

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 26th February, 2008.

Present: Cllr Bill Woodhead (Chairman); Cllr Dick Cains, Cllr Ken Dixon, Cllr Kevin Faulks, Cllr Paul Kirton, Cllr Colin Leckonby, Cllr Alan Lewis, Cllr Mrs Kath Nelson, Cllr Roy Rix and Cllr Fred Salt.

Officers: D Kitching, M Vaines (DNS), P K Bell, J Nertney (LD).

Also in attendance: No other person was in attendance.

Apologies: Cllr Mrs Eileen Craggs, Cllr Tina Large, Cllr Maurice Perry and Cllr Steve Walmsley.

L Declarations of Interest

65/07

There were no interests declared.

L Minutes

66/07

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

L Minutes

67/07

The minutes of the meeting held on 27th November 2007 were signed by the Chairman as a correct record.

L Scrutiny Work Programme 2008-09

68/07

Consideration was given to a report that sought suggestions for topics to be considered for inclusion in Stockton Council's scrutiny work programme for 2008/09.

An annual work programme for the Council's seven Select Committees was agreed each year following extensive consultation with elected Members and officers. All topic suggestions were discussed by the Council's Scrutiny Liaison Forum comprising Scrutiny Chairs, Members of Cabinet and Corporate Management Team. Following this, the Executive Scrutiny Committee, the co-ordinating body for scrutiny agree a work programme. To date, each Select Committee had conducted an average of two in depth scrutiny reviews each year.

In order to assist with prioritising suggested topics, the PICK system had been introduced this year details of which were attached to the report. In proposing topics for scrutiny, Members were asked to consider the justification under the PICK categories. Officers would initially be responsible for "scoring" each proposal which could then be reviewed/ amended by the Scrutiny Liaison Forum. Whilst the scoring would not be binding, it would help to give a weighting to the suggestions coming forward.

The Committee were invited to propose suggested topics for scrutiny review.

RESOLVED that the report be noted.

L **Licensing of Hackney Carriages and Private Hire Vehicles - V5C**
69/07 **Documents**

Consideration was given to a report on the results of a consultation exercise carried out with the 'taxi' trade on the current practices involved when the DVLA vehicle registration document (V5C) had to be produced by applicants for hackney carriage and private hire vehicle licence as agreed by Cabinet.

At the meeting of Cabinet on Thursday 1st February 2007 it was agreed following consideration of a Local Government Ombudsman Report that the Licensing Section would consult with the whole of the taxi trade on the procedural arrangements involving when a vehicles V5C document had to be produced when processing applications for hackney carriage and private hire vehicle licences. A copy of minute 1012, which referred was attached to the report.

Questions on this issue were therefore included in the consultation document on the licensing of Hackney Carriage and Private Hire Vehicles, drivers and operators, that was sent to all members of the 'taxi' trade and which would be subject to further reports to the committee. Minutes 990 and 22/07 refer. A copy of the relevant questions was attached to the report.

The consultation exercise only resulted in eight responses and only two of which commented on the issue of V5C documents, one from Stockton Hackney Carriage Drivers Association and one from Mr Khazir a vehicle proprietor/driver. Copies of the responses were attached to the report.

Members were reminded that current practice, which was the subject of the original report from the Ombudsman, was that an application for a private hire vehicle or hackney carriage licence would be accepted without production of a V5C document in the proprietors name but the licence and identification plates would not normally be issued, unless there were exceptional circumstances, until the V5C document is produced showing him as being the registered keeper. This practice had been carried on since April 2005 without difficulty or complaint.

Mr Khazir and the Secretary of Stockton Hackney Carriage Drivers Association had been invited to the meeting but were not in attendance.

After discussing the report that had been presented to them Members felt that the current procedures on DVLA vehicle registration document (V5C) were working well and that they should remain the same.

RESOLVED that:-

1. The current procedures on DVLA vehicle registration document (V5C) remain the same.
2. The Trading Standards and Licensing Manager publish an accurate report on the Councils response to the consultation in the Trade Times.

**L
70/07** **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
71/07** **Hackney Carriage Driver - Mr M K**

Consideration was given to a report on a licensed hackney carriage driver who had been convicted of drink driving and who had been disqualified from driving for 12 months and who was suspended.

Mr M K was a licensed hackney driver. He had held a licence since 1991 and his current licence was due to expire on 30 November 2008.

On 30th January 2008 notification was received from Cleveland Police that Mr M K had been involved in a road traffic accident whilst driving his hackney carriage and whilst being over the prescribed limit of alcohol. He had been arrested and charged with drink driving.

This resulted in his hackney carriage drivers' licence being suspended with immediate effect by the Trading Standards and Licensing Manager using his delegated powers on 31st January 2008.

Further information had been received from Cleveland Police that Mr M K was convicted on 4th February 2008 for drink driving under Section 5 of the Road Traffic Act 1988 when he was disqualified from driving for 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 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.

A copy of the council guidelines on The Relevance of Convictions was attached to the report for Members information.

Mr M K had been invited to attend meeting but was not in attendance.

Members decided to consider the report in Mr M K's absence, as they considered that he had been given sufficient notice of the meeting.

After consideration of the report Members felt that Mr M K's recent conviction for driving a motor vehicle with excess alcohol and subsequent disqualification from driving was, in the interests of public safety, sufficient grounds under Section 61(1)(b) of the above mentioned Act to be deemed a reasonable cause for revoking his Hackney Carriage Drivers Licence. Furthermore as Members made a finding that the revocation of his licence was based on the grounds of public safety they felt that under Section 61(2)(B) that the revocation takes immediate effect. This meant that if Mr M K exercised his right of appeal he may not drive any licensed vehicle until the determination of that appeal.

RESOLVED that:-

1. Mr M K's Hackney Carriage Drivers Licence be revoked due to Mr M K's recent conviction for driving a motor vehicle with excess alcohol and subsequent disqualification from driving.
2. In the interests of public safety the revocation of Mr M K's licence take immediate effect under Section 61(2)(B) of the Local Government (Miscellaneous Provisions) Act 1976.

**L
72/07** **Combined Driver - MS**

Members were informed that Mr M S, a hackney carriage and private hire driver had failed to submit an application for Criminal Record Bureau (CRB) check and had subsequently been suspended.

The Licensing Officer reported that Mr M S had now completed his application for a CRB check. He had also submitted a letter giving his apologies for his delayed response. The application for a CRB check had been sent to the Criminal Records Bureau.

Members requested that the item be brought back to the Committee once the response had been received from the CRB.

RESOLVED that the item be deferred.

**L
73/07** **Combined Driver - DR**

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 D R was a licensed hackney carriage and private hire driver. He had held a licence since 1999 and his licence was due to expire on 29 February 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 D R was written to and advised that his next check was due on 4 December 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 2 January 2008. Copies of these letters were attached to the report.

Despite these letters Mr D R failed to return his completed forms and this resulted in his hackney carriage and private hire drivers' licence being suspended by the Trading Standards and Licensing Manager using his delegated powers on 4 February 2008. A copy of the notice of suspension 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 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 D R had been invited to attend the meeting but was not in attendance.

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

Members were advised that Mr D R had informed a licensing officer verbally that he was not intending to renew his licence because of a medical condition and that as a result he had been advised to submit this information in writing but had failed to do so.

After consideration of the report Members felt that as Mr D R had not put anything in writing they had no alternative but to deal with the matter before them and Mr D R's failure to submit to a criminal record check with the Criminal Records Bureau meant that they were unable to determine Mr D R'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 D R's combined Hackney Carriage and Private Hire Drivers Licence. Furthermore as Members made a finding that the revocation of Mr D R's licence was based on the grounds of public safety they felt that under Section 61(2)(B) the revocation take immediate effect. This meant that if Mr D R exercised his right of appeal he may not drive any licensed vehicle until the determination of that appeal.

RESOLVED that:-

1. Mr D R's Hackney Carriage and Private Hire Drivers Licence be revoked due to Mr D R's failure to submit an application for a Criminal Records Bureau check.
2. In the interests of public safety the revocation of Mr D R's licence take immediate effect under Section 61(2)(B) of the Local Government (Miscellaneous Provisions) Act 1976.

**L
74/07**

Combined Driver - MSM

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 was currently suspended.

Mr M S M was a licensed hackney carriage and private hire driver. He had held a licence since 1998 and his licence was due to expire on 31 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 M S M was written to and advised that his next check was due on 29 October 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 4 December 2007. Copies of these letters were attached to the report.

Despite these letters Mr M S M failed to return his completed forms and this resulted in his hackney carriage and private hire drivers' licence being suspended by the Trading Standards and Licensing Manager using his delegated powers on 2 January 2008. A copy of the notice of suspension was

attached to the report.

To date Mr M S M 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 M S M had been invited to attend the meeting but was not in attendance.

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

After consideration of the report Members felt that Mr M S M's failure to submit to a criminal record check with the Criminal Records Bureau meant that they were unable to determine Mr M S M'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 M S M's Private Hire Drivers Licence. Furthermore as the Committee made a finding that the revocation of Mr M S M's licence was based on the grounds of public safety they felt that under Section 61(2)(B) that the revocation takes immediate effect. This meant that if Mr M S M exercised his right of appeal he may not drive any licensed vehicle until the determination of that appeal.

RESOLVED that:-

1. Mr M S M's Hackney Carriage and Private Hire Drivers Licence be revoked due to Mr M S M's failure to submit an application for a Criminal Records Bureau check.

2. In the interests of public safety the revocation of Mr M S M's licence take immediate effect under Section 61(2)(B) of the Local Government (Miscellaneous Provisions) Act 1976.