

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 7th July, 2009.

Present: Cllr Bill Woodhead (Chairman); Cllr Jim Beall, Cllr Ken Dixon, Cllr Paul Kirton, Cllr Miss Tina Large, Cllr Colin Leckonby, Cllr Alan Lewis and Cllr Roy Rix.

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

Also in attendance: Mr W S P for agenda item 4 - Private Hire Driver Mr W S P; Mr R T and Mr M M for agenda item 5 - Private Hire Driver Mr R T.

Apologies: Cllr Mrs Eileen Craggs, Cllr Dick Cains, Cllr Mrs Kath Nelson and Cllr Fred Salt.

L Declarations of Interest

26/09

There were no interests declared.

L Exclusion of the Public

27/09

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 Combined Driver - SNA

28/09

Consideration was given to a report on a combined Hackney Carriage Driver and Private Hire driver following a complaint from a member of the Public. The complaint was in relation to inappropriate comments of a sexual nature made to the lone female passenger and the retention of the passengers Passport.

Mr S N A was a licensed Hackney Carriage and Private Hire driver. He had been licensed since July 2008 and his licence was due to expire on 31st July 2009.

Mr S N A was granted his licence by officers with a written warning as to his future conduct. This followed relevant information being included on his Criminal Record Bureau check.

On the 17th March 2009 a complaint was received from a female member of the public in relation to the conduct of Mr S N A during her journey home from a local Nightclub. It was alleged he made inappropriate suggestions to her during discussions about payment of the fare.

Following the information contained in the statement and from preliminary enquiries Licensing Officers made a decision to suspend Mr S N A's Combined Hackney Carriage and Private Hire Driver's licence with immediate effect. This was done on the 24 March 2009 and a copy of the suspension letter was attached to the report.

Mr S N A was formerly interviewed in relation to the complaint on the 30th March 2009. During the interview Mr S N A initially denied being the driver of the vehicle and picking up that fare. When the evidence was put to him he

eventually accepted he had picked up the complainant and kept the ladies Passport, but he denied making any comments of a sexual nature to the complainant. A copy of the transcript of 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.

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 S N A, the complainant and Mr Burns had been invited to attend the meeting but were not in attendance.

Members had regard to the report of which Mr S N A had been given a copy and the written submission from his Solicitor, Mr Ross, were also taken into consideration.

It was noted that since receiving the Committee report and supporting appendices Mr S N A had taken legal advice from his Solicitor who had written to the Council indicating that he wished to surrender his badges and would not be attending at Committee. As Mr S N A's licence had already been suspended and as there was a complaint from a member of the public it was decided that this would not be appropriate and the matter should be considered by the Licensing Committee.

Mr S N A was invited to attend the meeting with his representative but he declined this offer or indeed any representation at the meeting so Members agreed to hear the matter in his absence.

Members decided that Mr S N A's licence to drive Hackney Carriage and Private Hire vehicles be revoked with immediate effect. Members felt that Mr S N A had failed to heed a written warning as to his future conduct, which was given to him

when first licensed.

This, together with the recent complaint from a single lone female passenger that had travelled in Mr S N A's vehicle, who alleged Mr S N A had asked her for a sexual favour. Members were also concerned with Mr S N A's behaviour in that he had not signed on with his operator that night but were monitoring the booking system for passengers and he had selected this passenger without being allocated the fare. In addition Mr S N A had also driven away from the complainants address in possession of her passport and had made no effort to return it to her.

Members found that on the balance of probabilities Mr S N A had used the words alleged by the complainant and that such behaviour was not fit and proper for a licensed driver.

Members noted that the complaint and the previous written warning and Mr S N A's actions on that night were sufficient cause to revoke his driver's licence. Members were of the view that he was no longer deemed to be a fit and proper person to hold a licence.

Members were of the view that the 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 the Committee and his actions on that night were deemed to put the safety of the public and their possessions at risk.

As Members made a finding that the revocation of Mr S N 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. This meant that if Mr S N A exercised his right of appeal he may not drive any licensed vehicle until the determination of that appeal.

RESOLVED that:-

1. Mr S N A's combined Hackney Carriage Driver and Private Hire Driver licence be revoked as his behaviour was not fit and proper for a licensed driver.
2. The revocation takes immediate effect on the grounds of public safety under Section 61(2)(B) of the Local Government (Miscellaneous Provisions) Act 1976.

L
29/09

Private Hire Driver - WSP

Consideration was given to a report on a licensed private hire driver who failed to notify the Licensing Unit of a motoring conviction he received in September 2008 despite previous warnings and reminders for the same issue and who had six points on his DVLA licence.

Mr W S P was a licensed private hire driver who had been licensed since August 1999 and his current licence would expire on 7 July 2009.

In his renewal application submitted on 22 May 2009, Mr W S P declared a motoring conviction for speeding that he had received on 17 September 2008

and which he had not reported at that time as per the conditions of his licence. A copy of his renewal form was attached to the report.

At that time he received 3 penalty points for the offence which took his total to 9 points but since that time 3 points came off in May this year so he now had 6 points on his DVLA licence. A copy of his driving licence was attached to the report.

Members were reminded that if he had reported the conviction at the time he received it, then following agreed procedures, officers would have offered Mr W S P the opportunity of attending the Driver Improvement Scheme as an alternative to appearing before the Committee.

On checking his driver history Mr W S P had been given several previous warnings and advisory letters as follows:-

27.7.99 - Warning letter sent following receipt of his criminal record.

3.9.99 - Warning letter concerning his standard of driving following a conviction for driving without due care and attention.

24.1.01 - Advisory letter sent for failing to notify a motoring conviction.

12.6.02 - Warning letter sent for failing to notify a speeding conviction.

18.5.07 - Advisory letters sent for failing to notify 2 motoring convictions

Mr W S P private hire drivers licence was renewed on 1 June 2009, by officers using delegated powers, but with an expiry date of 7 July 2009 pending the outcome of the hearing.

Since renewing his licence for this temporary period officers had been informed that Mr W S P had booked himself on a driver improvement course for the 13th - 14th August 2009.

Members were respectfully reminded that under the provisions of Section 61 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:-

(1) (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 or fails to comply with the provisions of the Act of 1847 or of this part of this Act

(b) any other reasonable cause

(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 is so and an explanation why, the suspension or revocation takes effect when the notice is given.

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

Mr W S P was in attendance at the meeting and was given the opportunity to state his case.

Members agreed to renew Mr W S P's private hire driver's licence, but only until 29 September 2009.

They arrived at this decision after consideration of the report regarding Mr W S P's history of motoring convictions and his repeated failure to notify the Licensing Unit of his convictions and to allow him to attend the Driver Improvement Course on 10th and 11th September.

Should Mr W S P fail to attend the Driver Improvement Course then the matter would be referred back to the Licensing Committee at the meeting to be held on 29 September 2009. Mr W S P was required therefore to produce evidence of his attendance at the course to the Licensing Unit immediately following completion of the course.

Once Mr W S P had attended the course the Committee agreed that Mr W S P's licence could then be renewed but subject to a final warning regarding both to his standard of driving and in respect of his repeated failure to notify the Licensing Unit of his convictions within seven days.

Members were concerned at both Mr W S P's history of speeding offences, as licensed drivers were expected to demonstrate a high standard of driving at all times and the fact that despite several previous warnings and advice letters Mr W S P still failed to notify the Council at the time he received his last conviction. Mr W S P's verbal assurance to Members that he was now fully aware of his obligation to report any convictions to the Licensing Unit was noted. Mr W S P was warned that should he receive any further motoring convictions or fail to comply with the conditions of his licence then the matter would be referred back to the Licensing Committee when this letter would be referred to and he may be at risk of having his licence revoked.

RESOLVED that:-

1. Mr W S P's Private Hire Drivers licence be renewed until 29th September 2009.
2. Mr W S P attends the Driver Improvement Course on 10th and 11th September 2009.

3. If Mr W S P attends the Driver Improvement Course on 10th and 11th September 2009 his Private Hire Driver's licence be renewed and he be issued with a final written warning as to his standard of driving and in respect of his repeated failure to notify the Licensing Unit of his convictions within seven days.

4. If Mr W S P does not attend the Driver Improvement Course the matter be referred back to the Committee on 29th September 2009.

**L
30/09** **Private Hire Driver - RT**

Consideration was given to a report on a licensed driver who had received a final written warning on the 20th January 2009 following a complaint from Stockton Borough Council Parking Attendant and when it was resolved that his licence be reviewed after 6 months.

Mr R T was a licensed private hire driver with this authority and had been licensed since October 2007 and his current licence was due to expire in October 2009.

Mr R T was referred to Licensing Committee on the 20th January 2009 for members to determine his continued fitness following a complaint about his attitude from Parking Attendant on the 6th October 2008.

At the Committee on 20th January 2009, the Committee resolved to issue Mr R T with a final warning as to his future conduct. The Committee also required Mr R T be brought back before them in six months time for his licence to be reviewed. A copy of minute 73/08, which refers was attached to the report.

During the past six months no further complaints had been received however, Mr R T did notify this department on the 30 January 2009 of a motoring conviction which he received on the same day, offence code CU80 which was the code for using a mobile phone whilst driving a motor vehicle. A copy of the conviction notification was attached to the report which included a copy of the fixed penalty notice and a copy of his DVLA driving licence was also attached to the report for Members information.

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.

Mr R T and his representative Mr Maroof were in attendance at the meeting.

Members agreed to defer consideration of this item to enable further enquiries to be made in respect of the processing of the notification of conviction Mr R T made on 30th January 2009.

RESOLVED that the item be deferred to enable further enquiries to be made in respect of the processing of the notification of conviction Mr R T made on 30th January 2009.