

## **LICENSING AND PUBLIC SAFETY COMMITTEE**

WEDNESDAY, 6TH FEBRUARY 2019, 2.00 PM  
COUNCIL CHAMBER, TOWN HALL, CHORLEY

### **AGENDA**

#### **APOLOGIES**

##### **1 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.

##### **2 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.

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

##### **3 MINUTES OF MEETING WEDNESDAY, 14 FEBRUARY 2018 OF LICENSING AND PUBLIC SAFETY COMMITTEE**

(Pages 3 - 6)

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

###### **A MINUTES OF MEETING MONDAY, 9 JULY 2018 OF GENERAL LICENSING SUB-COMMITTEE**

(Pages 7 - 10)

###### **B MINUTES OF MEETING WEDNESDAY, 14 FEBRUARY 2018 OF GENERAL LICENSING SUB-COMMITTEE**

(Pages 11 - 14)

###### **C MINUTES OF MEETING WEDNESDAY, 23 MAY 2018 OF GENERAL LICENSING SUB-COMMITTEE**

(Pages 15 - 18)

###### **D MINUTES OF MEETING WEDNESDAY, 22 AUGUST 2018 OF GENERAL LICENSING SUB-COMMITTEE**

(Pages 19 - 22)

<b>E</b>	<b>MINUTES OF MEETING WEDNESDAY, 22 AUGUST 2018 OF GENERAL LICENSING SUB-COMMITTEE</b>	(Pages 23 - 28)
<b>F</b>	<b>MINUTES OF MEETING WEDNESDAY, 17 OCTOBER 2018 OF GENERAL LICENSING SUB-COMMITTEE</b>	(Pages 29 - 32)
<b>5</b>	<b>MINUTES OF THE LICENSING ACT 2003 SUB-COMMITTEES</b>	
<b>A</b>	<b>MINUTES OF MEETING THURSDAY, 7 JUNE 2018 OF LICENSING ACT 2003 SUB-COMMITTEE</b>	(Pages 33 - 36)
<b>B</b>	<b>MINUTES OF MEETING TUESDAY, 19 JUNE 2018 OF LICENSING ACT 2003 SUB-COMMITTEE</b>	(Pages 37 - 40)
<b>C</b>	<b>MINUTES OF MEETING WEDNESDAY, 20 JUNE 2018 OF LICENSING ACT 2003 SUB-COMMITTEE</b>	(Pages 41 - 42)
<b>D</b>	<b>MINUTES OF MEETING TUESDAY, 10 JULY 2018 OF LICENSING ACT 2003 SUB-COMMITTEE</b>	(Pages 43 - 46)
<b>E</b>	<b>MINUTES OF MEETING MONDAY, 8 OCTOBER 2018 OF LICENSING ACT 2003 SUB-COMMITTEE</b>	(Pages 47 - 50)
<b>6</b>	<b>UPDATE REPORT</b>	(Pages 51 - 54)
	To consider and receive the report of the Director (Customer and Digital).	
<b>7</b>	<b>ANY URGENT BUSINESS PREVIOUSLY AGREED WITH THE CHAIR</b>	

GARY HALL  
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Licensing and Public Safety Committee Councillor Marion Lowe (Chair), Councillor Matthew Lynch (Vice-Chair) and Councillors Jean Cronshaw, Doreen Dickinson, Gordon France, Margaret France, Tom Gray, Steve Holgate, Hasina Khan, Roy Lees, Sheila Long, Adrian Lowe, Joyce Snape, Ralph Snape and John Walker.

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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, 14 February 2018**MEMBERS PRESENT:** Councillor Marion Lowe (Chair), Councillor Matthew Lynch (Vice-Chair) and Councillors Jean Cronshaw, Doreen Dickinson, Gordon France, Margaret France, Tom Gray, Roy Lees, Sheila Long, Adrian Lowe, Mick Muncaster, Debra Platt and Ralph Snape**OFFICERS:** Lesley Miller (Regulatory Services Manager), Jenette Hicks (Lead Licensing Enforcement Officer), Carl Gore (Empty Properties and Enforcement Officer), Alex Jackson (Legal Services Team Leader) and Nina Neisser (Democratic and Member Services Officer)**APOLOGIES:** Councillor Kim Snape and John Walker**OTHER MEMBERS:** Councillor Joyce Snape**18.LPS.88 Minutes of meeting Wednesday, 15 November 2017 of Licensing and Public Safety Committee****RESOLVED – That the minutes of the Licensing and Public Safety Committee held on Wednesday, 15 November 2017 be confirmed as a correct record for signature by the Chair.****18.LPS.89 Declarations of Any Interests**

No declarations of any interests were received.

**18.LPS.90 Minutes of the General Licensing Sub-Committees****RESOLVED – That the minutes of the General Licensing Sub-Committees held on 6 December 2017, 18 December 2017 and 17 January 2018 be confirmed as a correct record.****18.LPS.91 Minutes of the Licensing Act 2003 Sub-Committees****RESOLVED – That the minutes of the Licensing Act 2003 Sub-Committee held on 15 November 2017 be confirmed as a correct record.****18.LPS.92 Allocation of a Hackney Carriage Vehicle Licence**

The Director of Early Intervention and Support submitted a report informing members of the expressions of interest received for a wheelchair accessible (WAV) motor

hackney vehicle licence and invited the Committee to undertake a Tombola style selection to identify the preferential order in which the expressions of interest should be considered.

Following on from the report considered by the Committee on 19 July 2017, the Regulatory Services Manager wrote to 89 licence holders who may have met the criteria; the compliance with the criteria could not be fully assessed at this stage. Forms for completion and deadline dates were provided in respect of return of expressions of interest. All received expressions of interest were returned within the required timescales.

The returned expressions of interest were considered against the Guidance and criteria provided in Appendix 1 of the report. A total of thirteen expressions of interest forms were returned, one of which was rejected as it did not meet the criteria in that the person had not held a relevant licence for the required three year period.

Persons who submitted expressions of interest which complied with the assessed eligibility criteria were notified in writing. The one person who appeared to not have held a licence for the prerequisite time was also written to explaining the reason for the exclusion and the person concerned was offered the opportunity to provide further information demonstrating that they did in fact meet the eligibility criteria. Members were informed at the meeting that additional support had been offered but it was ultimately considered to not be a valid expression of interest.

The Lead Licensing Enforcement Officer informed members that the WAV vehicle conditions in the guidance (Appendix 1) did not reflect the standard WAV conditions. In this case, this related to the criteria preventing the use of rear loading/access doors. This was an oversight when producing the criteria, as this restriction for WAV's was removed in the updated vehicle conditions in 2016.

Members of the Committee agreed that the tombola draw be undertaken, and in a way that all the expressions of interest were drawn to provide an audit trail to demonstrate that all valid expressions of interest had been entered. Therefore, all twelve expressions of interest were drawn in the tombola and selected as follows;

1. Makbul Hussain
2. Siraj Jiva
3. Shamail Iyaz Ahmed
4. Habij Miah
5. Shakail Ahmed
6. Yellow Cabs (North West) Limited
7. Hussain Mama Assan
8. Yaseer Siddique
9. Fazail Iyaz Ahmed
10. Ali Hassan
11. Usman Iyaz Ahmed
12. Fazeel Ahmed

Members were reminded that the report considered and approved by the Licensing and Public Safety Committee in July 2017 was clear that the process would only consider the first three people drawn as part of any subsequent application process. In the unlikely scenario that the first three failed to meet the Council's requirements, the entire process would be re-run. This would ensure that anyone who might become

eligible in the intervening period be given the same opportunity to submit an expression of interest. The first three people selected in the draw were as follows;

1. Mr Makbul Hussain
2. Mr Siraj Jiva
3. Mr Shamail Iyaz Ahmed

Following this, the 12 persons who submitted valid expressions of interest and were included in the draw would be contacted and provided with the outcome.

In the first instance, Mr Hussain would be invited to make an application for a hackney carriage vehicle licence, in accordance with the vehicle specification and proprietor requirements. In the event of Mr Hussain not completing the application process within the required period and/or not meeting the Council's requirements, Mr Jiva would be invited to make an application and likewise, Mr Ahmed would receive the final invitation if Mr Jiva was unable to fulfil the requirements. The entire process would be re-run if all failed to successfully apply for the licence.

In any instance where an applicant came across an issue that was outside their control which could delay their application a decision would be taken in consultation with the Chair and Vice-Chair as to whether to permit a time extension to submit their application.

After careful consideration members **RESOLVED (unanimously);**

- 1. To note the information contained in the report and were satisfied that the correct process had been followed to undertake a Tombola style selection.**
- 2. That the tombola draw be undertaken and the all expressions of interest be drawn to provide an audit trail.**
- 3. To agree that the assessment of compliance with the criteria in relation to pending convictions is considered at the time of an application. That the assessment of compliance will be by means of a basic disclosure, a DVLA licence check and a fully completed statutory declaration; all of which must be submitted as part of the application and dated within 2 months prior to the date of application.**
- 4. To accept the change to the guidance and criteria in Appendix 1, as highlighted, where the WAV vehicle conditions in this guidance do not reflect the standard WAV conditions. In this case, this related to the criteria preventing the use of rear loading/access doors.**

Chair

Date

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Holder had been arrested in regards to these matters and had been released on bail whilst an investigation was conducted.

On 24 May, a request for information in regards to this complaint was made to Lancashire Police. Subsequently, a telephone conversation took place between the Council's Licensing Officer and the Police Officer dealing with the case, who gave an account of the case as requested and provided an email for clarification.

In summary this indicated that the police received a report from a family member of an elderly vulnerable man stating they had noticed large sums of money being taken out of ATM's whilst the elderly man was bed bound in hospital. They named the Licence Holder concerned as the offender who had met the gentleman through regularly picking him up in his taxi and built up his trust. The gentleman stated he trusted the Licence Holder with his bank card and PIN in order to get his shopping for him and nothing more, the two had an understanding that the full transaction amount would be taken out when requested.

The Licence Holder had been arrested for fraud and subsequently released on bail pending investigation. On his arrest, another bank card belonging to an additional elderly male was found upon the Licence Holder's person. The Licence Holder explained that this was another elderly vulnerable male who he similarly met through his taxi driving and built up his trust. This male had no family and it was reported that the Licence Holder was in the process of applying to have power of attorney over the finances of this second male.

Following contact with the Licence Holder, an appointment was made for him to discuss these matters with the Licensing Officer at the Chorley Council Offices. The Licence Holder attended the meeting where he confirmed that he was currently on Police Bail pending investigation and clarified the officer leading the investigation who arrested him and conducted the interview.

The Licence Holder first applied for his licences at Chorley Council in September 2015. The Licence Holder declared a Police Caution from May 2010, within his application. This was subsequently considered by the General Licensing Sub-Committee who determined that he be granted his PHD and HCD licences.

The Licence Holder's solicitor reminded Members that at the Sub-Committee in 2016, the Licence Holder was deemed fit a proper and subsequently granted his licences. The Licence Holder's solicitor circulated references to the Sub-committee from the public and customers in support of the Licence Holder. The Licence Holder's solicitor asked Members to consider the financial difficulties this would have for his family and requested that Members defer the decision until the police investigation had concluded in the coming weeks. He advised that, had there been sufficient evidence, the Licence Holder would have been charged previously.

The Licence Holder provided the Sub-Committee with an account of the reported incidents. Members were advised that the first elderly gentleman concerned regularly contacted the taxi firm the Licence Holder worked for and would ask for the Licence Holder specifically. As a result, the Licence Holder believed they had built up a friendship and certain level of trust and he would often help the gentleman by taking him shopping and helping him into his home. It was confirmed that this took place both in and out of his working hours. The Licence Holder reassured Members that the taxi firm

he worked for were aware of the Licence Holder going above and beyond his duty as a taxi driver and ensured that his family had worked at the business for many years.

The Licence Holder explained that on one occasion he was informed that the gentleman's bank account had been hacked from abroad and the account was subsequently suspended. The Licence Holder assisted the gentleman at the bank and advised that he would always identify himself at the bank by using his taxi badges. The gentleman withdrew a large amount of money at this time whilst would otherwise have been obliged to wait for his new bank card to be issued. The Licence Holder was contacted a few days later by the gentleman asking to take him to the bank to withdraw more money as he had used all the money previously withdrawn on bills.

The Licence Holder reported that when he became suspicious as this behaviour continued, he contacted the gentleman's son via social media to let him know the situation, who advised the Licence Holder that all of his father's bills were paid via direct debit and not in cash.

Following queries, the Licence Holder advised that the gentleman's sons also had access to his bank card and his neighbour would often also help with his shopping. However, it was stated that the gentleman's sons were often reluctant to help him. The Licence Holder informed Members that he would also visit the gentleman when he was in hospital. The gentleman would ask the Licence Holder to withdraw the maximum amount out from his account and pick up requested items from the shop for him, whilst giving the remaining money back to the gentleman.

The Licence Holder advised that he also went away for a couple of weeks and confirmed that the gentleman asked him to withdraw £900 before going away. The Licence Holder assured Members that he did not know where the large sums of money that he withdrew for the gentleman went. It was advised that the gentleman had moved into a home since this time and the Licence Holder informed Members that social services had not been involved.

However, it was understood that social services had been involved with the second gentleman as he had no relatives. The Licence Holder explained to Members how he had helped the second gentleman when he discovered his circumstances, stating that the gentleman lived poorly without taking care of himself or property; however the Licence Holder did not describe the gentleman as vulnerable. It was advised that, following a request from the second gentleman, the Licence Holder had been granted power of attorney which is why he had his bank card on his person at the time of arrest.

Following Member queries, the Licence Holder reassured Members that he never thought he was doing any wrong or that anything would come of his actions due to the level of respect between himself and the elderly gentlemen. He would visit both gentlemen in his own time to provide support and assistance; however the solicitor advised that the Licence Holder had no involvement with both gentlemen at present. The Licence Holder reassured Members that he had learnt his lesson from this experience and would not have this involvement in future with his customers.

After careful consideration of all the relevant facts in the report and representations from the Council's Licensing Enforcement Officer, the Licence Holder and his representative, and having regard for the Council's Consolidated Policy on Taxi Licensing, the Sub-Committee **RESOLVED to issue the Licence Holder with a stern warning to lie on**

his licensing file and advised that any repeat of such behaviour would likely result in the revocation of licences. The decision was taken for the following reasons:

1. The Licence Holder appeared to lack an insight into whether an elderly passenger who could not look after themselves and suffered from dementia was vulnerable when it was manifestly clear to the Sub-Committee that such a passenger is vulnerable.
2. Access to customer bank accounts by taxi drivers exposed vulnerable passengers to risk of financial exploitation.
3. Members attached limited weight to the character references supplied.

Chair

Date

**MINUTES OF GENERAL LICENSING SUB-COMMITTEE****MEETING DATE**                      **Wednesday, 14 February 2018****MEMBERS PRESENT:**      Councillor Matthew Lynch (Chair) and Councillors Jean Cronshaw, Sheila Long, Adrian Lowe and Mick Muncaster**OFFICERS:**                      Carl Gore (Empty Properties and Enforcement Officer), Alex Jackson (Legal Services Team Leader), Stefanie Leach (Trainee Solicitor) and Nina Neisser (Democratic and Member Services Officer)**17.LSC.145 Declarations of Any Interests**

There were no declarations of interests received.

**17.LSC.146 Procedure**

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

**17.LSC.147 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 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.148 Application for the Grant of a Private Hire and Hackney Carriage Driver's 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 for Members to determine whether the applicant was a fit and proper person to hold a Private Hire (PHD) and Hackney Carriage Driver's (HCD) Licence.

Before commencement of the meeting it was understood that the Empty Properties and Enforcement Officer had provided the applicant with the incorrect start time of the meeting. The applicant was contacted immediately via telephone and the meeting was rearranged for 12noon on the same day. The meeting was subsequently adjourned until 12noon.

The applicant attended the meeting at the rearranged time along with his wife to make their representations to the Sub-Committee. Their young child was also in attendance, however, due to the nature of the hearing and the Children Act 2004 which obliges Chorley Council to safeguard and promote the welfare of the child, it was agreed that the applicant's wife would leave the room with their child. The Sub-Committee would allow the applicant's wife to make representations later in the meeting and asked that

the applicant leave the room to mind their child at this time. All parties were happy to progress with the meeting and the aforementioned arrangements.

The applicant made an application to Chorley Council in January 2018 under Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 for the grant of PHD and HCD Licences. A caution was revealed in the application process that falls within the Council's Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing. The applicant's DBS Certificate revealed a caution for the offence of Battery in September 2015.

The applicant stated in discussion with Empty Properties and Enforcement Officer that he was not aware of the significance of this caution and was unsure why he had received it. It was explained that it was in relation to a domestic incident when the applicant and his wife got into an argument in the early hours of the morning, however their children were sleeping and therefore he went to bed. The applicant's wife rang the police for help via 999 in anger; this led to the applicant being awoken by the police and arrested where he was formally charged before being taken to the police station for questioning. He was not aware that this would result in a recorded caution. The applicant's wife was subsequently asked to give a statement to the police, however she refused.

The applicant is currently a taxi driver at another authority and revealed that this had not prevented him from being a licenced driver at the authority. Following police advice, the applicant contacted the authority via their switchboard a few days after the incident to inform them of the caution and he was assured that this message would get passed on.

The Empty Properties and Enforcement Officer submitted a request to the relevant authority to establish the applicant's taxi history in relation to his application and caution. On 31 January 2018, the Principal Licensing Officer at the authority stated that the caution had not been revealed to them and this was of concern that would be dealt with on renewal as per their policy. The Sub-Committee were informed that the applicant's PHD and HCD licences were due to expire in May 2018 and he had received no complaints or come to the attention of the authority where he is licenced previously.

The applicant reiterated an account of the events to the Sub-Committee as discussed with the Empty Properties and Enforcement Officer previously. Following queries by officers and members, the applicant confirmed the location of the Police Station where he was questioned before being given a warning. The applicant admitted that he did not know what document he had signed when leaving the police station as he was in an emotional state and simply wanted to get back home to his family. The Empty Properties and Enforcement Officer questioned the events leading up to the arrest and queried whether the applicant could remember the police officer's names or had a solicitor with him at the police station. The applicant confirmed that he could not remember the names of the officers and did not have a solicitor with him but did have an interpreter.

Following confusion regarding dates, the applicant provided his DBS certificate to the Sub-Committee which indicated that it was issued on 24 November 2017 and he had signed his application form on 13 December 2017. The applicant confirmed that he had not previously opened his DBS before providing it to officers at Chorley Council and was subsequently shocked to see that he had been cautioned for Battery. The

applicant admitted that he had made a mistake by not checking his DBS earlier but had assumed that it did not record any offences and therefore had not declared this previously in his application to Chorley Council.

Following a member query, it was confirmed that the applicant had passed his Group II Medical and Knowledge Test.

As agreed previously in the meeting, the applicant's wife also relayed the events to the Sub-Committee. She admitted that she had made a mistake by ringing the police and explained that she was angry and didn't think; it was only after that she felt she had done wrong. Following questions, she confirmed that there had been no physical contact during the incident and since then, she had not felt threatened on any other occasion. She also confirmed that she completed the paperwork on behalf of the applicant, who then signed the document. She was aware of the DBS but was not sure why this had not been checked when received.

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 and 59 of the Local Government (Miscellaneous Provisions) Act 1976** and that these applications be granted for the following reasons;

1. The applicant had not come to the attention of the authority where he is currently licenced previously.
2. The condition attached to the applicant's current licence at the relevant authority did not specifically require disclosure of cautions.
3. The offence was committed two and a half years ago and there had been no further offending. The Council's policy suggests a rehabilitation period of three years therefore the Sub-Committee was using its discretion to depart from the policy to grant both licences.
4. The applicant did not have a history of criminal activity, he had received a caution for one offence and he does not have any motoring convictions.
5. The Committee were concerned that the applicant failed to complete the application form correctly however, he did provide his DBS certificate at the same time and therefore there was no intent to conceal his caution from the Council. The applicant was warned to complete any future applications correctly and fully otherwise his licences would be reviewed which might result in their suspension or revocation.
6. The applicant must take responsibility for filling in all application forms in respect of his taxi licences and must not allow anyone else to do this for him, although as much assistance as required could be obtained from others.
7. The applicant's attention was drawn to the conditions attached to all Chorley private hire driver licences requiring the holder to notify the Council in writing within 7 days of any convictions or cautions. The Committee would take a very dim view of any future breach of this condition.

Chair

Date

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**MINUTES OF GENERAL LICENSING SUB-COMMITTEE****MEETING DATE** Wednesday, 23 May 2018**MEMBERS PRESENT:** Councillor Marion Lowe (Chair) and Councillors Doreen Dickinson, Margaret France, Adrian Lowe and John Walker**OFFICERS:** Carl Gore (Empty Properties and Enforcement Officer), Jodi Ingram (Solicitor) and Nina Neisser (Democratic and Member Services Officer)**17.LSC.149 Declarations of Any Interests**

There were no declarations of interests received.

**17.LSC.150 Procedure**

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

**17.LSC.151 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 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.152 To Determine if to Suspend or Revoke Driver Licenses as per Section 61 (b) of the Local Government (Miscellaneous Provisions) Act 1976**

The Director of Customer and Digital submitted a report for Members to consider whether the licence holder remained a fit and proper person to hold his Private Hire, Hackney Carriage and Private Hire Operator Licences as well as any vehicle licences which he may hold.

The licence holder and his representative were both present to make their representations to the Sub-Committee.

Members were informed that on 30 April 2018, the licence holder rang Chorley Council to report that he had been involved in an accident on 28 April 2018 at approximately 4.00am.

The Licensing Enforcement Officer inspected the vehicle on 1 May 2018 at the Union Street offices. Photographs were taken of the vehicle to highlight the accident damage; these were included in the report. Following Member queries, it was

confirmed that the licence holder was issued a defect notice in order to get his vehicle repaired. He was able to continue driving the vehicle during this time.

The licence holder also completed the required Accident Report Form on 1 May 2018 at the council officer's request. In this form it was explained that the licence holder was driving when he dropped a drinks bottle into the foot well towards the car pedals. When the licence holder went to remove the bottle, he stated that he lost control of the vehicle and veered to the other side of the road before going up a verge and hitting the fence/bushes. It was confirmed later in the meeting that there was no actual contact between the licence holder's vehicle and the vehicle parked at the property; the post that was hit subsequently fell onto the parked vehicle.

The licence holder informed the Licensing Enforcement Officer that CCTV footage of the incident had been uploaded to social media. The Members of the Sub-Committee viewed the footage at the meeting. The footage illustrated the collision and the dry, clear weather conditions were noted.

The Licensing Enforcement Officer indicated that the licence holder left the scene of the accident on 28 April at approximately 4.00am but returned on Sunday, 29 April to the address of the damaged property and vehicle to reveal his details to the owner of the property and vehicle identified in the CCTV.

Members were reminded that whilst it was late at the time of the incident, contact details could have been left at the accident site address, however they were not. It was also recognised that no attempt was made during Saturday, 28 April 2018 to contact the owner of the vehicle and property that was damaged. The Licensing Enforcement Officer reported that this information was made public before the licence holder returned to the site of the incident to provide his contact details on Sunday, 29 April. It was understood that the owner of the vehicle had subsequently accepted the licence holder's offer to pay for any damages caused by payment of cash.

The licence holder's representative indicated discrepancies with regards to timings included within the report and informed the Sub-Committee that the licence holder attempted contact on Saturday, 28 April not Sunday, 29 April. After receiving a phone call on the Saturday, the licence holder text an intermediary to try and pass on his details to the owners, the intermediary explained that the owners were going out that night but he would pass on the licence holder's details to the owners. The licence holder provided Members with sight of this on his phone which indicated that a text message was first sent on Saturday, 28 April at 8.16pm.

Following Member queries, it was understood that the licence holder had come to the Council's attention previously in January 2018 when he was contacted by Chorley Council in regards to not reporting an accident that his hackney carriage vehicle had been involved in. The licence holder was not the driver at this time but a verbal warning was issued to the licence holder for breaching the licensing conditions to report to the Council within 72 hours. However, in the current incident being considered it was clarified that the licence holder had reported the incident under the required timescales as conditioned on his licence.

The licence holder's representative provided copies of a witness statement of the licence holder to the Sub-Committee in addition to character statements.

Via his own admission, the licence holder explained that he was in a state of shock immediately following the accident and not thinking straight, therefore could not explain why he left the scene of the incident. Confused as to what to do next, he did not want to disturb the owners in the early hours of the morning. The licence holder confirmed that he had woken up late the following day and received a phone call asking for assistance in identifying the vehicle involved in the incident. At this point, he stated that he was not aware that the footage had been posted on social media. Members queried what would have happened had the footage not been posted online. The licence holder stated that he would have gone back to the property.

Members queried how many hours the licence holder had been working and highlighted the possibility that he could have fallen asleep at the wheel. The licence holder confirmed that had been working for nine hours but went home for a break during this time. He reassured the Sub-Committee that he did not fall asleep at the wheel.

The licence holder's representative reiterated that the licence holder had made a fool of himself for a man with a lot of responsibility and was embarrassed by his actions. The licence holder accepted making a mistake in a moment of misjudgement for which he apologised and subsequently took the appropriate courses of action in the required timeframes. He reminded Members that the licence holder had worked in the taxi trade for numerous years with exemplary character and conduct and reassured Members that he could still be trusted.

After careful consideration of all relevant facts in the report and representatives from the Council's Licensing Enforcement Officer, the applicant and his representative, and having regard for the Council's Safeguarding, Suitability and Convictions Policy for Taxi Licensing, the Sub-Committee **RESOLVED that the licence holder remained a fit and proper person to hold Hackney Carriage and Private Hire Driver Licences as well as his Private Hire Operators Licence and any vehicle licences which he may hold. However, a severe warning would be issued and placed on his driver's file. The decision was taken for the following reasons;**

- 1. The licence holder had been of exemplary character for numerous years in the taxi trade, and it was recognised that on this occasion that he made an error in judgment when driving and subsequently failed to stop and provide details after the incident to the owners of the damaged property.**
- 2. The licence holder reported the incident in the required timescales as conditioned on his licences.**

Chair

Date

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**MINUTES OF GENERAL LICENSING SUB-COMMITTEE****MEETING DATE** Wednesday, 22 August 2018**MEMBERS PRESENT:** Councillor Marion Lowe (Chair) and Councillors Margaret France, Tom Gray, Sheila Long and Adrian Lowe**OFFICERS:** Nathan Howson (Enforcement Team Leader (Licensing)), Carl Gore (Enforcement Officer (Licensing and Empty Properties)), Jodi Ingram (Solicitor) and Nina Neisser (Democratic and Member Services Officer)**17.LSC.157 Declarations of Any Interests**

There were no declarations of interests received.

**17.LSC.158 Procedure**

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

**17.LSC.159 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 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.160 To Determine an Application for the Grant of a Private Hire Driver Licence in regards to the Local Government (Miscellaneous Provisions) Act 1976**

The Director of Customer and Digital submitted a report for the General Licensing Sub-Committee to determine whether the applicant was a fit and proper person to hold a Private Hire Driver Licence (PHD).

The applicant was present at the hearing alongside his representative.

The applicant applied for his PHD licence on 3 July 2018 and had completed his medical. His application revealed speeding convictions on 16 and 19 September 2017 for Exceeding Motorway Speed Limit (SP50) both of which resulted in 3 fixed penalty points and £40 fines.

The applicant had previously held a PHD Licence and Private Hire Operators (PHO) Licence with Chorley Council. However, at a General Licensing Sub-Committee meeting in April 2016, both licences were revoked on the grounds that the applicant was not a fit and proper person. The applicant appealed to the courts regarding this

decision, but the appeal was dismissed at Preston Magistrates' Court in November 2016. The District Judge raised concerns regarding the applicant's behaviour stating he was untrustworthy and held that his operator records did not comply with the conditions attached to his operator licence and fell below the required standards. The applicant appealed this decision at Preston Crown Court however he withdrew his appeal a few days prior to the hearing of the Appeal.

The court awarded costs to Chorley Council in regards to his Appeal at Preston Magistrates Court and his abandoned Appeal at Preston Crown Court. The applicant had outstanding balances for the costs in regards to the abandoned Crown Court appeal and for the appeal at Preston Magistrates' Court. Chorley Council has also had to incur additional costs by appointing bailiffs to try and recover this money.

The applicant's representative reminded the Sub-Committee that the applicant had not come to attention of the Council during the period of his previous licences. It was stated that Chorley Council did not convict the applicant via the courts and therefore there were no convictions held against him. Members were reassured that the applicant had considered his position over the last three years since his licence revocation and was moving forward. It was later confirmed that it was only since April 2017 that the revocation in respect of the applicant's PHD and PHO licences has been enforce.

The applicant's representative reminded Members that the applicant was not applying for a PHO, only a PHD, therefore reassured the Sub-Committee that the previous incident would not happen again as he would be supervised by an Operator and surrounded by other drivers. The applicant's representative believed that the applicant had moved on and wanted to get back into driving.

When questioned by Members, the applicant explained the circumstances of his speeding offences, stating that it was for his own safety due to other vehicles on the motorway and hadn't realised the cameras. The offences took place on the motorway under average speed limit measures. The applicant's representative suggested that £40 was a relatively low fine and reassured the Sub-Committee that the applicant was a safe and responsible driver who had never received points on his licence previously or been involved in an accident.

Following queries regarding the outstanding monies owed to the Council, it was advised that the applicant had paid some and was hoping to pay the rest when he would start working. It was confirmed that he had not been working since revocation of his licences had been enforced.

The applicant stated that he had not been aggressive when the Licensing Officer attended his address to enforce the revocation of his licence. The applicant gave an explanation to the Sub-Committee as to incident which led to the revocation of his Licences.

After careful consideration of the report and representations from the Council's Licensing Enforcement Officer, the representations of the applicant and his representative, and having regard to the Council's Safeguarding, Suitability and Convictions policy Members **RESOLVED to refuse the application for a Private Hire Driver Licence on the Grounds that they were not satisfied that the applicant was fit and proper for the following reasons;**

- 1. The applicant had been shown to have systematically misled officers in his interview under caution, the Sub-Committee in April 2016 and then misled the court during the course of his appeal. For these reasons Members did not consider the applicant honest and therefore he is not fit and proper.**
- 2. Members considered the findings in the decision of the District Judge on hearing his appeal in November 2016 that he was found to be evasive, inconsistent, implausible in his explanations and untrustworthy. Members attached significant weight to this finding of untrustworthiness because it was made after the District Judge heard detailed testimony from the applicant.**
- 3. Members considered the applicant's representations that the incident would not happen again because he would not be working for himself, he would be supervised by an operator and surrounded by other drivers and Members took into account the applicant previous good history prior to the revocation of his licences. However members were concerned that the applicant continued to offer alternative reasons as to why he was not responsible for the incident which lead to the revocation of his Private Hire Driver and Operators Licences.**
- 4. Members considered the applicant's representations regarding the speeding offences and considered that he failed to take any responsibility for these and sought to blame other drivers/vehicles, however little weight was given to the offences in accordance with the Council's Safeguarding, Suitability and Convictions policy.**
- 5. Members had regard to the applicant's representations in respect of the outstanding court costs owed to the Council and his current financial circumstances; however they felt that he had made very little effort to repay the monies which continued to show a lack of responsibility.**
- 6. Members found that the applicant failed to demonstrate that he had made any changes so as to be considered trustworthy and found that the applicant failed to take any responsibility for his actions and he lacked insight into his own failings when it came to being candid and transparent with the authorities and had learnt nothing from his unsuccessful appeal.**
- 7. Members had regard to the Council's adopted Safeguarding, Suitability and Convictions policy. This provided that applications would not normally be granted for at least 3-5 years after a conviction for dishonesty. Whilst there had been no conviction for a dishonesty offence, members considered that the applicant's evasiveness and unreliability when giving sworn evidence in November 2016 meant that to be regarded as honest not much than 18 months after an adverse judicial finding on this aspect of his character was premature and not in the spirit of the rehabilitation period of the policy.**

**The applicant had 21 days from receipt of notice of the decision to appeal to the local Magistrate's court.**

Chair

Date



**MINUTES OF GENERAL LICENSING SUB-COMMITTEE**

**MEETING DATE** Wednesday, 22 August 2018

**MEMBERS PRESENT:** Councillor Marion Lowe (Chair) and Councillors Doreen Dickinson, Gordon France, Sheila Long and Adrian Lowe

**OFFICERS:** Tracy Brozowski (Customer Services Manager (Enforcement)), Nathan Howson (Enforcement Team Leader (Licensing)), Carl Gore (Enforcement Officer (Licensing and Empty Properties)), Alex Jackson (Legal Services Team Leader), Stefanie Leach (Trainee Solicitor) and Nina Neisser (Democratic and Member Services Officer)

**17.LSC.1 Declarations of Any Interests**

There were no declarations of interests received.

**17.LSC.2 Procedure**

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

**17.LSC.3 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 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.4 Review of a Private Hire Driver's Licence and Hackney Carriage Driver's Licence as per the Local Government (Miscellaneous Provisions) Act 1976**

The Director of Customer and Digital submitted a report for the General Licensing Sub-Committee to determine whether a Licence Holder remained a fit and proper person to hold his Private Hire Driver's Licence (PHD) and Hackney Carriage Driver's Licence (HCD) following a complaint from a member of the public and failure to report a fixed penalty.

The Licence Holder attended the Sub-Committee alongside his representative.

The Licence Holder currently holds a Private Hire Driver Licence (PHD) and Hackney Carriage Driver Licence (HCD). On 23 May 2018 the Licence Holder was given a severe warning that the Sub-Committee instructed be placed on his driver's file in

relation to a serious incident involving the taxi whereby the Licence Holder drove off from the scene of an accident without stopping.

On 23 July 2018 Chorley Council received a complaint, via telephone call, regarding the manner in which a taxi had been driven. The complainant had been picked up from the Airport on 28 June 2018 with his family as arranged by a pre-paid booking. The complainant stated that during the journey from the airport the driver was swerving across all three motorway lanes as he appeared very tired and kept falling asleep at the wheel. The complainant asked that the driver come off the motorway at the Standish junction rather than Charnock Richard Services as the road speed was lower than 70mph. It was claimed that the driver was on the wrong side of the road on the motorway exit due to falling asleep again at the wheel. The driver allegedly fell asleep again later in the journey and mounted the pavement and on to the embankment at approximately 30mph on the corner of Clarence Street, Chorley.

The Licensing Officer subsequently investigated the complaint and was informed by an employee at the taxi company where the Licence Holder worked that the Licence Holder was the driver of the taxi subject to the complaint.

The Licensing Officer advised that the complainant worked away from home and therefore was unavailable to attend the hearing. Member's attention was drawn to appendix 15 which set out the complainant's statement.

On 23 July 2018 the Council also received an email from the Licence Holder stating that he had received three points on his licence on 13 July 2018 for speeding. The Licence Holder failed to comply with the condition on his PHD licence requiring him to notify the Council in writing of any conviction or caution recorded against him and/or the imposition of any endorsable or non-endorsable fixed penalty within seven days.

Members were made aware that it had not been possible to hold an interview with the Licence Holder as he had not been in the country in the prior weeks leading up to the Sub-Committee. Attempts had been made, as outlined in the report, to contact the Licence Holder without success. Following queries from the Legal Officer, it was confirmed by the Licensing Officer that he was satisfied based on his investigation that the Licence Holder was definitely the taxi driver subject of the complaint.

The Licence Holder's representative questioned why it had taken the complainant almost a month to submit his complaint to the Council and suggested motives of financial gain due to a personal injury claim. He advised that leaving it this long and not approaching the taxi firm sooner had meant that all the information on the vehicle at the time of the incident and any CCTV/dashcam footage was no longer available. It was stated by the Licence Holder's representative that the incident was not as serious as reported and that there had been some exaggerations in the complainant's statement.

The Licensing Officer was not able to comment on why the complaint had been submitted almost a month after the incident took place. Following queries, the Licence Holder's representative was informed that there had been no photographic evidence of the red seat belt marks left on the passengers as included in the complaint.

The Licence Holder explained that his vehicle did hit the curb during the journey due to avoiding an object in the road and not because he was falling asleep at the wheel. However, the Licence Holder rejected that the car went over the embankment. The

Sub-Committee was advised that the tyre had not gone flat as a result of hitting the curb and had it done so the Licence Holder would have struggled to get back to the passenger's home address from the location of the incident.

The Licence Holder circulated photographs of the condition of the curb/embankment at Clarence Street and a tyre on the vehicle claimed by the Licence Holder to have been involved in the incident. The Licence Holder conceded that the photographs had only been taken on either 20 or 21 August 2018. It was advised that the tyre was still being used.

The Licence Holder asserted that the children were asleep at the time of the incident, that they were not awoken by the vehicle hitting the curb and assured the Sub-Committee that all passengers appeared okay when he dropped them off.

The Licence Holder stated that he left the country at the end of July for a pre-planned holiday. It was understood that the Sub-Committee papers were delivered to his home address on 14 August 2018; however the Licence Holder was only able to have sight of these upon his return, three days before the Sub-Committee hearing.

The Licence Holder apologised for the delay in informing the Council of his speeding offence within the required seven day period. He admitted this was an oversight on his part and corrected the situation as soon as he realised.

Following Member queries the Licence Holder admitted to scraping the curb however denied swerving across the road. The Licence Holder also denied falling asleep at the wheel and advised that this journey had been his only job that day.

When asked about his usual route to the Airport, the Licence Holder advised he would usually take the Standish or Charnock Richard Services route, however due to temporary road works and motorway closures overnight travelling via Standish was the current route taken.

The Licence Holder could not confirm what the object in the road was due to it being dark and there being minimal street lighting but speculated it might have been a cat. The Licence Holder did not explain to the passengers at the time that there had been something in the road which resulted in him scraping the curb as he advised that they were almost all asleep. The Licence Holder reassured the Sub-Committee that he only continued with the journey as there was no damage to the vehicle.

Members highlighted numerous discrepancies between the two accounts of the incident. The Licence Holder informed the Sub-Committee that he was not late picking up the family and chatted to passengers throughout the journey.

The Licence Holder confirmed that the tyre in the photograph was a standard spec for the vehicle and advised that he had an identical vehicle in burgundy. Members queried whether the Licence Holder had picked the family up in his burgundy vehicle as the complainant's account stated the vehicle they were picked up in was a dark colour. The Licence Holder clarified that he had not picked them up in the burgundy vehicle and that he had driven the vehicle in the photographs to collect the complainant from the airport.

Following queries from the Legal Officer in relation to the complainant's account, the Licence Holder advised that he was scratching his leg during the journey due to eczema and a scar on his leg.

The Licence Holder advised that neither he nor the taxi firm had been contacted by the complainant's legal representative or any insurance companies regarding the incident.

The Sub-Committee discussed how many times the Licence Holder asked the family if they were okay following the incident. The Licence Holder advised that he had only asked a couple of times as he was concerned for the family's welfare but he was not worried about the incident.

After careful consideration of the report and representations from the Council's Licensing Enforcement Officer, the representations of the applicant and his representative, and having regard to the Council's Safeguarding, Suitability and Convictions policy, the Sub-Committee **RESOLVED that the Licence Holder was no longer a fit and proper person to hold a Private Hire Driver Licence and Hackney Carriage Driver Licence and that both licences shall be revoked with immediate effect on grounds on public safety under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 for the following reasons:**

- 1. The explanation provided by the Licence Holder was unsatisfactory. Taken at its lowest, the incident still suggested that the Licence Holder was driving erratically. The Licence Holder admitted he had been scratching himself so he had conceded an element of the complainant's account although the frequency of his questions after their welfare was in dispute. Members found it implausible that a loyal customer of the Licence Holder would suddenly have grossly exaggerated an incident. Members did not consider much weight could be attached to the photographs provided as they were not taken contemporaneously or shortly after the incident. Members did not accept the Licence Holder's explanation that the children would remain asleep after the incident. The Licence Holder was not consistent about whether or not he would have used the Standish or Charnock Richard Services turn off from the M6.**
- 2. The Licence Holder was considered a risk to other road users as well as a risk to passengers because of two incidents of careless driving in a short period of time and concerns about whether the Licence Holder was in a fit state to drive during the latest incident.**
- 3. The Sub-Committee considered the fact that two children were present in the taxi at the time of the incident and the effect on them on 28 June 2018 to be an aggravating factor.**
- 4. The severe warning given to the Licence Holder in May this year had been ignored. Furthermore, at the Sub-Committee on 23 May 2018, the Licence Holder was specifically asked whether he had fallen sleep whilst driving, the Licence Holder reassured members that he had not fallen asleep at the wheel. The Sub-Committee now had cause to doubt the assurances given by the Licence Holder at the previous Sub-Committee.**
- 5. In addition, the Licence Holder failed to comply with the condition imposed on him by his PHD licence in that he failed to notify the Council**

**within 7 days in writing of his driving licence being endorsed with 3 penalty points. This was in relation to a fixed penalty for a speeding offence. Given the concern over the Licence Holder's standard of driving, the need for the Council to be aware of such matters in accordance with the licence conditions was of increased importance.**

- 6. The Council's policy says that complaints about behaviour when driving a taxi would be viewed in a more serious light.**

**The Licence Holder had 21 days from receipt of notice of the decision to appeal to the local Magistrate's court.**

**Within one of the draft reasons read out by Chair at the Sub-Committee on 22 August was a comment that the Licence Holder's disclosure of the conviction for speeding appeared to have been prompted by the investigation about the incident on 28 June. The Licence Holder's representative pointed out that the speeding offence was reported by the Licence Holder to the Council before licensing officers began to investigate the complaint about the incident on 28 June. He is of course absolutely correct. We apologise for this error and this comment has been removed from the final version of the decision and reasons approved by the Chair of the General Licensing Sub-Committee.**

Chair

Date

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**MINUTES OF GENERAL LICENSING SUB-COMMITTEE****MEETING DATE**                    **Wednesday, 17 October 2018****MEMBERS PRESENT:**    Councillor Marion Lowe (Chair), and Councillors Jean Cronshaw, Doreen Dickinson, Steve Holgate and John Walker**OFFICERS:**                    Nathan Howson (Enforcement Team Leader (Licensing)), Jodi Ingram (Solicitor), Stefanie Leach (Trainee Solicitor), Nina Neisser (Democratic and Member Services Officer) and Philippa Braithwaite (Democratic and Member Services Officer)**17.LSC.5 Declarations of Any Interests**

There were no declarations of interests received.

**17.LSC.6 Procedure**

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

**17.LSC.7 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 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.8 Determination of Applications for a Private Hire and Hackney Carriage Driver's Licence**

The Director of Customer and Digital submitted a report for the General Licensing Sub-Committee to determine whether the applicant was a fit and proper person to hold a licence.

The applicant was present at the Sub-Committee.

The Council's current records confirm that the applicant was previously licensed as a Hackney Carriage Driver at Chorley Council between 2011 and 2014. The applicant, in his representations, explained that he had been licenced from 2001 up until 2014. The Council does not dispute this however the Council's records do not go as far back as 2001 to confirm. As a result of the applicant's failure to provide additional information on renewal in 2014, his application to renew was rejected and the licence lapsed.

On 20 August 2018 the Council received an application for a Private Hire and Hackney Carriage Driver's Licence. Following consultation, the Council's Group 2 Medical expert provided advice which indicated no medical reason that the applicant should be refused a licence.

The applicant's motoring convictions were outlined in the report. As a result of the "totting up" procedure, the applicant was disqualified from driving for a period of six months. The applicant applied to the Magistrates' Court to suspend the disqualification pending an appeal against his conviction. This was granted. The applicant's appeal against his conviction and sentence was heard and subsequently dismissed by the Crown Court.

The applicant advised Members that he had held a Private Hire and Hackney Carriage Driver's Licence from 2001 until 2014 throughout which time no complaints had been received about his driving or conduct, either from a member of the public or another taxi driver.

The applicant provided the Sub-Committee with an account of the incidents which led to his convictions. He explained that the MS90 received in 2015 was perpetrated by his daughter, who subsequently intercepted all post to the applicant relating to the incident. The applicant explained that, therefore, he remained unaware of the incident and of the need to submit any further information and only found out about in incident when the points were added to his licence.

The applicant also advised that although he originally lodged an appeal against the failure to provide further information, he withdrew this when it became apparent his daughter would then be liable for a criminal charge of perverting the course of justice.

The applicant then explained the SP30 conviction in 2016 was caused by his children borrowing his car and being caught speeding. Although naming his son as the driver at the time of the incident, the applicant advised he didn't receive the letter requesting further information which led to its late submission. Although the applicant did appeal the verdict, the conviction was upheld.

The applicant stated that his DBS was clear, his convictions were now spent and since getting his driving licence restored by the DVLA in April 2018, he had not committed any further offences. He advised that his past Private Hire and Hackney Carriage Driver's Licences had only lapsed in 2014 as the results of a medical test he was required to submit did not include the correct criteria owing to a miscommunication between medical practitioners.

Following Members' queries the applicant confirmed he had legal representation when he went to Court. He confirmed that 12 points on his licence had been the result of his children's actions and advised that he was no longer the registered keeper of any car that his children drive.

After careful consideration of the report and representations from the Council's Licensing Enforcement Officer and from the applicant, and having regard to the Council's Safeguarding, Suitability and Convictions policy, the Sub-Committee **RESOLVED that the applicant is not fit and proper to hold a Private Hire Driver and Hackney Carriage Driver's Licence and that his applications be refused for the following reasons:**

- 1. The applicant has been convicted of two minor and two major traffic offences within the five years preceding the date of his application resulting in 12 or more penalty points being imposed.**
- 2. The applicant was disqualified from driving as a result of 'totting up' following his most recent conviction for a major traffic offence in 2017. The applicant was unsuccessful in his appeal against this conviction which was dismissed by the Crown Court.**
- 3. Members had regard to the applicant's representation that in his mind his DBS was clear. However they noted that the Rehabilitation of Offenders Act 1974 provides that all convictions, irrespective of age, remain "live" for the purposes of a hackney carriage or private hire driver's licence.**
- 4. Members considered the representations put forward by the applicant surrounding the circumstances of his previous convictions. Whilst having considered them, the Sub-Committee are unable to review the merits of the applicant's convictions.**
- 5. Members had regard to the Council's Safeguarding, Suitability and Convictions policy which states that an application will normally be refused unless a period of at least 3 years free from conviction has elapsed from the restoration of the applicant's driving licence by the DVLA. The applicant's licence was restored in April 2018, therefore the necessary rehabilitation period has not yet been fulfilled.**
- 6. In light of the policy the Sub-Committee feels that the applications are premature and do not consider that the applicant has put forward any exceptional circumstances in order for them to deviate from the policy.**

Chair

Date

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**MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE****MEETING DATE Thursday, 7 June 2018****MEMBERS PRESENT:** Councillor Marion Lowe (Chair) and Councillors Gordon France and Sheila Long**OFFICERS:** Alison Wilding (Customer Services Manager (Transactional)), Chris Carney (Licensing Enforcement Officer), Carl Gore (Empty Properties and Enforcement Officer), Alex Jackson (Legal Services Team Leader) and Nina Neisser (Democratic and Member Services Officer)**17.LAS.70 Declarations of Any Interests**

No declarations of any interests were received.

**17.LAS.71 Procedure**

The Chair outlined the procedure to be used to conduct the meeting.

**17.LAS.72 Review of Premises Licence Under the Licensing Act 2003 in Respect of Tasty Bites 106 Pall Mall Chorley**

The Sub-Committee considered a report from the Director of Customer and Digital to determine the outcome of an application submitted by Lancashire Constabulary to review the premises licence at Tasty Bites, 106 Pall Mall, Chorley.

Before considering the report, the Licensing Officer informed the Sub-Committee of an inaccurate date recorded in the report. Members were informed that the Licensing Officer attended the premises with Lancashire Constabulary and UK Border Agency (UKBA) Officers on Thursday, 22 March 2018 and not 19 October 2017 as indicated in the report. The Licence Holder also informed Members that he submitted the transfer of his premises licence on 27 October 2017, not 2016 as stated in the report.

Members were informed that on 17 April 2018, an application for a review of the premises licence under the Licensing Act 2003 was received from Lancashire Constabulary acting in their capacity as a Responsible Authority. The reason for this application was given under the licensing objective for: The Prevention of Crime and Disorder, in that the premises were found to be employing someone who lacked the right to work in the UK. At this time, as required, the Responsible Authorities were also informed of the Review Application. Members' attention was drawn to the Home Office Guidance issued which stated that revocation of the licence, even in the first instance, should be seriously considered.

It was reported that on Thursday, 22 March 2018, the Licensing Officer attended the Tasty Bites premises with the Police and UKBA Officers. During this visit a male was arrested for being an over stayer in the country with no visa allowing him to work. The

owner was subsequently served with a Notice of Prosecution after he admitted to the officers that he was employing the illegal over stayer (a male) and he had not carried out document checks to confirm the employee's right to work in the UK. It is a Home Office requirement that all employers must complete the required checks before employing a person. The licence holder, Mr Ismail Adam, clarified later in the meeting that he never admitted to employing the individual but advised that he was undertaking a trial period.

On 19 April 2018, a Notice of Review of the premises licence was posted at the site for a period of 28 days during which representations could be made. None of the Responsible Authorities or any other interested parties have submitted a representation during the consultation period.

An officer from Lancashire Constabulary advised that the Immigration Officer present at the time of the inspection had submitted a witness statement after the period of 28 days. As this was received after the notice period, the police officer requested that the Sub-Committee consider it as late evidence. Members and the licence holder agreed that this evidence could be submitted and copies of the witness statement were circulated. The police officer clarified that his colleague from Lancashire Constabulary attended the premises on Thursday, 22 March 2018 with a Licensing Officer from Chorley Council and an officer from the UKBA. Officers conducted checks on the individual and checked on the system which confirmed that the individual was an illegal over stayer who should not have been working. He was subsequently arrested and detained and the licence holder was sent a Notice of Prosecution. Members were informed that no previous incidents regarding the premises had been recorded.

Following Member queries, it was confirmed that the individual was seen to be working in the kitchen area of the premises when the Immigration Officer entered the premises via the rear access. Members also queried why the individual did not state that he was on a trial period during the interview. The Legal Officer questioned whether any of this information had been shared amongst other agencies such as Her Majesty's Revenue and Customs to help address issues such as deductions of tax and national minimum wage if he was being paid.

The licence holder explained that Tasty Bites was a family run business and advised that he had only ever employed family members. However, due to unexpected visits to family abroad, the licence holder was two members of staff down and therefore rang several takeaway businesses to enquire about any temporary staff available. Following these queries, the licence holder said that he appointed the person discovered by UKBA to lack the right to work in the UK on an unpaid trial basis for a week.

The Sub-Committee were informed that the individual started his trial at 5pm on Thursday, 22 March 2018; the day of the inspection. The Licence Holder felt that this was not just a coincidence. Reassurances were given by the police officer that the visit was not based on intelligence or the targeting of a single premises. The licence holder admitted that he was shocked when the individual confirmed his real name to officers as he had previously provided him with a different name.

The licence holder confirmed that he had never previously employed anyone who wasn't family and in this instance, he admitted that he should have made checks but as the individual was brought in via a referral on an unpaid trial basis he did not feel this was necessary. Following queries from the Legal Officer, the licence holder

reassured Members that had he would have undertaken the required background checks and would have recognised the individual's right to work before offering him a contract, had his trial period been successful. The importance of doing so was reiterated to the licence holder and it was advised that a list of required checks, designated by the Immigration Service was readily available online. The licence holder could not specify when asked by the legal officer what changes he had introduced to ensure he would carry out right to work checks on prospective employees in the future.

After careful consideration Members **RESOLVED** – to suspend the premises licence and impose a condition on the licence to produce to the Licensing Authority within 28 days a written document setting out the checks which the licence holder would undertake to verify the right to work in the UK of prospective employees. The suspension would then be lifted on the expiration of 28 days unless the plan was not to the satisfaction of the Licensing Authority, in which case the suspension would continue for up to 3 months from the date of the sub-committee or until a satisfactory plan could be produced. The decision was taken for the following reasons:

1. Members had regard to paragraph 11.27 of the national guidance issued by the Home Office which stated that employing illegal workers should be treated particularly seriously.
2. Members were not satisfied that the licence holder, even after the visit, had acquainted himself with the necessary right to work checks which a responsible employer must undertake.

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**MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE****MEETING DATE** Tuesday, 19 June 2018**MEMBERS PRESENT:** Councillor Matthew Lynch (Chair) and Councillors Tom Gray and John Walker**OFFICERS:** Chris Carney (Licensing Enforcement Officer), Carl Gore (Empty Properties and Enforcement Officer), Jodi Ingram (Solicitor), Stefanie Leach (Trainee Solicitor) and Nina Neisser (Democratic and Member Services Officer)**17.LAS.73 Declarations of Any Interests**

No declarations of any interests were received.

**17.LAS.74 Procedure**

The Chair outlined the procedure to be used to conduct the meeting.

**17.LAS.75 Review of Premises Licence under the Licensing Act 2003 in Respect of Sagar Premier Indian Restaurant, Clayton Brook Road, Bamber Bridge, Chorley, PR5 8HZ**

The Director of Customer and Digital submitted a report for the Licensing Act 2003 Sub-Committee to determine the outcome of an application submitted by Lancashire Constabulary to review the premises licence at Sagar Premier Indian Restaurant, Clayton Brook Road, Bamber Bridge, Chorley.

The Premises Licence Holder, Mr Badrul Mohammed Alom was unable to attend the meeting; his representative was present to make his representations to the Sub-Committee.

The Licence Holder's representative requested that the Sub-Committee hearing be adjourned on the basis that the Licence Holder had been out of the country and was not aware of the hearing for Review of the Premises Licence until his return on 12 June 2018. The Licence Holder had set two meetings with his representative prior to the hearing which unfortunately he could not attend due to the ill health of his wife. Members were informed that although the Licence Holder and his representative had spoken over the telephone the day prior to the meeting, he felt this had not provided sufficient time to discuss the matter in detail and provide information. Members were reassured that the Licence Holder acknowledged the importance of the hearing and valued his business.

Members resolved to progress with the hearing but advised they could be minded to adjourn later in the meeting if it became apparent that the Licence Holder's representative was not able to provide specific information due to the circumstances.

It was reported that on 27 April 2018, a review of the premises licence under the Licensing Act 2003 was received from Lancashire Constabulary acting in their capacity as a Responsible Authority. The reason for this application was given under the licensing objective for: The Prevention of Crime and Disorder, in that the premises were found to be employing illegal immigrants.

The Licensing Officer attended the premises on 26 April with the Police and Immigration Enforcement/Home Office Officers. During this visit a male was arrested for being an illegal overstayer in the country with no visa allowing him to work. The Licence Holder was not on the premises at the time an employee was served with a Notice of Prosecution on 27 April 2018 as the business was illegally employing a pending asylum seeker (a male) and document checks had not been carried out to confirm the employee's right to work in the UK as required by the Home Office.

On 27 April 2018, a Notice of Review of the premises licence was also posted at the site for a period of 28 days during which representations could be made. As required, the Responsible Authorities were informed of the Review Application. It was understood that no other representations were submitted during the consultation period. Member's attention was drawn to the Guidance issued by the Secretary of State under Section 182 of the Act and the Home Office Guidance issued which stated that revocation of the licence, even in the first instance, should be seriously considered.

Following queries, Members were reassured that the council were not aware of any previous problems with the premises.

The police officer present advised Members that on arrival at the premises, a male tried to leave the building via the rear exit, however the Immigration Officers had also made an entrance via the rear of the premises and escorted the individual back inside. Three individuals were questioned and a Section 15 was issued. No paperwork, such as PAYE records or HMRC checks, had been submitted since by the Licence Holder which led the police to suggest that staff were being paid cash in hand and believed that the licence holder knowingly employed an illegal worker.

The Sub-Committee were informed that the Immigration Enforcement/Home Office had submitted additional information which outlined the interview that took place with the individual; however this was submitted following the 10 day notice period. The police requested that this late evidence be considered at the hearing. The Licence Holder's representative declined his consent.

The Licence Holder's representative provided apologies on his behalf. Following their brief telephone discussion, it was advised that the Licence Holder acknowledged and accepted responsibility for employing the individual who was not entitled to work in the UK. However, the Licence Holder had explained that he had never experienced this previously and was unsure how this had been bypassed in this instance, although the Licence Holder did acknowledge that he remembered the individual he was unable to explain how this had happened. Members were reassured that the Licence Holder had been operating this business for over 20 years and there had been no issues during this time. Reassurances were also made that this was not the way the Licence Holder ordinarily ran his business and ensured that right to work checks were carried out. It was advised that had the Licence Holder had more time, he would have provided employee personnel files to evidence this. The Licence Holder's representative

reiterated that the Licence Holder admitted a mistake had been made and asked that leniency be shown in considering the Licence Holder's challenging personal issues at this time.

Following Member queries, the Licence Holder's representative advised that he could not comment on how the licence holder paid his employees but recommended that it was not unusual for similar businesses to pay their employees cash in hand. It was confirmed that the business did have an accountant who could provide further information. It was understood that the individual had been working at the premises for 2-3 months and had no personal family links to the premises licence holder. The Licence Holder did not live in the area; however it was advised that he visited the premises, two to three times a week.

After careful consideration of the representations from the Police and Licence Holder's representative and having regard to the prevention of crime and disorder licensing objective, the national guidance issued by the Home Office under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy 2016-2018 Members **RESOLVED – to suspend the Premises Licence for three months and impose a condition on the premises licence that the Licence Holder provide to the Licensing Authority written documentation to their reasonable satisfaction setting out that the checks carried out on prospective employees by the licence holder to verify an employee's right to work in the UK are in accordance with the Home Office Guidance within 28 days from the date that decision takes effect.**

**Upon the production to the Licensing Authority of the written documentation described above delegated authority be granted to the licensing officer to lift the suspension on the expiry of 28 days from the date the decision takes effect or on the date upon which the written documentation is produced if thereafter.**

**The decision was taken for the following reasons:**

- 1. Members had regard to paragraph 11.27 of the national guidance issued by the Home Office which stated that employing illegal workers should be treated particularly seriously and gave serious consideration to the revocation of the licence.**
- 2. The Licence Holder's representative stated that the Licence Holder had procedures in place for checking an employee's right to work in the UK; however, he advised that although the Licence Holder had stated he remembered the employee, he was unable to explain why the checks had not taken place with the illegal employee in question. Therefore, Members wished to be satisfied that the procedures in place were robust and appropriate.**
- 3. Members noted that the Licence Holder accepted full responsibility for the matter and understood that the Licence Holder had been in business for over 20 years and this was the first time that he had come to the attention of the council.**
- 4. They also had regards to the representations made regarding the Licence Holder's extenuating circumstances.**

Chair

Date

**MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE****MEETING DATE** Wednesday, 20 June 2018**MEMBERS PRESENT:** Councillor Matthew Lynch (Chair), and Councillors Roy Lees and Sheila Long**OFFICERS:** Chris Carney (Licensing Enforcement Officer), Elizabeth Walsh (Solicitor) and Nina Neisser (Democratic and Member Services Officer)**17.LAS.77 Declarations of Any Interests**

No declarations of any interests were received.

**17.LAS.78 Procedure**

The Chair outlined the procedure to be used to conduct the meeting.

**17.LAS.79 Review of Premises Licence under the Licensing Act 2003 in respect of Chesters, 234 Pall Mall, Chorley, PR7 2LH**

The Director of Customer and Digital submitted a report for the Licensing Act 2003 Sub-Committee to determine the outcome of an application submitted by Lancashire Constabulary to review Chesters, 234 Pall Mall, Chorley. The Chair outlined the procedure that would be followed during the hearing.

The Licence Holder, Mr Faisal Mahroof, and/or his representative were not present at the meeting. Officers had provided the Licence Holder with the documents to be considered ten days prior to the hearing and subsequent contact had been attempted.

It was anticipated that the Immigration Enforcement/Home Office would be attending the meeting; however it was recognised that they had not been included on the Regulation 8 of the Licensing Act 2003 and therefore were unable to make their representations at the Sub-Committee. It was understood that the police also had additional relevant information that had not been submitted during the notice period and therefore not included in the report. As a result this could not be considered unless agreed by all parties. As the Licence Holder and/or their representative were not present at the meeting Members felt it was best to defer the hearing in order to allow for a fair trial. This would provide more time for a more detailed report to be submitted with all the relevant information and allow time for increased attendance.

Members felt that the receipt of this information and representation from the Licence Holder and Immigration Enforcement/Home Office at the meeting was needed in order for them to consider all the facts which would help them in their decision. The Sub Committee **RESOLVED to adjourn the hearing and it was agreed that this would**

take place after 30 July 2018 to ensure representation from the police, Immigration Enforcement/Home Office and the Licence Holder at the hearing for the following reasons:

1. Members gave full consideration to the need for an adjournment when it became apparent that the Immigration Enforcement/Home Office and the Licence Holder were unable to attend. Although no reasons were given by the Licence Holder for his absence, in the context of the 'public interest' is in the wider public interest to have due process upheld and for licensees not to have their business and livelihood adversely affected without being given the opportunity to be fairly heard. It was evident that the Police had new evidence which had not been shared with the Licence Holder or with Members. It was also in the public interest for human rights to be carefully observed and upheld at all times.
2. Members felt that it was in the public interest to give a careful and fair hearing to applications that might be of general benefit to the public; the local nightlife and the economy or to representations that might demonstrate that the licence affects the public adversely.
3. Careful consideration of the request for an adjournment was made by Members. Members considered that there may be further relevant information and information provided by Immigration Enforcement/Home Office was important to help make a decision.

Chair

Date

**MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE****MEETING DATE** Tuesday, 10 July 2018**MEMBERS PRESENT:** Councillor Marion Lowe (Chair) and Councillors Doreen Dickinson and Adrian Lowe**OFFICERS:** Tracy Brzozowski (Customer Services Manager (Enforcement)), Chris Carney (Licensing Enforcement Officer), Carl Gore (Enforcement Officer (Licensing and Empty Properties)), Alex Jackson (Legal Services Team Leader) and Nina Neisser (Democratic and Member Services Officer)**17.LAS.80 Declarations of Any Interests**

No declarations of any interests were received.

**17.LAS.81 Procedure**

The Chair outlined the procedure to be used to conduct the meeting.

**17.LAS.82 Review of Premises Licence under the Licensing Act 2003 in respect of Weldbank Store and Off Licence, 46 Weldbank Lane Chorley, PR7 3NQ**

The Director of Customer and Digital submitted a report for Members of the Licensing Act 2003 Sub-Committee to determine the outcome of applications submitted by Lancashire Constabulary and Lancashire County Council Trading Standards.

The Premises Licence Holder, Mr Ramesh Karsan Varsani, attended the hearing alongside his solicitor to make their representations to the Sub-Committee. The police gave their apologies due to unforeseen circumstances.

On 24 and 25 May 2018, applications for a review of the premises licence under the Licensing Act 2003 were received from Lancashire Constabulary and Lancashire County Council Trading Standards acting in their capacity as Responsible Authorities. The reason for these applications was given under the licensing objective for the prevention of crime and disorder, in that the premises were found to be involved in the sale of illicit tobacco and lack of control of the premises, following the visit on 8 May 2018. In addition to the application for review submitted by Trading Standards they also submitted supporting evidence which was included in the report.

On 24 May 2018, a Notice of Review of the premises licence was posted at the site for a period of 28 days during which representations could be made. The Responsible Authorities were informed of the Review Applications as required under the Licensing

Act 2003. No other responsible authorities or any other interested parties submitted representations during the consultation period.

The Trading Standards representative informed Members that they visited Bunty's with the police on 8 May 2018 where they found counterfeit and smuggled cigarettes in a bin bag in the stock room of the premises. 78 illicit tobacco products were seized from the premises; the items did not possess the required health warnings on the packets, and no duty had been paid on them. It was understood that there was a sum of money and personal medication also found in the bag.

During the interview at the premises the employee working at the time of the visit, it was revealed that the Premises Licence Holder had rang her at the Weldbank Lane store prior to the arrival of Trading Standards and the police telling her to hide the illicit cigarettes and tobacco. This was following a visit to the Premises Licence Holder's additional shop on Moor Road minutes earlier, where there had been no issues. The Premises Licence Holder explained that these tobacco products were not for sale and he was gifting them to his staff. The Trading Standards representative also advised that out of date food had been found on sale at the premises. The Licensing Officer stated that a follow up visit by the Food Safety Team at Chorley Council had not revealed any issues. Following Legal Officer queries, it was reported that the visit took place following a complaint regarding the sale of illegal tobacco and cigarettes and had not been a routine check.

A subsequent meeting was held on 22 May 2018 between Trading Standards and the Premises Licence Holder. It was revealed that the Premises Licence Holder was only present at the premises for 2-3 hours per week which Trading Standards believe suggested an absence of management and control at the shop.

The Premises Licence Holder's solicitor requested that late evidence, in the form of a petition from residents in support of the business, be considered. Both Members and Trading Standards agreed to it being submitted and subsequently had sight of the petition.

The Premises Licence Holder's solicitor highlighted the amount of counterfeit tobacco and cigarettes found at the premises during the visit and assured members that no industrial scale of misuse had been undertaken, nor had there been any criminal gang involvement. The Premises Licence Holder's solicitor deemed revocation to be disproportionate and should only be considered when there was no other option. He suggested that additional conditions on the licence, such as CCTV being made available to the police when required, be considered. He advised that CCTV was already in place.

The Premises Licence Holder accepted responsibility and recognised his failure to manage the premises. In order to address this, it was advised that the Premises Licence Holder would be focusing solely on his premises at Weldbank Lane with his premises at Moor Road undergoing the transfer of licence. Reassurances were given that all illicit tobacco had subsequently been seized to ensure that no further incidents would occur.

Members were reminded that the Premises Licence Holder had been in the licensing trade for many years and had no previous problems, including no complaints on the sale of alcohol. The Premises Licence Holder's staff had permission to sell alcohol at the premises but this had not been recorded in writing; the Premises Licence Holder assured that this would be rectified. The solicitor stated that the Premises Licence Holder was a law abiding citizen who had learnt from his mistakes during this

experience and would be taking measures to prevent any future incidents. Members were advised that the Premises Licence Holder and his employee would be attending a Licensing refresher course to ensure that he and his employees were fully compliant.

Following queries, it was understood that the Premises Licence Holder employed one member of staff. She had been employed for seven years and had always smoked during this time; however she switched from tobacco to cigarettes in the last year.

It was highlighted that there had been discrepancies within the interviews and representations regarding who had provided the illicit cigarettes and tobacco and clarification was sought on whether this was the Premises Licence Holder, his family and friends or employee's sister-in-law. The Premises Licence Holder's solicitor advised that various people had provided him with the cigarettes after travelling abroad and it was equally lawful for them to do so. However, it was reiterated that this was not part of an orchestrated campaign.

There were also inconsistencies regarding the Premises Licence Holder's instruction on removing out of date produce from sale at the premises. The Premises Licence Holder stated that he instructed his employee every day to remove out of date products from sale, however it had previously been stated that the Premises Licence Holder was only at the premises a few hours a week. Trading Standards confirmed that the longest out of date product at the time of the visit was three weeks old.

After careful consideration of the representations from Lancashire County Council Trading Standards, the Premises Licence Holder and his representative, and having regard to the prevention of crime and disorder licensing objective, the national guidance issued by the Secretary of State under Section 182 of the Act, and the Council's Statement of Licensing Policy. Members **RESOLVED to revoke the premises licence for the following reasons:**

- 1. Counterfeit tobacco had been on sale at the premises which did not promote the prevention of crime and disorder objective.**
- 2. Food beyond its use by date by up to three weeks had been offered for sale which also did not promote the prevention of crime and disorder objective.**
- 3. Tobacco without the required health warnings put public health at risk.**
- 4. Cheaper counterfeit tobacco was more affordable to children and therefore did not promote the objective of protection of children from harm.**
- 5. Counterfeit tobacco deprived Her Majesty's Revenue & Customs of excise duty.**
- 6. There was a significant lack of control at the premises by the Premises Licence Holder.**
- 7. the Premises Licence Holder blamed staff during his interview under caution but management of the responses was his responsibility.**
- 8. the Premises Licence Holder had tried to obstruct Trading Standards Officers on the day of the visit by instructing his staff to conceal the counterfeit tobacco.**
- 9. The Premises Licence Holder had given contradictory answers in his interview under caution about the training and instructions to staff to check use by dates on food products. The Sub-Committee could not therefore**

have faith in the Premises Licence Holder in being open and honest with the authorities about breaches at the premises.

10. Members had regard to paragraph 11.27 of the Section 182 guidance issued by the Home Office which stated that the sale or storage of smuggled tobacco should be treated particularly seriously and revocation of the licence, even in the first instance, should be seriously considered. Whilst the supply route of the tobacco was obscure, it was common ground that the required duty had not been paid on the tobacco which is the case with smuggled tobacco.

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

Chair

Date



**MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE**

**MEETING DATE** Monday, 8 October 2018

**MEMBERS PRESENT:** Councillor Marion Lowe (Chair) and Councillors Steve Holgate and John Walker

**OFFICERS:** Tracy Brzozowski (Customer Services Manager (Enforcement)), Nathan Howson (Enforcement Team Leader (Licensing)), Jodi Ingram (Solicitor), Nina Neisser (Democratic and Member Services Officer) and Philippa Braithwaite (Democratic and Member Services Officer)

**17.LAS.83 Declarations of Any Interests**

No declarations of any interests were received.

**17.LAS.84 Procedure**

The Chair outlined the procedure to be used to conduct the meeting.

**17.LAS.85 Application for a Premises Licence under Section 17 of the Licensing Act 2003 for the Pride of Aggi**

The Sub-Committee considered a report which advised Members of an application for a premises licence to be granted under Section 17 of the Licensing Act 2003, to which relevant representations had been received.

The applicant and his representative attended the meeting to make their representations to the Sub-Committee. A neighbouring resident who had made relevant representations was also in attendance to make her representations to the Sub-Committee.

The Council's Enforcement Team Leader for Licensing informed the Sub-Committee that on 14 August 2018, an application for a premises licence to be granted was received. The application sought to authorise the following licensable activities;

<b>Licensable Activity</b>	<b>Proposed Hours</b>
Provision of Live Music (Indoors)	Sunday- Thursday: 23:00- 23:30hrs Friday- Saturday: 23:00- 00:00hrs
Provision of Recorded Music (Indoors)	Sunday- Thursday: 23:00- 23:30hrs Friday- Saturday: 23:00- 00:30hrs
Provision of Performances of Dance (Indoors)	Monday- Thursday: 12:00- 23:30hrs Friday- Sunday: 12:00- 00:30hrs

Provision of Any Similar Entertainment (Indoors)	Sunday- Thursday: 23:00- 23:30hrs Friday- Saturday: 23:00- 00:30hrs
Sale of Alcohol (On and Off Sales)	Sunday- Thursday: 12:00- 23:30hrs Friday- Saturday: 12:00- 00:30hrs

The application also sought to authorise licensable activities for the following non-standard timings: *The day proceeding all bank holidays to be as per Friday and Saturday operating hours. All licensable activities (excluding Provision of Live Music) shall be permitted from the terminal hour on New Year's Eve until 12:00hrs on New Year's Day. The terminal hour for Provision of Live Music on New Year's Eve shall be 01:00hrs on New Year's Day.*

It was understood that following consultation with Lancashire Constabulary, the applicant agreed to amend the non-standard timings, in relation to New Year's Eve and all activities to 01:30hrs on New Year's Day. The applicant also provided a comprehensive operating schedule of the measures intended to promote the licensing objectives. Following consultation with Lancashire Constabulary, the applicant agreed to operate and maintain a CCTV system to be in use during all times licensable activities were taking place at the premises, the details of which were provided in the report.

On 21 August 2018, a representation was received from a neighbouring resident on Babylon Lane. The representation concerned the likely effect of the grant of the licence on the Prevention of Public Nuisance objective. Members were to determine how much weight should be placed on it.

The applicant's representative drew Members attention to point 3.4.2 of the Statement of Licensing Policy where it encouraged negotiation between parties to hopefully negate the need for a hearing. It was advised that a mediation meeting had been arranged between the applicant and neighbouring resident. The applicant offered his personal phone number for anyone who may have had any concerns regarding the premises and application as he did not want to alienate residents. However, the resident later thought mediation was not appropriate and therefore the meeting was cancelled. The applicant felt that had the meeting taken place, he could have given some reassurances and was willing to compromise with conditions and offer additional actions such as soundproofing on the adjoining wall of the property. Members were informed that the roof of the building had already been sound proofed.

The applicant's representative took photographs as supplementary evidence when attending the address for a meeting with the applicant. He highlighted how busy and noisy the junction was and advised that the neighbouring residents property was situated directly opposite the beer garden of a large pub which could get very busy, especially during the summer months. The pub also benefitted from a 2.00am licence at weekends and 1.00am during the week. The property was surrounded by commercial premises on all sides and all within 100 metres there was two takeaways which had midnight licences, another with a 1.00am licence at weekends and a busy Tesco which had an 11.00pm licence.

The number of micro bars across the country was increasing and Chorley benefitted from several. Micro bars were predominantly aimed at people who enjoy different kinds of guest beers and provide a quieter setting in comparison to the larger, noisier

pubs. It was advised that the Fire Authority did not limit the amount of people permitted in the premises at one time; this was a responsibility for the owner to consider.

Members were reassured that any background music would amount to no louder than that of a TV. Although the provision of Live Music would be considered in the granting of the licence, the applicant advised that it was likely that this would not be used on a regular basis and provided reassurances that advanced notification would be given to neighbours if there was. The windows and doors could also be kept shut to prevent noise disruption.

The neighbouring resident informed the Committee that she lived next door to the premises on Babylon Lane and was concerned about the noise which would be generated from the premises and the effect this would have on her two young children. She held concerns regarding the noise in the back yard and potential bad language/smoke that would come over from the smoking shelter. She also advised that her children were asleep by 7.30pm and therefore the noise from emptying bins up until 9.30pm would also be a disturbance.

She had been living in the neighbouring property since June this year, and expressed that had there already been a drinking establishment next door her family would not have moved in. If the application was approved she feared it would leave her family in jeopardy with no other option but to move. She was supportive of local businesses and had no issue with the other surrounding businesses however did not feel this was a suitable application.

Following these concerns, the applicant advised that a sealed smoking shelter with sound proofing could be erected in addition to raising the fence in order to prevent noise and smoke pollution escaping to the neighbouring property. It was also proposed that the bins would be emptied no later than 7pm to minimise noise disruption. The applicant was prepared to offer additional conditions if required as he wanted to work alongside neighbours and to ensure no animosity in the process.

After careful consideration of the representations of the Applicant and the Objectors, and having regard to the guidance issued under S182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy, the Licensing Act 2003 Sub-Committee **RESOLVED to grant the application subject to mandatory conditions and the conditions proposed by the applicant in the operating schedule or where amendments to the conditions have been suggested in the report then as amended and set out in the body of the report. In addition the following conditions to be added to the Premises Licence as members consider them to be appropriate for the promotion of the public nuisance licensing objective;**

- 1. To ensure that the smoking shelter is effectively covered so as to minimise smoke escaping from the premises.**
- 2. Not to empty the bins any later than 7pm.**
- 3. To keep windows closed during the provision of live music.**

**Members were concerned about noise and smoke emanating from the premises and the impact this may have on the surrounding neighbours. Members felt the conditions are appropriate in order to minimise smoke and noise disturbance**

escaping from the premises and for the promotion of the public nuisance licensing objective.

Members also recommended that the applicant sound proofed the adjoining walls between the premises and neighbouring properties to minimise the escape of noise, but it is to be noted that this does not form part of the conditions attached to the premises licence.

The applicant and any person making relevant representations has the right to appeal to the Magistrates Court within 21 days of receiving this notice.

Chair

Date



Report of	Meeting	Date
Director (Customer and Digital)	Licensing and Public Safety Committee	Wednesday 6 <sup>th</sup> February 2019

## UPDATE REPORT

### PURPOSE OF REPORT

- To update the Licensing and Public Safety Committee on the new formation of the Licensing Section and recent changes.

### RECOMMENDATION(S)

- That the Licensing and Public Safety Committee note the contents of the report.

### EXECUTIVE SUMMARY OF REPORT

- Following the formation of the Enforcement Team, the Licensing Section has undergone changes which have resulted in increased efficiencies.
- A recent taxi/private hire operation was undertaken which resulted in high levels of compliance.
- In conjunction with Legal Services, the team has seen a number of successes at the Magistrates Court when defending appeals against decisions of both the General Licensing Sub Committee and the Licensing Act 2003 Committee.

Confidential report Please bold as appropriate	Yes	No

### CORPORATE PRIORITIES

- 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 homes and communities	X	An ambitious council that does more to meet the needs of residents and the local area	

### TEAM FORMATION

- The formation of the enforcement team was approved in principle by Executive Cabinet on 16<sup>th</sup> November 2018, with the formal approval under delegated powers by the Executive Member (Public Protection) on 31<sup>st</sup> January 2018.
- The formation included the appointment of an Enforcement Team Leader (Licensing).

9. The Licensing team, which in previous years had been split between different offices and different teams, has since been co-located within the Single Front Office, leading to an increase in productivity of staff.

#### **COMPLIANCE OPERATION**

10. On 9<sup>th</sup> November 2018 and in conjunction with Lancashire Constabulary, the team carried out a Compliance Operation, targeting private hire and hackney carriages operating in the Borough of Chorley.
11. Two check sites were utilised during the operation to check vehicles entering the Town Centre from both the North and the South of the district.
12. In total, twenty two vehicles were inspected by officers. Four vehicles were issued with Section 68 notices, immediately suspending the licence until identified faults were rectified. Two vehicles were found to have minor defects and were issued with notices requiring improvements within a period of time.
13. Two drivers were found to be driving vehicles without displaying their badges. Following interview at the roadside, it was determined that both drivers were in fact licensed to drive the vehicles and returned that evening to present their badges to officers. Both drivers have been issued with formal warnings.

#### **APPEALS- LA03 Sub Committee**

14. On 10<sup>th</sup> July 2018, the Licensing Act Sub Committee met to consider an application to review the premises licence, made by Lancashire Constabulary, for the premises known as Bunty's Store and Off Licence, 46 Weldbank Lane, Chorley. This was in relation to a visit by the Police and Trading Standards officers where counterfeit and illicit tobacco was found. There were a number of other concerns.
15. Following a full hearing, the decision was made to revoke the premises licence. An appeal was subsequently made by the licence holder to the Magistrates' Court.
16. The matter was heard over two hearings, with the judgement being delivered on 13<sup>th</sup> December 2018. Magistrates decided to dismiss the appeal and ordered the appellant to pay the Council's costs, totalling £1252.

#### **APPEALS- GLSC**

17. On 22<sup>nd</sup> August 2018, the General Licensing Sub Committee met to review the Private Hire and Hackney Carriage Driver's licence of Shakail Ahmed. Mr Ahmed had appeared before the GLSC in May 2018 following a complaint regarding him colliding with hedge whilst driving late at night. Mr Ahmed's vehicle caused damage to property and he failed to stop. Mr Ahmed was issued with a formal warning at the hearing.
18. The hearing in August saw Mr Ahmed following another complaint by a member of the public. It was alleged that he hit and mounted the kerb after having swerved off the road. He was carrying a family at the time.
19. The Sub Committee decided to revoke Mr Ahmed's licence with immediate effect at this hearing.

- 20. In between the sub-committee decision to revoke and the final hearing of the appeal a further complaint was received that Mr Ahmed had on 12 October 2018 driven a member of the public and her young child erratically and in excess of the motorway speed limit whilst not holding a private hire driver licence and in a vehicle which was not licensed as a taxi. This was introduced by the Council in its defence of the appeal as further evidence that Mr Ahmed is not fit and proper.
- 21. Mr Ahmed lodged an appeal to the Magistrates' Court against this decision. The appeal was heard at Preston Magistrates on 16<sup>th</sup> January 2019. Following a full day's hearing, where two licensing officers and Mr Ahmed himself gave evidence, the Bench dismissed the appeal and awarded £1900 costs to the Council.

**IMPLICATIONS OF REPORT**

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

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

**COMMENTS OF THE STATUTORY FINANCE OFFICER**

- 23. There are no comments from the Statutory Finance Officer

**COMMENTS OF THE MONITORING OFFICER**

- 24. The discharge of licensing functions (apart from those relating to scrap metal) is a council function and delegated to Licensing and Public Safety Committee. However staffing and organisation are not themselves the exercise of powers under licensing legislation so may be approved by the Executive.

Asim Khan  
 Director (Customer and Digital)

Report Author	Ext	Date
Nathan Howson	5665	25 <sup>th</sup> January 2019

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