

## Licensing and Public Safety Committee

Wednesday, 6<sup>th</sup> July 2022, 6:30pm  
Council Chamber, Town Hall, Chorley

You can watch the YouTube stream by clicking [here](#).

### Agenda

#### Apologies

##### 1 **Declarations of Any Interests**

Members are reminded of their responsibility to declare any pecuniary interest in respect of matters contained in this agenda.

If you have a pecuniary interest you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

##### 2 **Public Questions**

Members of the public who have requested the opportunity to ask a question(s) on an item on the agenda will be asked to put their question(s) to the Committee. Each member of the public will be allowed to ask one supplementary question within his/her allocated 3 minutes.

<https://democracy.chorley.gov.uk/documents/s67429/Appendix%203%20Standing%20Orders%20Aug%2016.pdf>

#### Minutes of the Licensing and Public Safety Committee

##### 3 **Minutes of meeting Wednesday, 3 November 2021 of Licensing and Public Safety Committee**

(Pages 5 - 8)

Minutes of the last meeting held on Wednesday, 3 November 2021, are attached to be agreed as a correct record for signing by the Chair.

#### Minutes of the General Licensing Sub-Committee

##### 4 **Minutes of meeting Wednesday, 3 November 2021 of General Licensing Sub-Committee**

(Pages 9 - 12)

Minutes of the last meeting held on Wednesday, 3 November 2021, are attached to be agreed as a correct record for signing by the Chair.

- 5 **Minutes of meeting Monday, 13 December 2021 of General Licensing Sub-Committee** (Pages 13 - 18)

Minutes of the last meeting held on Wednesday, 13 December 2021, are attached to be agreed as a correct record for signing by the Chair.

- 6 **Minutes of meeting Wednesday, 2 March 2022 of General Licensing Sub-Committee** (Pages 19 - 22)

Minutes of the last meeting held on Wednesday, 2 March 2022, are attached to be agreed as a correct record for signing by the Chair.

- 7 **Minutes of meeting Wednesday, 25 May 2022 of General Licensing Sub-Committee** (Pages 23 - 28)

Minutes of the last meeting held on Wednesday, 25 May 2022, are attached to be agreed as a correct record for signing by the Chair.

- 8 **Minutes of meeting Thursday, 31 March 2022 of General Licensing Sub-Committee** (Pages 29 - 34)

Minutes of the last meeting held on Thursday, 31 March 2022, are attached to be agreed as a correct record for signing by the Chair.

#### **Minutes of the Licensing Act 2003 Sub-Committee**

- 9 **Minutes of meeting Monday, 15 November 2021 of Licensing Act 2003 Sub-Committee** (Pages 35 - 40)

Minutes of the last meeting held on Monday, 15 November 2021, are attached to be agreed as a correct record for signing by the Chair.

- 10 **Minutes of meeting Wednesday, 24 November 2021 of Licensing Act 2003 Sub-Committee** (Pages 41 - 48)

Minutes of the last meeting held on Wednesday, 24 November 2021, are attached to be agreed as a correct record for signing by the Chair.

- 11 **Minutes of meeting Wednesday, 23 February 2022 of Licensing Act 2003 Sub-Committee** (Pages 49 - 56)

Minutes of the last meeting held on Wednesday, 23 February 2022, are attached to be agreed as a correct record for signing by the Chair.

- 12 **Consideration of Criteria for the Allocation of a New Hackney Carriage Vehicle Licence** (Pages 57 - 62)

Report of the Director of Planning and Development attached.

Chief Executive

Electronic agendas sent to Members of the Licensing and Public Safety Committee Councillor Matthew Lynch (Chair), Councillor Margaret France (Vice-Chair) and Councillors Mark Clifford, Magda Cullens, Gordon France, Tom Gray, Harold Heaton, Terry Howarth, Hasina Khan, Roy Lees, Michelle Le Marinel, Dedrah Moss, Alan Platt, Jean Sherwood and John Walker.

If you need this information in a different format, such as larger print or translation, please get in touch on 515151 or [chorley.gov.uk](http://chorley.gov.uk)

[To view the procedure for public questions/ speaking click here and scroll to page 119](#)

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**Minutes of**                                 **Licensing and Public Safety Committee**

**Meeting date**                                 **Wednesday, 3 November 2021**

**Members present:**             Councillor Matthew Lynch (Chair), Councillor Margaret France (Vice-Chair) and Councillors Mark Clifford, Gordon France, Tom Gray, Terry Howarth, Hasina Khan, Alan Platt, Jean Sherwood and Christine Turner

**Officers:**                                 Nathan Howson (Enforcement Team Leader (Licensing)), Alex Jackson (Legal Services Team Leader) and Coral Astbury (Democratic and Member Services Officer)

**Apologies:**                                 Councillors Roy Lees and John Walker

**21.L.1 Declarations of Any Interests**

None.

**21.L.2 Public Questions**

No public questions were received.

**21.L.3 Minutes of meeting Wednesday, 10 February 2021 of Licensing and Public Safety Committee**

Resolved:

That the minutes of the meeting held Wednesday, 10 February 2021 are approved as a correct record for signing by the Chair.

**21.L.4 Minutes of meeting Wednesday, 7 July 2021 of General Licensing Sub-Committee**

Resolved:

That the minutes of the meeting held Wednesday, 7 July 2021 are approved as a correct record for signing by the Chair.

**21.L.5 Minutes of meeting Friday, 16 July 2021 of General Licensing Sub-Committee**

Resolved:

That the minutes of the meeting held Friday, 16 July 2021 are approved as a correct record for signing by the Chair.

**21.L.6 Minutes of meeting Wednesday, 1 September 2021 of General Licensing Sub-Committee**

Resolved:

That the minutes of the meeting held Wednesday, 1 September 2021 are approved as a correct record for signing by the Chair.

**21.L.7 Minutes of meeting Monday, 29 March 2021 of Licensing Act 2003 Sub-Committee**

Resolved:

That the minutes of the meeting held Monday, 29 March 2021 are approved as a correct record for signing by the Chair.

**21.L.8 Minutes of meeting Thursday, 13 May 2021 of Licensing Act 2003 Sub-Committee**

Resolved:

That the minutes of the meeting held Thursday, 13 May 2021 are approved as a correct record for signing by the Chair.

**21.L.9 Minutes of meeting Tuesday, 17 August 2021 of Licensing Act 2003 Sub-Committee**

Resolved:

That the minutes of the meeting held Tuesday, 17 August 2021 are approved as a correct record for signing by the Chair.

**21.L.10 Minutes of meeting Thursday, 9 September 2021 of Licensing Act 2003 Sub-Committee**

Resolved:

That the minutes of the meeting held Thursday, 9 September 2021 are approved as a correct record for signing by the Chair.

**21.L.11 Introduction of New Statement of Licensing Policy under the Licensing Act 2003**

The Committee considered a report of the Director of Planning and Development which sought to advise members of the statutory review of the Council's Statement of Licensing Policy under the Licensing Act 2003, and sought approval of the policy to full

Council.

The Enforcement Team Leader explained that the Licensing Act 2003 requires a licensing authority to publish a statement of licensing policy every five years. The last policy was issued in November 2016 and had served the authority well. However, this policy was now due to expire so work had been undertaken to redraft the policy, taking into consideration the experience gained over the last few years.

Members noted a number of new policy areas had been included in the policy, such as core hours for licensable activities, code of practice for drinks promotions and a pool of model conditions.

Members thanked the Enforcement Team Leader for his work on the policy and welcomed the changes, namely the list of conditions which could be used in the future. This would give the trade and members guidance on what conditions could be implemented.

In response to a member enquiry, the Enforcement Team Leader advised that CCTV was not mandatory for premises. However, for most premises the Police would require the addition of a CCTV condition or would consider making a representation against a premise that does not propose to have CCTV.

Resolved:

1. The Licensing and Public Safety Committee gave due consideration the report, the draft policy and the responses received during consultation and recommend to Council that the policy is approved and implemented from the 17 November 2021.

Chair

Date

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**Minutes of**                      **General Licensing Sub-Committee**

**Meeting date**                      **Wednesday, 3 November 2021**

**Committee Members present:**                      Councillor Matthew Lynch (Chair), Councillor (Vice-Chair) and Councillors Mark Clifford, Gordon France, Tom Gray and Christine Turner

**Officers:**                      Irene Elwell (Public Protection Team Leader), Alex Jackson (Legal Services Team Leader), Coral Astbury (Democratic and Member Services Officer) and Nathan Howson (Enforcement Team Leader (Licensing))

**Apologies:**                      None

#### **21.1 Declarations of Any Interests**

There were no declarations of interest.

#### **21.2 Procedure**

The Chair outlined the procedure to be followed at the hearing.

#### **21.3 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

#### **21.4 Determination of Application of New Animal Welfare Licence - Dog Day Care**

The Director of Communities submitted a report for the General Licensing Sub-Committee to determine whether a new Animal Activities Licence should be granted for a Dog Day Care facility.

The Applicant and her representative (her mother) were present at the Sub-Committee.

The Public Protection Team Leader outlined the report and explained to members that on 16 July 2021 the General Licensing Sub-Committee heard an application for a Dog Day Care Licence from the applicant who, at the time, was subject to ongoing criminal

court proceedings and had been charged with various offences. The General Licensing Sub-Committee decided to refuse the licence.

Since the previous meeting of the Sub-Committee, criminal court proceedings had been undertaken and the indictment was stayed due to an abuse of process on the prosecution's part. Subsequently the applicant made a new application for an Animal Activities Licence – dog day care.

The Public Protection Team Leader explained that an inspection of the premises had been undertaken to see if it would be likely to meet the conditions. There were certain elements of the inspection which could not be fulfilled due to parts of the premises not being complete, however should the licence be granted a further inspection would take place to confirm that the work had been done. The Inspector had recommended a two-star licence which would remain valid for one year with at least one unannounced visit.

The applicant told members that at her last appearance before sub-committee she felt as though she did not present herself well. The applicant clarified a previous statement and told members that although she said she would rescue dogs again; she would do so within the boundaries of the law. The dog day care would be for the community as a lot of dogs now have separation anxiety due to COVID as they are not used to being alone. The applicant explained that there was a lot of support within the community and that there are no other local providers of dog day care. This business was something she had always wanted to do and had undertaken a lot of research and completed online training.

Following a member enquiry, the applicant confirmed that she had completed a dog training qualification with the Dog Business School during the pandemic and there was a separate room which could be used as a training room for the dogs. The applicant explained that she would like to develop herself and staff further before expanding and offering training courses in the evening, such as puppy classes.

The Chair sought clarification from the applicant in relation to the statement made at the last hearing wherein she stated that she would absolutely do it [rescue and sell dogs] again. In response, the applicant explained that she was nervous and did not carry herself well. At the time she was rescuing the dogs, keeping them and nursing them back to health before selling them on. The prosecution had cost her a lot of money, stress and caused mental health implications. The applicant said that she would try to help in any way she could, but she would not sell another dog again.

In response to the Sub-Committee's Legal Advisor, the applicant explained that when she purchased the six Cavapoo puppies for £6,000 she did go back to the puppy farm to try and purchase the mother of those puppies. It was her view that the puppies had to be removed from the situation as they were poorly, she reported the puppy farm to South Ribble Borough Council who attended and carried out checks. The applicant acknowledged that purchasing from puppy farms can add to the problem.

In summing up, the applicant stated that she was a fit and proper person, she loves dogs and has two herself which she spoils. Her view on the situation had been changed as she had now been educated on Lucy's Law. The dog day care is something she had always wanted to do and was trying to set the business up so she could start her own family and work for herself. It was the applicant's view that although she did nothing wrong in terms of the animal's welfare, she did regret her actions and admitted that what she did was wrong, and it would not happen again.

**Resolved:**

Following careful consideration members have resolved to grant a two star licence to last for one year on the following grounds:

1. Members noted that the Inspector's report was broadly not adverse to the applicant, although members noted that more work needed to be done before the business can trade.
2. Members also noted that no animal cruelty had been alleged against the applicant.
3. The applicant had admitted in sub-committee in July 2021 to selling three litters of puppies without a licence. However, she now recognised this was wrong and had shown remorse.
4. Members considered the decision by the Judge and noted that all criminal charges against the applicant had been dismissed.
5. The applicant had purchased puppies from an unlicensed breeder. This was not a criminal offence and naturally had not formed part of the charges against her. This highly unethical behaviour had caused members great concern when considering the application on 16 July. However, the applicant was now contrite.
6. In relation to the duty contained in Regulation 4(2)(b) of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 obliging the council to grant a licence if it considers that the licence conditions will be met; members were satisfied that the applicant would do so.
7. Members considered that the experience of the prosecution and the refusal of the licence in July was likely to have had a salutary effect on the applicant such as to strongly discourage a repeat of her actions.
8. The applicant admitted selling some of the dogs she had purchased from illegal puppy farms. Members also considered that purchasing puppies from illegal puppy farms tends to reward and perpetuate maltreatment of dogs by others. Rather they should be seized by the authorities so that the puppy farmer is not rewarded. The applicant now appeared to have proper insight into how purchasing such puppies means the purchaser is helping to sustain a market which causes animal suffering.

Members suggested that the applicant consider seeking assistance in the running of her business so that it remained compliant with all applicable laws as the applicant had admitted to lacking the necessary knowledge at the time of her first application.

Chair

Date



**Minutes of**                      **General Licensing Sub-Committee**

**Meeting date**                **Monday, 13 December 2021**

**Members present:**        Councillor Matthew Lynch (Chair) and Councillors  
Mark Clifford, Terry Howarth, Jean Sherwood and  
Christine Turner

**Officers:**                    Nathan Howson (Enforcement Team Leader (Licensing)),  
Alex Jackson (Legal Services Team Leader) and  
Coral Astbury

#### **21.5 Declarations of Any Interests**

There were no declarations of interest.

#### **21.6 Procedure**

The Chair outlined the procedure that would be followed at the hearing.

#### **21.7 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

#### **21.8 Review of a Private Hire Driver Licence - TF**

On the 13 December 2021, a sub-committee hearing was convened in respect of a review of a Private Hire Driver Licence.

The members were Cllr M Lynch (Chair), Cllr Mark Clifford, Cllr Terry Howarth, Cllr Jean Sherwood and Cllr Christine Turner. The Driver and his representative were also present.

The meeting began at 18:45 to provide time for the sub-committee to consider two letters of support which had been provided by the driver and his representative shortly before the meeting.

The Enforcement Team Leader (Licensing) outlined the report of the Director of Planning and Development and explained that the driver had been referred to the sub-

committee because his DVLA licence had been endorsed with penalty points after the grant of his licence and had failed to notify the Council in writing within seven days, breaching condition two on his private hire driver licence (PHD). Members were asked to determine if the driver was still considered to be a fit and proper person to retain his licences.

Members noted that the driver had been a licence holder since 2005 after having his licence granted by a Sub-Committee as he had convictions ranging from 1998 to 2001. The licence was reviewed by a Sub-Committee on 4 February 2009 as the driver had been convicted in 2006 for possessing a controlled drug and being drunk and disorderly. The driver had failed to declare these convictions when renewing his licence in 2008 and 2009. When asked by Officers about the convictions, the driver had provided correspondence and stated the following:

*"In response to not declaring my conviction, the 1<sup>st</sup> time I renewed my badge I thought the police would be informing the council so I didn't think I needed to and 2<sup>nd</sup> time I thought I only had to declare if I'd any convictions in the last 12 months. I now realise that I was at fault by not declaring my convictions and I can only apologise for this and ensure I was not done intentionally".*

The Enforcement Team Leader (Licensing) explained that the driver had his licences revoked by the Sub-Committee in 2009 but successfully appealed this decision and was granted his licences by the Magistrates' Court. On 5 February 2020 his licence was again reviewed by the Sub-Committee in relation to the driver committing a speeding offence. The driver was found to have breached condition two of his licence and failed to declare the speeding offence to the Council in writing within seven days. The council were only made aware of the offence upon the renewal of the licence. The Enforcement Team Leader (Licensing) advised that the driver had been convicted of a further speeding offence on 13 June 2021 and now had 7 penalty points on his licence and that he had failed to inform the Council, again breaching Condition 2 of his private hire driver licence.

Members were requested to consider the Council's safeguarding policy, the DFT Statutory Guidance and the Council's taxi policy and the fit and proper test when making their decision.

Members referred to the first letter from the driver's wife which had been received prior to the meeting stating that a letter had been sent to the council, and asked the Enforcement Team Leader (Licensing) if anything had been received from the driver. In response, it was confirmed that no letters had been received. The council has a strict procedure for dealing with post and incoming letters were scanned in and promptly sent to the relevant officer.

Members considered the letter from the driver's wife and asked the Enforcement Team Leader (Licensing) what procedures the council had put in place throughout the pandemic for dealing with correspondence. It was confirmed that the council offices had been open throughout the pandemic, although there had been a period in which they were not open to the public. Officers were in the building to deal with administration and post and the post box would be examined every day. In addition, there are two contact emails for the authority which continued to be manned during the pandemic.

The Enforcement Team Leader (Licensing) explained that the licensing function had not experienced any periods where they were unable to accept phone calls, and it was his view that normal service for drivers had continued. When discussing the impact of the COVID 19 pandemic on the availability of officers, the Enforcement Team Leader (Licensing) highlighted that the latest speeding conviction occurred in June 2021, when regulations had begun to ease and business was starting to return to normal.

Referring to the letter provided in support of the driver from Mr A, Members asked the Enforcement Team Leader (Licensing) if he could recall the conversation with Mr A. The Enforcement Team Leader (Licensing) confirmed he had spoken with Mr A, but the conversation was not as described in the letter. Mr A had been in touch with Officers via telephone to arrange a vehicle inspection and asked if the council had received confirmation regarding the driver's offence. He was advised that nothing had been received. The Enforcement Team Leader (Licensing) advised that the only confirmation he had received of the driver's speeding offence was from the phone conversation he had with Mr A.

On behalf of the driver, the representative asked if there was a specific form on the website for drivers to complete to alert the authority of any new convictions. In response, the Enforcement Team Leader (Licensing) confirmed that there was no specific form, however contact information was clearly available on the website along with a copy of the private hire driver licence conditions.

In response to the Sub-Committee's legal advisor, it was confirmed that notifications in relation to other drivers had been received along with post and correspondence.

The representative, on behalf of the driver advised the Sub-Committee that the driver's wife did write to the council advising them of the points. He explained that the driver attended a meeting of the Sub-Committee in 2020 and understood the council would take a dim view of another failure to notify. The driver's representative stated that they did not blame licensing as they knew what the postal system was like.

The representative advised that two letters had been written by the driver's wife on behalf of her husband as he was dyslexic. The driver advised that he would have personally brought the first letter, notifying the council of the offence but the offices were closed at the time.

The driver explained to the Sub-Committee that he was sorry for speeding and had not realised the speed limit had changed. At the time he was using the vehicle for personal use and was desperate to go to the toilet. The driver stated that he was on the road every day of the week and did not purposefully go around speeding. The driver only became aware that the council did not receive his letter after the Enforcement Team Leader (Licensing) had a conversation with Mr A.

The driver's representative confirmed that the driver currently has seven points on his licence with four due to be removed in April 2022.

Members asked the driver if he had completed a speed awareness course, in response the driver explained that he had previously completed one. The driver's representative stated, it was his view that the driver was not at the point of needing to complete another speed awareness course and he had advised the driver to be careful.

Members asked the driver if he recorded the delivery of the letter which was alleged to have been written by the driver's wife notifying the council of the speeding conviction. The driver confirmed that he did not.

Members explained the ramifications of not declaring a conviction and highlighted the importance of recording the delivery of the notification letter and asked the driver if he considered contacting officers to check that it had been received. The driver explained that he had spoken to his boss, Mr A, who asked if he had heard anything from the council. The driver had not, so Mr A brought it to the attention of the Enforcement Team Leader (Licensing). The driver advised that during the pandemic, the council offices were not open, or he would have hand delivered the letter.

The Chair referred to the previous meeting of the Sub-Committee and asked the driver to confirm what support had been given to avoid a re-occurrence of the failure to notify and asked the driver to demonstrate his understanding of what support was available from the council to assist with licensing issues. The driver explained that he used to have his late father in law but now he only had his wife. It was his view that there was no help from the council with filling forms in.

The Chair stated that he appreciated that paperwork can be a struggle when you have accessibility issues, but at the last Sub-Committee meeting he had made clear that assistance would be given from officers should it be needed. The Chair asked the driver if he was aware that he was responsible for any application which was made, ensuring that all details contained within it are correct. The driver confirmed that he understood.

The Enforcement Team Leader (Licensing) stated that he disagreed with the driver's assertion that the latest speeding offence occurred during the pandemic. The conviction was in June 2021 and the authority was open for business at that time.

The Enforcement Team Leader (Licensing) asked the driver if he had been convicted for failure to give information given that he was unaware of the four points received in 2018. The driver advised that he had only become aware of the points when he attended the office to renew his licence and they had appeared on his licence check. The Enforcement Team Leader (Licensing) explained, in order to receive those points a notice would have been issued from the police giving the driver 28 days to respond. If no response had been given the police would have prosecuted the driver for failing to give information. It was his view that as points had been issued, the driver must have received the notice from the police making him aware of the 2018 speeding conviction. The driver stated again that he did not know about the speeding offence at the time and that he only found out when he applied to renew his licence.

In summing up, the driver's representative confirmed that the driver denies that no letter was sent to the council informing them of the speeding conviction. The driver is aware of his position; it was their view that the driver would not ignore the advice of the previous Sub-Committee in relation to failing to notify. The driver was aware that he could have his licence revoked. The representative requested the Sub-Committee to consider the two letters carefully and consider them when deliberating.

## **Decision**

### **Resolved:**



Members have resolved to revoke the private hire driver licence under section 60(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 for the following reasons:

1. The driver had engaged in a pattern of failing to disclose motoring convictions to the Council.
2. His motoring convictions had led to 7 points on his DVLA licence which is concerning when the driver drives passengers for a living.
3. His licence had been revoked in 2009 which should have impressed on him what his obligations are.
4. He was warned following an appearance at sub-committee in February 2020 for failing to report a motoring conviction.
5. The Enforcement Team Leader (Licensing) gave evidence that there had been no issues with receipt of mail by the council, council offices had not been closed and he had received no notification from or on behalf of the driver in respect of the 2021 speeding conviction, in breach of condition 2 attached to his private hire driver licence.
6. Members were not convinced by the letter from the driver's wife. She had not given evidence in person before the sub-committee. Members considered that the lack of acknowledgement by the council (which was common ground) suggested it was never received and therefore never sent.
7. Mr Howson's recollection of the conversation with Mr A diverges from that of Mr A. Mr Howson recalls Mr A asking if Mr Howson had received confirmation from the driver about his 2021 speeding conviction.
8. Members were not convinced given his behaviour over the years that the driver could be trusted to report concerns about his work as a taxi driver.

The driver has 21 days to appeal to the Magistrates' Court on receipt of the Decision Notice.

Chair

Date

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**Minutes of**                                   **General Licensing Sub-Committee**

**Meeting date**                           **Wednesday, 2 March 2022**

**Members present:**                   Councillor Matthew Lynch (Chair) and Councillors Mark Clifford, Tom Gray, Alan Platt and Jean Sherwood

**Officers:**                               Nathan Howson (Enforcement Team Leader (Licensing)), Alex Jackson (Legal Services Team Leader) and Coral Astbury (Democratic and Member Services Officer)

## **22.9 Declarations of Any Interests**

There were no declarations of any interest.

## **22.10 Procedure**

The Chair outlined the procedure that would be followed for the meeting.

## **22.11 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.

## **22.12 Review of a Hackney Carriage and Private Hire Driver Licence- ME**

On 2 March 2022 at 2:00pm, a sub-committee hearing was convened in respect of a review of the Hackney Carriage and Private Hire Driver Licence.

The members were Cllr Matthew Lynch (Chair), Cllr Mark Clifford, Cllr Tommy Gray, Cllr Alan Platt and Cllr Jean Sherwood. The Driver and his representative were also present.

The Enforcement Team Leader (Licensing) outlined the report and explained that 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.

Members noted that the driver has held his licence for many years. Council records indicate that he first applied for a licence in 1995 but, due to convictions, this was refused. Sometime after this, the licence holder was granted a licence. However, due

to the length of time, the Council records are not complete, and it is unclear when this was.

On his application in 2008, at the Sub-Committee hearing and his applications in 2009 and 2010, the licence holder failed to declare convictions between 1990 and 1996. As a result, the licence was reviewed by a General Licensing Sub-Committee in April 2012 and a decision was taken to issue a warning to make full disclosure when required to do so. Since this date, the licence holder had renewed his licence in the usual way and had not been subject to any enforcement action.

The Enforcement Team Leader (Licensing) explained that the licence holder received a notice under the single justice procedure on 21 December 2021 that he was being charged under SP30 – Exceeding statutory speed limit on a public road. The licence holder was travelling at 53mph in a 30mph zone on Lower Burgh Road, Chorley. The licence holder duly notified the Council on 22 December 2021. On 18 January 2022, the licence holder was convicted of the speeding offence and his driving licence was endorsed with 6 penalty points, he was ordered to pay a £458 fine, £45 victim surcharge and £90 costs.

The Enforcement Team Leader (Licensing) referred members to the Safeguarding and Suitability Policy and explained that when an offence is committed in relation to driving or operating a taxi, this should be viewed in a more serious light and a longer period of rehabilitation will be required.

He explained that the Council's Policy stated that any minor traffic offence which results in 6 or more penalty points is treated as a major traffic offence. The policy states that a period of 2 years is required before the Council would grant a licence to an applicant with a conviction for a major traffic offence.

In response to a member enquiry, the Enforcement Team Leader (Licensing) replied that the Council's policy only referred to penalty points but there was an expectation that licencees would abide by speed limits. He explained that, according to the Sentencing Guidelines, the offence in question was in the highest band of seriousness.

In reply to a question from the legal officer, the Enforcement Team Leader (Licensing) confirmed that the driver reported the conviction in writing the day after the conviction, in compliance with the conditions attached to his private hire driver licence.

The driver addressed the Sub-Committee and explained that he was found guilty of speeding and he had no excuse for his actions. The driver provided that the offence had occurred just out of lockdown and he was running late on his way to collect his next customer when he was caught speeding by the Police using a radar gun. The driver stated that he felt bad about the offence as he had held a clean licence and had been driving for over 34 years. He now had six points on his licence and had received a large fine from the Magistrates' Court.

The driver explained to the Sub-Committee that he understood the potential implications of the offence and that he could have his licence revoked or have seriously hurt someone by hitting them with his vehicle. It was the driver's view that he had been punished already by the Magistrates' Courts.

The driver clarified to the Sub-Committee that at the time of the offence, he was driving the licensed vehicle but had no customers on board as he was on his way to collect his next passenger. The driver advised that when driving customers in his vehicle he was always aware of the speed limit.

Members asked the driver how late he was running for his next fare and where he had been caught speeding. In response the driver explained that he was around five or six minutes late and was caught speeding as he was ascending a hill near a roundabout. The police were on the opposite side of the road with a radar gun.

Members noted that the driver had a history of speeding offences and a number of incidents recorded on his driving record and asked what assurance he could provide to members to prove that there was not a pattern of this behaviour. The driver explained that before lockdown drivers would work together and would share workload. However, after lockdown, the driver was concentrating on getting his own customers. However, since the incident he was now passing jobs on to other drivers and was not rushing trying to accept work.

The Enforcement Team Leader (Licensing) explained to the driver that in June 2021 a vast majority of the COVID restrictions had been relaxed for some time and asked for clarification on the relationship between coming out of lockdown and the speeding offence. In response, the driver explained that during lockdown he had been earning no money at all and although he could not provide a response to the question he explained that he was upset about the speeding offence.

The Enforcement Team Leader (Licensing) referred to the Council's policy and asked the driver if he could provide any evidence of exceptional circumstances which would allow the Sub-Committee to depart from the policy of refusing or revoking the licence within two years of the offence. In response, the driver apologised and said he did not have a reason.

In summing up, the representative on behalf of the licence holder advised the sub-committee that the licence holder had around 32 years of driving experience and regretted the speeding offence. It was his view that there was no pattern of offending as no further offence had been committed in the time from the first offence in 1996 until 2021. The Council had never received any complaints or had to take enforcement action against the driver. The representative explained that the driver was aware that if the Sub-Committee departed from the policy, he would not be afforded a second chance. The driver had learnt his lesson and would not need to be brought before a Sub-Committee again.

In response to a member enquiry, the Enforcement Team Leader (Licensing) explained that since the speeding offence was committed, there had been no further issues with the driver.

### **Decision**

RESOLVED:

After careful consideration, the Sub-Committee agreed to issue a stern warning to lie on the driver's licensing file regarding his driving for the following reasons:

- (i) the speeding offence was isolated and not part of a recent pattern.

(ii) There have been no complaints about the driver from any members of the public. He had been a taxi driver licensed by Chorley Council for many years.

(iii) The Licensing Officer confirmed that since the speeding offence in 2021 there had been no further issues with the driver.

(iv) The driver had disclosed the conviction in writing within 7 days as required by the conditions attached to his private hire driver licence.

(v) The driver took responsibility for his actions. The conviction and fine imposed by the court appeared to have had a salutary effect on him.

(vi) members were concerned about the speed recorded and emphasised to the driver that were it not for the above factors members would not have departed from the Council's policy and would have revoked his driver licence

Members asked the driver to note that if he is brought before General Licensing Sub-committee on a future occasion, he would likely face revocation of his driver licence.

Chair

Date



<b>Minutes of</b>	<b>General Licensing Sub-Committee</b>
<b>Meeting date</b>	<b>Wednesday, 25 May 2022</b>
<b>Committee Members present:</b>	Councillors Matthew Lynch (Chair), Matthew Lynch, Mark Clifford, Gordon France, Margaret France and Jean Sherwood
<b>Officers:</b>	Nathan Howson (Enforcement Team Leader (Licensing), Alex Jackson (Legal Services Team Leader) and Coral Astbury (Democratic and Member Services Officer)
<b>Apologies:</b>	None

#### **22.1 Declarations of Any Interests**

There were no declarations of interest.

#### **22.2 Procedure**

The Chair outlined the procedure to be followed.

#### **22.3 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.

#### **22.4 Determination of Application for the grant of a Private Hire and Hackney Carriage Driver Licence- AMP**

On 25 May 2022 at 2:00pm, a sub-committee hearing was convened to determine an application for the grant of a Private Hire and Hackney Carriage Driver Licence.

The members were Cllr M Lynch (Chair), Cllr Mark Clifford, Cllr Gordon France, Cllr Margaret France and Cllr Jean Sherwood. The applicant was also present.

The Enforcement Team Leader (Licensing) outlined the report of the Director of Planning and Development and explained the application was referred to members for a decision as the applicant had convictions which fell within the Safeguarding, Suitability and Convictions Policy. Members were required to consider all details within the report and to give due consideration when determining whether the applicant was a fit and proper person to hold a licence.

The Enforcement Team Leader (Licensing) explained that the applicant had first applied for a licence in 2006 and had renewed his licence in the usual way until the most recent renewal in 2014, with the licence due to expire in 2017. On applying to renew the licence in 2014, the applicant declared that his DVLA licence had been endorsed with three penalty points for speeding. At the time, he had nine points on his licence. The licence was granted using officer delegation and not referred to committee.

Members noted that the applicant had a history of speeding offences dating from 1998, 1999, 1999, 2000 and 2008, 2009 and 2010. The Enforcement Team Leader (Licensing) advised that the applicant had his licence reviewed in 2017 by a General Licensing Sub-Committee in relation to serious information received from Lancashire Constabulary. The applicant's licence had been suspended with immediate effect, using officer delegation as a result of this information.

Lancashire Constabulary had received intelligence that the applicant was supplying drugs from his hackney carriage. As a result, the applicant was stopped whilst driving his hackney carriage on 12 January 2017 and the vehicle was searched. The search revealed that the applicant was in possession of cocaine, cannabis/ cannabis resin, weighing scales and £580 in cash, along with other drug paraphernalia.

The General Licensing Sub-Committee resolved to revoke the applicant's hackney carriage driver and vehicle licence with immediate effect and the decision was not appealed by the applicant.

The Enforcement Team Leader (Licensing) explained that, on 19 April 2022, the applicant had made an application for the grant of a private hire and hackney carriage driver licence and subsequently passed the Council's knowledge test on 21 April 2022 and provided an enhanced certificate, issued by the Disclosure and Barring service which showed the following convictions:

<b>Conviction Date</b>	<b>Offence(s)</b>	<b>Penalty</b>
26 May 2017	Possession of a controlled drug with intent to supply Class A – Cocaine on 12 January 2017	Imprisonment 26 months, Victim surcharge - £170
26 May 2017	Possession of a controlled drug Class B – Cannabis/ Cannabis Resin on 12 January 2017	No separate penalty
26 May 2017	Facilitate the acquisition/ acquire/ possess criminal property on 12 January 2017	Imprisonment three months concurrent

The Enforcement Team Leader (Licensing) confirmed that the offences were committed whilst the applicant was driving a Hackney Carriage Vehicle licensed by Chorley Council and working as a Hackney Carriage Driver, licensed by Chorley Council.



The Enforcement Team Leader (Licensing) referred to the Safeguarding, Suitability and Convictions Policy and explained that an offence when committed in relation to driving or operating a taxi will be viewed in a more serious light and a longer period of rehabilitation will be required. Ordinarily, the Council would refuse an application in which the applicant had a conviction less than 5-10 years from their release from prison.

In response to a member enquiry, it was confirmed that the applicant was released from prison to home detention on 12 February 2018 and was fully released from his custodial sentence on 25 June 2018.

The Enforcement Team Leader (Licensing) referred to the DfT Statutory Taxi and Private Hire Vehicle Standards and explained the test to be applied when determining whether the applicant was fit and proper.

Members sought clarification on the offences and asked if the offence would be worse as it was committed whilst driving a hackney carriage. In response, the Enforcement Team Leader (Licensing) confirmed that it was and any applicant who had committed an offence whilst in a licensed hackney carriage should expect a longer rehabilitation period than mentioned in the Safeguarding, Suitability and Convictions Policy.

Members discussed the length of time since the conviction and completion of custodial sentence and asked what their options were. In response, the Enforcement Team Leader (Licensing) advised that there should be at least five years since the offence, however when the offence was between 5-10 years consideration would be given towards the circumstances of the offence. However, members could choose to depart from policy should the applicant demonstrate exceptional circumstances and members deemed him to be fit and proper.

The Chair adjourned the meeting for five minutes to allow the applicant a comfort break.

Following resumption of the meeting, the applicant provided a written statement which was given to all members of the sub-committee. The Enforcement Team Leader (Enforcement) read the statement out for the sub-committee on behalf of the applicant.

In his written statement, the applicant explained that he regretted and had remorse for the loss of his licence in January 2017 and subsequent conviction for drug offences. He stated that he did not have any excuses for his past actions and accepted that as a taxi driver, he had a duty of care to the public and his mistakes fell short of expectations.

The applicant advised that he was now a reformed character and had changed his life. He had support from family and friends and was employed by a local takeaway and had been employed for the past four years as a delivery driver.

The applicant explained that having a Hackney Carriage/Private Hire licence would help him rebuild his career and provide flexibility as he cared for his elderly parents. His mother was suffering from dementia. In his statement, the applicant offered sincere apologies to the Council and requested a "second chance" explaining that he would be willing to work with the Council in any way to support his request.

Members explained to the applicant that the onus was on him to demonstrate that he was fit and proper and could undertake the responsibilities of a hackney carriage driver and expressed concern that the applicant had not learnt from his actions in relation to the recurring speeding offences. Members asked the applicant what evidence he could provide to demonstrate that he would not be in contact with those people who would re-introduce him to possessing or dealing with illegal substances.

In response, the applicant explained that he was no longer in contact with anyone and would just go home and speak to his wife and children. He had learnt his lesson and would not get involved with those people anymore.

Members acknowledged that they could depart from policy if there was shown to be good reason and asked the applicant if he could provide any in support of his application. The applicant explained that he was applying for the licence to support his family, he had elderly parents and his mum was suffering badly with dementia. The applicant wanted to support his family and being a licensed driver would provide him flexibility. The applicant stated that what he did was wrong.

The Enforcement Team Leader (Licensing) explained that although he was sure that the applicant would have the sympathy of sub-committee members in relation to his personal circumstances, the sub-committee were not permitted to take such matters into account.

The Enforcement Team Leader (Licensing) referred to the General Licensing Sub-Committee meeting in 2017 and stated the applicant told the committee he was not selling drugs from his hackney carriage and they were left in his car and intended to hand these into the Police. However, the subsequent conviction had demonstrated the applicant had been selling drugs from his hackney carriage. The applicant admitted that he had been dishonest at the previous meeting and had been selling the drugs from his hackney carriage.

In response to a question, the applicant confirmed that he had stopped smoking cannabis to control his medical condition and was now taking prescribed tablets. The Enforcement Team Leader (Licensing) referred to the meeting in 2017 and asked if the applicant still agreed with his statement that he did not smoke cannabis whilst working as a licensed driver. The applicant confirmed this was correct.

The Sub-Committee's Legal Advisor asked the applicant if he was addicted to the substances he had been dealing. The applicant stated, "not really no" and explained that there was a family feud at the time he was dealing, his parents were living with him and he was not working properly. Something inside was triggered and he regretted his actions. The applicant was only smoking cannabis and dealing the other substances. It was his view that his head was not right at the time as he was not working properly.

In response to a question from the Sub-Committee's Legal Advisor, the applicant explained that he had become involved in dealing illegal substances when he was sat with some lads and because his head was not right, he had done a stupid thing. He explained that he was no longer in contact with those individuals.

In summing up, the applicant apologised for his actions and asked for forgiveness from the Council explaining that he had let them down. The applicant wanted a job to support his children and to give time to his parents.

**Decision**

## RESOLVED:

After careful consideration and taking in account national guidance and local council policy members decided that the applicant was not a fit and proper person to hold either licence applied for and so determined to refuse to grant the licences for the following reasons:

1. The applicant was convicted in 2017 of supplying Class A drugs. Members considered that supply of illegal drugs significantly raised and spread more widely the harm to society. Members also noted that the applicant had been supplying the most harmful category of drugs according to the law.
2. The offences were committed when driving a taxi. The Council's policy allows for this to be treated in a more serious light and for a longer period of rehabilitation.
3. Members noted that the Council's policy allows an application to normally be refused when the applicant was convicted of offences relating to drugs and released from prison less than 5-10 years previously. The applicant was finally released from prison in June 2018.
4. At the sub-committee in 2017 the applicant had not admitted to all the offences of which he was later convicted after pleading guilty. Members considered that the applicant had deliberately and dishonestly misled the sub-committee in 2017 on matters of the utmost seriousness regarding his fitness and propriety and he could not reasonably be regarded as trustworthy.
5. The applicant has also been convicted of an offence of dishonesty for which he received a custodial sentence.
6. Members noted that the applicant was now free of illegal drugs. However, members considered that the offences of which he was convicted in 2017 were so serious and such a breach of trust between himself and the licensing authority and relatively recent that he could not be regarded as fit and proper.
7. Members attached limited weight to the character references supplied by the applicant, one of which lacked an address.
8. Members directed themselves that the applicant's personal circumstances were not relevant.

Chair

Date



<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

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<b>Minutes of</b>	<b>Licensing Act 2003 Sub-Committee</b>
<b>Meeting date</b>	<b>Monday, 15 November 2021</b>
<b>Members present:</b>	Councillor Matthew Lynch (Chair) and Councillors Christine Turner and Jenny Whiffen
<b>Officers:</b>	Nathan Howson (Enforcement Team Leader (Licensing)), Alex Jackson (Legal Services Team Leader), Coral Astbury and Usman Gazra (Democratic and Member Services Officer)

**Public** 2

#### **20.14 Declarations of Any Interests**

There were no declarations of interest.

#### **20.15 Procedure**

The Chair outlined the procedure to be followed at the hearing.

#### **20.16 Determination of Application for the Review of a Premises Licence- Applejax, 1 Back Mount Street, Chorley**

The Director of Planning and Development submitted a report for the Licensing Act 2003 Sub-Committee to advise members of an application for review of a premises licence in respect of Applejax Nightclub, 1 Back Mount Street, Chorley, PR7 1EA.

As the Premises Licence Holder (PLH) Mr Craig Leeming was not present, members decided to postpone the start of the meeting by ten minutes to allow Officers to attempt contact with the PLH. The Enforcement Team Leader (Licensing) confirmed that contact had been made with the PLH via email, although Mr Leeming did not respond to the email requesting notice of his attendance at the meeting. He had not responded to a separate email which provided notice of suspension of the licence due to non-payment, however the fee had now having been paid. Officers had attempted to call the PLH prior to the meeting but had been unable to establish any contact.

Members decided to continue with the hearing as all other parties were present and it was felt that there had been sufficient attempts at contacting the PLH.

The Applicant for Review on behalf of the Environmental Health Department at Chorley Council, Mr Paul Carter was present. Also present was Sergeant Richard Horton of Lancashire Constabulary, who had submitted a representation as a

Responsible Authority. An officer from Lancashire Constabulary who would take over the role of Sergeant Horton in 2022 was also present as was a press reporter, a local resident and the Council's Licensing Enforcement Officer.

The Enforcement Team Leader (Licensing) explained that the premises had been licensed since 18 January 2021 following an application to specify the Designated Premises Supervisor (DPS). It was explained that the premises is situated in a residential area, with flats surrounding the venue and residential properties facing the venue. On 21 September 2021, an application for the review of the premises licence was received from Mr Paul Carter, for and on the behalf of the Environmental Health Department of Chorley Council. The review was submitted on the basis that the licensing objective of the Prevention of Public Nuisance was being undermined. An abatement notice had been served on the 17 September 2021 following repeated complaints by residents. Noise monitoring equipment had also been installed at a neighbouring property.

The Enforcement Team Leader (Licensing) advised that the application for review was advertised in accordance with regulations. In response to the consultation, a representation was received on 25 September 2021 by Sergeant Richard Horton, on behalf of the Chief Constable of Lancashire Constabulary. Members noted that their decision would need to be based on the individual merits of the application.

The Applicant for Review, Mr Paul Carter explained that the authority had received complaints from several residents, some being over 135 metres from the property. On the weekend of 23 July 2021 complaints were received from residents who stated they had been unable to sleep all weekend due to excessive music overnight, with music continuing until 5:30am. Officers from Environmental Health visited the premises to discuss the complaints with the PLH and requested that the DPS also attend, however they were unavailable.

Officers tried to look at the CCTV but as the PLH was unfamiliar with the system, officers had to operate it themselves. Mr Carter explained that they had advised the PLH that he needed to take more responsibility in managing the premises. Officers also went through the conditions of the licence with the PLH, as he seemed unfamiliar with these. Mr Carter explained they advised the PLH to take advice from a licensing consultant or another experienced PLH.

Mr Carter explained that the authority continued to receive complaints about the premises. A complaint was received for Friday 6 August 2021 with residents stating they could hear a person shouting on the microphone until 5am in the morning, followed by drunken patrons leaving the premises around 6am. Officers held another meeting with the PLH and his manager and went through a lot of the issues which had been raised by residents. A noise test was undertaken in the car park, with the doors both open and closed. The PLH and his manager admitted that they had purchased a new audio system which could cause issues.

Officers had explained to the PLH that all doors should be closed for the period the venue was open, save for the front door. The manager of the premises committed to putting a sound limiter onto the system to prevent guest DJ's playing music at an inappropriate volume. Mr Carter advised that he had sent a follow up email after the meeting.

Members noted that further complaints were received over the bank holiday weekend

in August, with the Police in attendance. Noise recording equipment was installed in a residential property on Queen's Road from 7 September 2021 for seven days. The noise recorded clearly picked up the music, bass and microphone used by the DJ on the Saturday night until the recordings stopped at 5.23am.

Mr Carter explained that an abatement notice, requiring the premises to abate the nuisance within seven days was served on the PLH. No response was received from the PLH to the notice, however, the authority received complaints that music was still ongoing until 5:30am on the day before the compliance period in the abatement notice commenced. From 24 September 2021 until 13 November 2021 there were no substantial complaints about noise.

Mr Carter confirmed that he has had no further contact with anyone at Applejax in response to any correspondence or notices sent by the authority. It was his view that the premises were not being managed effectively and the current conditions on the licence were not robust enough.

Members sought clarification on how many visits and interactions had been successfully undertaken with the PLH. Mr Carter confirmed that there had been two actual visits, accompanied with Licensing Officers. The PLH had not responded to any written correspondence.

Members asked if there were any sound limiting devices installed at the premises. In response, it was explained that there was none when officers attended however the PLH did make reference to purchasing a limiter. Officers had offered to assist the premises in setting the device up to ensure the sound system did not continue to cause noise nuisance, but no response had been received.

Members asked Mr Carter if officer advice had been adhered to either partially or in full. Mr Carter provided that early on advice was clearly ignored and it seemed that the issues were particularly bad when guest DJ's were performing at the premises and that the PLH would have no control over the noise levels. On discussions with the PLH and manager, officers had made clear what was expected and what the result of non-compliance could be, however complaints continued to be received and the PLH took no further action.

Sgt Horton, in making his representations, advised members that premises was the only operating purpose-built nightclub in Chorley and was permitted to open until 6am. It was his view that the premises, if run badly, could have a serious adverse impact on the licensing objectives. Sgt Horton had met with the new DPS, Miss Rachel Eastham on 2 August 2021 to go through the licensing conditions on the licence, she was provided a paper copy of the conditions. On the 3 August 2021, the Police received intelligence that there was drug dealing happening in the venue. They contacted the PLH to make him aware, so he could act and check the premises or ask the door staff to check that it was not happening in the venue. The PLH acknowledged the concerns and suggested that the police carry out warrants on people's home addresses.

Sgt Horton explained there were several police logs in relation to the premises. One log from the 26 July 2021 recorded music from the venue which was that loud it could be heard inside Chorley Police Station. The Police had received a call on 7 August 2021 from a resident who wanted to complain about the noise at the premises, they had already attended the premises and was told, "the party won't stop." Sgt Horton advised members that he had met with the PLH on 19 August 2021 and spoke to him

about getting better and more regular door staff and controlling the noise from his drum and bass events. He advised the PLH that regular noise complaints about the premises would lead to an inevitable licence review if he did not control the volume properly. The PLH advised that attendances were steadily declining.

On 24 and 25 September 2021 upon learning of the application to review, several observations were carried out by officers from Lancashire Constabulary. At 10pm the loud drum and bass music started, with the noise being that loud it was heard from the unmarked car with its windows wound up. When driving past the venue entry, Sgt Horton saw the doors were wide open and door staff were engaged in conversation with a small group smoking outside. Officers returned to the car park just after midnight and the music was still audible inside the vehicle with the windows up. A Police Officer had attended the venue and spoken with a member of staff who presented a sound limiter. The staff claimed that the DJ for the event was removing the limiter and turning the sound up, staff were trying to put the limiter back in place.

At 3am on 25 September 2021 police attended a call to the premises, that a father had arrived to remove his 16-year-old son. The 16-year-old had used a picture of somebody else's passport on his phone as ID rather than an original document. Officers overheard a member of door staff telling the child he would be admitted next week. Sgt Horton advised members that two licence conditions were identified as being breached that night.

Members expressed disappointment at the lack of engagement from the PLH and DPS and their failure to address the issues the premises was causing.

In summarising, Mr Carter advised that the licensing objective of the prevention of public nuisance was being undermined. There were continuous occurrences of noise complaints and the Environmental Health Department was no longer satisfied with the PLH's ability to promote the licensing objectives. Nearby residents were on edge and constantly wondering when the noise would begin again and were spending time reviewing social media. Officers could not guarantee there would be a change of practice and had no other option but to apply for a review.

In response to a member enquiry, both Mr Carter and Sgt Horton provided that no alternative conditions had been provided to them by the PLH.

### **Resolved:**

Members took account of the application and relevant representations, the Council's Statement of Licensing Policy and the Section 182 guidance issued by the Home Office, the licensing objectives and the Human Rights implications including Article 6, Article 8 and Article 1 of the First Protocol. After careful consideration members resolved, pursuant to Section 52(4)(e) of the Licensing Act 2003, to revoke the premises licence for the following reasons:

1. Members were satisfied that the prevention of public nuisance objective was being undermined at the premises, arising from licensable activities and in particular, from regulated entertainment and lack of control of entry and exit of customers.

2. The Environmental Health Officer had found incidents of statutory nuisance originating at the premises. Statutory nuisance is a high threshold.
3. The noise nuisance was repeated and not an isolated event.
4. There were multiple noise nuisance complaints from different persons living nearby.
5. Some of the noise issues were witnessed by the police even after it was known that an application to review the premises licence had been made showing a lack of a proper response from management at the premises.
6. The police had identified a 16 year old in the premises after 22:30 hours in breach of a condition attached to the premises licence and there was hearsay evidence that the door staff at the premises promised to re-admit the minor at a later date. He had been admitted on the strength of a photograph of a passport rather than an original document, in breach of a condition of the licence.
7. There was evidence of breach of a licence condition prohibiting drinking alcohol outside.
8. The Environmental Health Officer gave evidence that a door had been propped open allowing noise to escape.
9. There had been a lack of proper management of the premises.
10. It was clear to members that the licensing objectives of the prevention of public nuisance and protection of children from harm were not being promoted.
11. Members heard nothing from the premises licence holder to persuade them otherwise as he had failed to attend the sub-committee hearing. His absence from the hearing meant that there was no rebuttal of the complaints about the operation of the premises.
12. Members noted that the Environmental Health Officer (EHO) stated that there had been little complaints from 24 September. However, he also gave evidence that this was the start of the compliance period under the abatement notice and that the premises carried on as normal allowing noise nuisance right up to the start of the compliance period. The EHO stated that there had been little engagement from the premises. This was consistent with the evidence of the police who gave evidence that the premises licence holder had responded to reports of drug dealing at the premises by suggesting that the police execute warrants when members felt that the correct response was to tackle the issue at source at the premises. The premises licence holder did not show willingness to tackle problems arising at the premises. Members considered that the issues leading to the review meant the premises could not be trusted to improve.

Chair

Date





<b>Minutes of</b>	<b>Licensing Act 2003 Sub-Committee</b>
<b>Meeting date</b>	<b>Wednesday, 24 November 2021</b>
<b>Committee Members present:</b>	Councillor Matthew Lynch (Chair), Councillor (Vice-Chair) and Councillors Terry Howarth and Jean Sherwood
<b>Officers:</b>	Tracy Brzozowski (Customer Services (Enforcement)), Nathan Howson (Enforcement Team Leader (Licensing)), Lesley Miller (Environmental Health Officer), Tasneem (Shared Legal Services Team Leader) and Coral Astbury (Democratic and Member Services Officer)
<b>Apologies:</b>	None

#### **21.1 Declarations of Any Interests**

There were no declarations.

#### **21.2 Procedure**

The Chair outlined the procedure to be followed at the meeting.

#### **21.3 Review of Premises Licence Cosmopolitan 30 St Georges Street, Chorley**

The Director of Planning and Development submitted a report for the Licensing Act 2003 Sub-Committee to advise members of an application for review of a premises licence in respect of Cosmopolitan, 30 St George's Street, Chorley, PR7 2AA.

The Premises Licence Holder (PLH) Mrs. Vanda Rome-Tankut was present, as was her representative Mr. Mark Smith.

The Applicant for Review on behalf of the Environmental Health Department at Chorley Council, Mrs. Lesley Miller was present. Also present was Mr. Nathan Howson (Enforcement Team Leader – Licensing), who had submitted a representation on behalf of the Licensing Authority. Two other persons; Mr. Carl Sutton (witness on behalf of EH) and Ms Denise Richmond were also present at the Sub-Committee.

The Sub-Committee were asked to approve the requests received under regulation 8, allowing eligible parties to the hearing to speak. In response, the Council's legal advisor explained that only residents who had put in a representation would be permitted to speak under regulation 8. As Mr Jonathan Evans had not submitted a formal representation he would not be permitted to speak at the hearing.

The Customer Services Manager (Enforcement) presented the report and explained that the premises had been licensed since 2011 and was located on St George's Street. The premises is situated in a traditional two-story end terrace and comprises of an extended outside area used for eating and drinking. Next door to the premises is a new build building which houses an office on the ground floor together with a number of residential apartments on the ground and first floor. Mrs. Lesley Miller for and on the behalf of the Environmental Health Department of Chorley Council, explained that an application for review was submitted on the grounds that the licensing objective of the Prevention of Public Nuisance is being undermined.

The Customer Services Manager (Enforcement) requested Members give due consideration to the application and any relevant representations. Members noted that the duty of the licensing authority is to take steps appropriate to promote the licensing objectives in the interests of the wider community.

It was confirmed by the Customer Services Manager (Enforcement) that the application for review had been advertised in accordance with the regulations and during the consultation period three representations had been received. The Applicant for Review, Mrs. Lesley Miller explained to the Sub-Committee that the Environmental Health Department received several complaints from residents about noise, in particular the outside area from Spring 2021. Officers from both Environmental Health and Licensing had made several visits to the property and engaged significantly with the Designated Premises Supervisor (DPS). Officers had provided a great deal of advice and support around the visits to try and resolve the noise issues.

Mrs. Miller acknowledged that the premises had faced some challenges because of Covid, however there was a need to balance the needs of the business against those of the resident and the enjoyment of their properties. Complaints had continued to be received over summer with residents reporting issues of sleep disturbance from music and people shouting until 2am Thursday through to Sunday night. A number of residents had advised that they were unable to have windows open during the summer months due to intolerable levels of noise, so a noise nuisance investigation was started. As a result, a noise abatement notice was served on 24 September 2021 following repeated complaints. Mrs. Miller explained that it was her view that Officers had made attempts to negotiate and to advise and support the business and even given practical help, but there was now sufficient evidence to demonstrate the need for serving a noise abatement notice alongside the application for review.

It was confirmed by Mrs. Miller that when the notice was served, Officers met with the PLH, DPS and Mr. Smith and it was felt that the PLH and Mr. Smith fully understood the consequences of non-compliance with the notice.

Members sought clarification on how much assistance had been given to the PLH. In response, Mrs. Miller explained that Officers tried to provide some advice and support in reducing the bass level and noise outside. As lockdown eased, the premises were only permitted to open outdoors and it was accepted that this could be difficult for premises to manage. Mrs. Miller had worked with the DPS and used their system where they can manage the amount of bass that comes out of the speakers and she had reduced it down. In her view, the nature of the premises and their clientele had changed. Previously the premises was more of a food-orientated business and cocktail bar, however this seems to have changed into more of a loud music venue which would explain the number of complaints received.

The Enforcement Team Leader (Licensing), Mr. Nathan Howson, confirmed that complaints had previously been received for the venue, but did not form part of the evidence for this hearing. A complaint was received following the first COVID lockdown and an improvement notice was served. Prior to this, there was a single incident of noise nuisance in 2019 but no formal action was taken.

Mr. Howson explained that he had made a representation on behalf of the Licensing Authority as he was satisfied that the licensing objective; namely the prevention of public nuisance, was being undermined. Several visits had been undertaken at the premises following noise complaints and generally these visits had been well received. There was a short period of improvement and then complaints would continue to be received. Officers on duty in the town centre on 10 September 2021 approached the premises from the bottom of Market Street up to the junction with St George's Street at approximately 23:45 and from a distance of 135 metres could clearly and easily hear the main beats of the music. As Officers got closer to the venue, the music became louder and was described as, "a club outside of the premises." Mr. Howson explained that he observed the premises for about five minutes and heard no improvement in the noise levels and it was his view that there was clearly no control or any attempt to abate the noise and quieten it down.

Mr. Howson provided to the Sub-Committee that he had proposed alternative conditions. In response to a member enquiry, it was confirmed that these had not been directly discussed with the PLH, although they were provided a copy in the agenda pack for the meeting.

Mrs. Miller asked Mr. Howson his opinion on the volume of the noise, in response Mr. Howson confirmed that where there is an elevated level of music and noise you experience an elevated volume of noise from the patrons themselves, as they have to shout to be heard.

Mr. Smith, on behalf of the PLH, asked if the conditions within the new Statement of Licensing Policy would be applied to all premises in the borough. In response, Mr. Howson explained that the Licensing Act 2003 prohibits the use of blanket conditions, and that many of the conditions within the policy would not be appropriate in all venues. The inclusion of the pool of model conditions within the policy was to aid members and officers in deciding appropriate conditions.

Ms Denise Richmond outlined her representation to the Sub-Committee and explained that she lives in the apartments at St George's House. Ms Richmond provided that she moved into her apartment in May and was aware of the premises next door but did not think it would be an issue as she thought it would be more of a restaurant/cocktail bar. Ms Richmond explained that on Thursday evenings, the music is loud till approximately midnight and on Friday-Saturdays, 2 am.

Ms Richmond stated that she had put up with the noise for a few weeks then went to the premises to speak to the owner. When she attended the premises, there were only bar staff present. Ms Richmond explained that the bass was an issue and the staff replied stating they could not do anything. They showed her a copy of the licence and reiterated that they could open until 2am any day of the week, playing music either indoors or outdoors.

Ms Richmond explained that after this instance, the noise got progressively worse, it wasn't just bass, but she could also hear the music. Ms Richmond attended the

premises a second time and spoke to the son in law of the PLH, who apologised for the noise and said he would turn the volume down as well as offering discounted food. The music was turned down but after an hour was turned back up. Ms. Richmond told the Sub-Committee that she had tried various things to block out the noise, such as wearing ear defenders to sleep but it did not work. On the third instance that Ms. Richmond attended the premises to complain about the noise she explained that the staff did not seem interested and she was now concerned as the outside area looked to have been extended with new heaters being fitted.

Ms. Richmond explained that once the abatement notice had been served the premises went quiet for around three weeks, but it had now started again. On two occasions since the serving of the abatement notice the premises had been playing loud music. Ms Richmond advised the Sub-Committee that she had a recording of the noise on 14 November 2021 after the abatement notice had been served and offered to play this to members. The Council's Legal Advisor explained that the recording could not be played as it was not formally submitted and neither the PLH nor members had prior access to the recording.

Ms. Richmond explained that she had to sleep out on a couple of Saturdays as she could not cope with the noise as it did not end at 2am when the premises closed as patrons were loud and disruptive when leaving.

Mr. Carl Sutton explained that his flat is two buildings away from the premises and the noise had been too loud from December 2019. Mr. Sutton explained that he visited the premises after music was being played loudly until 00:45 and spoke to whom he believed was the owner, and they were very apologetic. The owner explained that he would close the windows and turned the bass down and was very amicable. Two days later the music was on again until 2 am and Mr. Sutton visited the premises to make a further complaint. Mr. Sutton explained that the owner blamed the noise on a leavers party and stated that he could not control patrons leaving. The owner became aggressive and started swearing, stating that Mr. Sutton was trying to have his business closed down. Mr. Sutton told the Sub-Committee that the owner showed him the licence again and stated that he was not doing anything wrong.

Mr. Sutton explained that once the abatement notice had been served, he did not hear any noise and could enjoy his property fully, however for the last three weekends the premises has reverted back to playing loud music and bass.

Mr. Smith on behalf of the PLH explained to the Sub Committee that due to a technical issue with the PLH's email account they had only received the paperwork for the meeting on Monday 22 November. It had been sent by Officers to the PLH on the 10 November. Mr. Smith explained that had they received the paperwork on the original email, the PLH would have sought legal representation.

Mr. Smith stated that the PLH fully accepts that the premises were causing a nuisance and agreed that the Council was correct to act following repeated attempts at trying to resolve the issue with the premises. Mr. Smith explained that part of the problem for the premises was the DPS. For the incident on 14 November 2021 the PLH has a record that shows the DPS working, and the doormen went upstairs and turned the music down after five or ten minutes.

After the PLH and Mr. Smith met with the Council on issue of the abatement notice they realized how serious it was and implemented changes at the premises. Mr. Smith explained that they discussed and began procurement for a noise control system

which would be installed on 25 November 2021. The PLH put a piece of tape over the volume control on the speaker for when she was not present, a new manager was hired and given extensive training on noise and patron control. The doormen were also briefed on how to encourage patrons to leave quietly and would now be monitoring the situation more closely and reporting any issues to the PLH. The PLH now attends the premises daily and the gazebos would be fitted with new coverings to attenuate noise.

Mr. Smith expressed concern at some of the draft conditions proposed by Mr. Howson. In particular, the last condition relating to alcohol being taken outside after 23:00. Mr. Smith explained that this condition would close the business as the outdoor area was quite a big part of the restaurant. Since the new measures, the PLH has seen another change in clientele and was experiencing more restaurant visitors as opposed to bar visitors.

Members asked the PLH if there was any reason that she struggled to control the noise from the premises. Mr. Smith replied that it was obvious that it was loud, but it was the DPS who was in charge of the restaurant. As the DPS was the PLH husband this was causing a lot of friction as the PLH had made it clear that his behaviour was not acceptable. Mr. Smith provided that the PLH had stopped the DPS controlling the bar and the music and now had him greeting guests, an incident of noise nuisance occurred on the one night he was not greeting patrons.

Members sought clarification on the role of the DPS and it was explained by Mr. Smith that the DPS had previously been running the cocktail bar and managing the music but was now meeting and greeting patrons. The PLH and Mr. Smith had discussed whether a change in DPS might be appropriate.

Members asked how the impact of no alcohol outside after 11pm would close the business. Mr. Smith provided that it was the PLH who had indicated this based off the sales on the till. Since the abatement notice was served and noise turned down the alcohol sales had dropped. The clientele had changed as previously patrons would eat and go; however, a lot more stay on at the premises and have a drink in the courtyard. Mr. Smith also clarified that there had always been heaters in the courtyard, they had just recently been updated to more efficient infrared heaters.

In response to a member enquiry, Mr. Smith confirmed that they could cease some of the loud music during the week as it would have only a minor effect, however restricting alcohol from the outside area after 23:00 would not work for the business as people are outside until 02:00.

The Sub-Committee agreed to adjourn the meeting for a small period to allow the PLH and her representative time to examine and consider the draft conditions proposed by Mr. Howson.

After consideration of the proposed conditions by Mr. Howson, Mr. Smith made the following comments:

1. Condition One – this would be reasonable, although still a restriction on the current licence.
2. Condition Two - In the outside areas currently the speaker system is switched off at 23:00. With the new system, Mr. Smith and the PLH still felt this would be

reasonable.

3. Condition Three – Hourly patrols can be conducted by the door supervisor and manager who will be at the premises, Mr. Smith provided that they were happy with this condition.
4. Condition Four – this is a difficult condition for the business and Mr. Smith requested that alcohol would be permitted outside until 01:00 with noise controls put in place. It was accepted by the PLH that the noise nuisance for residents was wrong and they would like to improve this. The PLH would not allow any admissions into the venue after 00:00 which would reduce the amount of people entering the premises inebriated.
5. Condition Five – signage is already displayed, and the door supervisor has been briefed to ensure that patrons leave quietly. The door supervisor would not permit entry to patrons who are already too intoxicated.

Mr. Smith stated that the PLH would like to provide residents with direct contact with herself so that she could address any further concerns. In addition, there was no concerns from the PLH, or Mr. Smith should the Sub-Committee choose to remove the DPS.

Mrs. Miller, in summarising acknowledged that the PLH agreed that Officers tried to work very hard with the business and residents. Mrs. Miller explained that they wanted to use process in a positive way to ensure that the business could operate in a way which causes no negative impact on residents.

In summarising, Mr. Howson explained that the PLH had accepted the licensing objectives had been undermined and advised the Sub-Committee to take such steps as appropriate to try and promote the licensing objectives. Mr. Howson requested that the Sub-Committee attach appropriate conditions to the premises.

Ms. Richmond summarised her representation and stated that it was distressing for all residents near the premises. Ms. Richmond clarified that on 14 November after the notice had been served the music was loud and not turned down from approximately 22:30 until 02:00. The music is more of a nightclub than restaurant and cocktail bar, with the outside area full of young people drinking and shouter. Ms. Richmond explained that as the music gets louder the patrons get louder, upon leaving the premises the noise continues and it is difficult for the door supervisor to control the patrons. Ms. Richmond told the Sub-Committee that she could not cope with not being able to sleep or enjoy her evenings in and she should not have to go somewhere else to get away from the noise.

Mr. Sutton explained that he was happy that the steps put in place by the PLH worked as there was a four-week period where the noise was acceptable. However, the noise returned. The steps put in place would need to be continuous and adhered to all the time.

Mr Smith accepted that the control of noise was an issue and this is the reason why a new noise control system was due to be installed. He explained that the PLH was trying to do everything possible to correct the situation. Mr Smith stated that it was a balancing exercise between the rights of the business against the rights of the

residents and that as there had been noise issues, there was a requirement to sort this out.

**Resolved:**

After careful consideration of the written and oral representations made by all parties to the hearing and having regard to the following:

1. The guidance issued under the S182 of the Licensing Act 2003
2. The Council's Statement of Licensing Policy
3. The Licensing Act 2003

The committee found there had been an undermining of the public nuisance licensing objective. The Premises licence holder had been given ample opportunity in the last six months to deal with the noise issues at the premises.

Despite informal action and warnings of the noise issues, by Environmental Health and Licensing Officers to address concerns in respect of noise nuisance, this made no difference.

Ultimately, the continued noise nuisance led to formal action and the service of the abatement notice, which had not been appealed. During the hearing, the PLH has accepted that there have been complaints and that the local authority had attempted to assist and support them on numerous occasions. It was offered by the PLH that the problem in respect of the noise nuisance lay with the DPS and it was the DPS who was failing to manage the premises. The PLH stated that the change in clientele was as a result of the noise issues at the premises, i.e. that music was being played at such a level that it was attracting a different type of clientele.

It is clear to the committee that there is a direct link to the noise nuisance and management control of the premises via the DPS. The removal of the DPS was offered by the PLH.

The Committee accepted that the PLH had made some attempts in recent weeks to try to address the problem, by investing in some noise control equipment. Furthermore, a resident had stated that the noise was not an issue for 3-4 weeks and appeared to have been addressed, however, there was an incident on the 14/11/21, which indicated that the problem had resurfaced.

The Sub- Committee found that the noise nuisance had an impact on residents living in the area and a necessary and proportionate response to the undermining of the licensing objectives was to remove the current DPS. **The Sub- Committee therefore resolved, pursuant to Section 52(4)(c), to remove the designated premises supervisor.**

The removal of the DPS did not go far enough in the opinion of the committee and therefore, a further adequate and proportional response to the undermining of the licensing objectives was the imposition of the following conditions to redress the balance. **The Sub- Committee therefore resolved, pursuant to Section 52(4)(a), to modify the conditions of the licence by imposing the following conditions on Annex 3 of the premises licence:**

1. The windows and doors of the premises shall be kept closed, save for access and egress, on Friday's and Saturday's after 00:00, Monday-Thursday after 22:00 and Sunday after 23:00 hours when the playing of recorded music or the performance of live music is being carried out. Section 177A does not apply to

this condition.

2. No music whether live or recorded shall be played or performed in the outside areas of the premises on Sunday – Thursday after 22:00, Friday and Saturday after 22:30. Section 177A does not apply to this condition.
3. After 2300hrs and until the close of business, the premises licence holder, designated premises supervisor or other person nominated in writing, shall conduct hourly patrols in the outside areas of the premises, as defined by the plan attached to the premises licence, to assess the levels of noise generated by patron. Where noise is above background noise, remedial action shall be taken. A record shall be made in a dedicated diary which shall include, as a minimum, the person making the entry, the time and date of the entry, what the findings of the patrol were, and what remedial action, if any, was taken. This diary shall be kept on the premises at all times and shall be produced to a police constable or authorised officer on request. Completed diaries shall be kept for a minimum period of 12 months from the date of the final entry in it or for such longer period as may be directed by a police constable or an authorised person.
4. Alcohol shall not be permitted to be taken into the outside areas of the premises after 2300hrs on a Sunday, after 22:00 hrs Monday-Thursday and after 00:00hrs on Friday and Saturday.
5. The premises licence holder shall cause adequate signage to be displayed in the outside areas with wording to the effect of asking customers to leave quietly and with respect to neighbours. Furthermore, the PLH shall ensure that staff members receive adequate training ensuring compliance with the signage.

The committee recommended that the PLH should not only make sure she is aware and fully understands the requirement of the new conditions but also those already in place on the premises licence. The committee hopes that the PLH will continue to co-operate with the Responsible Authorities and will seek assistance if needed in the future.

Chair

Date





<b>Minutes of</b>	<b>Licensing Act 2003 Sub-Committee</b>
<b>Meeting date</b>	<b>Wednesday, 23 February 2022</b>
<b>Members present:</b>	Councillor Matthew Lynch (Chair), Councillor (Vice-Chair) and Councillors Margaret France and Christine Turner
<b>Officers:</b>	Tracy Brzozowski (Customer Services (Enforcement)), Nathan Howson (Enforcement Team Leader (Licensing)), Elizabeth Walsh (Senior Solicitor) and Coral Astbury (Democratic and Member Services Officer)

#### **22.4 Declarations of Any Interests**

There were no declarations.

#### **22.5 Procedure**

The Chair outlined the procedure that would be followed for the meeting.

#### **22.6 Determination of Application for a Premises Licence- Old Camelot Site, Park Hall Road, Chorley, PR7 5LP**

The Director of Planning and Development submitted a report for the Licensing Act 2003 Sub-Committee to advise members of an application for a premises licence in respect of Old Camelot Site, Park Hall Road, Chorley, PR7 5LP. The application was brought for determination by Members as several relevant representations had been received.

The Applicants, Mr. Dean McCormick and Mr. Russell Feingold of One Digital Outdoor Ltd were present, as were their representatives Mr. Ryan Esson and Ms. Jessica Webb of GoTo Live Ltd.

Prior to the meeting starting, the Chair indicated that he had visited the site earlier in the morning to gauge the distance of the premises from local residential properties. A security guard had seen the Chair and had contacted Mr. Feingold. The Chair confirmed that he had a brief conversation with Mr. Feingold to explain the purpose of his visit and clarified that no discussion had taken place in regard to the Sub Committee hearing.

The Sub-Committee were asked to approve the requests received under regulation 8, allowing eligible parties to the hearing to speak. In response, the Enforcement Team

Leader (Licensing) explained that none had been received and that none of the residents who had submitted representations were attending the hearing.

The Enforcement Team Leader (Licensing) presented the report and explained that an application for a new premises licence was submitted by GoTo Live Ltd for and on behalf of One Digital Outdoor Ltd. As representations were received the Sub-Committee were asked to determine the application.

The Enforcement Team Leader (Licensing) explained that the site is open-air and incorporates the site of the old Camelot Theme Park. The nearest residential property to the site lies approximately 350m to the north west with small pockets of residential housing to the south east, with the nearest significant area of housing lying approximately 900m to the east.

The Applicant sought to authorise the following licensable activities:

<b>Licensable Activity</b>	<b>Day</b>	<b>Permitted Hours</b>
Provision of Films	Monday – Friday Saturday – Sunday	13:00-23:00 10:00-23:00
Provision of Live Music	Monday – Sunday	13:00-23:00
Provision of Recorded Music	Monday – Sunday	13:00-23:00
Provision of Performances of Dance	Monday – Sunday	13:00-23:00
Supply of Alcohol	Monday – Sunday	13:00-23:00
Hours the Premises are open to the Public	Monday – Friday Saturday - Sunday	12:00-23:30 09:30-23:30

The Enforcement Team Leader (Licensing) advised that the application had been advertised in line with regulation requirements and notices had been placed around the site, in the newspaper and on the Council's website. The Applicants were proposing to hold an immersive drive through cinema event, with both food and alcoholic/non-alcoholic drinks being served to the public. The Enforcement Team Leader (Licensing) explained that a comprehensive events safety management plan had been provided and discussed at the Council's Events Safety Advisory Group (ESAG) on 18 January 2022. Concern had been raised by the emergency services regarding access for emergency vehicles. However, a site visit was carried out on 2 February 2022 and confirmation was received that there was adequate access for all parties, and no further concerns were raised.

The site had been operating using a Temporary Events Notice (TENs) and a visit was undertaken on 24 February 2022 by Lancashire Constabulary and Licensing Officers. The Enforcement Team Leader (Licensing) explained that the event was well run and there was no audible noise. No complaints had been received by the Police or Licensing.

The Enforcement Team Leader (Licensing) advised Members that several representations in relation to the application had been received, but several points raised were not relevant to the licensing objectives and were redacted. Mediation was nominally agreed between the organisers of the event and residents but did not happen.

Members sought clarification on the events which had taken place under TENs and asked if any complaints had been received. In response, the Enforcement Team Leader (Licensing) advised that Licensing had received no complaints. Further, Officers had checked with all other services such as, Environmental Health, Planning and Lancashire Constabulary and no complaints had been received.

Mr. Ryan Esson, on behalf of the Applicant, explained that GoTo Live were engaged in a consultancy capacity to assist with the licence. Since 2020 the Applicant had delivered a number of drive-in, immersive experiences, bringing themed movies to life using actors and activity. The opportunity had presented to use the Old Camelot Site and a licence application was submitted in January 2022 to seek permission for events to take place on the site. Mr. Esson explained that Camelot Rises would be the first event and the Applicant would seek to extend the “meanwhile use licence” with the landlord beyond the current 12 months to develop further events to take place on site. Mr. Esson explained that they would do the following to promote the licensing objectives:

### **1. General**

The Applicant will ensure that a comprehensive Event Safety Management plan is produced for any event taking place on the premises. This will assess in detail all activity and will outline the steps taken to ensure all event activity is safe and promotes the licensing objectives.

Any event or licensable activity undertaken at the site will be fully risk assessed and this assessment documented and submitted to the local and responsible authorities for consultation.

A team of experienced professionals will manage and supervise any activity on site, a schedule of which shall be detailed in the ESMP.

Liaison with the local authority will be undertaken using written documentation and via formal meeting platforms such as ESAGs.

The Applicant will engage with the local community and local businesses in advance of any event activity undertaken to outline plans and to maintain a constructive, open dialogue with the local community.

### **2. Prevention of Crime and Disorder**

Following assessment of risks at each event, security and stewarding personnel will be deployed to ensure the prevention of crime and disorder. Security and stewarding personnel will be in place to monitor the event activity and supervise both customers and the public ensuring that disorder or criminal activity is prevented.

Liaison with the Police will be undertaken in advance of any event activity, as required, ensuring information sharing and that necessary event procedures are in place for the prevention of crime and disorder.

Attention will be made on an event-by-event basis to the layout and design of the site ensuring that vulnerable areas are secured using fencing and are monitored by security personnel.

Each event will have specific entry terms and conditions made available to customers both at the point of purchase and entry to the premises. The specific entry terms will

be designed with the event activity in mind and the prevention of crime and disorder primary in its objectives.

The DPS for the premises will ensure responsible sale of alcohol through the implementation of procedures that control sales by preventing sales to intoxicated persons and authorising sales only by trained and experienced bar personnel.

Use of two-way radios will be used by event staff to enable effective and responsive communications throughout any event. This will greatly assist with sharing intelligence and surveillance of the audience if there is a suspicion of crime or risk of disorder.

All events will have a zero-tolerance policy of drug or psychoactive substance uses. All events will include the right to search as a term of entry. The Applicant will work with the Police on drug prevention strategies on an event-by-event basis.

### **3. Public Safety**

All event activity undertaken will be subject to a thorough Event Safety Management Plan and risk assessment. These documents will assess the activity and outline the approach to maintaining public safety and to minimising risks associated with the specific activities taking place. These documents will be submitted to the local and responsible authorities in advance of any activity.

The site design and layout plans will be documented in advance of any event taking place and will be shared with the local and responsible authorities in advance of any event. The designs and layouts will demonstrate the positioning of all activity and will demonstrate that there is sufficient space and capacity to accommodate the proposed number of guests. The plans will also demonstrate plans for ingress and egress of the site including egress under emergency circumstances.

All events that take place on the premises will engage the services of competent, qualified, and suitably experienced crowd management, security and safety stewards. Plans detailing the positioning of these personnel will be distributed to the authorities in advance of each event.

For each event, an assessment will be undertaken and documented as part of the ESMP that calculates the medical and first aid provision required. The calculation of resources required will be in line with those set out in The Purple Guide for Event Safety.

Provision of adequate sanitary facilities will be in place at each event. This will be calculated in line with guidance set out in The Purple Guide for Event Safety.

Free drinking water will be made available at all events.

The use of any temporary demountable structures will be detailed in the ESMP and event plans. Use of such structures will be subject to thorough assessment of the structural calculations for any structures used at an event. Use of any temporary structures will be accompanied with a detailed Adverse Weather Plan outlining safety procedures and protocols in the event of inclement weather.

### **4. Prevention of Public Nuisance**

All events that take place at the premises will be considered and designed with consideration to the potential impact on the local community with particular focus being placed upon the placement and direction of sound systems relative to local properties.

Any amplified sounds will be operated in line with the guidance outlined in The Code of Practice (COP) on Environmental Noise Control at Concerts (The Pop Code). This widely adopted COP is seen as the standard bearer for noise control at events by local authorities nationally and by the events industry. The code places strict and objective parameters on event organisers with regard to the creation of amplified sound and their impact on noise sensitive receptors.

Noise sensitive receptors will be agreed with the local authority in advance of any events.

Monitoring of noise levels will be undertaken by the Applicant or their nominated deputies at the sound desk and at pre-agreed noise sensitive receptors.

A comprehensive ingress, egress and, if required, traffic management plan will be produced as part of the Event Safety Management Plan (ESMP) and Event Plans for each event taking place on the premises. This will ensure that comprehensive plans are in place to combat the potential impact of traffic build up on the local road network and its disruption to the local community as well as the potential for noise nuisance caused by entry to or dispersal from events.

For each event taking place, the Applicant will notify the local community and businesses and outline the event plans and details. This notification will provide the local community with a means of directly contacting the Applicant or event organiser should they have any concerns or issues to report.

#### **5. Protection of Children from Harm**

Any events planned to take place on the premises will be fully assessed to ensure the protection of children's welfare.

This assessment will determine appropriate age restrictions and limitations placed on the event ensuring that the event activity is age appropriate.

Where an event is determined as appropriate for the attendance of those under the age of 18, policies and procedures will be published in the ESMP and risk assessment that outline the organisers commitment and approach to the protection of children from harm.

These procedures and policies will include the conditions under which children under the of 18 may attend, adequate supervision by accompanying adults, collection and drop off points and staff procedures for dealing with children and with particular attention paid to the welfare and treatment of vulnerable children.

Where an event is determined as suitable for children a safeguarding policy will be included as part of the ESMP.

Where an event is determined as suitable for children a designated welfare area will be created and will be managed/supervised by staff who have undertaken Disqualification and Barring Service checks.

All alcohol sales authorised on the premises will be subject to the national Challenge 25 policy which further ensures prevention of the sale of alcohol to those underage.

Mr. Esson explained that following the three weekends of opening there had been no incidents or refusal of customers, no crime and disorder by attendees or non-attendees and no complaints from the community to any responsible authority. The Applicant had undertaken their own noise monitoring and had found no impact on background noise levels.

Following notification of objections, the Applicant had tried to liaise with residents through Licensing Officers. Residents initially accepted and a meeting was arranged, however the resident did not subsequently attend the meeting. The Applicant was fully committed to maintaining positive relationships with the local community and would continue the same high standard of planning, safety and professionalism as demonstrated by the first Camelot Rises events.

In response to a Member enquiry, Mr. Esson confirmed that the capacity of the site was 300 cars, however the last three weekends had averaged around 100 cars. Resource for traffic and security stewards were planned accordingly based off ticket sales and would be increased should sales increase. It was also advised that on the opening weekend, it took approximately 13 minutes to allow the vehicles to leave. The Applicant had requested their opening hours to allow a 30-minute dispersal period, with all licensable activity ceasing by 23:00 to allow the site to be cleared by 23:30.

Considering the representations by other persons, Members sought clarification on the level of noise present at the events and asked if this would affect nearby properties. In response, Mr. Esson confirmed that noise recordings were undertaken by the Applicant on 4 February 2022 and a maximum of 70 decibels were recorded in the car park, equivalent to the noise of heavy traffic on the road. The noise levels had also been measured at Stocks Lane and Yewlands Avenue and had no impact on overall noise.

Members also sought clarification on how the Applicant would monitor guest behaviour, referring to resident's concerns. In response, Mr. Esson explained that the original application was not going to include alcohol sales but following a risk assessment it was noted that this could potentially encourage customers bringing their own alcohol. Following assessment, a bar would now be on site and customers would be prohibited from bringing their own drinks. All vehicles would be subject to search and security would be present to monitor and flag any concerns with behaviour or signs.

In summing up, Mr. Esson explained that it was the position of the Applicant that the application for the premises licence should be granted based on the following evidence provided to the Sub-Committee:

- The commitment of the Applicant to the promotion of the licensing objectives as demonstrated in the premises licence application and the subsequent Event Safety Management Plans submitted for Camelot Rises.
- The proven track record of the Applicant in delivering events on the premises that are both; in line with the operational commitments made in the Event Safety Management Plan and, support the licensing objectives by material fact

that events so far have not contravened the objectives or given cause for concern that the objectives have been contravened.

- The willingness and attempts of the Applicant to make themselves available to concerned residents to discuss their concerns and allay their concerns. The Applicant has made themselves available for direct consultation or indirectly via Council officials. These attempts at consultation have been rejected by the persons who had made representations. This willingness to meet with the community demonstrates a commitment to openness and transparency and shows that the Applicant is prepared to take on board the concerns of the community and attempt to act positively on those concerns.
- The use for the premises supports the objectives of licensing policy of Chorley Council. Specifically, “Encouraging diversity in the night-time economy that is less focused on alcohol”. The planned events are proposed as drive in movie experiences and as fulfil this part of the licensing policy. As a drive-in experience, the sale of alcohol is an incidental feature of the event for those that wish to purchase alcoholic refreshment. The organisers were initially not going to carry on the sale of alcohol but made the decision to include this to ensure control of the consumption by patrons. Furthermore, the Applicant is able to complement the licensing policy while maintaining the licensing objectives.
- Noise nuisance is suitably controlled by the fact that amplified sound is used dynamically to support the atmosphere for patrons using the bars or toilets. The primary means of hearing the films is via the in-car stereo of each car. Noise nuisance caused by patrons entering and leaving the premises is controlled sufficiently by the nature of the event being drive-in movie experiences, meaning pedestrian footfall is negligible and through sufficient supervision of event safety stewards.
- The proposed hours for licensable activities have been carefully determined to ensure a gradual and efficient dispersal from the premises

#### **RESOLVED:**

Members were assured by the detailed event management plan provided and the fact that three events had already been facilitated with no issues raised by residents nor any responsible authorities.

Further, Members were also assured that the Applicant had taken into consideration the residents concern and were available for contact should there be any issues. Members also noted that the Applicant had continuously worked alongside Officers and Responsible Authorities through the Events Safety Advisory Group (ESAG) to ensure the event would be promoted in line with the licensing objectives.

After careful consideration of the written and oral representations made by all parties to the hearing and having regard to the following:

1. The guidance issued under the S182 of the Licensing Act 2003
2. The Council’s Statement of Licensing Policy effective from 2021
3. The Licensing Act 2003

The Sub-Committee have resolved to grant the licence in the manner it had been applied for and modify the operating schedule to impose the following additional condition:

- For further events taking place at the Old Camelot Site, a copy of the event management plan is to be submitted to the Local Authority and Responsible Authorities for comment.

Any party aggrieved by the decision of the panel, has a right to appeal the decision to the Magistrates Court within 21 days.

Chair

Date



Report of	Meeting	Date
Director (Planning and Development)	Licensing and Public Safety Committee	Wednesday, 6 July 2022

## Consideration of Criteria for the Allocation of a New Hackney Carriage Vehicle Licence

Is this report confidential?	No
Is this decision key?	No

### Purpose of the Report

1. For members to consider, approve and adopt the Criteria for the Allocation of a New Hackney Carriage Vehicle licence as Council Policy.

### Recommendations to Licensing and Public Safety Committee

2. That the Committee give due consideration to the report and approve the Criteria for the Allocation of a New Hackney Carriage Vehicle Licence.
3. That authority is delegated to the Director (Planning and Development) to carry out the administrative process of inviting applications of interest to be made and for applications to be brought before the next LPSC for selection by the “tombola” method, in accordance with the criteria.
4. That the criteria is adopted as the Council’s policy and appended to the Hackney Carriage and Private Hire Licensing Policy as Appendix 5, with authority being delegated to the Director (Planning and Development) to make amendments to the Criteria as and when required, in consultation with the Chair or Vice Chair of the Licensing and Public Safety Committee.

### Reasons for recommendations

5. The criteria gives all interested parties a fair and open way of being considered for a licence, clearly setting out the Council’s procedure. The criteria also ensures the travelling public are given best service by a modern vehicle which also increases the Council’s wheelchair accessible vehicle (WAV) provision.
6. The procedure has been used in previous years and has been felt to be an appropriate way of administering the process of granting a new hackney carriage vehicle licence.

### Other options considered and rejected

7. The Committee could decide not to adopt the criteria as Policy. This option is not favourable as it would slow the administrative process by requiring the criteria to be set by Committee each time a new licence is required.

**Corporate priorities**

8. The report relates to the following corporate priorities: (please bold all those applicable):

Involving residents in improving their local area and equality of access for all	A strong local economy
<b>Clean, safe and healthy communities</b>	An ambitious council that does more to meet the needs of residents and the local area

**Background to the report**

9. In accordance with Section 16 of the Transport Act 1985, the Council limits the number of Hackney Carriages, in respect of which licences are granted, to 36 licences.
10. Following the expiry of HCV0001, the Council currently has 35 hackney carriage vehicle licences, leaving 1 licence available to be granted. The Council has not issued a new HCV licence since 2017 where it adopted criteria in an ad-hoc way to administer the process of a single licence.
11. There is a significant, intrinsic value associated with the holding of a hackney carriage vehicle licence in a controlled district where hackney numbers are limited and so it is appropriate that the Council employs a fair and open method of determining who should be allocated the licence, provided they meet the criteria which is set.

**Criteria for the Allocation of a New Hackney Carriage Licence**

12. The proposed Criteria for the Allocation of a New Hackney Carriage Licence is appended at Appendix 1. This criteria is largely the same as has been applied in 2017, 2010 and 2008.
13. It is proposed to adopt this criteria as Council policy so that, when any hackney carriage vehicle licences become available, there is a set and defined criteria to be applied. Having this defined criteria means the administrative process is smoother and applications can simply be invited in accordance with the criteria, rather than approval needing to be sought on each occasion from the LPSC.
14. The criteria sets out that, in order to be considered, the vehicle must be a wheelchair accessible vehicle (WAV). This will increase the provision of WAVs in the hackney carriage fleet as the vehicle licence which has expired was not a WAV. It also sets out the nature of the person who is being invited to submit an expression of interest, the length of time they would expected to have been licensed for etc.

**Climate change and air quality**

15. The work noted in this report does not impact the climate change and sustainability targets of the Councils Green Agenda and all environmental considerations are in place.

**Equality and diversity**

16. This criteria will see that any new hackney carriage vehicle licence granted is for a wheelchair accessible vehicle, increasing the supply of WAVs in the Borough.

**Risk**

- 17. There is a reputational risk to the Council of not having a defined criteria for the allocation of licences. This also would slow the administration of the process and therefore subject the public to reduced availability of hackney carriages for an extended period.

**Comments of the Monitoring Officer**

- 18. Section 37 of the Town Police Clauses Act 1847 as amended by section 16 of the Transport Act 1985 provides that a Council may only limit the number of licensed hackney carriages if it is satisfied that there is no significant unmet demand for the services of hackney carriages.
- 19. In the event of any challenge to the Council's policy of restricting the number of hackney carriages, reliance can be placed on the findings of the most recent survey in respect of unmet demand.
- 20. As hackney carriage vehicle licences are highly sought after, there is always the possibility of a legal challenge to the allocation process, or an appeal by an unsuccessful applicant. In order to mitigate the risk, it is important that Members should be seen to act fairly and openly. The Council's established tombola method would also assist in mitigating the risk.
- 21. Any person who is refused the grant of a hackney carriage vehicle licence would have the right of appeal to the Crown Court within 21 days of receiving notice of the decision.

**Comments of the Statutory Finance Officer**

- 22. No comments.

**There are no background papers to this report.**

**Appendices**

Appendix	Description
Appendix 1	Criteria for Consideration

Report Author:	Email:	Telephone:	Date:
Nathan Howson (Enforcement Team Leader (Licensing))	Nathan.Howson@chorley.gov.uk	01257 515665	16/06/22

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## **CRITERIA FOR THE ALLOCATION OF A NEW HACKNEY CARRIAGE VEHICLE LICENCE**

This policy sets out the Council's approach when there is availability for a new hackney carriage vehicle licence to be granted. This could be following the natural expiry of a licence or following the revocation or surrender of it.

Only persons who fully meet the criteria will ultimately be entered into the draw in order to be invited to apply for a licence.

When a licence becomes available, the Council will write to existing Hackney Carriage Drivers (HCD), Private Hire Drivers (PHD) and Private Hire Operators (PHO), inviting them to submit expressions of interest in accordance with this document. The period within which a licence holder may submit an expression of interest will be included in this correspondence. This correspondence can be via electronic methods. The Council will also display a notice on its website setting out the criteria and inviting expressions of interest.

Any person wishing to submit an expression of interest should read and ensure they fully meet the criteria in this document. Where a licence holder submits an expression of interest but does not meet the criteria, they will not be entered into the draw and the licensing team will not notify them that they have not met the criteria.

On the expiry of the period during which expressions can be submitted, a sift will be carried out to sort those expressions which meet the criteria. These will then be placed into sealed envelopes and a "tombola-style" draw shall be carried out at the next Licensing and Public Safety Committee. Any person wishing to attend such meeting shall be permitted to in accordance with the existing procedures.

At the meeting, 3 envelopes shall be drawn. The first shall be given the opportunity to apply for the grant of a hackney carriage vehicle licence. If, on the expiry of 2 months from the draw, the first applicant has not applied and had a vehicle test, the second name drawn shall be invited to make an application. Again, if the second person does not make an application and had a vehicle test within 2 months of being invited to make an application, the third person shall be invited. If the third person draw does not make an application and submit the vehicle for test within 2 months, then the initial allocation process will be carried out again. Those who had previously been drawn but failed to apply shall be excluded from submitting expressions of interest. In any case, an application will only be accepted where it meets the criteria set out in this policy and any other applicable Council policy and requirement.

Nothing in this document affects the Council's absolute discretion to determine whether to grant a hackney carriage vehicle licence.

### **The Criteria**

1. The applicant must be an existing licence holder at the time the period for submitting expressions of interest opens. They must have held a licence for a minimum period of 3 consecutive years, immediately preceding the date expressions of interest are invited. In this section, a licence means a Hackney Carriage or Private Hire Driver Licence, or a Private Hire Operator Licence, issued by Chorley Council.

2. Expressions of interest cannot be submitted by persons who already hold (whether a full or part share in) a Hackney Carriage Vehicle licence or from anyone who resides at the same address as an existing Hackney Carriage Vehicle Licence holder.
3. Only 1 expression of interest shall be accepted per address.
4. Expressions of interest cannot be submitted by persons who have held a Hackney Carriage Vehicle licence in the five years immediately preceding the date expressions of interest are invited.
5. Expressions of interest cannot be submitted by any person who has, in the 5 years preceding the date expressions of interest are opened, had a Hackney Carriage or Private Hire Driver licence, Hackney Carriage or Private Hire Vehicle Licence or Private Hire Operator licence refused or revoked by this or any other Authority.
6. Expressions of interest will only be accepted from persons who are registered to vote in Chorley or a person who is liable to pay business rates to Chorley Council or exerts significant control over a company liable to pay business rates to Chorley Council.
7. The applicant must not currently be declared bankrupt or have been excluded from directing a business by order of a court.
8. The applicant must be free from convictions, motoring or otherwise, at the time expressions of interest are invited, other than those which have already been declared and considered by the Council. The same is true for any pending prosecutions.
9. The applicant is required to be the owner and driver of the vehicle. The licence will be awarded on a sole proprietorship basis. The applicant must have the legal capacity to hold a licence. The owner and driver must have completed, or have booked onto, the Wheelchair Assessment course with a company contracted by Chorley Council to provide such a course.
10. Applicants shall be required to declare that they intend to make use of the licence personally in Chorley for a minimum of 12 months. Disciplinary action would likely result against those found to be breaching this.
11. Vehicles shall be less than 5 years old at the time of the application, this shall be measured from the date of first registration shown on the logbook. Imported vehicles shall not be considered suitable.
12. The vehicle which is presented must be a Wheelchair Accessible Vehicle (WAV) as defined in our existing policy. This licence will be for a WAV in perpetuity and a licence will only be granted when it is sought for an appropriate WAV.
13. Vehicles must be purpose-built hackney carriages and purpose-built to carry wheelchair users.
14. Any other considerations, which may fairly and reasonably relate to the grant of a hackney carriage licence and appear to the Council to be relevant including the proposed area of operation of the vehicle in respect of area to be worked, may be taken into account at the time of the award of the said licence.