



Minutes of	General Licensing Sub-Committee
Meeting date	Wednesday, 7 July 2021
Members present:	Councillor Matthew Lynch (Chair), and Councillors Tom Gray, Alan Platt, Christine Turner and Jean Sherwood
Officers:	Nathan Howson (Enforcement Team Leader (Licensing)), Tasneem Safdar (Shared Legal Services Team Leader) and Coral Astbury (Democratic and Member Services Officer)

21.46 Declarations of Any Interests

There were no declarations of any interests.

21.47 Procedure

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

21.48 Exclusion of the Public and Press

Resolved (Unanimously):

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.

21.49 Determination of Application to Renew Hackney Carriage and Private Hire Driver Licence

The Director of Planning and Development submitted a report for the General Licensing Sub-Committee to determine whether the Applicant was a fit and proper person to hold a hackney carriage and private hire driver licence.

Mr Nathan Howson (Enforcement Team Leader – Licensing) presented the report to the panel. He provided that the applicant was before the panel due to convictions which were obtained after the grant of the licence in 2018 and which the applicant had failed to declare.

On 7 June 2021, the applicant submitted an application to renew both licences. In support of this application, the applicant provided an Enhanced Certificate from the Disclosure and Barring Service which detailed the following convictions:

Conviction Date	Offence(s)	Penalty
19.12.2018 Burnley Crown Court	Conceal/ disguise/ convert/ transfer/ remove criminal property on 17 June 2014. Contrary to S.327 and S.334 of the Proceeds of Crime Act 2002.	Imprisonment 45 months, Forfeiture of seized items. Victim surcharge £120
19.12.18 Burnley Crown Court	Facilitate the acquisition/ acquire/ possess criminal property on 17th November 2015 Contrary to S.329 and S.334 of the Proceeds of Crime Act 2002	Imprisonment 12 months concurrent

The panel were informed that the offences were of dishonesty in nature and the Council's Safeguarding and Suitability Policy is a relevant consideration in reaching a decision on the suitability of the applicant. The Policy stipulates that the Council would take a serious view of any convictions involving dishonesty and an applicant with convictions of dishonesty which are less than 5 years from the conviction date or release from prison, whichever is the later, is unlikely to be granted a licence. In particular an application would be refused where the applicant has a conviction which is less than 3-5 years prior to the date of application. Mr Howson confirmed that the applicant was convicted on 19/12/18 and although he was released from prison on 15/6/20, this was a conditional release with the sentence expiring on the 11/9/22.

It was explained that the applicant had first applied to the authority on 13/05/2018 and was asked "*are there were any pending matters, including criminal, civil or traffic offences for which you are being investigated by any authority in the UK or in any other country.*" The applicant responded by selecting no and had signed a declaration that the information given was true and complete.

As a result, both a Hackney Carriage and Private Hire Driver Licence was granted. The PHD licence included a condition which required the licence holder to notify the Council of any conviction or caution recorded against him or the imposition of any endorsable or non-endorsable fixed penalty within 7 days of such conviction or caution being imposed.

Mr Howson explained that, although the applicant had not been convicted of an offence under the Local Government Miscellaneous Provisions Act 1976, he had clearly given false information and this should be a consideration for the panel, when reaching a decision.

Members were referred to the fit and proper person test and explained that the burden is on the applicant to demonstrate to the satisfaction of the Council that they are a fit and proper person. Members were further advised of the options available to them. The options being, to either grant or refuse to grant the Hackney Carriage and Private Hire Driver licences.

Mr Howson was questioned by the panel as to whether there had been any other issues or complaints made against the applicant. The panel were informed that there had been no other complaints or issues on record, however, a large duration of the licence period had been spent in prison.

The applicant provided that he had spent 18 months in prison and was released in June 2020. He explained to the Panel that he was in a difficult situation with no job and a family to support. He stated that he was a trusted man, peaceful and not dangerous. Mr Howson reminded the Panel that an individual's personal circumstances were not a consideration when determining the suitability of the applicant.

The Panel queried whether the applicant had completed the initial application form. In response, the applicant confirmed that the initial application form had been completed on his behalf by somebody else, but he had informed them that he had been arrested in 2014 and was on bail. The applicant provided that the individual that assisted him in completing the form advised him that, although the Police investigation was incomplete, the DBS was clear. The Panel sought clarification from the applicant that he understood that it was his responsibility to ensure the information on the form was correct, however this was not given. The Applicant told the Panel that he thought it was the responsibility of the person who had completed the application for him to make sure the information was correct.

The applicant was asked on two occasions whether he understood the seriousness of the convictions and the questionability this placed over his honesty and trustworthiness. The applicant asserted he understood and that he informed the individual that completed the form for him.

The applicant further asserted that he had informed the Council of his conviction's three times over the telephone. Mr Howson confirmed to the Panel, that no such conversation had taken place as there would have been records placed on file.

Resolved: (Unanimously)

After careful consideration of the written and oral representations, and taking into account all of the relevant factors, the sub-committee decided to **refuse to grant the applicant a Private Hire and Hackney Carriage licence pursuant to Section 61 (1) (a) (i) of the Local Government (Miscellaneous Provisions) Act 1976 on the grounds that he is not a fit and proper person for the following reasons:-**

- 1. The applicant has been convicted of two very serious offences involving dishonesty during the course of his licence.**
- 2. In accordance with the Council's safeguarding and suitability policy an applicant with convictions of dishonesty which is less than five years of the conviction date, is unlikely to be granted a licence. There were no exceptional circumstances which would have led the committee to depart from their policy.**
- 3. The applicant had a responsibility to inform the Council at the time when he first made an application to this Council of pending convictions, which he failed to do. The applicant may well have been ill advised but the responsibility was his.**

- 4. The applicant failed to inform the Council of his convictions in writing. Although, the applicant stipulated that he had contacted the council on three occasions, no records have been found of this.**

The applicant has 21 days to appeal to the local Magistrates Court on receipt of the Decision Notice.

Chair

Date