

MINUTES OF GENERAL LICENSING SUB-COMMITTEE

MEETING DATE **Wednesday, 6 November 2019**

MEMBERS PRESENT: Councillor Matthew Lynch (Chair), and Councillors Terry Brown, Val Counce, Tom Gray and John Walker

OFFICERS: Nathan Howson (Enforcement Team Leader (Licensing)), Carl Gore (Enforcement Officer (Licensing and Empty Properties)), Elizabeth Walsh (Solicitor), Stefanie Leach (Solicitor), Philippa Braithwaite (Democratic and Member Services Officer) and Matthew Simpson (Senior Paralegal)

19.33 Declarations of Any Interests

There were no declarations of interests received.

19.34 Procedures

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

19.35 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.

19.36 GLSC report for taxi incident

The Sub-Committee **RESOLVED to defer this item to allow a late submission of evidence to be investigated.**

19.37 Determination of Application for the Grant of 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, his representative, and an observer were present at the Sub-Committee.

The Enforcement Team Leader (Licensing) informed the Sub-Committee that the applicant had failed to declare he had a licence revoked and a further application for a licence refused by Blackburn with Darwen Borough Council (BwDBC) when applying

for a Hackney Carriage Driver's Licence and Private Hire Driver's Licence at Chorley Council.

On 15 May 2019, the applicant made an application to Chorley Borough Council for a Private Hire Driver's Licence and on 2 October 2019 the applicant made a further application for both a Private Hire and Hackney Carriage Driver's Licence. Members noted that, on both applications, in response to the question 'Have you ever had a licence for a Hackney Carriage/ Private Hire Driver, proprietor licence or an operator licence refused suspended or revoked?' the applicant had answered 'No'.

Although the applicant had failed the Council's Knowledge Test for the first application, Members were advised the applicant was successful in passing this test on his second application. The Enforcement Team Leader (Licensing) advised that during this test the applicant had mentioned in passing that he had previously been licensed by BwDBC.

Following enquiries with BwDBC, it was established that on 24 July 2018 the applicant's Private Hire Driver's Licence was revoked with immediate effect and that the applicant's application for a Private Hire Driver's licence to BwDBC was refused on 13 September 2019. Members noted that the applicant had failed to declare both the revocation and the refusal on his application to Chorley Council. On 24 October 2019, the applicant was interviewed under caution at Chorley Council Offices. During the interview, the applicant admitted that he had made a false statement on his application forms but denied that it was intentional and stated that he had misunderstood the question and that other Council's had different policies as to what had to be disclosed.

The Enforcement Team Leader (Licensing) informed the Sub-Committee of the matters which resulted in the applicant's revocation and refusal, which were serious.

A matter was reported at the victim's school around 21 March 2018. The Police attended and an account was obtained where offences amounting to sexual touching and sexual touching by penetration were disclosed with the offender identified as the victim's biological father, the applicant. The victim's sister also provided some corroboration of the facts. The applicant was interviewed by Police on 28 March 2018 and denied the allegations.

The Police attended the victim's school on 2 May 2018 where she made a statement to say the allegations were fabricated. The Police rejected this and firmly suspected the family had placed pressure on her to withdraw her evidence. The victim's sister also withdrew her evidence. As a result of this decision to withdraw evidence, Child Protection Services were forced to take No Further Action as there was no other supporting evidence to support a prosecution. During the investigation, the applicant had been moved out of the family home and was restricted from having unsupervised access with minors. The matter was placed before the family court but, due to the evidence being withdrawn, the Local Authority had to withdraw the matter.

The Enforcement Team Leader (Licensing) summarised by reminding Members that the Sub-Committee may reach a conclusion on the balance of probabilities about behaviour which might amount to a lack of fitness and propriety of the Applicant. Members noted that the burden rests on the applicant to demonstrate to the Council that he is a fit and proper person.

The applicant's representative circulated a letter from Farley Solicitors stating that there had been no findings of fact in the allegations. He advised that there had also been no prosecution. He stated that the applicant was no longer in the same relationship and was now married with children of his own. He stated that the 'lady was pursuing [the applicant]' and asked the applicant to give his account of the allegations made. The applicant answered that his daughter had complained to the school, that she was 'not strong' and that 'her friends were talking'.

The applicant's representative asked the applicant a series of questions, to which the applicant stated that the allegations were not true, that he had been clear at all interviews that there was no problem, that he was well behaved and there was no case. No pressure had been placed on the daughter to withdraw the allegations and that she had withdrawn them after a few days.

The applicant's representative advised that the applicant's partner at the time had refused to give any evidence or a statement to BwDBC Licensing Officers. He stated that the allegation had come out at the school but that the initial report had come from the mother, who then did not provide evidence or a statement. Subsequently no finding of fact was made. The Council's Legal Officer asked for clarification as to whether the mother or children made the allegations. The applicant's representative confirmed that the children had made them but later withdrawn them, and that there had been no pressure on the daughter. The applicant's representative informed Members that the applicant was now living with someone else and had children with them.

The applicant's representative asked the applicant a series of questions regarding his application. These were translated and the applicant responded directly that he had been 'very clean' in Blackburn, where he had held a taxi licence for 9-10 years, and (outside of these allegations) hadn't had any complaints, convictions or motoring offences.

When asked why he did not declare the revocation and refusal on his Chorley applications, the applicant stated that every Council has different rules and different systems. Translated through the observer, the applicant elaborated that his daughter had helped him by translating and filling out the form. For the declaration of previous refusals/revocations she had translated the questions as "Do you have a badge?" and, as the applicant's badge had been revoked, he had answered "No". The applicant acknowledged it was his fault and confirmed he would declare any such information in the future.

In response to questions from the Chair, the applicant confirmed that, based on his 9-10 years' experience as a taxi driver in Blackburn, his knowledge of licensing law and procedures was good. The Chair asked whether the applicant had signed both applications to Chorley Council having read them, and the applicant responded that he had.

The Council's Legal Officer highlighted the declaration on the application form and asked the applicant (through the observer) whether he understood what it meant and whether he had understood it at the time. The applicant responded that he understood it now but had been confused at the time. The Council's Legal Officer asked whether the applicant had contacted the Council to ask for help, and the applicant said that he had not.

In response to questions from the Enforcement Team Leader (Licensing) the applicant confirmed (through the observer) that he had no ex-partner as referred to by his representative. He had four children, all with the same mother, who he was still married to and still with. In response to a follow-up question, the applicant confirmed the allegations had not been made as a result of him being in another relationship and being pursued by someone else.

In response to further questions it was noted that no appeal had been made against the revocation of the applicant's licence but that the subsequent refusal of his subsequent application was being appealed. The Enforcement Team Leader (Licensing) referred to the transcript of the interview held at Chorley Council Offices on 24 October 2019 and asked the applicant why he had said at that time that his daughter had "absolutely" read the question out to him, but was now saying that his daughter asked whether he had a badge. The applicant (through the observer) responded that his answer was the same, that his daughter had read out the question but translated it as 'Do you have a badge?'

In response to final questions from the Chair, the applicant (through the observer) advised that for his first application to Chorley Council he had been helped by a friend from Blackburn and for his second application to Chorley Council he had been helped by his daughter.

In summary, the applicant's representative advised Members that there had been no findings of fact in the allegations, the daughter had withdrawn her accusations and there had been no court proceedings. With regards to the failure to declare the previous revocation and refusal, this had been a mistake and wasn't done deliberately. There had been no other complaints, convictions or pending convictions against the applicant and, finally, the applicant's representative advised there was a pending appeal on BwDBC's refusal.

The aim of the local authority of the taxi and private hire trades is to protect the public. Pursuant to Section 59 and 51 of the Local Government (Miscellaneous Provisions) Act 1976 a Local Authority should only grant a licence to drive a hackney carriage or a private hire driver vehicle provided that they are satisfied that the applicant is a fit and proper to hold a licence and only grant a licence to drive a hackney carriage or a private hire vehicle provided that they are satisfied the applicant is fit and proper to hold a licence.

As in line with our Safeguarding Policy, whilst there are no convictions to consider it is important to take steps to give sufficient weight to relevant personal relationships and associations with known or suspected criminals, complaints, allegations, investigations, arrests and charges, even where convictions are not secured, when making any decisions that can impact on the safety of the public. Members noted that the applicant has not been convicted of a criminal offence, but that due weight can be given to the circumstances.

After hearing from the Applicant, Members felt that the Applicant was not a fit and proper person to hold the Licence and therefore Sub-Committee **RESOLVED to refuse the application for a Private Hire and Hackney Carriage Driver's Licence for the following reasons:**

- 1. The Applicant failed to declare that he had had his licence revoked and refused at Blackburn this was on two separate occasions. It was only by**

chance that the Applicant disclosed it to the Licensing Officer that he had previously had a licence at BwDBC.

2. As the applicant sought advice from two separate people and owing to his experience as a taxi driver Members felt that the applicant should be familiar with the application process when declaring revocations or refusal of licences. Failure to disclose this knowingly demonstrates that he is not a fit and proper person to hold a licence.
3. Whilst the Applicant was not convicted of any sexual offences against a child and whilst there are no convictions to consider, Members did look at the Council's Safeguarding Policy. Members are required to consider all policies within its remit and it is important to take steps to give sufficient weight to relevant personal relationships and associations with known or suspected criminals, complaints, allegations, investigations, arrests and charges, even where convictions are not secured, when making any decisions that can impact on the safety of the public. Members noted that whilst the applicant had not been convicted of a criminal offence, the police withdrew the prosecution because the alleged victim and her sister decided to withdraw their statements. It was noted that it was the Police's belief that pressure had been applied for the victim and her sister to withdraw their statements. Members felt that they had to take this into consideration and felt that due weight can be given to the circumstances. Members felt that the Applicant did not provide enough information with regards to the allegations. The local authority of the taxi and private hire trades is to protect the public and they must be satisfied the applicant is fit and proper to hold a licence. In this case this added weight that the Applicant was not a fit and proper person.

Members wanted to let the Applicant know that should he apply here or any other licensing authority in the future it is important to declare on his application form any revocations, refusals or suspensions.

Should the applicant wish to appeal this decision he has 21 days to do so from the receipt of the decision notice.

Chair

Date