

Licensing Committee

A meeting of Licensing Committee was held on Monday, 28th June, 2010.

Present: Cllr Bill Woodhead (Chairman); Cllr Dick Cains, Cllr Alan Lewis, Cllr Mrs Ann McCoy, Cllr Mrs Kath Nelson, Cllr Roy Rix and Cllr Fred Salt.

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

Also in attendance: Mr A K, Miss Rambert, Mrs Alderton for agenda item 6 - Combined Hackney Carriage and Private Hire Driver - Mr A K; Mr A M for agenda item 8 - Application for Private Hire Drivers Licence - Mr A M.

Apologies: Cllr Ken Dixon, Cllr Paul Kirton, Cllr Colin Leckonby, Cllr Mrs Eileen Craggs, Cllr Jean Kirby, Cllr Tina Large and Cllr Maurice Perry.

L Declarations of Interest

16/10

Councillor Woodhead declared a personal prejudicial interest in respect of agenda item 6 - Combined Hackney Carriage and Private Hire Driver - Mr A K as one of the witnesses (Mrs Alderton) was known to him.

L Exclusion of the Public

17/10

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 Hackney Carriage Driver - MB

18/10

Consideration was given to a report on a licensed hackney carriage driver who had failed to submit an application to enable his three yearly criminal record check to be carried out and was suspended.

Mr M B was a licensed hackney carriage driver. He had held a licence since March 2000 and his licence was due to expire on 7th December 2010.

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 M B was written to and advised that his next check was due on 9th March 2010 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 6th April 2010.

Despite these letters Mr M B failed to return his completed forms and this resulted in his hackney carriage drivers' licence being suspended by the Trading Standards and Licensing Manager using his delegated powers on 10th May 2010. A copy of the notice of suspension was attached to the report.

Members were informed that Mr M B had now completed his CRB disclosure application and it had been submitted to the Criminal Records Bureau.

After taking this into consideration the Members decided on this occasion not to revoke Mr M B's drivers licence but agreed that it would remain suspended pending the return of the disclosure at which time a decision would be taken as to whether to lift the suspension or whether a further report to the Committee would be required.

RESOLVED that on this occasion not to revoke Mr M B's drivers licence but it remain suspended pending the return of the disclosure at which time a decision would be taken as to whether to lift the suspension or whether a further report to the Committee would be required.

**L
19/10**

Hackney Carriage/Private Hire Driver - MA

Consideration was given to 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 suspended.

Mr M A was a licensed hackney carriage and private hire driver. He had held a licence since June 2001 and his licence was due to expire on 30th June 2010.

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 M A was written to and advised that his next check was due on 9th March 2010 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 6th April 2010.

Despite these letters Mr M A 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 Manager using his delegated powers on 10th May 2010. A copy of the notice of suspension was attached to the report.

Mr M A had still not made contact with the Licensing Office or completed his application for a criminal record check.

Members were also advised that a complaint was received by the Licensing Office in February 2010, from an anonymous female who advised that Mr M A was out of the country and had been for the last two years. She claimed someone else had been submitting his renewal applications. The complainant advised Mr M A was due back in the country in 3-4 weeks.

Based on this information an interview was scheduled for Mr M A to come in to the office and discuss the allegation. The interview letter was hand delivered on 5th February and the Officer spoke with Mr M A's wife who said he was not in. When questioned further she said she did not know when he would be in and became evasive when questioned as to his whereabouts.

On 8th February a phone call was then received from the Operator of Teesside Cars who advised that Mr M A was out of the country and had been for sometime. He did not know when he would return as there had been family

problems.

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.

Members decided to consider the item on the suspension of Mr M A's hackney carriage and private hire drivers licence in his absence, as they considered that Mr M A had been given sufficient notice of the meeting.

After consideration of the report Members felt that Mr M A's failure to submit to a criminal record check with the Criminal Records Bureau meant that they were unable to determine Mr M A's continued fitness to hold a drivers licence and that in the interests of public safety this was sufficient grounds under Section 61(1)(b) of the above mentioned Act to be deemed a reasonable cause for revoking Mr M A's Hackney Carriage and Private Hire Drivers Licence. Furthermore as Members made a finding that the revocation of his licence was based on the grounds of public safety they felt that under Section 61(2)(B) that the revocation takes immediate effect.

RESOLVED that:-

1. Mr M A's Hackney Carriage and Private Hire Drivers Licence be revoked.
2. As the revocation of Mr M A's licence was based on the grounds of public safety under Section 61(2)(B) the revocation takes immediate effect.

L Hackney Carriage/Private Hire Driver - AK

Consideration was given to a report on a licensed combined Hackney Carriage/Private Hire Driver who had received a complaint in relation to an allegation of overcharging.

Mr A K was a licensed hackney carriage and private hire driver. He had been licensed since June 2007 and his licence was due to expire on 30th June 2010.

In March 2010, a complaint was received from a female customer (Mrs Alderton) who had been a passenger in Mr A K's vehicle the previous weekend, a booked job through Royal Cars. The booking was made in the early hours of the 14th March 2010.

The booking was made by another family member for a number of taxis to leave a house in St Bernard Road, Stockton. Mrs Alderton got in the front of the vehicle and her daughter (Miss Rambert) and two children got in the rear. A male wanted a lift to the top of Dovecot Street and asked if he could squeeze in the back.

The driver advised Officers during interview that he did say he wasn't allowed to take extra people but then he agreed to drop the extra person at the top of the street and admitted that he had 5 passengers in his vehicle, which was only licensed to carry 4.

The first drop was in Elm Tree for Miss Rambert and the two children. Miss Rambert alleges that she passed a £10 note to the driver and got out of the car, the two children also got out. She advised officers that she had assumed the driver would give the change to her mother who was still in the front of the car.

The journey continued to Rimswell Road, where Mrs Alderton asked the driver how much the fare was. He advised it was £4.50. She gave him a £20 note and he gave her £10, £5 and 50p change. She then got out of the vehicle and went inside.

The next day was Mothers Day, Mrs Alderton and Miss Rambert were in another taxi, going for a meal, and Miss Rambert asked how much the journey from the night before had been. Mrs Alderton advised she had paid £4.50. At this point, her daughter told her mother she had already given the driver £10 to cover the cost of the fare, in order that her mother did not need to worry about paying.

Mrs Alderton immediately telephoned Royal Cars to complain. She was advised to call back on Monday when Gerry Burns, the Licensed Operator, was available. She did this and spoke with Mr Burns. Mr Burns did speak with the driver a copy of the letter to the Council in relation to the outcome of the meeting and a copy of the booking records confirming the details of the journey, were attached to the report.

Mrs Alderton was dissatisfied with this explanation and therefore contacted the Council Licensing Department to take the matter further. Licensing Officers took statements from both Mrs Alderton and her daughter. The statements were attached to the report.

The driver was interviewed, under caution, and asked to provide his version of the events of that evening. The driver admitted to the overcrowding of the vehicle, but denies being given the £10 by Miss Rambert. He stated in interview that she passed some money, coins he thinks, to her mother in the front of the car. He also advised the mother in the front of the car was drunk and had a can in the car with her. A copy of the transcript was attached to the report.

The driver stated he did not think the female in the rear of the car, with the two children, was drunk but was quite certain the front passenger appeared drunk. Mrs Alderton stated that she wasn't drunk but she was tired and was a bit sleepy and this was why she did not notice her daughter pass the money to the driver. If she had realised he had been paid she would have asked for the change not offered to pay him again.

According to Council records, Mr A K had not received any other customer complaints. He had received 3 licensing penalty points for failing to declare a motoring conviction; these were issued in July 2009.

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 A K and the complainants were in attendance at the meeting and were given the opportunity to state their case.

Members had regard for the report and attached appendices, copies of which had been given to Mr A K prior to the meeting. Members also listened carefully to what Mr A K and the witnesses had to say with regard to the matters disclosed.

The original complaint was that Mr A K overcharged a customer by £10. However, during interview with Licensing Officers Mr A K admitted that he did overload his vehicle by allowing four people in the rear seat. Members heard from the two witnesses and Mr A K as to the version of the events. Members deliberated over their decision as to which party they felt were telling the truth and whether they were satisfied that Mr A K was still a fit and proper person to hold a licence and whether there was a reasonable cause to revoke Mr A K's licence.

In reference to the complaint of overcharging, Members were unable to reach a conclusive decision on that matter. However Members did find that both Mr A K and the complainants had been truthful in the evidence given to the Committee and as such the issue of the overcharging remained unproven. It would therefore be noted on file that no further action would be taken in relation to the overcharging.

However, Members took a dim view of Mr A K overloading his vehicle which had serious implications for his insurance and was likely to have meant that Mr A K and/or your passengers may not have been covered by your insurance in the event of an accident. Furthermore, it was also clear that all passengers were not able to wear seatbelts. Members gave Mr A K credit for the fact that he had not received any previous complaints from members of the public however they were of the opinion that as Mr A K had put public safety at risk this was so serious that he be issued with a final written warning.

Members hoped that Mr A K had learnt a valuable lesson from the events.

RESOLVED that Mr A K be issued with a final written warning.

(During the discussions it became apparent that one of the witnesses (Mrs Alderton) was known to the Chairman (Councillor Woodhead) and therefore the Chairman declared a personal prejudicial interest and vacated the chair and left the room. At this point Councillor Mrs Nelson took the chair for the remainder of the item.)

**L
21/10**

Private Hire Driver - HA

Consideration was given to a report on a licensed 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 suspended.

Mr H A was a licensed private hire driver. He had held a licence since May 2000 and his licence was due to expire on 31st August 2010.

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 H A was written to and advised that his next check was due on 9th March 2010 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 6th April 2010.

Despite these letters Mr H A failed to return his completed forms and this resulted in his private hire drivers' licence being suspended by the Trading Standards and Licensing Manager using his delegated powers on 10 May 2010. A copy of the notice of suspension 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 with 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.

Mr H A had been invited to attend the meeting but was not in attendance.

Members were informed that Mr H A had now completed his CRB disclosure application and it had been submitted to the Criminal Records Bureau.

After taking this into consideration the Members decided on this occasion not to revoke his drivers licence but agreed that it would remain suspended pending the return of the disclosure at which time a decision would be taken as to whether to lift the suspension or whether a further report to the Committee would be required.

RESOLVED that on this occasion not to revoke Mr H A's drivers licence it remain suspended pending the return of the disclosure at which time a decision would be taken as to whether to lift the suspension or whether a further report to

the Committee would be required.

**L
22/10**

Application For A Private Hire Drivers Licence - AM

Consideration was given to a report on an applicant for a private hire driver's licence from a male who had received a police caution in February 2010 for possession of a controlled drug, namely cannabis. The applicant had previously been licensed with the authority but had his licensed revoked by the Committee in June 2006 for a serious conviction and also had 6 live penalty points on his DVLA driving licence for driving a motor vehicle using a hand held mobile phone.

Mr A M had applied to become a Licensed Private Hire Driver with the Authority. A copy of his application and DVLA driving licence which show his 6 live penalty points were attached to the report.

An important part of the process was to undertake a Criminal Record Bureau (CRB) check. This was done and returned to the applicant with a copy being sent to the Licensing Office. The record disclosed that Mr A M had received a police caution in February 2010 for possession of a controlled drug, namely cannabis. A copy of the record was available at the meeting.

It was felt appropriate to interview Mr A M in relation to the Police Caution. During the interview Mr A M explained that he was at house party in the Wrensfield area when police arrived at the address. There was a bag of weed (cannabis) next to him and police arrested him for possession. Mr A M confirmed that the cannabis was his and he was going to smoke it. He accepted the Police Caution and confirmed that he did not touch drugs anymore. A record of the interview was attached to the report.

At the request of officers Mr A M attended the Licensing Office on the 7th April 2010 and to provide a saliva sample for a drug test, the results of the test was negative for all types of drugs.

Mr A M was previously licensed by the Authority until June 2006 but his licensed was revoked by the Committee following a conviction for perverting the course of justice. A copy of the meeting minute was attached to the report.

Mr A M was given a copy of the Council's guidelines on Relevance of Convictions at the time of his application and a copy was attached to the report.

Member 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 A M was in attendance at the meeting and was given the opportunity to state his case.

Members had full regard to the report presented, of which Mr A M had been given a copy prior to the meeting. They also listened carefully to what Mr A M had to say with regard to the matters outlined.

Members also had regard to Mr A M's Criminal Record Bureau check and the council's guidance on 'Relevance of Convictions, Cautions, Reprimands, Warning and Complaints and Character'. Members noted that Mr A M had received a police caution in February 2010 for possession of cannabis and also that he had a conviction for perverting the course of justice 2006, which came to light after Mr A M had given false details to Police when he was arrested for soliciting a female for prostitution. Members were also concerned that Mr A M had six live penalty points on his driving licence for two offences of using a mobile phone whilst driving.

In line with the Council guidance on 'Relevance of Convictions, Cautions, Reprimands, Warning and Complaints and Character' Members were not satisfied Mr A M was a fit and proper person to hold a licence based on his previous convictions.

Members therefore felt that Mr A M's application should be refused under the provisions of section 51(a) of the above-mentioned Act, on the grounds that Mr A M was not a fit and proper person to hold such a licence.

RESOLVED that Mr A M's application for a private hire drivers licence be refused as Members were not satisfied Mr A M was a fit and proper person to hold a licence based on his previous convictions and in line with the Council guidance on 'Relevance of Convictions, Cautions, Reprimands, Warning and Complaints and Character'.