

## Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 31st July, 2007.

**Present:** Cllr William Woodhead (Chairman), Cllr Dick Cains, Cllr Mrs Eileen Craggs, Cllr Ken Dixon, Cllr John Fletcher (Vice Councillor Alan Lewis), Cllr Paul Kirton, Cllr Miss Tina Large, Cllr Colin Leckonby, Cllr Mrs Kath Nelson, Cllr Maurice Perry, Cllr Roy Rix and Cllr Fred Salt.

**Officers:** P Edwards, S Forsythe, M Vaines (DNS); P K Bell, J Nertney (LD).

**Also in attendance:** For Mr M.R. item - Mr M.R. and the mother of Mr M.R.  
For Mr W.H. item - Mr W.H.  
For Mr M.B. item - Mr M.B.  
For Miss M.M. item - Miss M.M. and her sister Ms A.M.

**Apologies:** Cllr Kevin Faulks, Cllr Alan Lewis and Cllr Lee Narroway.

### **L 7/07**      **Declarations of Interest**

Councillor Dixon declared a personal, prejudicial interest in respect of the Mr D.G. item as he knew Mr D.G. from his previous employment.

Councillor Large declared a personal, prejudicial interest in respect of the Mr D.G. item as she knew members of Mr D.G.'s family.

Councillor Kirton declared a personal, prejudicial interest in respect of the Mr D.G. item as he knew members of Mr D.G.'s family.

Councillor Mrs Craggs declared a personal, prejudicial interest in respect of the Mr M.R. item as she knew members of Mr M.R.'s family.

### **L 8/07**      **Minutes**

The minutes of the meeting held on 19th April 2007 were signed by the Chairman as a correct record.

### **L 9/07**      **Minutes**

The minutes of the meeting held on 12th June 2007 were signed by the Chairman as a correct record.

### **L 10/07**      **Private Hire Driver - Mr M.R.**

Consideration was given to a report on a Private Hire Driver who was charged with three counts indecent assault on his stepdaughter in 2001.

Mr M R was a licensed Private Hire Driver driver. He was first licensed on 3rd June 1991 his current license is due to expire on 31st August 2007.

As part of the vetting process for licensed drivers, a CRB (Criminal Records Bureau) check is done every three years. On 24th February 2005, additional information was provided by the Chief of Police on the CRB, this stated that on 26th February 2001 Mr M.R. was charged by Police with three counts of

indecent assault against his step-daughter and bailed to appear at court. On appearing at Court the case was dropped as a witness stated she no longer wished to give evidence. After much intensive investigation it had come to light that Redcar & Cleveland Borough Council, Children's Services Department, held further information on Mr M R a letter was received confirming this information. A copy of the letter was attached to the report. It was noted that no proceedings were taken against Mr M R with regard to a second alleged indecent assault on an underage girl.

Mr M R was interviewed by Licensing Officers on 21st March 2007 in relation to the further information received from the Children's Services Department. He denied the allegations and stated that his wife had told him that she had let things go "too far". A copy of tape transcript ESD/801 was attached to the report.

Licensing Officers had written to Mrs R to clarify certain points but she had failed to respond. Copies of these letter were attached to the report.

Members were reminded that under the provisions of Section 61 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on the following grounds: -

That he has since the grant of a licence:-

(i) been convicted of an offence involving dishonesty, indecency or violence;  
or

(ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act;

(iii) any other reasonable cause.

and Section 61(2)

(A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section

(B) If it appears in the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2) (a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

Mr M R and his mother Ms P P were in attendance at the meeting and were given the opportunity to outline their case. The Committee had full regard to the report presented, a copy of which had been provided to Mr M R prior to the meeting.

The alleged incidents concerned the Committee greatly, and when asked if Mr M R would like to say anything in his defence he denied all the allegations that

had been made against him. Mr M R's wife had been written to by Licensing Officers in an attempt to corroborate his version of the events that had taken place, no reply was ever received. Mr M R stated that he had contacted his wife and that she had confirmed she had received the letters from the Licensing Officer. Furthermore Mr M R had stated that he had asked his wife to attend the Licensing Committee but she had failed to do so.

The Committee were mindful that it had been a number of years since Mr M R had been charged with these offences. Notwithstanding the delay in these matters being brought to the attention of the Licensing authority they now had to make a decision as to whether this information had any impact on Mr M R's ability to hold a licence and whether he remained a fit and proper person to hold a licence.

The Committee Members were concerned that Mr M R had been charged with two counts of indecent assault. Mr M R's stepdaughter's allegations were investigated by the Police. It was reasonable to assume that both the Police and the Crown Prosecution Service felt that there was sufficient evidence to instigate criminal proceedings against Mr M R and in that regard that there was a realistic prospect of conviction. The Committee noted that the reason the case did not proceed to trial was because Mr M R's wife indicated that she was not prepared to attend a trial and did not want Mr M R's stepdaughter to give evidence. The Committee had no evidence before them from either Mr M R's wife or Mr M R's stepdaughter that the allegations had been made maliciously or were untrue.

It was noted that since the trial was vacated Mr M R confirmed to the Committee that Redcar and Cleveland Borough Council had taken care proceedings and obtained a Care Order, which prevented Mr M R from having contact with his stepdaughter. Mr M R confirmed to the Committee that he was aware of this but had still had direct and indirect contact with his stepdaughter in clear breach of the Care Order. Mr M R was questioned further on this and he confirmed that he had knowingly breached the Order. Mr M R also stated that he had tried on several occasions to overturn the Care Order but that he had not been successful. The Committee also took a dim view of Mr M R's admission in relation to breaching the Care Order and felt that this also called into question his fitness to be a licensed driver.

Members were mindful that it was not specifically the role of the Committee to decide whether Mr M R had indecently assaulted his stepdaughter. What the Committee had to determine was whether there was a reasonable cause to revoke Mr M R's licence and whether he was a fit and proper person to hold a licence. A test that had been applied in previous court decisions was whether a person been aware of all the facts would be happy for their son, daughter, husband, wife or grandchildren to be driven by Mr M R. The Committee felt that the answer to this question was in the negative, namely no they would not be happy for Mr M R to drive family members or members of the public given the facts before them.

Members gave very careful consideration to this matter, as they were conscious that they had to balance their duty to the public against their duty to Mr M R as a licensed driver. However the Committee were mindful that the protection of the public was of paramount importance and they had to consider this when

deciding what action, if any, to take against Mr M R.

RESOLVED that:-

1. In the interest of public safety Mr M R's behaviour was not fit and proper for a licensed driver and there were sufficient grounds under Section 61(1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 to be deemed a reasonable cause for revoking Mr M R's Private Hire Drivers licence.

2. As the revocation of Mr M R's licence was based on the grounds of public safety under Section 61(2)(B) that the revocation take immediate effect.

**L  
11/07**

**Combined Driver - Mr P.H.W.**

Members were informed that Mr P H W was not in attendance at the meeting.

The Licensing Officer reported that a letter informing Mr P H W of the details of the meeting had been hand delivered to his home address on 8th July 2008.

Members decided to give Mr P H W the benefit of doubt and to defer the item to the next meeting of the Committee. However if Mr P H W does not attend the next meeting of the Committee and had not contacted the Licensing Office to give good reason for his absence the item will be heard in his absence.

RESOLVED that the above item be deferred.

**L  
12/07**

**Combined Driver - Mr W.H.**

Consideration was given to an application for renewal of a combined hackney carriage and private hire driver's licence from an applicant who was previously granted a licence by the Committee for a trial period of 6 months because of concern about a past criminal record.

At the meeting held on Tuesday, 28 November 2006 Members were asked to determine an application for a combined hackney carriage/private hire drivers licence from Mr W H because of his past criminal record and previous decisions to refuse his licence on the grounds that he was not considered to be a fit and proper person.

At the meeting Members determined that the application be approved for a trial period of 6 months after which time any application for renewal of the licence would be referred back to the Licensing Committee for Members to review Mr W H's suitability to continue to be a licensed driver. A copy of minute 745, which refers was attached to the report.

Mr W H had applied for renewal of his drivers licence and a copy of his application was attached to the report.

Members were advised that no complaints had been received against Mr W H during this period and he had not been convicted of any further offences according to his declaration and checks on his driving licence.

Members were reminded that under the provision of Section 61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on any of the following grounds:-

(a) that he has since the grant of the licence:-

(i) been convicted of an offence involving dishonesty, indecency or violence, or

(ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act; or

(b) any other reasonable cause.

Mr W H was in attendance at the meeting and was given the opportunity to outline his case.

Members approved Mr W H's application for renewal of his combined hackney carriage/private hire drivers licence.

However this approval was subject to a warning as to Mr W H's future conduct. Should Mr W H receive any further convictions and/or formal cautions or should complaints be received about his conduct then he will be referred back to the Licensing Committee for re-determination of his fitness to hold a licence.

RESOLVED that Mr W H's application for renewal of his combined hackney carriage/private hire drivers licence be approved with a written warning as to his future conduct.

**L**  
**13/07**      **Private Hire Driver - Mr F.A.**

Members were informed that Mr F A was not in attendance at the meeting. Members decided to hear the item in his absence due to concerns of public safety and the fact that Mr F A had been given sufficient notice of the meeting.

Consideration was given to a report on a licensed private hire driver who had failed to submit an application to enable his three yearly criminal record check to be carried out and who was at the time of this meeting suspended.

Mr F A was a licensed private hire driver. He had held a licence since 1996 and his current licence was due to expire on 30 November 2007.

As part of the process to ensure drivers were still considered to be a fit and proper person to hold their licence they were required to submit to an enhanced criminal record check with the Criminal Records Bureau every 3 years.

Mr F A was written to and advised that his next check was due on 3 October 2006 and requested to complete the appropriate form to enable this check to be carried out. As he failed to complete the application a reminder letter was sent to him on 7 November 2006 and again on 16 January 2007.

Despite these letters Mr F A failed to return his completed forms and this resulted in his private hire drivers' licence being suspended by the Trading Standards and Licensing Officer using his delegated powers on 15 February 2007. A copy of the notice of suspension was attached to the report.

To date Mr F A had still not made contact with the Licensing Office or completed his application for a criminal record check.

Members were reminded that under the provisions of Section 61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on any of the following grounds:-

(a) that he has since the grant of the licence:-

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act; or

(b) any other reasonable cause

Members were also advised of the revisions to Section 61 introduced under the Road Safety Act 2006 as follows:

(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which the notice is given to the driver under subsection (2)(a) of this section

(2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

Mr F A's failure to submit to a criminal record check with the Criminal Records Bureau meant that Members were unable to determine Mr F A's continued fitness to hold a drivers licence.

RESOLVED that:-

1. Mr F A's Private Hire Drivers Licence be revoked in the interests of public safety as there were sufficient grounds under Section 61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976.

2. The revocation of Mr F A's licence was based on the grounds of public safety and that under Section 61(2)(B) that the revocation take immediate effect.

**L**  
**14/07**

**Combined Driver - Mr S.A.**

Members were informed that Mr S A was not in attendance at the meeting.

Members decided to consider the item in Mr S A's absence as they considered that Mr S A had been given sufficient notice of the meeting.

Consideration was given to a report on a Combined Hackney Carriage and Private Hire Driver who had been convicted for a Drink Driving Offence.

Mr S A was a licensed Combined Hackney Carriage and Private Hire Driver driver. He was first licensed on 6th October 1997; his current license was due to expire on 31st May 2008.

On 2nd July 2007 Mr S A attended the Licensing Office in person with a written notice of a conviction that he had received on 26th June 2007 at Teesside magistrates Court for Drink Driving. A copy of the letter was attached to the report. He was fined £250 with costs of £40.00 and disqualified for 16 months with a referral to the driver rehabilitation course, which would reduce the period of disqualification to 12 months.

Members were reminded that under the provisions of Section 61 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on the following grounds: -

That he has since the grant of a licence:-

(i) been convicted of an offence involving dishonesty, indecency or violence;  
or

(ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act;

(iii) any other reasonable cause.

and Section 61(2)

(A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section

(B) If it appears in the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2) (a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

RESOLVED that:-

1. Mr S A was no longer a fit an proper person to hold a drivers licence because of his conviction for drink driving and subsequent disqualification and that in the interests of public safety this was sufficient grounds under Section 61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 to be deemed a reasonable cause for revoking Mr S A's Hackney Carriage and Private Hire

Drivers Licence.

2. The revocation of Mr S A's licence was based on the grounds of public safety and that under Section 61(2)(B) that the revocation take immediate effect.

**L  
15/07**

**Application For A Private Hire Driver - Mr D.G.**

Members were informed that Mr D G was not in attendance at the meeting.

Members decided to give Mr D G the benefit of doubt and to defer the item to the next meeting of the Committee. However if Mr D G does not attend the next meeting of the Committee and had not contacted the Licensing Office to give good reason for his absence the item will be heard in his absence.

RESOLVED that the above item be deferred.

(Councillors Dixon, Kirton and Large declared personal, prejudicial interests in respect of the above item and withdrew from the meeting and left the room.)

**L  
16/07**

**Combined Driver - Mr M.B.**

Consideration was given to a report on a licensed combined Hackney Carriage/Private Hire Driver who had received a Caution for Possession of a Prohibited Firearm.

Mr M B was a combined Hackney Carriage/Private Hire Driver with the Authority and had been licensed since July 1999. His licence at the time of this meeting was due to expire on 31 May 2008.

On the 22nd May 2007 the Licensing Office received notification from Mr M B that he had received a caution on the 17th May 2007 for Possession of a Prohibited Firearm. A copy of the Mr M B's letter was attached to the report.

Mr M B was interviewed on 5th June 2007 regarding the caution he received. The interview revealed that the matter related to the purchase of a stun gun and pepper spray, purchased over the Internet. A summary of the transcript of the interview was attached to the report.

Members were reminded that under the provisions of Section 61 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on any of the following grounds: -

(a) that he has since the grant of the Licence: -

(i) been convicted of an offence involving dishonesty, indecency or Violence; or

(ii) been convicted of an offence under or fails to comply the provisions of the Act of 1847 or of this part of this Act; or

(b) any other reasonable cause.

Members were also advised of the revisions to Section 61 introduced under the Road Safety Act 2006 as follows:

(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which the notice is given to the driver under subsection (2)(a) of this section

(2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

A copy of the adopted guidelines relating to the Relevance of convictions was attached to the report for Member's information.

Mr M B was in attendance at the meeting and was given the opportunity to state his case. It was noted that Mr M B had not taken the items out of his home and they were still in their original packaging in his wardrobe when the Police attended his home.

Members had full regard to the report presented, a copy of which Mr M B had received prior to the meeting. Members also took into account what Mr M B had to say in relation to the matters in question.

Members had regard to Mr M B's remorse for the incident and the explanation which he presented in that he had been stupid and naïve in purchasing these items. It was noted that Mr M B had previously received a note of thanks from the Licensing Section on behalf of a member of the public.

Members decided to issue Mr M B with a written warning as to his future conduct. A copy of the letter would be placed on Mr M B's driver file and would be referred to should Mr M B be brought to the attention of the Council for any other disciplinary matters.

RESOLVED that Mr M B receive a written warning as to his future conduct.

**L**  
**17/07**

**Private Hire Driver - Mr J.K.**

Members were informed that Mr J D K was not in attendance at the meeting. Members decided to hear the item in his absence due to concerns of public safety and the fact that Mr J D K had been given sufficient notice of the meeting.

Consideration was given to a report on a licensed private hire driver who had failed to submit an application to enable his three yearly criminal record check to be carried out and who was at the time of this meeting suspended.

Mr J D K was a licensed hackney carriage and private hire driver. He had held a licence since November 1999 and his current licence was due to expire on 31 August 2007.

As part of the process to ensure drivers were still considered to be a fit and proper person to hold their licence they were required to submit to an enhanced criminal record check with the Criminal Records Bureau every 3 years.

Mr J D K was written to and advised that his next check was due on 14 January 2007 and requested to complete the appropriate form to enable this check to be carried out. As he failed to complete the application a reminder letter was sent to him on 15 February 2007.

Despite these letters Mr J D K failed to return his completed forms and this resulted in his hackney carriage/ private hire drivers' licence being suspended by the Trading Standards and Licensing Officer using his delegated powers on 21 March 2007. A copy of the notice of suspension was attached at Appendix 1.

Mr J D K was written to again on 19 April 2007 after Licensing Administration had processed two transfer of vehicle licence applications which indicated a change of address which Mr J D K had not notified to the department. A copy of the suspension notice was sent to him at that time.

To date Mr J D K had still not made contact with the Licensing Office or completed his application for a criminal record check.

Members were reminded that under the provisions of Section 61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on any of the following grounds:-

(a) that he has since the grant of the licence:-

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act; or

(b) any other reasonable cause

Members were also advised of the revisions to Section 61 introduced under the Road Safety Act 2006 as follows:

(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which the notice is given to the driver under subsection (2)(a) of this section

(2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

Mr J D K's failure to submit to a criminal record check with the Criminal Records Bureau meant that Members were unable to determine Mr J D K's continued fitness to hold a Combined Hackney/Private Hire Driver Licence.

RESOLVED that:-

1. Mr J D K's Combined Hackney Carriage Private Hire Drivers Licence be revoked in the interests of public safety there was sufficient grounds under Section 61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976.

2. The revocation of Mr F A's licence was based on the grounds of public safety and that under Section 61(2)(B) that the revocation take immediate effect.

**L  
18/07**      **Application For Private Hire Drivers Licence - MM**

Consideration was given to a report on an application for a private hire drivers licence from an applicant who had relevant convictions.

Miss M M had submitted an application to become a licensed private hire driver with the Authority. A copy of her application was attached to the report, included in this is a copy of Miss M M's DVLA driver's licence.

An important part of the vetting process was to undertake a Criminal Record Bureau check. This was done and returned to the applicant with a copy being sent to the Local Authority. The record disclosed that Miss M M had a number of convictions. The convictions were detailed within the report. A copy of the disclosure was available at the meeting.

Miss M M was interviewed, regarding her convictions, on the 25th May 2007 and a summary of the transcript was attached to the report. During the interview Miss M M blamed her criminal activities on an alleged alcohol problem.

Miss M M had provided the Licensing Office with a medical report together with a letter from her current GP and this detailed her current health status and confirmed that she was medically fit to drive Private Hire Vehicles and following liver function tests she did not have the liver of someone with a drink problem. A copy of the letter was attached to the report.

Miss M M wrote to the council in support of her application, a copy of this letter was attached to the report.

Two references had been received one from CBR Ltd, recruitment firm and one from Mrs L A, a previous employer. Additionally a letter from Miss M M's Probation Officer in Bradford was also attached and a character reference from the Manager at Pollard House Nursing Home, where she worked in Bradford. Copies were attached to the report.

A copy of the Councils guidance on the Relevance of Convictions was attached to the report for Members information

Members were respectfully reminded that under the provisions of section 51(1)(a) of the Local Government (Miscellaneous Provision) Act 1976, District Councils are instructed not to grant a licence to drive private hire vehicles, unless they are satisfied that the applicant is a fit and proper person to hold such a licence.

Miss M M and her sister (Ms A M) were in attendance at the meeting and were given the opportunity to state their case.

Members had full regard to the report presented, a copy of which Miss M M had received prior to the meeting. They also took into account the letter Miss M M wrote and the references and support documents Miss M M had obtained in relation to the matters in question and to the comments made at the meeting.

Members noted that Miss M M had a number of previous criminal convictions most of which Miss M M alleged were committed whilst she was an alcoholic. Members had concerns regarding Miss M M previous convictions and in their deliberations considered this to be a borderline case for issuing a licence. On this occasion Members decided to go outside the Council's guidelines in respect of the Relevance of Convictions and to put their trust in Miss M M and to grant Miss M M a Private Hire Drivers Licence. However, Members did state that this was initially for a 6 month period, after which Miss M M would be required to attend for interview at the Licensing Office to determine if Miss M M had remained a fit and proper person since being granted a licence.

The licence would therefore be issued with a reminder as to Miss M M's future conduct. The letter would remain on Miss M M's file and may be referred to should any future complaint or disciplinary matter come to the attention of the Licensing Unit.

**RESOLVED** that Miss M M be granted a Private Hire Drivers Licence together with a written warning as her future conduct.