

# Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 27th April, 2010.

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

**Officers:** L Maloney, M Vaines (DNS); P K Bell, R McKenzie (LD).

**Also in attendance:** M M, A M, K Robson for agenda item 4 - Private Hire Driver MM; S B, Ms Oliver, Mrs Renton for agenda item 5; S L for agenda item 6 - New Application Private Hire Driver.

**Apologies:** Cllr Mrs Eileen Craggs, Cllr Ken Dixon, Cllr Paul Kirton, Cllr Ann McCoy, Cllr Mrs Kath Nelson and Cllr Fred Salt.

## **L       Declarations of Interest**

**1/10**

There were no interests declared.

## **L       Licensing Act 2003 - Minor Variations Process**

**2/10**

Consideration was given to a report on the delegated decisions that had been taken by officers to determine minor variations under the Licensing Act 2003

At the meeting held on 29th October 2009 Members considered a report on changes to the Licensing Act 2003 which introduced a new application process to deal with what were considered to be minor variations to existing premise licences and club premise certificates.

At that meeting Members agreed to give delegated powers to the Director of Development and Neighbourhood Services to determine minor variations and that a report be brought to this committee after 6 months. A copy of minute L 52/09 that referred was attached to the report.

Members were advised that up until 1st April 2010 eighteen applications for minor variations had been received of which three had been refused. The majority of these applications had been in respect of either minor alterations to the layout of the premises or amendments/removal of conditions.

The three that had been refused had all involved the potential to impact adversely on the public nuisance objectives and of this three, only one applicant re-submitted a further application when he offered new conditions and which was then approved.

A list of the premises that had been subject to minor variation applications and the list of applications refused were attached to the report.

Members discussed the minor variation process and agreed that the delegated powers that had been given to the Director of Development and Neighbourhood Services to determine minor variation applications under the Licensing Act 2003 remain the same and Members receive an update report that provides more detail of the minor variations that are refused.

RESOLVED that the delegated powers that had been given to the Director of

Development and Neighbourhood Services to determine minor variation applications under the Licensing Act 2003 remain the same and Members receive an update report that provides more detail of the minor variations that are refused.

**L**  
**3/10**      **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**  
**4/10**      **Private Hire Driver - M.M.**

Consideration was given to a report on a licensed Private Hire Driver who received a caution for common assault, and did not inform the licensing department as per her licence conditions.

Ms M M was a licensed private hire driver and had been since August 2007, her licence was due to expire on 31st July 2010.

On the 21st January 2010 the Licensing Unit received notification of a caution from Cleveland Police Notifiable Occupations Scheme. The circumstances of the incident being on 15th December 2009 at Dover Road, Ragworth, during an argument with her nephew Ms M M threw a kitchen knife at him causing injury. A copy of the Police Notification was attached to the report.

Ms M M was interviewed on 11th February 2010 regarding the complaint a summary of the transcript of the interview was attached to the report.

Ms M M confirmed that she had thrown a knife at her nephew during a heated family argument. The police were not called to the incident but became involved when it emerged at the hospital that a knife had caused the injury. Ms M M and her nephew were back on speaking terms and there had been no further arguments between them. When asked why she had not informed the department of her caution within 7 days Ms M M said that she was unaware she had to, she thought it was only convictions she needed to inform the department about.

During the interview Ms M M produced a character reference letter from her employer Mr Kevin Humphrey of Crown Guthries Taxi's Ltd. A copy of this letter was attached to the report.

Ms M M was granted her private hire driver licence in July 2007 by the committee, after members made a determination regarding her relevant convictions. The licence was granted initially for a 6 month period. After the 6 month period Ms M M was interviewed by Licensing Officers who determined that she had remained a fit and proper person since the grant of her licence. A copy of minute 18/07 which referred and a copy of the decision letter were attached to the report.

Since the grant of her private hire driver licence Ms M M had received a number of motoring convictions and had 9 live penalty points on her DVLA driving

licence. On 31st August 2007 Ms M M was convicted of exceeding the statutory speed limit on a public road and received 3 points. On the 3rd October 2008 and 22nd January 2009 Ms M M was convicted of using a mobile phone while driving a motor vehicle and received 3 points on both occasions. A copy of Ms M M's driving licence was attached to the report.

On the 14th and 15th May 2009 at the request of the licensing department Ms M M completed the driving improvement course.

On 15th March 2010 at the request of the licensing department Ms M M completed an oral fluid instant drugs test, which proved negative.

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 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.

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

Ms M M, A M (Sister of MM) and K Robson were in attendance at the meeting and were given the opportunity to state their case.

Members had regard for the supporting documents Ms M M provided and listened carefully to what Ms M M and her representatives Mrs A M and Mr K R had to say with regard to the matters disclosed. This included the fact that Ms M M was apologetic of her behaviour.

Members deliberated over their decision as to whether they were satisfied at this time whether Ms M M was still a fit and proper person to hold a licence.

Members felt that there was sufficient grounds under the above legislation to revoke Ms M M private hire driver's licence as her behaviour had been totally unacceptable.

Members decided on this occasion to issue Ms M M with a final written warning as to her future conduct. Holding a private hire licence was a position of trust and holders of such licences were expected to be civil and orderly at all times both inside and outside of work. Members would take a very dim view should Ms M M come before Members in the future.

A copy of the letter would remain on Ms M M's drivers file and may be referred to in the future. Ms M M was advised that any further complaints regarding her behaviour or conduct may be reported back to Members.

RESOLVED that Ms M M be issued with a final written warning as to her future conduct.

**L**  
**5/10**

### **Combined Driver - S.B.**

Consideration was given to a report on a licensed combined Hackney Carriage and Private Hire Driver after a complaint was made by a member of the public. The complaint was with regard to Mr S B's attitude and manner of driving.

Mr S B was a Combined Driver with the authority and had been licensed with since 2nd September 1997. His licence was due to expire on 31st August 2010.

On the 1st February 2010, the licensing department received a complaint made by a member of the public. The complaint was with regard to Mr S B's attitude and manner of driving.

The complainant stated on the 24th January 2010 at approximately 22:50 the driver picked up four females for a journey from The Malleable Social Club in Norton to various drops in Roseworth and Hardwick. During the journey the driver swore at the females and his erratic driving escalated to a point that the complainants thought the driver would hit a set of traffic calming bollards in the road. A copy of the witness statement's were attached to the report.

During the journey one of the complainants claimed to have received severe bruising to the chest area. Photographs of the injuries were shown to Members.

Mr S B was interviewed on 5th March 2010 regarding the complaint. During interview Mr S B denies the claims made regarding swearing and insisted the complainants were giving him verbal abuse. Mr S B did admit he was taking corners at the same speed he was driving however denies he was ever driving above the statutory speed limit. A summary of the transcript of the interview was attached to the report.

The MOT certificate for Mr S B's vehicle reg number S301ABN expired 17th December 2009. It was on notification from the Licensing Unit informing Mr S B a MOT Certificate renewal had not received that the licence was renewed on the 3rd February 2010. Copies of the certificates were attached to the report.

On the 4th February 2010 a request for booking records was sent to Mr Chris

Pitcairn of Road Runners, Mr S B's employer. An email reply from Mr Pitcairn confirmed that Mr S B had been driving his vehicle between the 17th December 2009 and 3rd February 2010, normally working 3 - 4 days a week with about 8 – 10 jobs per night.

During interview on the 5th March 2010 Mr S B admitted that he had been driving his vehicle without a valid MOT Certificate, this was down to an error on his part and as soon as he became aware he had the vehicle tested and brought the certificate to the Licensing Unit. A summary of the transcript of the interview was attached to the report.

On 12th March 2010 at the request of the Licensing unit Mr S B completed an oral fluid instant drugs test, which proved negative.

Mr S B had held a combined Hackney Carriage and Private Hire Driver for over 12 years this was the first complaint from a member of the public. Mr S B had no live points on his DVLA Licence.

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 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 S B, Mrs Oliver and Mrs Renton were in attendance at the meeting and were given the opportunity to state their case.

Members listened carefully to what Mr S B had to say with regard to the matters disclosed and to the evidence given at the meeting by the complainant (Miss Oliver) and witness (Mrs Renton). Members considered all of the evidence and Mr S B's counter allegations that the witnesses had verbally abused him.

Members deliberated over their decision as to whether they were satisfied whether Mr S B was still a fit and proper person to hold a licence. Members felt that there were sufficient grounds under the above legislation to revoke Mr S B's combined driver's licence as he had not acted in a professional manner.

Members decided on this occasion to issue Mr S B with a severe written warning as to his future conduct. Holding a combined licence was a position of trust and holders of such licences were expected to be civil and orderly at all times, putting the welfare and safety of all passengers as paramount importance.

Members also agreed that Mr S B should submit written apologies to the four ladies involved in the incident on the night in question.

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

**L  
6/10**

### **Application For A Private Hire Drivers Licence - S.L.**

Consideration was given to a report on the suitability of an applicant for a Private Hire Drivers Licence whose application was refused by Members in November 2007, September 2008 and April 2009, because of convictions for dishonesty, each time he was advised to demonstrate a period of 12 months free from further conviction.

A new application for a Private Hire drivers licence had been received from Mr S L. A copy of the application was attached to the report.

In April 2009, Mr S L attended the Committee, when it was decided to refuse his licence until he had shown a further 12 months free from Conviction / Caution, taking him to April 2010, because Mr S L was not considered to be a fit and proper person at that time due to his convictions. A copy of the minute, 8/09, which referred was attached to the report.

Mr S L had completed a further Criminal Record Bureau Disclosure Application and this was returned in March 2010. No new convictions were disclosed. A copy of the disclosure was available at the meeting.

Members were respectfully reminded that under the provisions of section 51(1)(a) of the Local Government (Miscellaneous Provision) Act 1976, District Councils were 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.

A copy of the Council Guidelines on the Relevance of Convictions was attached to the report.

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

Members took into account what Mr S L had to say in relation to the matters in question and his past convictions.

Members noted that Mr S L had fulfilled their request to reapply for his licence with Stockton Borough Council once he had stayed free from further conviction for 12 consecutive months.

Members decided to grant Mr S L a Private Hire Drivers licence. This was subject to Mr S L completing the Driver Improvement Course within 3 months. This course was at Mr S L's own expense.

Members also requested Mr S L give consideration to not renewing his Hackney Carriage Licence with Berwick upon Tweed Council.

Members stated Mr S L would be granted his licence with a written warning as to his future conduct, because of his previous convictions for dishonesty. Mr S L would also be required to attend the Licensing Committee again in six months to determine if he had remained a fit and proper person since being granted his licence.

RESOLVED that:-

1. Mr S L be granted a Private Hire Drivers licence.
2. Mr S L complete the Driver Improvement Course within 3 months. This course would at Mr S L's own expense.
3. Mr S L give consideration to not renewing his Hackney Carriage Licence with Berwick upon Tweed Council.
4. Mr S L be granted his licence with a written warning as to his future conduct, because of his previous convictions for dishonesty.
5. Mr S L be required to attend the Licensing Committee again in six months to determine if he had remained a fit and proper person since being granted his licence.

**L  
7/10**      **Private Hire Driver - Miss A S**

The Licensing Officer informed Members that Miss A S had informed the Licensing Unit that she was unable to attend the meeting due to sickness.

Members considered Miss A S's request for the item to be deferred and also had regard to the sick notes which were presented to them. Members decided to defer the item again due to Miss A S's illness.

Members felt that they could not continue to defer the item indefinitely and requested that the Licensing Officer confirm with Miss A S if she will be fit enough to attend a future meeting, if not the Members would require confirmation from Miss A S's GP that her illness was preventing her from attending the meeting.

RESOLVED that the item be deferred.

