

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 31st August, 2010.

Present: Cllr Bill Woodhead (Chairman); Cllr Dick Cains, Cllr Paul Kirton, Cllr Miss Tina Large, Cllr Colin Leckonby, Cllr Alan Lewis, Cllr Mrs Ann McCoy, Cllr Maurice Perry, Cllr Roy Rix and Cllr Fred Salt.

Officers: M Vaines, L Maloney, S Mills (DNS) J Nertney, K Wannop (LD).

Also in attendance: M M, D Wilson (Solicitor representing MM) for agenda item 4 - Private Hire Driver MM; J D K, S Catterall (Solicitor representing J D K) for agenda item 5 - Hackney Carriage Driver J D K; M P for agenda item 6 - Combined Hackney Carriage Driver / Private Hire Driver; M M, S Catterall (Solicitor representing M M).

Apologies: Cllr Ken Dixon, Cllr Kath Nelson, Cllr Mrs Eileen Craggs and Cllr Jean Kirby.

L Declarations of Interest

42/10

There were no interests declared.

L Private Hire and Hackney Carriage Licensing Policy – Horse Drawn 43/10 Hackney Carriages

Consideration was given to a report for Members to consider amendments to the Private Hire and Hackney Carriage Licensing Policy to include the provisions for the licensing of Horse Drawn Hackney Carriages and drivers.

At the meeting held on the 27th January 2009 Members gave consideration to and made recommendations for the introduction of a new Private Hire and Hackney Carriage Licensing Policy. However, at that time there was no specific provisions made for horse drawn vehicles and drivers.

Since that time the department had been contacted from an individual who was considering providing a horse drawn hackney carriage.

Members were respectfully reminded that the licensing of hackney carriages was governed by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and that the legislation also covered horse drawn vehicles and their drivers.

Whilst the general policy requirements would therefore apply to applicants for horse drawn carriages it was considered that parts of the vehicle specifications which were drafted specifically for motor vehicles would not apply and additional requirements would therefore be required for carriages and horses and in respect of their drivers.

The Council was permitted wide discretion in deciding what it would and would not licence by Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.

The majority of carriages licensed by other Local Authorities consisted of traditional style carriages fitting the general description of a landau. The landau was generally regarded as a suitable and appropriate type of carriage for use as a hackney carriage. Whilst the Council may not wish to restrict the style and design wherever possible it was considered that for safety and quality purposes,

the design of carriages and the basic requirements should be restricted to:-

- Drawn by only one horse
- Having 4 wheels
- Having a compartment for the passengers to be carried in
- Capable of carrying a minimum of four and up to six passengers
- In the opinion of the Council Appointed Inspector, safe for use as a hackney carriage vehicle

The Council needed to ensure that carriages not fitting the description of a traditional style landau were of a safe design and appropriate quality and this would be established by the appointed examiner and when reference would be made to the checklist provided in the DETR code of practice for horse drawn vehicles. A copy of which was attached to the report.

*The definition of a landau is.... a four-wheeled carriage, usually horse-drawn, with two folding hoods that meet over the middle of the passenger compartment.

A horse drawn hackney carriage vehicle licences would be granted for a one-year period.

To ensure safety, all carriages, including tack, should be inspected and tested prior to licensing and then at six monthly intervals by an examiner approved by the Council.

Unlike cars, carriages had no registration plate, so at the annual inspection each carriage would be fitted with a tag, mark or similar device carrying a unique identification number.

Every licensed carriage should display a front and rear licence plate similar to the one used by motor vehicle hackney carriages in Stockton-on-Tees.

The carriage and driver should be insured at all times for the purposes of the operation of a hackney carriage.

Horses should be inspected annually by a Veterinary Surgeon approved by the Council.

Conditions relating to the welfare of horses were included in the policy.

A manure catching device would be required and the driver would also be required to pick up any horse faeces from the road.

Waiting and pick up locations would be subject to approval by the Council and would be dependant on the routes proposed by applicants.

Horse drawn hackney carriage drivers licences would be granted for a one-year period.

As basic evidence of competence to drive safely on public roads, the legislation required drivers to have held a valid full UK or EU driving licence for a minimum period of at least one year.

As the legislation did not differentiate between drivers of motor cars and drivers of horse drawn carriages and in order to ensure safety and to protect passengers, it was recommended that drivers of horse drawn hackney carriage should be subject to the same policy requirements as existing motor vehicle hackney carriage drivers in respect of possessing the DSA Taxi Drivers Certificate, providing a satisfactory medical, submitting to criminal record checks and completing a satisfactory knowledge test .

In addition new applicants and existing drivers wishing to drive horse drawn hackney carriages should also be required to pass an approved horse drawn hackney carriage road driving assessment prior to being permitted to drive such carriages. There were horse experts who provided such tests, i.e. The British Driving Society and the Heavy Horse Training Committee. Drivers would be expected to pay any fees associated with obtaining a certificate of competence (Road Driving Certificate)

Disciplinary matters and appeals would be dealt with in accordance with existing motor vehicle hackney carriage vehicles and drivers procedures and policy.

Fares would be subject to approval by the Council, following negotiation with the operator of the horse drawn hackney carriage. This was a specialised service and it was unlikely to conflict with conventional hackney carriage trade and tariffs. However the setting of the fares would be subject to the same legal process as existing tariffs and charges. A table of authorised maximum fares would be required to be displayed in each carriage so that it was easily visible to all hirer.

The legislation provided that fees should be sufficient to cover the costs of inspecting the vehicles and administering the control and supervision of horse drawn hackney carriages. Regard should be had to the seasonal and specialist nature of the service.

The recommended scale of charges was as follows:-

- Horse drawn hackney carriage vehicle initial licence fee - £210, plus vets fees associated with the inspection of the horse(s); plus carriage test fees.
- Horse drawn hackney carriage vehicle renewal licence fee - £190, plus vets fees associated with the inspection of the horse(s); plus carriage test fees
- Horse drawn hackney carriage drivers licence fee – same as existing hackney carriage drivers fees

Fees for carriage driving tests and the inspection of carriages and horses would be paid direct by the applicant.

Members made the following comments:-

* If any applications are submitted they are brought before the Licensing Committee

* 1 horse should not be pulling that amount of weight i.e. the driver plus 6 persons

- * The fares seem expensive
- * Can a vet that specialises in horses and a person from animal welfare attend a future meeting to clarify some points
- * A condition to be put on licences that the rank be placed in an environmentally friendly place for the horse
- * The horse and vehicle will need identification numbers
- * The Eggescliffe Ward Councillors are included in the further consultation

The Licensing Officer made a note of the comments that Members had given and they would be incorporated into any revisions to the Private Hire and Hackney Carriage Licensing Policy.

RESOLVED that:-

1. Members comments be received.
2. Consultations take place with the trade and interested stakeholders on any revisions to the Private Hire and Hackney Carriage Licensing Policy.

**L
44/10**

Private Hire Driver - M.M.

Consideration was given to a report on a previously licensed Private Hire Driver who had received a conviction for destroying or damaging property at a value unknown, and did not inform the Licensing Department as per her licence conditions and had since submitted her application to renew her private hire drivers licence.

Ms M M had been a licensed private hire driver since August 2007 and her licence expired on 31st July 2010. Ms M M attended the Licensing Committee meeting held on 28th July 2010 and at the request of herself and her representative David Wilson Members resolved to defer full consideration of this matter to the next committee hearing.

However when giving consideration to this request Members determined Ms M M's previous disciplinary history and her recent conviction for criminal damage were deemed to be sufficient "reasonable cause" under the provisions of Section 61(1) (b) of the Local Government Miscellaneous Provisions Act 1976 and accordingly suspended her licence to drive private hire vehicles pending further consideration of this matter. A copy of the suspension letter was attached to the report.

On the 9th June 2010 the the Licensing Office received notification of a conviction from Cleveland Police Notifiable Occupations Scheme. The circumstances of the incident being on 10th May 2010 at the Stag Inn Public House, Stockton Ms M M threw a glass bottle at windows causing them to smash. She received a £200 fine and ordered to pay £15 costs and £100 compensation. A copy of the Police Notification was attached to the report.

Ms M M had also been subject to a recent Criminal Record Bureau (CRB) check

which confirmed details of the conviction. A copy of the CRB disclosure was be available the meeting.

Ms M M was interviewed on 29th June 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 glass bottle, she had aimed the bottle at the wall but it hit the windows causing two to smash. This was after an altercation with staff at the pub. Ms M M confirmed she was drunk at the time and as a result of the incident she had also received a 1 year Stockton district pub watch barring. When asked why she had not informed the Licensing Department of her conviction within 7 days Ms M M said that she was knew she was in trouble so did not inform the Licensing Department about it.

Ms M M last attended Licensing Committee 27th April 2010 when Members determined what action to take when she received a caution for common assault on 15th December 2009, and did not inform the Licensing Department as per her licence conditions. In this instance the Members agreed to issue a final written warning as to Ms M M's future conduct. A copy of the minute 4/10 which referred and a copy of the decision letter were attached to the report.

Ms M M was granted her private hire driver licence in July 2007 by the Licensing 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 the 14th and 15th May 2009 at the request of the Licensing Department Ms M M completed the driving improvement course. A copy of Ms M M's driving licence was attached to the report.

Ms M M had applied to renew her licence. A copy of which 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.

Ms M M and her solicitor Mr D Wilson were in attendance at the meeting and reported that Ms M M was having counselling sessions for alcohol problems and was therefore withdrawing her application.

RESOLVED that it be noted that Ms M M was having counselling sessions for alcohol problems and had therefore withdrew her application.

**L
45/10**

Hackney Carriage Driver - J.D.K.

Consideration was given to a report on a licensed driver who had received a Police Caution for "Persistently Soliciting a woman for prostitution or cause annoyance/nuisance to others".

Mr J D K had been a licensed driver since November of 1999, and his Licence was due to expire on 31st December 2010.

The details of Mr J D K's Police Caution were detailed within the report. The caution was dated 15 February 2010. A Copy of the notification from Cleveland Police under the Notifiable Occupations Scheme Home Office Circular 6/2006 was attached to the report.

Due to the nature of the above information it was felt necessary to suspend Mr J D K Hackney Carriage Drivers licence with immediate effect. A copy of the letter of suspension was attached to the report.

The notification of Mr J D K's caution was sent in a letter dated 15th June 2010 there was a delay in receiving the notification due to an administrative error at Cleveland Police.

Mr J D K was invited to attend an interview on the 13th July 2010 and a copy of that interview transcript was attached to the report.

A copy of the Council's document entitled 'Relevance of Convictions, Cautions, Reprimands, Warnings and Complaints and Character' was attached to the report for guidance purposes.

Mr J D K had previously had a licence revoked by Members for failure to complete a Criminal Record Bureau check and failure to notify of change of address. This was in August of 2007. Once the record check came back satisfactorily Mr J D K was re-licensed.

He had no other disciplinary matters or complaints from members of the public recorded on his file.

Mr J D K and his solicitor Mr Catterall were in attendance at the meeting and were given the opportunity to state his case.

Members considered the behaviour of Mr J D K to be very serious indeed and considered if Mr J D K's licence should be revoked because of his actions. However after careful consideration Mr J D K's previous good conduct was taken into consideration, it was noted that he had been a driver for a considerable period of time and no customer complaints had been made against him.

Members felt that this was an incident that was out of character, and Members decided a chance to prove it was a 'one off' incident never to be repeated. It was noted that Mr J D K had been suspended from driving since June 2010 and no other incidents had come to light since then.

Members allowed Mr J D K to keep his licence and it was noted on his record that this was his final written warning regarding his conduct due to the serious nature of the information received. Mr J D K would also have to appear before the Licensing Committee in twelve months time for a progress report to be given on his conduct.

RESOLVED that:-

1. Mr J D K final written warning regarding his future conduct.
2. Mr J D K appear before the Licensing Committee in twelve months time for a progress report to be given on his conduct.

L
46/10

Application For A Private Hire Drivers Licence - M.P.

Consideration was given to a report on a private hire driver's licence who had historical relevant convictions for a major traffic offence and dishonesty offences.

Ms M P had submitted an application for a licence to drive private hire vehicles with this Authority. A copy of her application including a copy of Ms M P's DVLA driving licence was attached to the report.

In her application Ms M P had declared one conviction:-

19th July 2006 failing to comply with traffic lights signals for which she received £50.00 fine and 3 DVLA Penalty Points. The details of which being Ms M P drove through an amber light on Bridge Road, Stockton and was stopped by a police officer.

Ms M P had been subject to a Criminal Record Bureau (CRB) check which also disclosed details of further convictions. A copy of the CRB disclosure was available at the meeting.

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

In 1997 Ms M P stated she and her husband at the time started to take recreational drugs, Ms M P admitted to having a problem with drugs and was admitted to rehab in Middlesbrough for 6 months. On leaving rehab Ms M P became aware that her husband had left her for another partner and taken her two children from her. She admits this was when she hit a down hill spiral in which she started shoplifting to feed her drug habit which resulted in numerous convictions for shoplifting from August 1998 – December 2002.

Ms M P's last conviction for shoplifting was on 19 December 2002. She had since had a further two children with her current partner and had not had any further problems with drug abuse. She had completed training to work as a mentor for people with drug addictions in Middlesbrough. A character reference from Mark Thompson at the Five Lamps Organisation was attached to the report.

Ms M P had been a licensed driver with and working in Durham County Council for over two years. On application to Durham she had to go before the Durham licensing committee, who then granted her licence. When asked Ms M P said she had had no problems since being licensed with Durham, and agreed to the Licensing Officer contacting the Licensing Department to confirm this if needed. A character reference from Yvonne Raine at Durham County Council was attached to the report.

Ms M P had no live points on her DVLA driving licence.

Ms M P agreed to take an oral fluid drug test at any stage of her application and also at anytime if her licence was granted.

A copy of the Council's guidelines 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 Provisions) 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.

Members were advised that Ms M P was considered to be a fit and proper person at this time based on her CRB disclosure her application would proceed and her licence would be granted on completion of the DSA, Medical and knowledge test requirements.

Ms M P was in attendance at the meeting and was given the opportunity to state her case.

Members noted that Ms M P had historical relevant convictions for a major

traffic offence and dishonesty offences and this was confirmed on his CRB Disclosure. Ms M P informed Members that these offences were committed during a bad time of her life of which she was deeply embarrassed and Members recognised that Ms M P had had problems in the past and had managed to turn her life around. Members felt she deserved to be given the opportunity to be a licensed driver with Stockton Council and granted Ms M P her Private Hire Drivers Licence. Members asked that Ms M P come back before Members in 12 months after the issue of her driver badges for a review.

RESOLVED that:-

1. Ms M P be granted her Private Hire Drivers Licence.
2. Ms M P come back before Members in 12 months after the issue of her driver badges for a review.

**L
47/10**

Combined Hackney Carriage/Private Hire Driver - M.M.

Consideration was given to a report on a licensed Hackney Carriage and Private Hire Driver who had 9 live DVLA licensing penalty points, through the totting up procedure and had already completed the Driver Improvement Course.

Mr M M was a licensed hackney carriage and private hire driver with the authority. He had been licensed with the authority since December 1989. His licence was due to expire on 31st August 2010.

Mr M M completed the Driver Improvement Course on 16th and 17th April 2009, following a conviction for a further SP30 offence (exceeding statutory speed limit on a public road), in December 2008, taking his live points to 9.

On 27th April 2010, Mr M M received a further 3 DVLA penalty points and a fixed penalty fine for using a mobile phone while driving a motor vehicle (CU80). A copy of his driving licence was attached to the report. The driving licence showed a history of SP30 driving offences dating back to 2005. One more in 2006 and two in 2008. Council records also show Mr M M received 3 DVLA points in August 2002 for an SP30 and a further 3 DVLA points for a CU30 (using a vehicle with defective tyre).

The driver records also showed that Mr M M was issued a fixed penalty notice in December 2008 for smoking in his vehicle, and an oral warning in June 2010 for not wearing his driver's badge. There had been no customer complaints against him in his time as a licensed driver.

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 M M and his solicitor Mr Catterall were in attendance at the meeting and were given the opportunity to state their case.

Member's noted Mr M M had a history of driving offences and had concerns regarding the number of live penalty points on his licence for both speeding and using a mobile phone. Both of which affect Mr M M's ability to drive safely and public protection was of the utmost importance.

Members had taken into consideration his long history of being a taxi driver with no complaints and also that he had not been convicted of speeding since attending the Driver Improvement Course.

Members therefore decided to renew Mr M M's licence with a final written warning and the following condition:-

- Any further points incurred on Mr M M's DVLA licence in the next three years must be referred to the Licensing Committee, for consideration as to whether Mr M M remained a fit and proper person to hold a licence with this authority.

RESOLVED that Mr M M's licence be renewed with a final written warning and the following condition:-

- Any further points incurred on Mr M M's DVLA licence in the next three years must be referred to the Licensing Committee, for consideration as to whether Mr M M remained a fit and proper person to hold a licence with the authority.