

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 16th March, 2010.

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

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

Also in attendance: Miss S P N for agenda item 6 - Application for Private Hire Driver Licence; Mr R S for agenda item 7 - Application for Private Hire Drivers Licence.

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

L Declarations of Interest

82/09

There were no interests declared.

L Minutes

83/09

The minutes of the meeting held on 2nd February 2010 were signed by the Chairman as a correct record.

L Training Requirements For Drivers and Private Hire Operators

84/09

Consideration was given to a report on the need for amendments to the Private Hire and Hackney Carriage Licensing Policy in respect of the training requirements for drivers and private hire operators in the light of proposed changes to funding arrangements and following requests from the trade.

At the meeting held on 27 January 2009, Members agreed a revised Hackney Carriage and Private Hire Licensing Policy which was approved by Cabinet on 2nd March 2009 (Minutes L 77/08 and CAB 158/08 refer).

Members were reminded that within that policy the issue of driver training was addressed and it was agreed that:-

"In order to enhance the professional image of the private hire and hackney carriage trade and to enhance driver skills, all drivers and private hire operators (or a representative of the licensed company) shall be required to undertake both courses (the BTEC/VRQ intermediate award - Transporting Passengers by Taxi and Private Hire; and the NVQ Level 2 in Road Passenger Vehicle Driving) within one year from the grant or renewal of their next licence."

A copy of paragraphs 228 – 235 from the policy which refer was attached to the report for Members information.

Since the implementation of the policy only 85 drivers out of 709 had produced certificates as follows:-

50 - NVQ and VRQ Certificates
30 - NVQ only
5 - VRQ only

However this was not a true picture as discussions with one of the training providers had shown that they had delivered the following courses:-

116 - NVQ Completions

58 - VRQ Completions (all of these drivers have also completed the NVQ)

In order to obtain more accurate statistics all drivers had been written to and requested to produce certificates for the courses they had completed.

At the time of preparing the policy document it was known that government funding was available for delivering the NVQ course but not for the VRQ. However training providers delivering the courses in the area were initially willing to provide the VRQ alongside the NVQ at no extra charge and the training was therefore free for all drivers.

However it was understood that funding allocations in August 2009 were reduced and some providers were now unable to offer the VRQ free of charge. At least one provider had been able to source additional funding (although limited) to deliver the VRQ free of charge and others were also able to deliver the VRQ as part of a Skills for Life course which involved additional training to address literacy and/or numeracy skills.

Discussions had taken place with the Learning Skills Council (LSC), shortly to be replaced by the Skills Funding Agency on the proposed changes to the funding regime.

They had confirmed that there would be an overall reduction in the funding for all NVQs of approximately 6% this year, commencing in August. In addition a new eligibility policy would be introduced which would mean that NVQ training would no longer be free to all applicants. It would only be free to those persons who had not been trained to NVQ level 2 standards before. In all other cases the training provider would only receive 50% of the allocation and there would be latitude for each provider as to whether they demanded the rest of the allocation from the employer or in Stockton Borough Council's situation the driver. Whilst this would be a business decision for each training provider to make, it was envisaged, based on the experience with the VRQ delivery, that this charge would be demanded from the driver as this would equate to a sum of approximately £700 plus whatever was charged for the VRQ, which could be up to an additional £100.

As a result of these issues representations had been received from some members of the trade requesting that the mandatory requirement to obtain these qualifications be suspended at this time and the same request had been made to the Cabinet Member for Housing and Community Safety. Members were also advised that three Private Hire Operators were aggrieved by this requirement as it applied to them and legal proceedings were pending.

In view of these proposed changes, the current economic climate, and as the first 12 month period allowed to obtain the qualifications would expire for those drivers renewing their licences in April, Members agreed to suggest to the Cabinet Member for Housing and Community Safety on amending the policy by suspending the mandatory training element at paragraph 235 until the next policy review in 2012 or until the funding regime for these courses changed

again, whichever is the shorter period.

Members felt that drivers should still be encouraged to obtain these qualifications especially when they qualify for the full funding.

RESOLVED that:-

1. The Members comments be received.
2. The suggested revisions be referred to Cabinet Member for Housing and Community Safety.

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85/09 **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.

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86/09 **Private Hire Driver - A.S.**

The Licensing Officer informed Members that Miss A S was not in attendance at the meeting as she had an illness.

Members felt that the item should be deferred to enable Miss A S to attend the meeting but as this was the second time the item had been deferred then Members may be minded to go ahead with the item in Miss A S's absence unless Miss A S could provide written confirmation from her doctor that she was not well enough to attend the meeting.

RESOLVED that the item be deferred.

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87/09 **Private Hire Driver Application - S.P.N.**

Consideration was given to a report on the suitability of an applicant for a Private Hire Drivers Licence who had a conviction for drink driving and plying for hire.

An application for a Private Hire drivers licence had been received from Miss S P N. A copy of the application was attached to the report. There had been a delay in processing the application due to a pending prosecution by the Council.

Miss S P N had completed a Criminal Record Bureau Disclosure Application. This was returned in January 2010. The disclosure showed a conviction on 16 September 2005 for the offence of "driving a motor vehicle with excess alcohol" on 11th September 2005.

Miss S P N was given a £200 fine and was disqualified from driving for 20 months, which was reduced by 5 months if she completed a rehabilitation course before 15 October 2006. The CRB was available for Members at the meeting.

Miss S P N was interviewed by Licensing Officers on 20th February 2009, regarding her conviction. A copy of the transcript was attached to the report.

The report detailed the circumstances around Miss S P N's conviction for the offence of "driving a motor vehicle with excess alcohol" on 11th September 2005.

Miss S P N completed the rehabilitation course and her licence was returned to her in December 2006.

Miss S P N had been granted a Hackney Carriage Drivers Licence with Berwick upon Tweed Council. Berwick Council put Miss S P N before their Licensing Committee in April 2008, due to the findings on her CRB and they decided to grant her Hackney Carriage Drivers Licence. Miss S P N worked for a Private Hire Operator licensed with Stockton on Tees Borough Council, driving a Berwick Licensed Hackney Carriage.

During the evening of 27th February 2009, Council Officers were engaged in a taxi licensing operation. Two officers had gone to the area of Tower Street at the rear of Stockton High Street to approach vehicles that appeared to be standing and plying for hire. At approximately 22:30 hours, two Officers approached the vehicle Miss S P N was driving and asked if she was booked, she advised the customers she would have to book the job in. She permitted the customers to get in to her car then radioed through and booked the fare with the office.

On Monday 7th December 2009, at a hearing at Teesside Magistrates Miss S P N pleaded guilty of plying for hire under Section 45 of the Town Police Clauses Act 1847 as amended. She was fined £100 with £100 costs.

Miss S P N advised she was a single parent and needed to work in order to support her family. She still drove for Tees Valley Cabs Ltd using her Berwick upon Tweed Hackney Carriage Drivers Licence.

A copy of the adopted guidelines relating to the Relevance of convictions was attached to the report for Member's 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.

Miss S P N was in attendance at the meeting and was given the opportunity to state her case.

Members took in to consideration the period of time elapsed since the drink driving conviction and Miss S P N's cooperation with the Council as a witness to another case, in relation to her plying for hire. Members therefore decided, on this occasion, to put their trust in Miss S P N and to grant her a private hire driver's licence with a written warning as to her future conduct.

RESOLVED that Miss S P N be granted a Private Hire Driver's Licence with a

written warning as to her future conduct.

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88/09

Private Hire Driver Application - R.S.

Consideration was given to a report on an application for a private hire drivers licence from an applicant who had a serious motoring conviction and also a conviction for dishonesty.

Mr R S had submitted an application form on the 23rd April 2009, to become a licensed private hire driver with the Authority. A copy of his application including his DVLA driving licence was attached to the report.

Mr R S's DVLA driving licence revealed that he had two motoring convictions, the first conviction was on the 17th November 2006 with offence code LC20 which was driving otherwise in accordance with a licence and his DVLA driving licence was endorsed with 3 penalty points. The second conviction was on 18th June 2008 SP30 and he was disqualified from driving for 56 days.

An important part of the vetting process was to undertake a Criminal Record Bureau check (CRB). The record disclosed that Mr R S had been convicted on the 23rd April 2003 of making a false statement or representation in order to obtain benefit or payment. A copy of his CRB was available at the meeting.

Due to the offences disclosed it was felt appropriate to interview Mr R S to hear his explanation. He was spoken to by officers on the 14th December 2009. A copy of the officers notes were attached to the report.

Mr R S was given a copy of the Councils guidelines on Relevance of Convictions at the time of his application, and it stated in the guidelines a "If an applicant has a live endorsement in respect of a major traffic offence then the application will be referred to the Licensing Committee and will normally be refused until at least four years after the most recent conviction". A copy of the Relevance of convictions was attached to the report for Member's information.

Member's 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 R S was in attendance at the meeting and was given the opportunity to state his case.

Members considered Mr R S's previous convictions and also listened carefully to what Mr R S had to say with regard to the matters outlined to them. Whilst Members considered the matters to be serious they decided on this occasion to grant a licence to Mr R S with a severe warning as to his future conduct and subject to him completing and passing the Councils knowledge test, DSA driving test and group two medical.

Members warned Mr R S that as a licensed driver he would be expected to drive his vehicle with due care and attention at all times, taking into account the safety of his passengers and other road users as well as sticking to the speed limit. Mr R S should also behave in a civil and orderly manner at all times.

RESOLVED that Mr R S be granted a Private Hire Drivers Licence with a severe warning as to his future conduct and subject to him completing and passing the Councils knowledge test, DSA driving test and group two medical.