

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 22nd January, 2008.

Present: Cllr Bill Woodhead (Chairman); Cllr Dick Cains, Cllr Mrs Eileen Craggs, Cllr Kevin Faulks, Cllr Paul Kirton, Cllr Miss Tina Large, Cllr Colin Leckonby, Cllr Alan Lewis, Cllr Mrs Kath Nelson, Cllr Maurice Perry, Cllr Roy Rix and Cllr Fred Salt.

Officers: C Barnes, R Boyes, M Vaines (DNS); P K Bell, J Nertney (LD).

Also in attendance: Cllr Steve Walmsley was in attendance only as he had not received the appropriate training.

Apologies: Cllr Ken Dixon.

L Declarations of Interest

50/07

There were no interests declared.

L Minutes

51/07

The minutes of the meeting held on 9th October 2007 were signed by the Chairman as a correct record.

L Minutes

52/07

The minutes of the meeting held on 23rd October 2007 were signed by the Chairman as a correct record.

L Gambling Act 2005 - Delegation of Powers

53/07

Members considered a report that proposed to delegate certain functions under the Gambling Act 2005 to officers in respect of small lotteries, and the use of occasional use notices, and to seek ratification of a retrospective decision made by the Chairman to authorise the Corporate Director of Development and Neighbourhood Services to make representations and/or application for reviews on behalf of the Licensing Authority.

On 28th November 2007 Council approved revisions to the Scheme of Delegations under the Gambling Act 2005 in relation to anomalies reflected in the primary legislation, which had not been addressed through subsequent regulations made under the Act. A copy of the report considered at that time was attached to the report.

Members were asked to consider delegating some of those functions, which were considered to be administrative to the Corporate Director of Development and Neighbourhood Services.

Under the previous legislation officers had delegated powers to grant small lottery registrations and to cancel registrations when no longer required. Members were asked therefore to consider delegating this same power under the provisions of the Gambling Act 2005 in respect of small society lotteries.

Members were also advised that the new provisions permit the local authority to

cancel a registration for non-payment of the statutory annual fee. Members were asked therefore to consider delegating this power to officers. Consideration of applications when a refusal is sought and existing registrations for revocation would still be submitted to the Committee.

An occasional use notice confers exemption from a premise licence and when properly given it enables bets lawfully to be accepted on an unlicensed track.

Generally a betting track would have the benefit of a premise licence. However, there might be occasions where a permanent licence might not be appropriate (e.g. farmers land used for a local race meeting). In those circumstances either the person responsible for the event or the occupier of the track may decide to give an occasional use notice.

Written notice specifying the dates must be given to both the licensing authority and the Chief Officer of Police. However, there was no provision for the making of objections or the service of counter notices and no further action was required by the person giving the notice.

As the only provision in the Act was that no more than eight occasional use notices (each specifying one day only) may be given in any one calendar year, Members were requested to consider delegating the functions relating to occasional use notices to the Corporate Director of Development and Neighbourhood Services.

Unlike the Licensing Act 2003 the Gambling Act 2005 identified the Licensing Authority as being a Responsible Authority and can therefore make representations on applications and also make application for a review of a premise licence. As this was required to be done by officers and in order to be able to fulfil the statutory role, the chairman, in consultation with the Head of Legal Services, agreed to retrospectively authorise the Corporate Director of Development and Neighbourhood Services to make representations and applications on behalf of the Licensing Authority.

RESOLVED that:-

1. The authority to grant or cancel small society lottery registrations be delegated to the Corporate Director of Development and Neighbourhood Services.
2. Functions relating to occasional use notices be delegated to the Corporate Director of Development and Neighbourhood Services.
3. The decision taken by the Chairman to retrospectively delegate authorisation to make representations and/or applications for reviews on behalf of the Licensing Authority to the Corporate Director of Development and Neighbourhood Services be ratified.

L
54/07 **Exclusion of the Public**

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the

grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act.

**L
55/07**

Combined Driver - II

Members were informed that Mr I I had been invited to attend the meeting but was not in attendance.

Members were informed of a conversation between the Licensing Officer and Mr I I when Mr I I advised the Licensing Officer that he had moved house some time ago. However, they were also informed that Licensing records indicated that Mr I I had not informed the council of any change of address and that he had in fact submitted several documents to the licensing section up until August 2008 all of which had the address that the notification had been sent on. They were also advised that Mr I I had been into the Licensing Office since the conversation and collected both the CRB application form and the notification of change of address form but had not submitted either of them to date.

Members decided to consider the report in Mr I I's absence as they considered that Mr I I had been given sufficient notice of this meeting.

Consideration was given to a report on a licensed hackney carriage and private hire driver who had failed to submit an application to enable his three yearly criminal record check to be carried out and who had been suspended.

Mr I I was a licensed hackney carriage and private hire driver. He had held a licence since September 1993 and his current licence was due to expire on 31st May 2008.

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 I I was written to and advised that his next check was due in September 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 29th October 2007.

Despite these letters Mr I I failed to return his completed forms and this resulted in his hackney carriage drivers' licence being suspended by the Trading Standards and Licensing Manager using his delegated powers on 13th November 2007. A copy of the notice of suspension was attached to the report.

To date Mr I I 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.

As Mr I I had not submitted to a criminal record check with the Criminal Records Bureau Members were unable to determine Mr I I's continued fitness to hold a drivers licence. In the interests of public safety this was sufficient grounds under Section 61(1)(b) of the above mentioned Act to be deemed a reasonable cause for revoking Mr I I's Private Hire and Hackney Carriage Drivers Licences.

Furthermore Members found that the revocation of Mr I I's licences was based on the grounds of public safety and they therefore felt that under Section 61(2)(B) the revocation take immediate effect.

RESOLVED that:-

1. Mr I I's Private Hire and Hackney Carriage Drivers Licence be revoked due to Mr I I's failure to submit to a criminal record check with the Criminal Records Bureau.
2. The revocation of Mr I I's licences take immediate effect under Section 61(2)(B) as the revocation was based on the grounds of public safety.

L
56/07

Combined Driver - NA

Consideration was given to a report on a licensed private hire/hackney carriage driver who had been convicted of illegally plying for hire contrary to section 45 of the Town Police Clauses Act 1847, and using a vehicle uninsured against third party risks contrary to the Section 143 Road Traffic Act 1988.

Mr N A was a Combined Hackney Carriage/Private Hire Driver with the authority and had been since August 2007. Prior to August 2007 he was a licensed Private Hire driver and had been licensed since June 2006 and his current licence was due to expire in June 2008.

Legal proceedings were instituted against Mr N A in June 2007 following an enforcement operation undertaken by Officers on Friday 8th June 2007 when he agreed to carry under cover officers in his private hire vehicle without being pre-booked.

Mr N A pleaded guilty at Teesside Magistrates Court on 18th December 2007 to the offence illegally plying for hire contrary to section 45 of the Town Police Clauses Act 1847 and using a vehicle uninsured against third party risks contrary to the Section 143 Road Traffic Act 1988.

Mr N A was fined £100 for with 6 penalty points on his DVLA drivers licence for the no insurance offence.

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:-

(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.

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.

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

Mr N A was in attendance at the meeting and he was given the opportunity to state his case.

After consideration of the report and to the comments made by Mr N A, Members decided on this occasion to issue Mr N A with this final severe written warning as to his future conduct.

Members expressed their serious concern in relation to Mr N A's convictions and were minded to revoke Mr N A's licence. It was only the remorse shown by Mr N A at the hearing that persuaded them not to do so.

The Committee would not condone Mr N A's actions and should Mr N A receive any further cautions, convictions or fail to comply with the conditions of his licence then Mr N A's continued fitness to hold a Hackney Carriage and Private Hire Driver's licence would be reconsidered by them when this final warning will be revisited.

RESOLVED that Mr N A be issued with this final severe written warning as to his future conduct.

**L
57/07** **Hackney Carriage Driver - IuhA**

Consideration was given to a report regarding a licensed Hackney Carriage Driver who had been convicted of Perverting the Course of Public Justice.

Mr I u-H A had been licensed by the authority as a Hackney Carriage driver since April 2006, and his current licence would expire on 5 April 2008.

On 4 October 2007 a hand written notification of conviction was handed to the Licensing Administration Office. This outlined a conviction Mr I u-H A had received from the Crown Court. The letter was attached to the report.

The details of the conviction were that on 28th September 2007 he was sentenced to six months imprisonment, which was suspended for 2 years, and ordered to carryout a 150 hours community punishment order for an offence/s of Perverting The Course Of Public Justice.

The above was in relation to Motoring Offences where Mr I u-H A declared to the Police the details of someone he had prior knowledge of, as being the driver of a vehicle, which was found to be speeding in a built up area. At the time of the declaration Mr I u-H A knew full well that he himself had been the driver of the vehicle at the time and date specified in the summons. This was a calculated and deliberate attempt to avoid prosecution.

Member 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: -

(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.

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.

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

Mr I u-H A's driver file was checked and it was found that when licensed he was given a warning as to his future conduct. This was in relation to a motoring conviction and handling stolen goods, a copy of that letter was attached to the report.

Mr I u-H A was in attendance at the meeting and was given the opportunity to state his case.

Members had regard to the four written character references which Mr I u-H A provided to them and his verbal input.

Members decided that Mr I u-H A's licence to drive Hackney Carriage vehicles be revoked with immediate effect. Members felt that Mr I u-H A had failed to heed a written warning as to his future conduct, which was given to him when first licensed. This coupled with Mr I u-H A's recent conviction for perverting the course of public justice, was a further offence of dishonesty. It was deemed to be an extremely serious offence. Members noted that conviction for an offence of dishonesty was a specific ground under the Act for revoking a licence. Members were of the view that Mr I u-H A was no longer deemed to be a fit and proper person to hold a licence.

Members were of the view that the honesty and integrity of a licensed driver is one of the most important factors in protecting members of the public when travelling in licensed vehicles. The safety of the public was one of the main considerations of Members and Mr I u-H A conviction for a serious dishonesty offence was deemed to put the safety of the public at risk.

Members made a finding that the revocation of Mr I u-H A's licence was based on the grounds of public safety. Members felt that under Section 61(2)(B) that the revocation take immediate effect. This meant that if Mr I u-H A exercised his right of appeal Mr I u-H A may not drive any licensed vehicle until the determination of that appeal.

RESOLVED that:-

1. Mr I u-H A's Hackney Carriage drivers licence be revoked due to his recent conviction for perverting the course of public justice.
2. Under Section 61(2)(B) the revocation take immediate effect.

**L
58/07**

Hackney Carriage Driver - LA

Consideration was given to a report on a licensed Hackney Carriage Driver who had been convicted of Perverting the Course of Public Justice.

Mr L A had been a licensed by the authority as a hackney carriage driver since May 2005, and his current licence would expire on 28 May 2008.

On 4 October 2007 a hand written notification of conviction was handed to the Licensing Administration Office, which outlined a conviction he had received from the Crown Court. The letter was attached to the report.

The details of the conviction were that on 28th September 2007 Mr L A was sentenced to six months imprisonment, which was suspended for 2 years, and ordered to carryout a 250 hours community punishment order for an offence/s of Perverting The Course Of Public Justice.

The above was in relation to Motoring Offences where Mr L A declared to the Police the details of someone he had prior knowledge of (his wife), as being the driver of a vehicle, which was found to be speeding in a built up area. This was done on two occasions. At the time of the declaration Mr L A knew full well that he himself had been the driver of the vehicle at the time and date specified in the summons. This was a calculated and deliberate attempt to avoid prosecution.

Member 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: -

(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.

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.

A copy of the adopted guidelines relating to the Relevance of convictions was

attached to the report.

Mr L A was in attendance at the meeting and was given the opportunity to state his case.

Members had regard to the four written character references which Mr L A provided to them and his verbal input.

Members felt that Mr L A's licence to drive Hackney Carriage vehicles be revoked with immediate effect. Members felt that Mr L A's recent conviction for perverting the course of public justice was an offence of dishonesty. It was deemed to be an extremely serious offence. Members noted that conviction for an offence of dishonesty was a specific ground under the Act for revoking a licence. Members were of the view that Mr L A was no longer deemed to be a fit and proper person to hold a licence.

Members were of the view that the honesty and integrity of a licensed driver was one of the most important factors in protecting members of the public when travelling in licensed vehicles. The safety of the public was one of the main considerations of Members and Mr L A's conviction for a serious dishonesty offence was deemed to put the safety of the public at risk.

As Members found that the revocation of Mr L A's licence was based on the grounds of public safety they felt that under Section 61(2)(B) that the revocation takes immediate effect.

RESOLVED that:-

1. Mr L A's Hackney Carriage drivers licence be revoked due to his recent conviction for perverting the course of public justice.
2. Under Section 61(2)(B) the revocation take immediate effect.

**L
59/07**

Private Hire Driver - CNF

Mr C N F been invited to attend the meeting but was not in attendance.

Members decided to hear the report in Mr C N F's absence, as they considered that he 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 had been suspended.

Mr C N F was a licensed private hire driver. He had held a licence since June 1990 and his current licence was due to expire on 29th February 2008.

As part of the process to ensure drivers are 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 C N F was written to and advised that his next check was due in September

2007 and requested to complete the appropriate form to enable this check to be carried out. As Mr C N F failed to complete the application a reminder letter was sent to him on 29th October 2007.

Despite these letters Mr C N F failed to return his completed forms and this resulted in his private hire drivers' licence being suspended by the Trading Standards and Licensing Manager using his delegated powers on 13th November 2007. A copy of the notice of suspension was attached to the report.

To date Mr C N F 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.

Members felt that Mr C N F's failure to submit to a criminal record check with the Criminal Records Bureau meant that they were unable to determine Mr C N F's continued fitness to hold a drivers licence and that in the interests of public safety this was sufficient grounds under Section 61(1)(b) of the above mentioned Act to be deemed a reasonable cause for revoking Mr C N F's Private Hire Drivers Licence.

Members also found that the revocation of Mr C N F's licence was based on the grounds of public safety they resolved that under Section 61(2)(B) that the revocation takes immediate effect. This meant that if Mr C N F exercised his right of appeal he may not drive any licensed vehicle until the determination of that appeal.

RESOLVED that:-

1. Mr C N F's Private Hire Drivers Licence be revoked due to Mr C N F's failure to submit to a criminal record check with the Criminal Records Bureau.
2. The revocation of Mr C N F's licence take immediate effect under Section 61(2)(B) as the revocation was based on the grounds of public safety.

**L
60/07**

Private Hire Driver Application - DT

Consideration was given to a report an application for a private hire driver's licence from an applicant who had relevant motoring convictions.

Mr D T had submitted an application to become a licensed private hirer driver with the authority. A copy of his application was attached to the report, included in this was a copy of Mr D T's DVLA driver's licence, which showed he had three motoring convictions for speeding offences in 2005 and 2006 and currently had 9 penalty points on his licence.

A copy of the DVLA's Endorsement Offence Codes was attached to the report for Members information.

Checks with the Criminal Records Bureau showed that Mr D T had no other convictions.

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

Members were advised that Mr D T had passed both the Driving Standards Agency taxi drivers test and the Councils Knowledge Test for Private Hire Drivers and had produced a satisfactory Medical Examination Certificate.

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.

Mr D T was in attendance at the meeting and was given the opportunity to state his case.

After consideration of the report and to the comments made by Mr D T at the meeting, Members decided on this occasion to grant Mr D T's licence subject a written warning as to his future conduct.

Members expressed their concern in relation to Mr D T's speeding convictions and advised him that licensed drivers were expected to demonstrate a high standard of driving. Therefore, should Mr D T receive any further convictions or fail to comply with the conditions of his licence then Mr D T's fitness to hold a private hire driver's licence would be reconsidered by the Licensing Committee, when the warning would be revisited.

Members also advised Mr D T that his private hire drivers licence only authorised him to pick up fares that had been pre-booked through a licensed private hire operator and did not permit plying for hire, which was an offence for which you can be prosecuted and could result in the revocation of a licence.

RESOLVED that Mr D T's application for a Private Hire Drivers Licence be approved subject a written warning as to his future conduct.

**L
61/07**

Private Hire Driver - JHWW

Members were informed that Mr J H W W was not in attendance at the meeting. A Licensing Officer had hand delivered a notification of the meeting to Mr J H W W's home address. A Licensing Officer then contacted Mr J H W W on his mobile and Mr J H W W informed the Licensing Officer that he had moved house. Mr J H W W then gave the Licensing Officer his new address.

RESOLVED that the item be deferred to a special meeting of the Licensing Committee.