

General Licensing Sub-Committee

Wednesday, 7 March 2012

Present: Councillor Keith Iddon (Chair) and Councillors Steve Murfitt, Pauline Phipps, Debra Platt and Ralph Snape

Also in attendance: Zeynab Patel (Solicitor), Stephen Culleton (Public Protection Officer) and Dianne Scambler (Democratic and Member Services Officer)

12.LSC.50 APOLOGIES FOR ABSENCE

No apologies were received.

12.LSC.51 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest.

12.LSC.52 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.53 SECTION 61 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 REPORT

The Sub-Committee considered a report of the Director of People and Places to determine whether or not the driver was a fit and proper person to continue to hold his Private Hire Driver's Licence under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The application could only be determined by the General Licensing Sub-Committee as a result of the drivers failure to disclose information that is relevant for the determination of an application for a Private Hire Driver's Licence resulting from the Group 2 Medical check. Members were reminded that failing to disclose information that is relevant for the determination of an application for a Private Hire Driver's Licence is an offence under Section 57 of the Local Government (Miscellaneous Provisions) Act 1976. The hearing should satisfy officers whether it is or is not in the public interest to prosecute for this offence.

The driver first applied for his Private Hire Driver's Licence on the 31 October 2007; he did not at that time complete a Group 2 Medical. He had continuously renewed his entitlement to his licence and he currently held a Chorley Council Private Hire Driver's Licence which would expire on the 31 October 2014. The most recent renewal application had been made on the 31 October 2011. The Sub-Committee were provided with a copy of the application. It was evident from the completed application that the driver had not taken the opportunity of renewal to inform the Council of his medical condition relating to his eyesight. It would be reasonable to assume that the driver had full knowledge of his medical condition at the time of completing the application, as he had attended an out-patient's clinic on the 18 October 2011. A letter referring to the outcome of the appointment was provided to the Sub-Committee.

On 4 February 2012 the driver was required to complete a Group 2 Medical in support of his Private Hire Driver's Licence. A copy of the completed Group 2 Medical was provided to Members and the Public Protection Officer drew Members attention to the accompanying letter from Lancashire Teaching Hospitals detailing issues relating to the driver's vision.

The issues that had been raised in the medical had been referred to the Council's Medical Advisor Dr Parker, who recommended that the following provisions were adopted by the Council in relation to the driver's Private Hire Driver's Licence and stated that; "the driver's visual acuity is within acceptable limits for driving. He should provide a copy of his ophthalmic clinic (review) letter in 9 months, or failing that he needs to provide an up-to-date eye examination and eye sight test (either from his GP or from a ophthalmic optician) before the end of this year. An 'annual' review of his eye-sight should be satisfactory, as long as he also understands his legal responsibility to inform DVLA and yourselves if he thinks his eye-sight is deteriorating".

The driver did not attend the Sub-Committee due to an administrative error which confirmed the meeting was going to take place at 2.00pm instead of 10.00am, however prior to the Sub-Committee meeting, the driver had met with Officers on 15 February 2012 to address the issues. The driver stated that he did not believe he was required to inform the Council with the concerns over his eyesight as he had been advised the condition did not at that time affect his ability to drive. The driver also stated that he realised how important his health was in relation to being a safe driver. He indicated that he would surrender his existing Private Hire Driver's Licence on the understanding that the conditions referred to at paragraph 10 below would apply. The Public Protection Officer re-confirmed to the Committee that the driver was prepared to surrender his current Licence to avoid the revocation of his licence appearing on his record. The Committee took the view that the Public Protection Officer was able to advise in good faith of the driver's stance on his medical condition and that the driver had understood clearly the effect the Group 2 Medical report had on his Licence.

The driver had stated that he has an appointment with a consultant on 27 February 2012 with a view to arranging surgical treatment in the future. Members were reassured that the driver had taken steps to address the prognosis given by the hospital in October 2011.

Members were made aware, Private Hire / Hackney Carriage Drivers are only required to undergo a Group 2 medical on reaching the age of 45 and then every 5 years thereafter. It would therefore be inappropriate to take any action with regards to this matter, as the driver would not ordinarily require a further medical examination until February 2017.

The Sub-Committee considered all aspects of the case, including the information provided by the Public Protection Officer as set out in the report and on behalf of the driver of his medical circumstances. Members were reminded that the condition affecting the driver is a degenerative condition and will likely deteriorate his eyesight if left untreated. It is therefore reasonable to address this matter without delay.

The Sub-Committee **RESOLVED** unanimously to accept the surrender with immediate effect of the driver's Private Hire Drivers Licence and to enable the driver to apply for a new Private Hire Driver's Licence which shall be granted to meet the fit and proper test by attaching the following conditions to the Licence:

- (a) The Private Hire Driver's Licence will expire on the 31st October 2014;
- (b) The licence shall be issued in addition to the conditions already attached to such licences;
- (c) That the driver shall provide an eye examination and eye sight test (either from his GP or from a ophthalmic optician) conducted in the month of July 2012 and this is presented to Officers of the Council by

the 1 August 2012. The same provision shall be required annually thereafter until the expiry of the Private Hire Drivers Licence, a statement forming part of that test shall clearly state that the eyesight test was conducted in accordance with Group 2 Medical standards.

- (d) On any application for the renewal of the drivers Private Hire Drivers Licence, the driver will in addition to any other requirements be required to provide an eye examination and eye sight test (either from his GP or from a ophthalmic optician) and a statement forming a part of that test shall clearly state that the eyesight test was conducted in accordance with Group 2 Medical standards, This same provision shall be required annually thereafter and that the report is presented to officers not later than 7 days from the last day of this requirement,
- (e) To remind the driver of his responsibilities to inform the Council and any other Authority of any changes in his circumstance that would have a bearing on his ability to hold permissions to drive Private Hire / Hackney Carriage Vehicles.
- (f) That any future breach of conditions attached to the driver Private Hire Driver's Licence will likely result in the suspension and or revocation of that licence.

The Sub-Committee asked the Chair to meet the driver at 2.00pm to explain the decision and its implications.

The Chair requested that in the event the driver does not accept the Sub-Committee's decision, the review of the current Private Hire Driver's Licence will be reported to a Sub-Committee meeting with the attendance of Councillor Keith Iddon (Chair) and Councillors Steve Murfitt, Pauline Phipps, Debra Platt and Ralph Snape as they are fully aware of the background to the case.

Chair