

## Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 11th January, 2011.

**Present:** Cllr Bill Woodhead(Chairman), Cllr Mrs Kath Nelson(Vice-Chairman), Cllr Dick Cains, Cllr Mrs Eileen Craggs, Cllr Ken Dixon, Cllr Jean Kirby, 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:** C Barnes, P Edwards (DNS); P K Bell, J Nertney (LD).

**Also in attendance:** Mr D M, Miss F (complainant), Mr E (Grandfather of Miss F) for agenda item 4 - Combined Hackney Carriage and Private Hire Driver Mr D M.

**Apologies:** None

### **L       Declarations of Interest**

**105/10**

Councillors Kirton and Miss Large declared personal prejudicial interests in respect of agenda item 4 - Combined Driver - Mr D M as the grandfather of the witness was known to them. Councillors Kirton and Miss Large withdrew from the meeting and left the room.

Councillor Mrs Craggs declared a personal prejudicial interests in respect of agenda item 4 - Combined Driver - Mr D M as the witness was known to her. Councillor Mrs Craggs withdrew from the meeting and left the room.

### **L       Exclusion of the Public**

**106/10**

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 paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act.

### **L       Combined Driver - D.M.**

**107/10**

Consideration was given to a report on a licensed combined Hackney Carriage/Private Hire Driver who had been complained about by a female passenger.

Mr D M was a combined Hackney Carriage/Private Hire Driver with the Council and had been licensed with the Council since February 2004. His licence was due to expire on 31st March 2011.

In March 2010, the Licensing Unit received a complaint from a young female who had been a passenger in Mr D M's vehicle on 13th March 2010. The complainant alleged that whilst a passenger in Mr D M's vehicle he touched her breast and spoke inappropriately to her.

The complainant Miss F came to the Licensing Unit on 15th March 2010 to report the incident. Miss F was asked if she had spoken with the Police and she advised she hadn't. Miss F was advised to consider reporting this incident to the Police first and then after the outcome of their investigations the Council could then take appropriate action against the driver. Miss F was asked to take some time to discuss the matter with her mother and come back to the Licensing

Department with a decision.

Miss F contacted the Council and advised that she wished to proceed with the Licensing Department rather than the Police. A copy of Miss F's statements was attached to the report.

Miss F advised Officers that her mother felt the Council route might be less stressful, although she did want her daughter to go to the Police. However, Mrs F advised in her statement that her daughter had speech and medical problems, which affect her confidence. A copy of Mrs F's statement was attached to the report.

The details of the incident were outlined within the report.

Mrs F called the company that Mr D M worked for once she had been told of the events and advised that no one was able to help. Someone at the company took details and advised her that a manager would call Miss F on the Monday after. By mid afternoon Miss F hadn't heard anything from the company and so attended the Licensing Unit at Stockton Council.

Mr D M was interviewed by Officers on 19th March 2010, in relation to the allegation made against him. Mr D M confirmed he was the driver of the vehicle at that time and that he has frequently picked up Miss F and her friends. However he denied the allegation that he spoke inappropriately about her breasts or that he touched her.

He stated that Miss F has previously exposed herself to him in order to obtain a cheaper fare. A copy of the transcript was attached to the report.

Miss F had been asked if the allegation that she has exposed herself to him was true and she denied the allegation.

A statement was also taken from another female in the car that night, who was dropped off before Miss F and her statement was attached to the report.

A statement was taken from Mr M B, a Director at the company Mr D M worked for, following his interview with Mr D M after the complaint was received. The statement explained that Mr M B interviewed the driver in relation to the allegation and asked if he had touched her or spoken inappropriately. Mr D M denied both allegations and Mr M B then stated that he contacted the complainant and advised there was little more he could do and she should contact the Council Licensing Unit. A copy of the statement was attached to the report.

Miss F advised officers in a further statement, that she had received a call from the company, she thinks she spoke with Ms C B, who advised the driver had been spoken to and that he had denied touching her but admitted he spoke inappropriately. An email had been sent to Ms C B requesting confirmation of this conversation but nothing had been received. A copy of Miss F's further statement was attached to the report.

A check of Mr D M's record showed he had not received any other complaints or enforcement visits since the grant of his 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 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.

Mr D M, Miss F (complainant) and Mr E (Grandfather of Miss F) were in attendance at the meeting.

Members heard evidence from Miss F in the matter. Miss F was the only witness in attendance at the meeting and she gave oral evidence. Members also heard evidence from Mr D M and noted that he denied the allegations. Mr D M informed Members that prior to the complainant's allegation Miss F had previously exposed her breast to him when she was a passenger in his vehicle. Mr D M stated that although he could not recall the exact date it would have been around January 2010. Details of the incident were outlined within the report. Miss F denied that such an event occurred. Miss F did confirm that she had been a passenger in Mr D M's vehicle in the past.

Mr D M also informed Members that after the alleged incident in January 2010, when Mr D M stated Miss F exposed her breast to him; Mr D M had spoken to other drivers who confirmed that they were aware of Miss F as she had done similar things in the past. When interviewed by Licensing Officers on 19th March 2010 Mr D M stated that he did not know the names of the drivers who had told this. At the meeting Mr D M informed Members that one of those drivers was Mr M K who works for the same company as Mr D M. Mr D M stated that Mr M K had confirmed that Miss F was known to act in the manner alleged by Mr D M.

Mr D M was asked by Members why he did not inform Licensing Officers of this when interviewed on 19th March 2010. Mr D M stated that Mr M K had told Mr D M he did not wish to be involved. Since the interview, Mr D M stated that he had spoken to Mr M K and he indicated he was now willing to confirm what he told Mr D M.

It was noted that Mr M B spoke to Mr D M about the allegation when this matter was brought to their attention. Mr D M denied the allegation. Members noted that the statement provided by Mr M B made no reference to Mr D M having advised him that Miss F had exposed her breast to Mr D M in the past. It was only when interviewed by Licensing Officers on 19th March 2010 that Mr D M made this allegation.

Members noted the statement of Miss F's mother who confirmed that when Miss F got home after exiting Mr D M's vehicle she was in a distressed state and at that time informed her that Mr D M had squeezed her breast and made inappropriate comments.

Members found that as Miss F had made a contemporaneous complaint to her mother it indicated that an incident, which had caused her some distress, had taken place in Mr D M's vehicle. Members found Miss F to be a truthful and believable witness. Members found Mr D M's evidence and explanations to be confusing and at times evasive.

Members found on the balance of probabilities that Mr D M had squeezed Miss F's breast while she was a passenger in his vehicle and that Mr D M had made comments about her breasts. This was not fit and proper behaviour for a licensed driver and was deemed to be sufficient reasonable cause to revoke Mr D M's licence under Section 61(1)(b) of the Local Government (Miscellaneous) Provisions Act 1976.

Also under section 61 (2B) of the Act public safety was deemed to be relevant and as such the revocation of Mr D M's licence took immediate effect.

RESOLVED that:-

1. Mr D M's combined driver licence be revoked under Section 61(1)(b) of the Local Government (Miscellaneous) Provisions Act 1976 as his actions and comments were not the fit and proper behaviour for a licensed driver.
2. Under section 61 (2B) of the Act public safety was deemed to be relevant and as such the revocation of Mr D M's licence take immediate effect.