



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 enforced.

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