

## Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 22nd December, 2009.

**Present:** Cllr Bill Woodhead (Chairman); Cllr Jim Beall, Cllr Dick Cains, Cllr Jean Kirby, Cllr Miss Tina Large, Cllr Alan Lewis, Cllr Maurice Perry, Cllr Roy Rix and Cllr Fred Salt.

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

**Also in attendance:** Mr D D for agenda item 4 - Private Hire Driver - Mr D D; Mr J P K for agenda item 5 - Application to Drive Private Hire Vehicles; Mr A S and D Dedman (Watson Woodhouse Solicitors) for agenda item 6 - Combined Hackney Carriage and Private Hire Driver - Mr A S; Mr Z G, Simon Catterall (Jackson's Law Firm) and Miss J B (Complainant).

**Apologies:** Cllr Kath Nelson, Cllr Mrs Eileen Craggs, Cllr Ken Dixon, Cllr Paul Kirton and Cllr Colin Leckonby.

### **L       Declarations of Interest**

**65/09**

No interests were declared.

### **L       Minutes**

**66/09**

The minutes of the meetings held on 6th October 2009, 29th October 2009 and 10th November 2009 were signed by the Chairman as a correct record.

### **L       Private Hire Driver - D.D.**

**67/09**

Consideration was given to a report on a licensed Private Hire Driver who had a police caution for "assaulting a constable – 2 cases".

Mr D D was a licensed Private Hire Driver with the authority. He had been licensed with the Authority since 1991. His licence was due to expire on 28th February 2010.

Mr D D contacted the Licensing Unit following receipt of a Caution by Cleveland Police then following advice from an Officer provided written notification of the Caution. On 8th October 2009, the Licensing Unit received information from Cleveland Police via the Notifiable Occupations Scheme, with regard to the Caution Mr D D received on 5th October 2009. A copy of the information from Cleveland Police and Mr Dickerson's notification was attached to the report.

Mr D D was interviewed by Licensing Officers on 21st October 2009 regarding the information. During interview Mr D D gave his version events.

Mr D D stated that following the police interview he was offered either a Caution, which meant he had to admit to assaulting a Police Officer, or he could go to Court and would likely be convicted of the assault. Mr D D accepted the Caution, based on advice from his Solicitor.

A summary of the transcript of the interview with the Licensing Officer was attached to the report.

According to Council records, Mr D D was spoken to in 1997 with regard to his attitude towards a customer and no further action was taken. In 1998, he received a written warning, from the Licensing Unit, after a complaint was made

about him for his attitude towards a traffic warden. In January 2001 Mr D D was written to remind him to declare motoring convictions after it came to light he had undeclared convictions on his DVLA licence. In April 2009 Mr D D advised the Licensing Unit, in writing, that he had been convicted of speeding and he had received 3 DVLA penalty points and a £60 fine.

In November 2009, Mr D D notified the department of further motoring convictions, taking his total to 9 penalty points, and had been referred to the Driver Improvement Course.

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 for Member's information.

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

Members gave consideration to the comments made by Mr D D at the meeting in respect of the events, which led to the caution he had received from Cleveland Police.

After giving due consideration to the facts of the matter Members confirmed they took a very dim view of the incident and would not tolerate this type of behaviour by a private hire driver licensed with Stockton Borough Council. Members also had concern with regard to the manner of driving as Mr D D's DVLA licence had 9 live points and Mr D D had to be referred to the driver

improvement course. Members did decide however, on this occasion, to allow Mr D D to keep his private hire drivers licence and to issue him with this final written warning.

RESOLVED that Mr D D receive a final written warning.

**L  
68/09**

### **Application For A Private Hire Driver's Licence - J.P.K.**

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

Mr J P K had submitted an application to become a licensed private hire driver with the authority. A copy of his application was attached to the report.

An important part of the vetting process was to undertake a Criminal Record Bureau check. This was done and returned to the applicant with a copy being sent to the Local Authority. The record disclosed that Mr J P K had a number of convictions, the last of which was received in 2003. It was noted that some of the conviction were deemed serious and were relevant considerations to take into account under the Guidance on the Relevance of Convictions. A copy of the disclosure was available at the meeting.

Mr J P K previously held a private hire drivers licence with this authority from December 1997 until April 1999 when Licensing Committee revoked him, for having a six-month DVLA licence ban under the totting up procedure, offences included speeding and worn tyres. A copy of the report and letter were attached to the report.

In November 1999, Mr J P K had a new licence granted with a final warning as to his future conduct. A copy of this letter was attached to the report.

In December 2001, following a 12-month DVLA driving ban for drink driving, Mr J P K's driving licence with the authority was revoked with immediate effect, by the Committee. A copy of his notification and revocation letter were attached to the report.

In February 2003, Mr J P K reapplied for a hackney carriage drivers licence with the authority. This application was put before the Committee on 26th August 2003, when it was decided to refuse the application, as it was considered he was not a fit and proper person at that time. A copy of report and decision letter were attached to the report.

Following receipt of his new application and the CRB disclosure, Officers interviewed Mr J P K on 20th November 2009. Mr J P K explained during interview the circumstances surrounding his convictions. He explained to Officers that he knew he was wrong to break the law on all occasions and advised the only reason he did it was in order to save from losing his house. Mr J P K told Officers he knew he had been foolish in the past and he admitted there were no real mitigating circumstances for breaking the law. He was remorseful for the past and he understood the seriousness of his actions. A summary of the transcript was attached to the report.

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 J P K was in attendance at the meeting and was given the opportunity to state his case.

Members gave due deliberation to Mr J P K's previous history as a former licensed driver with the authority and noted that the expressed remorse for his actions. Members decided on this occasion to put their faith in Mr J P K and to issue him with a private hire drivers licence.

However, this would be issued with a written warning as to his future conduct and he was reminded that as a licensed private hire driver, he was expected to behave in a professional manner. The letter also served to remind Mr J P K that any cautions or convictions he received must be reported to the Licensing Unit immediately.

If any incidents were brought to the attention of the Licensing Unit this could call in to question Mr J P K's continued fitness to hold a licence and he would be required to appear in front of the Licensing Committee again.

A copy of the letter would remain on Mr J P K's file and may be referred to should similar instances be reported.

RESOLVED that:-

1. Mr J P K be issued with a Private Hire Driver's Licence.
2. Mr J P K be issued with a written warning as to his future conduct.

**L  
69/09**      **Combined Driver - A.S.**

Consideration was given to a report on a licensed Combined Hackney Carriage and Private Hire Driver who had received a conviction for failing to report an accident and did not inform the Licensing Unit as per his licence conditions.

Mr A S was a licensed hackney carriage and private hire driver and had been since September 1996 and his licence was due to expire on 30th June 2010.

On the 18th August 2009 the Licensing Unit received notification of a conviction from Cleveland Police Notifiable Occupations scheme. The circumstances of the incident being on 04.12.08 at Vulcan Way Thornaby, Mr A S was driving a motor vehicle when a collision occurred with a stationary vehicle parked at the roadside. Mr A S made off and failed to report the incident to police. A copy of the Police Notification was attached to the report.

Mr A S was convicted on the 10th July 2009 of failing to report an accident for which he received a fine of £185.00 and paid £100 costs.

Mr A S was interviewed on 28th October 2009 regarding the complaint a summary of the transcript of the interview was attached to the report.

Mr A S confirmed he did hit a stationary vehicle however after he inspected the other vehicle for damage and found none he left the scene. The police were made aware of the incident after a member of the public handed in Mr A S's vehicle licence plate.

During the interview Mr A S produced a letter from his solicitor explaining the reason for not informing the Licensing Unit of the incident, being that no points were endorsed on his licence and he was therefore under the impression he did not have to declare it to the Licensing Unit. A copy of the letter was attached to the report.

There had been no complaints about Mr A S and he had had no enforcement actions from the Licensing Unit since the grant of his licence in September 1996. Mr A S had 6 live points endorsed on his driving licence, for two counts of speeding on 28th May 2008 and 9th August 2008. A copy of Mr A S's driving licence 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.

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 on the Relevance of Convictions was attached to the report for Members information.

Mr A S and his solicitor (Mr Dedman - Watson Woodhouse) were in attendance

at the meeting and were given the opportunity to state their case.

After consideration of the report and to the comments made by Mr A S and his solicitor (Mr Dedman) Members decided on this occasion not to revoke Mr A S's licence. It was noted that Mt A S had looked at the vehicle which was involved in the accident but had not noticed any damage. Members decided to issue Mr A S with a severe written warning as to his future conduct.

Members advised Mr A S that licensed drivers were expected to demonstrate a high standard of conduct and driving and that any conviction was considered serious. Mr A S was also advised to contact a Licensing Officer should he be involved in any incident in the future when he would be given appropriate advice. Therefore should he receive any further convictions, cautions or reprimands or fail to comply with the conditions of his licence then his fitness to hold a hackney carriage and private hire driver's licence would be reconsidered by the Licensing Committee, when the warning would be revisited.

RESOLVED that Mr A S be issued with a serve written warning as to his future conduct.

**L  
70/09**

### **Combined Driver - Z.A.G.**

Consideration was given to a report on a complaint about inappropriate behaviour by a licensed hackney carriage and private hire driver who had been issued a final warning previously by the Licensing Committee.

Mr Z A G was a licensed hackney carriage and private hire driver, driver number 777. Mr Z A G had been a licensed driver since August 2006 and his licence was due to expire on 31 August 2010.

A complaint was received on 23 July 2009, against Mr Z A G, by a member of public, regarding his attitude on 22 July 2009, when he arrived to collect a fare from the Education Centre, Junction Road, Stockton.

The passengers contacted Boro Cars for a taxi at the Education Centre on 22 July 2009 for just after 21:00. They advised they wished to be picked up on the main road, as one passenger was on crutches and this would be easier for her.

The taxi arrived but went in to the car park of the Education Centre. The caretaker approached the driver as he tried to turn around and advised him that he had closed the gates and that he had to go the other way out the car park as it is a one way system. The driver was allegedly aggressive and abrupt and the sped off. A statement from the caretaker was attached to the report.

By this point one of the passengers had noticed the taxi and had come from the front of the building in to the car park to ask him to go out to the front where her colleague was waiting. She stated that the driver was aggressive towards her and gestured to her to 'get in' the vehicle. The female said she didn't want to get in his car and then headed back towards her colleague waiting on the roadside. She advised her friend they were not getting in that car due to the drivers attitude. A statement from the passenger was attached to the report.

A further statement from the other passenger was attached to the report.

Further to this complaint the Licensing Department had been made aware that Mr Z A G attended Middlesbrough County Court on 31st July 1009, in relation to an incident involving his wife. During a marital disagreement Mr Z A G raised his hand to his wife, she contacted the police. Mr Z A G attended Middlesbrough County Court whereby he gave an undertaking to the Court promising:-

I. not to use or threaten violence against the applicant R Z and not to instruct, encourage or in any way suggest that any other person should do so.

II. not to intimidate, harass or pester the applicant R Z and must not instruct, encourage or in any way suggest that any other person should do so.

A copy of the 'General Form of Undertaking' was attached to the report.

Mr Z A G was interviewed by officers in relation to the two incidents detailed above and full transcript of the interview was attached to the report.

A further complaint had been received with regard to Mr Z A G's attitude. It was alleged that Mr Z A G saw a female and her son at the pelican crossing in George Street. The lights had started to change and other traffic was slowing down, as was the driver of hackney carriage 562, until it seem he noticed who was standing at the crossing and then he allegedly speeded up his vehicle and then gave a two finger gesture towards the female and her son. A statement had been taken from the complainant and was attached to the report. It was noted that the complainant in this matter had indicated that she did not wish to attend the Committee.

Members were respectfully reminded that Mr Z A G appeared before this Licensing Committee in November 2007 when he was issued a severe final warning and advised to appear before the committee again after 6 months. Mr Z A G attended the Committee again in July 2008 for his 6-month review and a copy of the Committee letters were attached to the report. (Minute 47/07 refers).

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 Z G and his solicitor (Mr S Catterall - Jackson's Law Firm) were in attendance at the meeting and were given the opportunity to state their case. Also in attendance at the meeting was the complainant (Miss J B).

Members noted Mr Z G's previous disciplinary history and that the Committee had been minded to revoke his licence in November 2007 but had allowed Mr Z G to retain his licence with a severe final warning as to his future conduct. At that time Members had found that Mr Z G had an issue with his temper and recommended that he seek advice on anger management. Mr Z G was advised in writing that the Committee considered this would be beneficial to Mr Z G in addressing his clear attitude problem. Mr Z G then appeared before the Committee again in July 2008 after a further complaint had been received. As the complainant in that matter did not attend the meeting the Committee decided not to revoke Mr Z G's licence but again were extremely concerned at his disciplinary record and issued a further warning as to his future conduct.

In Mr Z G's appearance before the Committee there was further evidence of his short temper and potentially violent and/or aggressive and threatening behaviour. Members noted that Mr Z G was subject to a non molestation order issued before the County Court. It was noted that this arose in relation to his marital difficulties but the fact that Mr Z G clearly had an issue over his temper was of grave concern to Members.

Members also considered the complaint from Miss J B who gave oral evidence. Members were impressed with the evidence given by Miss J B and found her to be a credible witness. Members found Mr Z G's version of events to be untruthful and Mr Z G's allegation that Miss J B had both sworn and been racially abusive towards Mr Z G was found to be a fabrication and wholly untruthful. Members noted that making allegations of a racist nature such as this wholly inappropriate and was not fit and proper behaviour for a licensed driver.

Mr Z G's actions in the incident involving Miss J B were yet another example of Mr Z G demonstrating his short temper and it was noted that again this was an incident involving a female.

Members noted that Mr Z G had submitted two character references in support. Members noted these but found that the complaint of Miss J B was true and accurate and that Mr Z G lied to the Committee which shed further doubt on his fitness to hold a licence. Members noted that Mr Z G had taken no formal action to address his anger management. The concern over Mr Z G's short temper and attitude to women and members of the public was of such concern that



Members felt that this was a reasonable cause to revoke Mr Z G's licence and found that he was no longer a fit and proper person to hold a drivers licence.

Members felt that public safety was an issue owing to the concerns over Mr Z G's short temper and ability to control the same. The non molestation order also showed that there was prima facie evidence that Mr Z G was unable to control his temper. As such Members felt that Mr Z G's hackney carriage and private hire driver licence be revoked with immediate effect.

RESOLVED that:-

1. Mr Z G's Hackney Carriage and Private Hire Driver Licence be revoked as he was no longer a fit and proper person.
2. Mr Z G's Hackney Carriage and Private Hire Driver Licence be revoked with immediate effect due to concerns over public safety.