

General Licensing Sub-Committee

Wednesday, 8 February 2012

Present: Councillor Stella Walsh (Chair) and Councillors Alison Hansford, Marion Lowe, Mick Muncaster and John Walker

Also in attendance: Councillors Alex Jackson (Senior Lawyer), Stephen Culleton (Public Protection Officer) and Dianne Scambler (Democratic and Member Services Officer)

12.LSC.45 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Pauline Phipps.

12.LSC.46 DECLARATIONS OF ANY INTERESTS

No declarations of interest were received.

12.LSC.47 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

12.LSC.48 SECTION 61 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976. APPLICATION FOR A PRIVATE HIRE DRIVERS LICENCE

The Sub-Committee considered a report of the Director of People and Places drawing to Members' attention a conviction that had been revealed on an application received by a driver and asking them to consider whether to take any action under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The driver had renewed his private hire driver licence on 11 May 2011 and did not declare any convictions, cautions or fixed penalty notices on his application contrary to the conditions attached to his private hire driver licence and legislation requiring material information to be disclosed.

On 22 November, officers received a Criminal Record Bureau (CRB) disclosure in respect of the driver that revealed a conviction against him. In 1990, the driver had been found guilty of the offence on Indecent Assault; he had received an Absolute Discharge and costs of £20.00.

The driver had failed to inform the Council at subsequent renewal opportunities of the offence recorded against him. However officers were aware that the driver had completed a CRB disclosure in November 2008, it is likely that this conviction would have appeared on that disclosure and was not brought to the Members of the Sub Committee at that time.

The driver attended the Council offices on 12 January 2012 to offer an explanation to the disclosed offence.

The Public Protection Officer reported that the driver had not been convicted of any other offence since. He held a clean driving licence and had not come to the attention of the Council at any time during his licence period.

The Sub-Committee considered all representations, taking in to account the representations from the driver, his representative and the Council's Public Protection Officer.

After carefully considering and taking due account of the relevant factors, the Sub-Committee **RESOLVED not to take any action in relation to the driver's private hire driver licence but to issue a warning as to future conduct for the following reasons:**

(i) Members noted that the absolute discharge was made over twenty years ago and was the least severe option available to the court.

(ii) Members acknowledged that the driver had been a licensed taxi driver in Chorley for very many years and that there were no reported complaints against him. His driving record is impeccable.

(iii) Members were however concerned that the driver had failed to declare the matter on his application form. Members acknowledged that it was recorded as a conviction on his CRB disclosure, however as such disclosures are only received every three years, it is essential that taxi drivers are completely honest on their annual renewal forms.

12.LSC.49 TO DETERMINE SUSPENSION NOTICES ISSUED UNDER SECTION 61 (2B) OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee considered a report of the Director of People and Places asking Members to consider upholding the suspension of the private hire and hackney carriage driver licences following information received from Lancashire Constabulary regarding matters of a serious nature.

The matters were of such a serious nature that the Director of People and Places had suspended the driver's private hire and hackney carriage driver licences on 22 December 2011, under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976, with immediate effect.

That information indicated that the driver, had been arrested for offences relating to a Section 18 wounding under the Offences Against The Person Act 1861, that had been committed in connection with a Chorley Borough Council licensed private hire vehicle.

The details contained within the Police Intelligence report had not been reproduced due to on-going police investigations and legal proceedings. However Members were asked to have high regard for the reliability and substance of this intelligence as the information was graded as a B.1.1 under the Police Five Point Intelligence System, with A.1.1 being the highest and E.1.1., being the lowest.

On 13 January 2012, the driver was asked to attend the Council offices at his convenience to offer an explanation to the allegations that had been made against him. The driver had not taken up the offer.

The driver had been bailed until 3 February 2012 and Members were informed at the meeting that this had been extended until 15 February 2012, whereby, the driver would be interviewed further by Lancashire Constabulary about the incident.

A letter was circulated at the meeting from the drivers Solicitor asking Members to reinstate his licences as the charges remained unproven.

The driver explained that he had not attended the council's offices as his father had died the day after the incident. He also gave his version of events to the Members of the Committee.

The Sub-Committee considered all representations, taking in to account the representations from the driver, his representative and the Council's Public Protection Officer.

After carefully considering and taking due account of the relevant factors, the Sub-Committee **RESOLVED to suspend the drivers private hire and hackney carriage licences with immediate effect on the grounds of public safety, under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976. Members also RESOLVED that Public Protection Officers are requested to bring the matter back before the Sub Committee as soon as possible after any criminal proceedings are concluded or until the Council is aware that a formal decision is made not to prosecute the driver for the following reasons:**

- (i) **The driver is accused of a serious assault which occurred whilst he was driving a taxi.**
- (ii) **The driver appeared to have used a metal object as a weapon.**
- (iii) **Members realise that a person being investigated by the police, may not wish to speak to third parties about the accusation, but at the same time, Members have a duty to protect the public and can only do so based on the information put before them. Members noted that the driver had failed to attend an interview to explain in more detail about the incident. Members were sympathetic to the reasons the driver gave, namely his father had passed away, but considered that even in such difficult circumstances he could at some point have availed himself of the opportunity to give his version of events to council officers.**
- (iv) **As these allegations are unproven, in the interests of fairness, the drivers interest in the licences should be preserved. The suspension achieves this need for fairness whilst protecting the public.**

Chair