

<b>Minutes of</b>	<b>General Licensing Sub-Committee</b>
<b>Meeting date</b>	<b>Thursday, 31 March 2022</b>
<b>Members present:</b>	Councillor Margaret France (Chair) and Councillors Margaret France, Harold Heaton, Christine Turner and Jean Sherwood
<b>Officers:</b>	Nathan Howson (Enforcement Team Leader (Licensing)), Tasneem Safdar (Shared Legal Services Team Leader) and Coral Astbury
<b>Apologies:</b>	Councillor Matthew Lynch and Jenny Whiffen

### **13 Declarations of Any Interests**

There were no declarations of interest.

### **14 Procedure**

The Chair outlined the procedure to be followed.

### **15 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.

### **16 Review of Private Hire and Hackney Carriage Driver Licence AA**

On 31 March 2022 at 6:30pm, a sub-committee hearing was convened in respect of a review of a Private Hire and Hackney Carriage Driver Licence.

The members were Cllr M France (Chair), Cllr Mark Clifford, Cllr Harold Heaton, Cllr Christine Turner and Cllr Jean Sherwood. The Driver and his legal representative were also present.

The Enforcement Team Leader (Licensing), Mr Nathan Howson, outlined the report of the Director of Planning and Development and explained the Driver had been referred to the sub-committee because he had been convicted of an offence after the grant of

his licence, taking him within the Council's Safeguarding, Suitability and Convictions Policy for Taxi Licensing and Hackney Carriage and Private Hire Licensing Policy.

Members noted the Driver had held his licence since 2014 and since the issue of the licence, he had renewed in the normal way. The Driver had only been subject to minor enforcement action in 2019, when he was issued a warning letter as he failed to report a road traffic collision within 72 hours.

The Enforcement Team Leader (Licensing) explained that he had received an email from the Driver on 2 March 2022 asking what he was required to do to notify the Council of a new conviction. Mr Howson responded and received another email from the Driver on 3 March 2022 which provided details of the conviction and sentencing information from the Magistrates Court. The Driver had provided the information within seven days as required by the condition on his Private Hire licence. Mr Howson confirmed that he had spoken to Lancashire County Council's (LCC) Trading Standards team following notification and a copy of their response was included at Appendix 3.

The Enforcement Team Leader (Licensing) advised that the Driver had been convicted of an offence under Section 327 of the Proceeds of Crime Act 2002 (POCA) and was fined £128 and ordered to pay a victim surcharge of £34 and costs of £500. Referring to the Council's Safeguarding and Suitability Policy the Enforcement Team Leader (Licensing) explained that the Council takes a serious view of any convictions involving dishonesty and an application would normally be refused or revoked where the condition was within 3-5 years.

The Enforcement Team Leader (Licensing) highlighted the fit and proper test, as defined by the DfT's Statutory Taxi and Private Hire Vehicle Standards and explained the options available to the sub-committee.

In response to a member enquiry, the Enforcement Team Leader (Licensing) advised that the Driver had no previous convictions.

The Legal Representative on behalf of the Driver, asked the Enforcement Team Leader (Licensing) if he had spoken to Trading Standards for their view on the Driver's culpability and if they thought he had been dishonest. In response, the Enforcement Team Leader (Licensing) stated that he had and that the Driver had told the Police that he knew the goods were counterfeit, however the Driver later told Trading Standards when interviewed that he did not know the counterfeit property was in the building as he never went upstairs. Mr Howson explained that the Driver had discrepancies in both recollections given to the Police and Trading Standards.

The representative, on behalf of the Driver, addressed the sub-committee and explained the licence holder had been convicted of money laundering, which was not commonly heard in the Magistrates' Court. The only reason the Court heard the offence was due to the value of money transferred (£945). The Driver jointly rented a unit with his cousin Mr A. the Driver used the ground floor of the unit whilst his cousin used the upstairs floor. The Driver's cousin purchased clothing and trainers from Cheetham Hill Market in Manchester and began selling the items. As Mr A only had a bank account similar to that of a Post Office account, he was unable to access online banking. Mr A asked the Driver if he could allow payments to be made into his account so that he could check that payment had gone through.

The Driver's representative explained that the Driver trusted his cousin as he was of good character and also had no previous convictions and allowed him to use his bank account. The transactions deposited were not large amounts and were only for the value of £30 or £40. Mr A then moved the counterfeit goods into the joint unit and the Driver asked his cousin where the goods came from. The Driver's representative explained that Mr A told his cousin he purchased the goods for £150 from Manchester. The Driver then realised that this was too good to be true and told his cousin he did not want any more involvement. It was the representative's view that this is where the money laundering occurred as the Driver had developed suspicion of his cousin.

The Driver's legal representative explained to the sub-committee that in order to be dishonest you must have a gain and the Driver did not gain anything from the transactions as he would withdraw the money and give it to his cousin. The Driver only allowed his bank account to be used as Mr A did not have his own bank account with online banking capability.

The Driver's representative advised the sub-committee that the Driver had been to court and pleaded guilty, putting his livelihood on the line. It was his view that this was a sign of good character and that of an honest person. The Driver then proceeded to contact the Council and advise them of his conviction even though this would not show on his DBS until his licence was due for renewal. The representative explained that prior to being licenced by Chorley the Driver had been licenced by Hyndburn for 8 years. The Driver had made a mistake and did not benefit from this offence.

The representative referred to the wording of the fit and proper test and explained that the Driver had continued to drive since the offence occurred in 2021 and no complaints had been received by the authority. It was his view, that the time which had been afforded gave the Driver the opportunity to demonstrate he was fit and proper. It was his view that the Driver was indeed fit and proper.

Members noted that the documentation stated the Driver was a car mechanic as opposed to a licenced Driver and asked the Driver how many hours he would spend working as a Private Hire Driver. The Driver stated that he would drive for 40 hours a week collecting passengers and would only work part time on his own classic car as a hobby.

Members asked the Driver why the Police would record his profession as a car mechanic when he was working full time as a Driver, in response The Driver explained the Police had asked him what he was doing at the unit so he told them he was working on his car.

The Enforcement Team Leader (Licensing) asked the Driver that, at some stage, he became aware the goods were counterfeit. The Driver confirmed that was true. The Enforcement Team Leader (Licensing) then asked the Driver if he knew that the selling of the goods would be unlawful. The Driver replied and said that when his cousin moved the goods to the unit and asked him to look, he got suspicious. Mr A then advised the goods were counterfeit and the Driver stated he did not want anything to do with the goods or transactions. After this, one further transaction was paid into the Driver's bank account without his knowledge. The Driver only found out when his cousin made him aware. The Driver confirmed he knew that selling counterfeit goods was against the law.

The Enforcement Team Leader (Licensing) referred to the definition of dishonesty as given by the Driver's legal representative and explained that for taxi licensing, dishonesty has a broader definition and considers a holistic view of that person. In taxi licensing, an act could be dishonest without there being a gain and that the policy was not referring to the legal definition of dishonesty.

Members sought clarification on the rental of the unit and how the upstairs was accessed. In response, the Driver confirmed that he rented the unit jointly with his cousin. To access the upstairs floor his cousin would have to walk through the downstairs floor rented by the Driver due to the stair placement.

The Enforcement Team Leader (Licensing) referred to the police account which described the layout of the upstairs floor as like a shop premises and asked the Driver if he ever saw people entering the unit. In response, the Driver stated that he did not see people entering the unit, but they may have attended when he was not present.

In response to his legal representative, the Driver stated that he would visit the unit a minimum of once a week and at the most, two or three times.

The Driver's legal representative clarified his earlier point on dishonesty and explained that individuals knew what dishonest acts were and how they looked. It was his view that in circumstances such as the Driver's you would expect there to be a gain.

In summing up, the Driver's legal representative explained that Trading Standards had investigated the offence and did not find any evidence that the Driver had taken part in the sale of counterfeit goods. He referred to case law and provided that members should not go behind the facts of the conviction. There was no evidence that the Driver had any part in the selling of counterfeit goods, his mistake was allowing his cousin to use his bank account.

## **Decision**

RESOLVED:

The Sub Committee have carefully considered this case, taking into account the fit and proper person test of hackney carriage and private hire licensing policy, safeguarding and suitability policy for taxi licensing and the DFT statutory standards for taxi and private hire vehicle.

It is noted from consideration of the documentation before the panel that the Driver provided different accounts to the police when they attended the unit on 16 February 2021 to the account provided to Trading Standards later on, when questioned by them about his knowledge, in respect of the counterfeit goods at the unit.

At Court the Driver accepted that he had committed an offence over a period of nine months, of converting Criminal Property by allowing monies to be deposited into his bank account. This in itself, in the mind of the Sub Committee, goes to the heart of the character of the Driver, especially questioning his dishonesty. Drivers of Private Hire Vehicles are expected to be persons of trust and in this instance, having considered the matter in detail the Sub Committee find that the Driver is no longer a fit and proper person.

When questioned tonight by the Panel, the Driver confirmed he knew or had grounds to suspect that the property at the unit was counterfeit and therefore the money deposited into his bank account represented proceeds of criminal activity. The Driver confirmed that he was aware, for a period of time, that his cousin was selling counterfeit goods from the upstairs unit, but he did not remove himself from the situation.

He explained to the committee there was only one transaction which he took after finding this out, however, the Driver was convicted of an offence of converting criminal property over a period of nine months which he pleaded guilty to at Court.

The conviction confirms he had the necessary mental element to commit an offence which is of a dishonest nature, as per the Councils policy. The Sub Committee did question how long the offence would have continued to be committed had the Police not attended the premises.

In their mind's as the Driver did not proactively remove himself from the unit or bring it to the attention of the relevant authorities, he could no longer be considered to be a fit and proper person for the reasons outlined above. For the reasons outlined above, the Panel have decided to revoke the Driver's Private Hire licence pursuant to Section 61 (1) (A) of the Local Government Miscellaneous Provisions Act 1976. The Driver, however, has the right to appeal this decision within 21 days to the Magistrate's Court upon receiving the written decision.

Chair

Date