

Licensing Committee

A meeting of Licensing Committee was held on Thursday, 16th December, 2010.

Present: Cllr Bill Woodhead (Chairman); Cllr Ken Dixon, Cllr Miss Tina Large, Cllr Alan Lewis, Cllr Mrs Ann McCoy, Cllr Mrs Kath Nelson, Cllr Maurice Perry and Cllr Fred Salt.

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

Also in attendance: Mr S L for agenda item 5 - Private Hire Driver Mr S L; Mr Z G, Mrs G, Mr S Catterall (Jacksons Law Firm Representing Mr Z G) for agenda item 6.

Apologies: Cllr Dick Cains, Cllr Mrs Eileen Craggs, Cllr Jean Kirby, Cllr Paul Kirton, Cllr Colin Leckonby and Cllr Roy Rix.

L Declarations of Interest

99/10

There were no interests declared.

L Minutes

100/10

The minutes of the meetings held on 31st August 2010 and 21st September 2010 were signed by the Chairman as a correct record.

L Exclusion of the Public

101/10

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 Private Hire Driver Application - J.A.

102/10

Members were informed that Mr J A's application was originally put before the Committee on 21st October 2010. Mr J A did not attend nor did Mr J A advise the Licensing Unit he would not be attending. At the meeting it was decided to defer consideration of Mr J A's application.

A further invite was hand delivered to Mr J A's home address for this meeting, again Mr J A was not in attendance or had he advised the Licensing Unit that he could not and therefore the Members decided to consider Mr J A's application in his absence.

Consideration was given to a report on an application for a private hire drivers licence from an applicant who had relevant convictions.

Mr J A had submitted an application to become a licensed private hire driver with the Authority. A copy of his application, including clean DVLA licence, was attached to the report.

An important part of the vetting process was to undertake a Criminal Record Bureau check. The CRB disclosed that Mr J A had five convictions, four dating back to 1996 -1998. These convictions were for theft and driving under the influence of alcohol and his last conviction took place in 2007:-

* Use threatening abusive insulting words/behaviour or disorderly behaviour to cause harassment / alarm / distress in September 2007

* Common Assault in September 2007

Mr J A was issued a community order for 24 months, supervision requirement for 24 months and required to attend a domestic violence programme. Mr J A was also issued costs of £75 and compensation of £50. A copy of his CRB was available at the meeting.

Officers interviewed Mr J A on 15th July 2010 to determine what events lead to the most recent conviction. During interview Mr J A advised he had a partner and her ex partner had often been troublesome to them. Whilst at work Mr J A received a call from his partner who told him she had been seeing her ex partner. A copy of the transcript was attached to the report.

Mr J A then saw his partner in the street and they had an argument. The argument lead to her punching him. He responded by spitting on her. He did not make any physical contact with her. She called the police and he was arrested and remanded. At court he was issued with the community order, supervision requirement and required to attend a domestic violence programme.

Mr J A and his partner split up, they had a child together and he advised Officers that he no longer saw or spoke with his ex partner or their daughter. This was his partners choice.

Mr J A admitted that he used to have a "short fuse" but following the domestic violence programme he had learnt the error of his ways and now knew how to handle a heated situation so to avoid any confrontation or conflict.

Mr J A advised he had been through Working Links to get involved in applying for a taxi licence and had already approached a licensed Private Hire Operator to seek potential employment and had been told "Yes". Mr J A had also completed the B-TECH in Road Passenger Safety and copies of his certificates were attached to the report.

A copy of the adopted guidelines relating to the Relevance of convictions was attached to the report.

Members decided that due to the convictions on Mr J A's CRB Disclosure the most recent being in 2007 "Use Threatening Abusive Insulting Words / Behaviour or Disorderly Behaviour to Cause Harassment/Alarm or Distress" and "Common Assault", that Mr J A was not considered a fit and proper person at this time to hold a drivers licence with the authority. Members had regard to their guidelines on the relevance of convictions and found no reason to depart from the guidelines. Members also noted that as Mr J A was not in attendance they had not been provided with any reasons why they should depart from the guidelines.

RESOLVED that Mr J A's application for a private hire drivers licence be refused due to the convictions on Mr J A's CRB Disclosure.

L **Private Hire Driver - S.L.**
103/10

Consideration was given to a report on a licensed Private Hire Driver who was granted his licence in April 2010 and advised he needed to attend the Licensing Committee after six months to determine if he had remained a fit and proper person. This driver had received a DVLA conviction.

At the meeting held on 27th April 2010, Mr S L was granted a private hire drivers licence. The licence would expire in May 2011. This licence was granted subject to a written warning and to the condition that this matter would be reviewed after 6 months to confirm his continued fitness. (Minute 6/10 refers). A copy of the written warning was attached to the report.

Mr S L was also advised at that time that his licence was subject to him completing the Driver Improvement Course within 3 months. Mr S L completed the course in July 2010.

Members also requested Mr S L give consideration to not renewing his licence with Berwick Council. Mr S L confirmed that he was no longer licensed with Berwick Upon Tweed.

Despite completing the Driver Improvement Course in July 2010, Mr S L informed the Council that he received a further DVLA conviction on his driving licence, in October 2010. He received an SP30 (Exceeding statutory speed limit on a public road) on 22nd September 2010.

Mr S L was spoken to in the Licensing Office where he advised he was caught doing 75/76 in a 70 mph limit. He was driving along the Parkway towards Eston, he was on his way to collect a booked job and had no one else in the car with him at the time. A marked police officer was on the roadside, saw Mr S L speeding and followed him. Mr S L was pulled over at the roadside and breathalysed. He was advised he was exceeding the statutory speed limit and issued a fixed penalty of 3 points and a £60 fine. A copy of his DVLA licence was attached to the report.

Mr S L phoned the licensing office to advise of his conviction and he was told to submit the information in writing which he did the next day. A copy of the letter was attached to the report.

Since the grant of his licence, Mr S L had not received any complaints from customers or members of the public to either the Council or the Licensed Operator for whom he worked.

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 relating to 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 had full regard to the report presented, a copy of which Mr S L had received prior to the meeting. Members also took into account what Mr S L had to say in relation to the matter in question.

Members noted that since the grant of Mr S L's private hire licence in April 2010 Mr S L had completed the driver improvement course and allowed his Berwick upon Tweed hackney carriage licence to lapse, in the summer of 2010.

Members deliberated as to whether Mr S L should have his licence revoked given that he had already completed the Driver Improvement Scheme and yet had still received a further Fixed Penalty Ticket and 3 penalty points for speeding in September 2010. Although the Members took a dim view of this they took into consideration Mr S L's remorse and the fact that he stated this was a momentary lapse on his part. Mr S L assured Members that he would be extra careful in the future.

Members decided on this occasion to issue Mr S L with a written warning and remind him that any driving convictions or complaints made against him in the future would see him brought before the Committee again. Mr S L was warned that should he receive any further penalty points then he would be at risk of having his licence revoked.

The letter would remain on Mr S L's file and would be referred to should any further complaints or disciplinary matters come to the attention of the Licensing Unit.

RESOLVED that Mr S L be issued with a written warning and reminded that any driving convictions or complaints made against him in the future would see him brought before the Committee again.

L **Application For A Combined Driver Licence - Z.G.**
104/10

Consideration was given to a report on an applicant for a combined hackney carriage and private hire drivers licence, who had previously had his licence revoked by the Committee.

An application for a combined hackney carriage and private hire drivers licence had been received from Mr Z A G.

At the meeting held on 21st October 2010 Members deferred consideration of the application and requested further information in relation to the Anger Management Course Mr Z A G had undertaken and on a report received from Royal Cars that he had lost his temper with a member of staff when he was refused a reference. A copy of the previous report and appendices were attached to the report.

Mr D K Managing Director at a Licensed Operator confirmed the telephone complaint to the Council. However he was not prepared to make further comment or provide a witness statement. An email from Mr D K to that effect was attached to the report.

Mr Z A G also attended an Anger Management Course in order to learn to deal with his anger issues. The Licensing Officer had spoken with the consultant at Awaken Consulting it had been confirmed that Mr Z A G attended the sessions voluntarily and had only two sessions. The consultant did advise over the phone that it was normal to have between 4-12 sessions and 6-8 sessions was certainly a reasonable number to expect a client to have. Mr Z A G felt that his issues were under control after only an initial assessment and one session and therefore decided himself that the services of Awaken Consulting were no longer required. A copy of the email from Awaken Consulting and some advertising literature from their website was attached to the report.

A copy of the adopted guidelines relating to the Relevance of convictions was attached to the report.

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.

Mr Z A G, Mrs G and his representative Mr S Catterall (Jacksons Law Firm) was in attendance at the meeting and was given the opportunity to state their case.

Members had full regard to the report a copy of which Mr Z A G had received prior to the meeting. Members also took into account what Mr Z A G and his solicitor had to say in relation to the application.

Members noted that Mr Z A G had undertaken anger management classes and had been assessed by the NHS in relation to health problems and it was confirmed that Mr Z A G no longer had depression nor did he have any health problems. Members did have some concerns that Mr Z A G had decided he did

not need any further consultations with Awaken Consulting. However Members did note that in February 2010 Awaken Consulting had provided Mr Z A G with a letter confirming that he no longer required their services.

Members decided after much consideration to grant Mr Z A G his hackney carriage and private hire drivers licence with a written warning as to his future conduct. Any complaints or convictions would see Mr Z A G brought before the Licensing Committee again, where they would determine Mr Z A G's continued fitness to hold a licence with the authority.

The grant of the licence was also dependent on Mr Z A G undertaking a further anger management session and obtaining an up to date report from Awaken Consulting. This needed to be completed as a matter of priority and Mr Z A G must provide the Licensing Unit with a written report/letter from Awaken Consulting confirming that he had attended with them for a further session.

Members also required Mr Z A G to attend the Licensing Office in six-months when his progress and continued fitness would be reviewed. A decision would be taken at that time as to whether Mr Z A G could continue to be licensed or whether Mr Z A G needed to be referred to the Licensing Committee.

RESOLVED that:-

1. Mr Z A G's application for hackney carriage and private hire drivers licence be granted with a written warning as to his future conduct. Any complaints or convictions would see Mr Z A G brought before the Licensing Committee again, where Members would determine Mr Z A G's continued fitness to hold a licence with the authority.
2. The grant of the licence be dependent on Mr Z A G undertaking a further anger management session and obtaining an up to date report from Awaken Consulting. This needed to be completed as a matter of priority and Mr Z A G must provide the Licensing Unit with a written report/letter from Awaken Consulting confirming that he had attended with them for a further session.
3. Mr Z A G attend the Licensing Office in six-months when his progress and continued fitness would be reviewed. A decision would be taken at that time as to whether Mr Z A G could continue to be licensed or whether Mr Z A G needed to be referred to the Licensing Committee.