

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 20th January, 2009.

Present: Cllr Bill Woodhead (Chairman), Cllr Dick Cains, Cllr Ken Dixon, Cllr Paul Kirton, Cllr Colin Leckonby, Cllr Alan Lewis, Cllr Mrs Ann McCoy, Cllr Mrs Kath Nelson, Cllr Maurice Perry, Cllr Roy Rix, Cllr Fred Salt.

Officers: S. Mills (DNS), R. McKenzie, M. Jones (LD)

Also in attendance: Mr RT, Mr AK, Mr AF for item 4, Mr MP for item 5, Mr GS for item 6

Mr F. Hayes, Mr F. Robinson (Standard Committee Observers)

Apologies: Cllr Eileen Craggs, Cllr Miss Tina Large, Cllr Steve Walmsley

L **Declarations of Interest**

71/08

There were no declarations of interest.

L **Exclusion of the Public**

72/08

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 **Private Hire Driver - RT**

73/08

Consideration was given to a report regarding a complaint received from a Car Parking Attendant regarding a Private Hire Driver's attitude when he was issued with a Penalty Charge Notice for parking on double yellow lines, on Palmerston Street on the 6 October 2008. This driver had already been given a written warning regarding his conduct.

Mr RT was a licensed private hire driver with the authority and had been licensed since October 2007. His current licence was due to expire in October 2009.

On the 6th October 2008 a complaint was received from a Civil Enforcement Parking Officer who was employed by Stockton-On-Tees Borough Council. The complaint related to when the Officer had cause to issue Mr RT a Penalty Charge Notice for parking on double yellow lines on Palmerston Street on the 6 October 2008.

As the Officer completed his notes Mr RT appeared from his home address and after being advised by the Officer that the vehicle had already been issued with a the Penalty Charge Notice he became aggressive and was swearing at the Officer. He also threw the ticket over the Officers head. A copy of the Officers witness statement was made available to members.

Given the serious nature of the incident Mr RT was interviewed under caution when he denied the allegation made against him.

Members were advised that in February 2007 notification was received from

Cleveland Police that Mr RT was arrested for Battery. The details were that on the 11th February 2008 at Stockton, it was alleged that Mr RT assaulted his partner. Further information was received from Cleveland Police detailing that no further action was taken against Mr RT.

During an interview with him regarding this incident he denied the allegation and following this Mr RT was given a written warning as to his future conduct in April 2008.

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.

The Car Parking Attendant, Mr AK, was in attendance and was given an opportunity to address the committee. Mr AK gave a witness statement describing the events that took place, and tabled photographic evidence of the Penalty Charge Notice placed on the vehicle, and of the notice on the floor. Mr RT was also in attendance, with his representative Mr AF, and was given an opportunity to state his case. Mr AF explained that Mr RT became agitated at receiving a parking penalty when unloading items from his vehicle, but did not throw the parking penalty at Mr RT or refuse to pick this up. Mr RT noted the difficulties in accessing Mr RT's property due to parking issues in the area.

The Committee accepted the evidence of Mr AK and were of the view Mr RT did not behave in a civil and orderly manner. The Committee also agreed Mr RT had not been wholly honest as to his version of events, which called into question whether he was a fit and proper person to hold a licence. The Committee agreed that as a taxi driver Mr RT should have behaved appropriately. However the committee felt that on this occasion a final written warning should be given and Mr RT brought before committee in six months for a review of his conduct as a taxi driver.

RESOLVED that:-

1. Mr RT be issued with a final written warning as to his future conduct
2. Mr RT be brought back before committee in 6 months time to review his continued fitness to be a Licensed Private Hire Driver.

**L
74/08**

Combined Driver - Mr MP

Consideration was given to a report regarding 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 MP was a licensed hackney carriage and private hire driver. He had held a licence since August 2002 and his current licence was due to expire on 28 February 2009.

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 MP was written to and advised that his next check was due on 27 August 2008 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 25 September 2008.

Despite these letters Mr MP 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 Officer using his delegated powers on 4 November 2008.

A further reminder letter requesting Mr MP return his driver badges was sent on 9 December 2008. Mr MP had still not made contact with the Licensing Office or completed his application for a criminal record check or returned his driver badges.

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 are 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 MP was in attendance at the meeting and given an opportunity to state his case. Mr MP explained that he had enhanced CRB checks for other authorities and believed that this authority should accept a copy of these, and not request him to complete another check.

The Committee agreed that the suspension should continue with immediate effect and Mr MP's badge be returned immediately. Mr MP's licence expired on the 29th February 2009 and the Committee suggested Mr RT submitted his application for his CRB check as soon as possible. The committee could not say that Mr RT was a fit and proper person to hold a licence until the CRB check was returned.

RESOLVED that Mr MP's suspension continued and his badge be returned immediately.

**L
75/08** **Private Hire Driver Application - GS**

Consideration was given to a report regarding the fitness of an applicant for a private hire driver's licence that had a history of previous convictions. Mr GS had applied to become a Licensed Private Hire Driver with this authority. A copy of his application was made available to members.

An important part of the process was to undertake a Criminal Record Bureau check. This was done and returned to the applicant with a copy being sent to the Licensing Office. The record disclosed that Mr GS had a number of criminal offences recorded against him for dishonesty including burglary, an offence against the person namely assaults and also driving whilst disqualified and drink driving.

Due to the previous convictions recorded against him it was felt appropriate to interview him in relation to the offences disclosed. Mr GS was given a copy of the Council's guidelines on Relevance of Convictions at the time of his application.

Members were reminded that under the provisions of Section 51(1) (a) of the Local Government Miscellaneous Provisions Act 1976 which instructs District Councils 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 GS was in attendance and given the opportunity to state his case. Mr GS

clarified that his most recent offence was committed in 1997, and was convicted in 2001, and that the conviction reported as being in 1999 was actually 1994. Mr GS stated that he had regretted the previous actions, which had happened some time ago, and was applying for a licence to provide for his family.

The Committee took into consideration the information from Mr GS interview, the CRB check and Stockton on Tees Borough Council's policy on relevance of convictions. Given the number and nature of your convictions the Committee refused the application under the provisions of section 51(a) of the above-mentioned Act, on the grounds that he was not considered to be fit and proper person to hold such a licence. The Committee indicated that Mr GS may wish to re-submit his application for further consideration after a period of 12 months free from any convictions had elapsed.

RESOLVED that the application be refused on the grounds that Mr GS was not considered a fit and proper person to hold a private hire drivers licence.