother's address as previously, to work at the branch of the

company closer to home. The applicant confirmed that he considered his taxi driving to be a part-time job, predominantly on weekends.

The applicant expressed remorse and apologised for his offences and understood that he should have sought advice following his actions. The applicant confirmed that his SP50 offence was issued when he was above the speed limit in an average 50mph speed check zone on the motorway. He reassured members that each offence occurred at the end of his shift in the early hours of the morning, therefore there were no passengers in his vehicle and very few other vehicles on were on the road.

The applicant's representative reiterated to Members, that the applicant was remorseful and understood how close he was to receiving the maximum 12 points on his DVLA licence and the consequences of this. Following previous discussions members were informed that the applicant would be willing to privately complete a speed awareness course.

After careful consideration and taking into account all of the relevant factors, the Sub-Committee **RESOLVED** that the applicant was a fit and proper person to hold a Private Hire Driver Licence and Hackney Carriage Driver Licence under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and that his application be granted subject to a special condition attached to his Private Hire Driver Licence that within three months the applicant demonstrate to the Lead Licensing and Enforcement Officer that he has successfully completed a speed awareness course for the following reasons;

1. The applicant expressed remorse for his actions.
2. The applicant exceeded the speed limit on the motorway within a special 50 mph average speed check zone so his speed was not as excessive as it might have otherwise seemed.
3. The applicant did not have any customers in his taxis at the time of his speeding offences.
4. The applicant breached his Private Hire Driver Licence conditions by failing to inform the Council in writing of a change in his address during the period of his previous licence and failing to notify the Council in writing of his motoring convictions; however the Council's Policy calls for a warning for failing to notify matters required by conditions.
5. The applicant did not come to the attention of the Licensing Officer during the three years of his previously held licences.

The applicant has the right to appeal against conditions attached to his licence within 21 days of receiving notice of the decision.

17.LSC.105 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, Suspension and Revocation of Drivers Licence

The Director of Early Intervention and Support submitted a report to enable Members of the General Licensing Sub-Committee to determine whether the Licence Holder

was a fit and proper person to hold a Private Hire Driver (PHD) Licence and Hackney Carriage Driver (HCD) Licence.

The Licence Holder did not attend the meeting. The Lead Licensing and Enforcement Officer informed the Sub-Committee that he had spoken to the Licence Holder's wife twice via telephone in the week leading up to the meeting. The most recent correspondence confirmed that the Licence Holder had experienced a family bereavement and would subsequently be out of the country in order to attend to this.

No written confirmation had been received regarding the Licence Holder's anticipated absence. The Licence Holder's wife informed the Lead Licensing and Enforcement Officer that she would provide a copy of their flight tickets via email to evidence that the Licence Holder would be out of the country. However, when this was checked prior to the hearing taking place, no email had been received.

The Licence Holder was advised of the possibility that the hearing could proceed in his absence at the discretion of the Sub-Committee or be adjourned until he returned. In light of this information, Members subsequently resolved to proceed with the hearing in the Licence Holder's absence.

The Licence Holder was first licensed with Chorley Borough Council in July 2010 following a General Licensing Sub-Committee hearing. At this time the Committee determined to grant the Licence Holder's co-terminous application where he fell short of the requirement of holding a DVLA driver's licence for the required 3 years. The Licence Holder has renewed his Private Hire and Hackney Carriage Driver Licences previously when they expired in August 2011.

In April 2016, the Council wrote to the Licence Holder requesting that he complete a new application for an enhanced disclosure from the Disclosure and Barring Unit (DBS) 3 months prior to the expiry of his licences in August 2016. In the provisional period the Council requested that the Licence Holder complete an Interim DBS Declaration to support the renewal of his Private Hire Driver (PHD) and Hackney Carriage Driver (HCD) Licences.

On 9 April 2016, the Licence Holder completed an interim DBS Declaration, declaring amongst other things, that he had never been cautioned by the Police or any other Authority for any reason. The Council received receipt of his medical and the fee payment, however did not renew the Licence Holder's PHD and HCD Licences in the absence of his DBS certificate.

Council records indicated that on 27 September 2016 the Licence Holder phoned the Council to report that he had been advised by the DBS that his certificate would take between 12 and 16 weeks to be issued to him and that he would bring it in as soon as it arrived. However, on 12 December 2016 officers from the Council's transactional team used the DBS tracking service and discovered that the DBS certificate had been issued to the Licence Holder on 23 September 2016.

Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 gives the Council the power to require applicants to submit information as they may reasonably

consider necessary to enable them to determine whether a licence should be granted and whether conditions should be attached to any such licence. On 13 December, the Licence Holder was emailed requesting that he bring in the DBS certificate.

On 13 December, the Licence Holder provided his enhanced DBS certificate to the Council which showed that in November 2014 the Licence Holder accepted a caution from Lancashire Constabulary for an offence of Battery under Section 39 of the Criminal Justice Act 1988. Council records were scrutinised and confirmed that the caution had never been declared. The conditions attached to the issue of the Licence Holder's licences stipulate that the licensee shall notify the Council in writing of any conviction or caution recorded against him/her and/or the imposition of any endorsable or non-endorsable fixed penalty within 7 days of such conviction or caution or penalty being imposed. It was subsequently determined that when completing his Interim DBS Declaration the Licence Holder made a false statement and did not report a caution recorded against himself as required.

On 6 January 2017, the Licence Holder was interviewed under caution at the Council's offices where he was represented by a Licensing Consultant. The Licence Holder recalled an incident involving his sister and agreed that he attended Skelmersdale Police station as a result of this but denies receiving a caution. It was noted that the Licence Holder showed no remorse. Members were advised that it is not the responsibility of the council to go behind a conviction or caution imposed by another authority.

After careful consideration and taking into account all of the relevant factors, the Sub-Committee **RESOLVED to revoke the Licence Holder's Private Hire Driver Licence and Hackney Carriage Driver Licence under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 on the grounds that he is not fit and proper for the following reasons;**

- 1. The Licence Holder accepted a police caution in November 2014 for Battery which according to the Council's Policy has a rehabilitation period of 3 years.**
- 2. The Licence Holder failed to notify the Council of his caution in writing within 7 days in breach of his Private Hire Driver Licence conditions.**
- 3. The Licence Holder made a false statement on his Interim DBS Declaration on 9 April 2016 by failing to disclose his caution for Battery.**
- 4. The Licence Holder had deliberately misled the Council on 27 September 2016 by claiming that his DBS Certificate would take 12-16 weeks when it had demonstrably been issued to him prior to this on 23 September 2016.**

The Licence Holder has 21 days from receipt of notice of the decision to appeal to the local Magistrate's Court.

Chair

Date