

Minutes of **General Licensing Sub-Committee**

Meeting date **Wednesday, 25 May 2022**

Committee Members present: Councillors Matthew Lynch (Chair), Matthew Lynch, Mark Clifford, Gordon France, Margaret France and Jean Sherwood

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

Apologies: 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:

Conviction Date	Offence(s)	Penalty
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