

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 20th May, 2008.

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

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

Also in attendance: Mr Blomley, Mr Hall, Mr Khazir - For item 4 - Hackney Carriage Table of Fares; Mr D R - For item 6; Mr A L - For item 7; Mr M Z - For item 11.

Apologies: Cllr Paul Kirton and Cllr Steve Walmsley.

L Declarations of Interest

9/08

There were no interests declared.

L Minutes

10/08

The minutes of the meeting held on 15th February 2008 were signed by the Chairman as a correct record.

L Minutes

11/08

The minutes of the meeting held on 26th February 2008 were signed by the Chairman as a correct record.

L Minutes

12/08

The minutes of the meeting held on 8th April 2008 were signed by the Chairman as a correct record.

L Hackney Carriage Table Of Fares

13/08

Consideration was given to a report on requests for variations to the existing table of fares.

Under the provisions of Section 65 of The Local Government (Miscellaneous Provisions) Act 1976 the District Council had power to fix maximum fares for hackney carriages.

The current table of fares, a copy of which was attached to the report, was agreed at the meeting held on 17 October 2006.

A copy of Minute 592, which referred was attached to the report.

During the recent consultation on proposed fee increases requests were received from licensed hackney carriage drivers requesting consideration be given to a proposed increase in the tariff. For ease of comparison a table of fares including the existing tariff plus the proposed options was attached to the report.

Following receipt of these letters Stockton Hackney Carriage Drivers Association were asked for their comments on the current table of fares and whether they had any views or comments which they would like including in this report. A copy of their response was attached to the report.

Also attached to the report for Members information was an extract from 'Private Hire And Taxi Monthly', which provided a comparative national league table of tariffs by area. Stockton was included in the 'North' area and out of 86 local authorities Stockton ranked as having one of the lowest tariffs at 80th position. Nationally Stockton ranked at 355th position out of 375 councils.

Members were reminded that under the provisions of Section 65 The Local Government (Miscellaneous Provisions) Act 1976 any further variation in the table of fares has to be advertised in the local press and a period of 14 days allowed for any objection to be made.

Mr Blomley, Mr Hall, Mr Khazir (Hackney Carriage Association), Mr Zabhir all of which had submitted a request for an increase in the Table of Fares were in attendance at the meeting and were given the opportunity to make their case.

Members discussed all of the options/requests that had been presented to them and considered all of the verbal evidence presented to them at the meeting.

RESOLVED that Option 7 requested by the Hackney Carriage Association be agreed and be advertised in the local press and 14 days be allowed for any objection to be made.

L
14/08 **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
15/08 **Combined Driver Licence - DR**

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

Mr D R was a combined Hackney Carriage/Private Hire Driver with the authority, driver badge number 497 and had been licensed with this Authority since December 1990. His current licence was due to expire on 31 May 2008.

In January 2008, the Licensing Unit received notification in the form of a CRB Disclosure that Mr D R had received a Police Caution on the 25th January 2006 for Battery.

Mr D R was interviewed on 10th April 2008 regarding the caution he received. The interview revealed that it was a domestic argument that resulted in Mr D R slapping his then girlfriend. Mr D R informed the Licensing Unit during interview that, 'it was only a tap to the face, no marks were left'. A summary of the transcript of the interview was attached to the report.

Mr D R's driver history revealed that he received an Oral Warning for his attitude towards Licensing Officers on 15th May 2006 when Enforcement Officers were working in the CCTV Enforcement van and pulled on to Stockton rank, as he pulled in Mr D R tried to drive away nearly causing a collision with the drivers door of the Enforcement van.

Mr D R received a Formal Written Warning in July 2006 in relation to the above incident.

Mr D R also received a Written Warning in March 2008 for driving a private hire vehicle when only licensed as a hackney carriage driver.

Mr D R also had six licensing points on his taxi licence, three for not wearing his outer clothing bade and for not displaying his dash display badge in May 2006 and 3 for not notifying us of motoring convictions in May 2007.

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

Members had full regard to the report presented, a copy of which Mr D R had received prior to the meeting and to the comments made by Mr D R at the

meeting in respect of the events, which led to the caution Mr D R received from Cleveland Police.

Members noted that Mr D R had a number of previous warnings from Licensing Officers regarding a number of different issues. After giving due consideration to the facts of the matter the Members confirmed that they took a very dim view of his attitude towards the incident and would not tolerate this type of behaviour by a taxi driver licensed with Stockton Borough Council. However, on this occasion, Members decided to allow Mr D R to keep his hackney carriage and private hire driver's licence and to issue him with a final written warning. Members also decided that this warning be subject to Mr D R appearing before the Committee again in 6 months time to determine if Mr D R had remained a fit and proper person.

The letter would remain on Mr D R's file and would be referred to should any further complaints or disciplinary matters come to the attention of the Licensing Unit.

RESOLVED that:-

1. Mr D R be issued with a final written warning.
2. The final written warning be subject to Mr D R appearing before the Committee again in 6 months time to determine if Mr D R had remained a fit and proper person.

**L
16/08**

Application For Private Hire Driver Licence - AL

Consideration was given to a report on an application for a private hire driver's licence from an applicant who had four warnings on his CRB for driving in an antisocial and careless manner.

Mr A L had submitted an application to become a licensed private hire driver with the authority. A copy of his application was attached to the report, included in this was a copy of Mr A L's DVLA driver's licence, which showed he had no motoring convictions.

An important part of the vetting process was to undertake a Criminal Record Bureau check. In Mr A L's case, the record disclosed that he had four Section 59 warnings. These were warnings for Anti social use of motor vehicles and last for 12 months.

On 1 January 2003, the Police Reform Act 2002 gave police new powers to deal with the anti-social use of motor vehicles on or off public roads. Drivers committing offences contrary to Section 3 Road Traffic Act 1988 (Careless and Inconsiderate driving) or Section 34 Road Traffic Act 1988 (Prohibition of driving motor vehicles elsewhere than on roads) and causing annoyance to the public can have their vehicles seized by police. Vehicles may be retained by police pending payment of a prescribed fee by the vehicle owner. However, a constable may not seize a motor vehicle unless they have first warned the person using the vehicle that he/she will seize it, if that use continues or is repeated; and it appears to them that the use has continued or been repeated

after the warning.

Mr A L was interviewed on 29th April 2008, regarding these warnings and a transcript of the interview was be available at the meeting.

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.

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

Members had full regard to the report presented, a copy of which Mr A L had received prior to the meeting. After consideration of the report as to the Warnings on Mr A L's CRB Disclosure and to the comments made by Mr A L and officers at the meeting, Members expressed concerns in relation to the offences involving anti social driving and Mr A L's suitability to hold a drivers licence. As a result Members decided they did not currently regard Mr A L as being a fit and proper person to hold a Private Hire Drivers Licence and Mr A L's application was therefore refused by them under the provisions of section 51(1)(a) of the above mentioned Act.

Members advised that Mr A L wait a further 6 months and demonstrate that he was free from any further convictions, cautions or warnings, when Members may then be minded to grant Mr A L a private hire driving licence.

RESOLVED that:-

1. Mr A L was not currently a fit and proper person to hold a Private Hire Drivers Licence and therefore Mr A L's application be refused under the provisions of section 51(1)(a) of the Local Government (Miscellaneous Provision) Act 1976.
2. Mr A L be advised to wait a further 6 months and demonstrate that he was free from any further convictions, cautions or warnings, when Members may then be minded to grant Mr A L a private hire driving licence.

**L
17/08**

Private Hire Driver/Operator - MAW

The Licensing Officer informed Members that he had received a telephone call from Mr M W explaining that he would not be able to attend the meeting as he had a medical condition and had been to hospital.

Members decided to defer the item to enable Mr M W attend the next meeting of the Committee.

RESOLVED that the item be deferred.

**L
18/08**

Combined Driver Licence - SA

Consideration was given to a report on a driver who had had his DVLA licence revoked under the Road Traffic (New Drivers) Act 1995.

Mr S A was a licensed combined hackney carriage and private hire driver with the authority and had been since 3 December 2007 and his current licence was due to expire at the end of December 2008.

On 23 April 2008 Mr S A attended the Licensing Office with a letter that was attached to the report. This letter explained his DVLA Driving Licence had been revoked. This was done under the Road Traffic (New Drivers) Act 1995, as he had accrued six points within the first two years of holding the licence. (He returned his drivers badges at the same time).

Mr S A also produced a letter from the DVLA which confirmed this. That letter was attached to the report. When questioned regarding the offences committed he told the Officer it was an SP30 for speeding and the second offence was a TS10 failure to comply with traffic signals.

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 S A had been invited to attend the meeting but was not in attendance.

RESOLVED that Mr S A's combined Hackney and Private Hire Driver Licence be revoked.

L
19/08 **Private Hire Driver - SNA**

Mr S N A was in attendance at the meeting. Mr S N A reported that he had recently come back from holiday and when sorting through his post had discovered the report and invitation to this meeting. Mr S N A outlined that he had immediately contacted his solicitor to see if he was available to come to the meeting but unfortunately he already had an appointment. Mr S N A therefore requested that the matter be deferred to the next meeting of the Committee. Members agreed that this was reasonable and fair.

RESOLVED that the item be deferred to the next meeting of the Committee.

L
20/08 **Hackney Carriage Driver - M Z**

Consideration was given to a report on a complaint received from a Police Officer regarding a hackney carriage drivers attitude when he was stopped by Traffic Police in his taxi doing 48 mph on a 30 mph road.

Mr M Z was a licensed hackney carriage driver with the authority and had been licensed since 1993 and his current licence was due to expire in February 2009.

On the 14th April 2008 a complaint was received from PC Campbell a traffic officer with Cleveland Police. The complaint related to when PC Campbell had cause to stop Mr M Z on the 15th March 2008 whilst he was travelling along Thirsk Road in his taxi, when he was travelling at 48mph on 30mph road and for which he was given a fixed penalty ticket. When Mr M Z was in the police vehicle he was obstructive and unco-operative towards PC Campbell.

PC Campbell provided Licensing Officers with a copy of the DVD that was recorded in the Police Car on the night in question. The DVD was played at the meeting for member's information.

Given the serious nature of the complaint Mr M Z was interviewed on the 28th April 2008. A transcript of the interview was attached to the report.

Mr M Z had notified the Licensing Office of his speeding conviction in writing as per his licence obligations on the 17th March 2008, in effect he accepted the fixed penalty ticket off the Police Officer for speeding and paid a fine of £60 and his DVLA driving licence was endorsed with 3 penalty points.

A copy of Mr M Z's driving licence was attached to the report which showed he had another 3 penalty points.

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 M Z and his representative (J Khazir - Hackney Carriage Association) were in attendance at the meeting and were given the opportunity to state their case.

Members noted that Mr M Z's representative had a formal objection at the start of the meeting to the audio recording from the police car being played to Members because he believed that Mr M Z had not been cautioned and Mr M Z was not aware it was going to be played to the Licensing Department. As a point of clarification the Licensing Officer confirmed to Members that Mr M Z had been cautioned and PC Campbell had explained to Mr M Z that the recording would be referred to and played before the Councils Licensing Section. Mr M Z confirmed during the recording that he was happy with that. The legal advisor to the Committee confirmed that this was a civil case and not a criminal case, and therefore it was a matter for the Committee to decide whether they wished to hear the recording from the police car. Members decided they needed to hear the recording.

Members had regard to the report and appendices, they also listened carefully to what Mr M Z and his representative, Mr Khazir had to say with regard to the reasons given for Mr M Z's unco-operative behaviour and obstructive attitude towards PC Campbell. The main reason Mr M Z had given for his attitude was earlier that evening he had a passenger make off from his taxi without paying and Mr M Z was not in the right frame of mind.

When questioned by members Mr M Z also admitted that PC Campbell had not been racist towards him and that PC Campbell had in fact done a good job on the evening in question which was a different story to what Mr M Z told the Licensing Officer during a formal interview. It was also noted that Mr M Z had sought out and apologised to PC Campbell later that evening and had indicated that he was sorry for his behaviour. Members noted that he had advised the Council of his speeding conviction promptly.

Members deliberated over their decision as to whether they were satisfied at this time whether Mr M Z was still a fit and proper person to hold a licence. Members gave consideration to revoking Mr M Z's hackney carriage driver's licence. Holding a hackney carriage licence was a position of trust and Mr M Z was an ambassador for Stockton Borough Council and holders of such licences were expected to treat both Officers and members of the public with respect. Members took a dim view of taxi drivers speeding and advised Mr M Z to control his attitude. Mr M Z's speeding offence was deemed serious as he was driving at 48 mph in a 30 mph zone. The implications for pedestrians should Mr M Z been involved in an accident were made quite clear to Mr M Z by PC Campbell. In considering their decision Members took into account the fact that Mr M Z had been a licensed driver for 14 years and that Members had not received any complaints about him in the past.

Members noted that Mr M Z's driving record was not exemplary as he had received points for speeding on a fairly regular basis over the years. Mr M Z was therefore advised in the strongest possible terms that he should not speed. If any further incidents of speeding occur then the Committee would take a particularly dim view of such behaviour. It was noted that Mr M Z was well aware that he should inform the council should Mr M Z receive any further points on his licence.

Members found that Mr M Z had an attitude problem towards the Police Officer in making very silly remarks. The fact that a fare had absconded earlier in the evening was not an excuse for Mr M Z to act in that manner.

After taking all the evidence into account the Members allowed Mr M Z to keep his Hackney Carriage Drivers Licence and issue Mr M Z with a Final Written Warning as to his future conduct. Members hoped that Mr M Z had learnt a valuable lesson from this incident and warned Mr M Z that should any further matters concerning him be brought to the Members attention then he would be at risk of having his licence revoked.

A copy of this letter will remain on Mr M Z's drivers file and may be referred to in the future.

RESOLVED that Mr M Z be issued with a Final Written Warning as to his future conduct.

**L
21/08**

Application for Registration as a Motor Salvage Operator – Mr D W

Consideration was given to a report on an application for registration as a Motor Salvage Operator from an applicant who had a history of relevant offences and to which there was an objection from Cleveland Police.

The Vehicle (Crimes) Act 2001 and the Motor Salvage Operators Regulations 2002 provided the framework for the registration of motor salvage operators. Vehicle crime being one of the largest single categories of recorded crime, the regime was aimed at making it more difficult for those involved to dispose of stolen vehicles. Under the Act local authorities were required to establish and maintain a register of persons carrying on a business as a motor salvage operator, which consists-

(a) wholly or partly in the recovery for re-use or sale of salvageable parts from motor vehicles and the subsequent sale or other disposal for scrap of the remainder of the vehicles concerned;

(b) wholly or mainly in the purchase of written-off vehicles and their subsequent repair and re-sale;

(c) wholly or mainly in the sale or purchase of motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in paragraphs (a) and (b); or

(d) wholly or mainly in activities falling within paragraphs (b) and (c).

The police were then responsible for the enforcement of the requirements of the legislation relating to the inspection of registered premises, records, vehicles and salvageable parts.

An application had been received from Mr D W for registration as a Motor Salvage Operator under the provisions of The Vehicles Crimes Act 2001 and The Motor Salvage Operator Regulations 2002.

A copy of the application was attached to the report.

Members were advised that under the provisions of Section 3 (3) of the Vehicles (Crimes) Act 2001 the local authority was instructed to register the applicant unless they are satisfied that he is not a fit and proper person to carry on business as a motor salvage operator, and at 3(4) in deciding whether they are so satisfied, the local authority shall, in particular, have regard to-

(a) whether the applicant has been convicted of any offences under this Part; and

(b) whether the applicant has been convicted of any offences of a description specified by the Secretary of State by order

In addition Home Office Guidance suggests that the Local Authority should also take into account the information provided on the application form in relation to any undischarged bankruptcy; and any information provided by the Police (which must be disclosable to the applicant and in a court of law).

Section 13 (1) of the Act also advises that for the purpose of section 3 (3) the local authority shall be satisfied that a company is not a fit and proper person to carry on a business as a motor salvage operator if they are satisfied that any director is not a fit and proper person to carry on such a business; and section 3 (4) shall be construed accordingly.

A copy of The Motor Salvage Operators (Specified Offences) Order 2002 detailing relevant offences for the purpose of section 3(4) of the Act was attached to the report for Members information.

The Police had objected to the application because of the applicant's history of convictions a copy of which they had provided and, a copy of which was be

available at the meeting. This revealed that the applicant had a history of relevant conviction between 1987 and 1998 which were not considered to be spent under the terms of The Rehabilitation of Offenders Act 1974, because of the sentences imposed and additional convictions both during and after this period.

A copy of Home Office guidance issued in respect of this legislation was attached for Members information.

Members are respectfully advised that under the provisions of Section 5 of the Act –

- (1) A local authority shall not-
- (a) refuse to register a person who has made an application under section 3(1) for registration in the register for their area;
 - (b) refuse to renew the registration of a person who has made an application under section 3(1) for renewal of registration in the register for their area; or
 - (c) cancel a persons registration in the register for their area;

unless they have complied with the provisions of this section.

- (2) The local authority shall serve a notice on the person concerned stating-
- (a) what they are proposing to do;
 - (b) the reasons for it; and
 - (c) the period (not less than 14 days starting with the date of service of the notice) within which the person concerned may by notice –
 - (i) require them to give him an opportunity to make representations about the proposal; or
 - (ii) inform them that he does not wish to make any such representations.

Mr D W had been interviewed in connection with his convictions and a copy of the transcript of interview was attached to the report.

Members had regard to the report and appendices including Mr D W's police check and noted that Mr D W had a history of relevant convictions between 1987 and 1998 which were not considered spent under the terms of the Rehabilitation Of Offenders Act 1974 , they also noted that Cleveland Police had made a formal objection to the application. After taking this into account the Members proposed that they would refuse Mr D W's application.

Under Section 5 of the above mentioned act Mr D W would be given 14 days notice within which period Mr D W may by giving notice back to the Council that he either,

- (i) require the Council to give Mr D W an opportunity to make representations about the proposal; or
- (ii) Mr D W do not wish to make any such representation.

If Mr D W would like to make representation these could be made orally or in writing when they would be put before the next meeting of the Licensing Committee when Mr D W would also be given the opportunity to attend. Should Mr D W notify the Licensing Unit that he had decided not to make any representations or should he fail to contact the Licensing Unit within 14 days

from receipt of the notice then the Licensing Unit would inform Mr D W that the Council would proceed with its proposal to refuse Mr D W's registration.

RESOLVED that the application submitted by Mr D W for Registration as a Motor Salvage Operator should be refused and that he be given formal notice of this decision to allow him the opportunity to make representations.