

Licensing Committee

A meeting of Licensing Committee was held on Friday, 21st January, 2011.

Present: Cllr Bill Woodhead (Chairman); Cllr Dick Cains, Cllr Ken Dixon, Cllr Jean Kirby, Cllr Paul Kirton, Cllr Colin Leckonby, Cllr Alan Lewis, Cllr Mrs Kath Nelson and Cllr Maurice Perry.

Officers: C Barnes, E Bird, P Edwards, L Maloney, M Vaines (DNS); P K Bell, J Nertney (LD).

Also in attendance: Mr K R H (Private Hire Operator and Private Hire Driver), Mrs J H (Wife of Mr K R H), Mrs C O'Neill (Council Local Authority Designated Officer), M B, J B, L F, L C (Witnesses/Complainants) - All for agenda item 4 - Mr K R H (Private Hire Operator and Private Hire Driver).

Apologies: Cllr Mrs Eileen Craggs, Cllr Miss Tina Large, Cllr Mrs Ann McCoy, Cllr Roy Rix and Cllr Fred Salt.

L Declarations of Interest

108/10

There were no interests declared.

L Exclusion of the Public

109/10

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 Operator & Private Hire Driver - KRH

110/10

Consideration was given to a report on a Licensed Private Hire Operator and Private Hire Driver who had had his licences suspended by an officer using delegated powers following receipt of allegations of inappropriate behaviour that had resulted in his contract with the Council's Community Transport section being terminated and the magistrates court making an interim risk of sexual harm order pending the determination of an application by the police for a risk of sexual harm order.

Mr K R H was a Licensed Private Hire Driver and Licensed Private Hire Operator.

He had held a Private Hire Operators Licence since February 2008 and his licence which was suspended by Officers using delegated powers and was subject to an appeal to the magistrate's court, expired on 30th November 2010. Mr K R H had applied to renew this licence and a copy of his application was attached to the report.

Mr K R H had been a Licensed Private Hire Driver since December 2007 and his licence which was also suspended by officers using delegated powers expired on 31st December 2010. Due to the serious nature of the allegation and in the interests of public safety this suspension was with immediate effect. Mr K R H had applied to renew this licence and a copy of his application was attached to the report.

On 28th June 2010 the Principal Licensing Officer attended a meeting organised by the Council's Local Authority Designated Officer (LADO) for child

protection issues. The meeting had been convened following concerns raised by the Council's Community Transport Manager E B, regarding allegations made by two Passenger Assistants about the behaviour and conduct of Mr K R H, who was contracted with the Council to transport children with special needs to and from school.

Also present at this meeting was the Council's Community Transport Manager, a representative from Cleveland Police Vulnerability Unit and representatives from the Council's Children, Education and Social Care Department.

At the meeting a synopsis of the concerns regarding Mr K R H was handed out and the Community Transport Manager confirmed that his school contract had been suspended on 24th June 2010 as a result of the allegations. The main concerns were about his use of sexual language, showing staff a video on his mobile phone of him performing a sexual act, using his mobile phone whilst driving, smoking in the vehicle, overriding explicit instructions that a vulnerable female child should sit in the rear with only female passengers and allowing her to sit in the front with him, informing the passenger assistants that he had been asked to do this to help rebuild her relationship with men. It was also alleged that Mr K R H had made an inappropriate comment to the fifteen year old daughter of one of the Passenger Assistants. A copy of this synopsis and a statement from the Community Transport Manager was attached to the report.

The police representative reported that Mr K R H had no convictions but they had attended several domestic complaints between 2007 and 2010 involving Mr K R H and a previous partner with whom he had had a child. He informed the meeting that if they received further information then there may be sufficient evidence to apply for a "risk of sexual harm order" (ROSHO) against Mr K R H under the provisions of The Sexual Offences Act 2003.

The LADO provided information regarding referrals involving Mr K R H's ex partner. This included a referral in 2008 from a worker at Corner House (a youth project working with girls with sexualised behaviour) following girls attending the project talking about her sleeping with a thirty five year old taxi driver with whom she was living. Records also revealed that an allegation that Mr K R H was dating a girl who was under sixteen years of age had been referred to the police in September 2008 by the Licensing Department but no further action was taken at that time.

In view of the issues raised it was agreed that Social Services would make further enquiries regarding the childrens contact with Mr K R H and would liaise with the police. The Community Transport Officer would speak to the Passenger Assistants to determine whether they would be prepared to give statements to the Licensing Department in respect of their allegations against Mr K R H and in view of the of the serious nature of the allegations concerning his conduct and behaviour consideration would be given to the suspension of Mr K R H's Private Hire Driver's Licence and also his Private Hire Operator's Licence.

On 29th June 2010, after consulting with the Council's Principal Solicitor using delegated powers the Principal Licensing Officer suspended Mr K R H's Private Hire Driver's Licence with immediate effect and also his Private Hire Operator's Licence pending further investigation into these matters. A copy of these

suspension notices were attached to the report.

Witness statements were provided by the Passenger Assistants, L C and M B detailing the allegations made to the Community Transport Officer and copies of these were attached to the report.

A witness statement was also obtained from S S, Team Leader, Community Transport Department confirming instructions given to Mr K R H and confirming that she never had any telephone conversation with him on 23rd June 2010 and also confirming that she has never had any personal contact with him other than on a strictly professional basis. A copy of her statement was attached to the report.

On 14th July 2010 the Principal Licensing Officer attended a further LADO meeting for an update in respect of Mr K R H. Also present was the Community Transport Manager, a Senior Social Worker and a Social Work Assistant. The LADO informed the meeting that all the families of the children transported by Mr K R H as part of the school contract had been visited when it had been ascertained that he had also visited the families in January at the start of his contract to introduce himself and reassure parents that the children were in safe hands when he had explained that he and his wife used to foster children with disabilities.

The Community Transport Manager said she would be considering the possible termination of his school contract. The LADO would make further enquiries regarding Mr K R H being a foster parent.

On 15th July 2010 further information was received from the Council's LADO in relation to another incident that had been brought to her attention that had occurred in April 2010 involving Mr K R H's inappropriate behaviour with a teenage girl who had been a resident at Hartburn Lodge, a facility that offers care to children and young people up to the age of eighteen, who have complex and additional needs. The information from J B, Senior Residential Care Officer alleged Mr K R H had been over-familiar with the girl when his services as a Private Hire Operator and Driver were being used to transport staff and children to a youth club disco and she had also discovered him exchanging telephone numbers with her two weeks earlier. Witness statements were obtained from her and L F a Residential Care Worker at the lodge, copies of which were attached to the report.

On 19th July 2010 information was received from the Council's LADO that Mr and Mrs H had applied to the Council to foster in 1996 but had been turned down at that time.

On 23rd July 2010 information was received that Mr K R H's school contract had been terminated.

On Monday 18th October 2010 at the Teesside Magistrates' Court, the court made an interim risk of sexual harm order against Mr K R H pending a full hearing of the application by the police on 7th December 2010. This hearing was subsequently adjourned until 14th March 2011 and so the police applied for the interim order to be extended and this was granted by the court on Tuesday 21st December 2010. A copy of this order had been obtained from the police

and was attached to the report.

Mr K R H had been interviewed regarding these allegations which in the main he denies. A copy of the transcript of the interview was attached to the report.

One of the issues discussed during this interview related to the whereabouts of Mr K R H's mobile phone alleged to contain the sex video. The police had been contacted regarding this when officers were told that Mr K R H had informed them, prior to the ROSHO application, that he had lost it. They had been asked to contact the phone supplier "Orange", as identified by Mr K R H, to ascertain whether they do in fact hold the damaged phone and if they do whether any information was retrievable but were unable to do so.

Mrs O'Neill (LADO) had produced a report and risk assessment on Mr K R H a copy of which was attached to the report and which concluded that Mr K R H did pose a risk to the general public and in particular young people.

Members were advised that Mr K R H has appealed to the magistrate's court against the suspension of his Private Hire Operator's Licence and a full hearing was listed to be heard on 31st January 2011. Mr K R H did not appeal the suspension of his Private Hire Driver's Licence.

Members were reminded that under the provisions of Section 62(1) The Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke, or refuse to renew an operators licence on any of the following grounds:-

- (a) any offence under, or non-compliance with, the provisions of this part of the Act;
- (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operators licence;
- (c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or
- (d) any other reasonable cause.

Members were also reminded that under the provisions of Section 61(1) 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.

A copy of the Council's Guidelines "The Relevance of Convictions, Cautions, Reprimands, Warnings and Complaints and Character" was attached to the report.

Mr K R H and his wife Mrs J H were in attendance at the meeting.

Members had regard to the report and appendices which included a number of witness statements and other documents, a copy of which Mr K R H had been provided with prior to the meeting. Members also heard oral evidence from Elizabeth Bird (Community Transport), M B, L C, J B and L F, each of whom had given witness statements in relation to complaints about Mr K R H's behaviour. Mrs O'Neill, the Council's Local Authority Designated Officer, was also in attendance to give an overview as to her opinion regarding Mr K R H's suitability to be licensed by the Council if Members made findings on the evidence given by the witnesses.

During the LADO's summary she gave an update on a recent conversation a social worker had had with the solicitor of Mr K R H's ex partner. The solicitor had relayed an allegation about Mr K R H's behaviour in relation to his daughter. The legal advisor stopped Mrs O'Neil and advised Members that they should disregard that comment as it was an allegation that had not been put to Mr K R H previously and was therefore not relevant to their deliberations in relation to the matter before the Committee. At this point Mr K R H became visibly distressed and was verbally abusive towards the Officers present and Members of the Committee. Mr K R H's outburst involved the use of expletives and abusive language. Mr K R H was requested to leave the Council Chamber and take some time to compose himself. Mr Nertney the legal advisor to the Committee advised that Mrs O'Neil's comment in relation to the unsubstantiated allegation should be disregarded and that Mr K R H should not be prejudiced by his verbally abusive outburst. Members requested that Mr Nertney speak to Mr K R H and advise him of this and request that Mr K R H take some time to compose himself and return to the Council Chamber so that he could give his evidence to Members.

Mr Nertney informed Members that he was so distressed that he did not appear to be in a suitable state to proceed to give his evidence. Mr Nertney advised Mr K R H and Mrs J H that the matter could be deferred for a short period of time to allow Mr K R H to appear before the Committee and give his evidence in relation to the complaints made against him and evidence given by those

present. Mr K R H informed Mr Nertney that he did not want the matter to be deferred and wished Members to proceed and make a decision. Mr K R H was advised by Mr Nertney that if he did not give his evidence to Members then they would have to proceed to make a decision without the benefit of hearing from Mr K R H. Mr K R H confirmed that he understood that and wished the Committee to make a decision.

Members made the following findings in relation to the evidence they had heard:-

1. Mr K R H had engaged in conversations of a sexual and inappropriate nature to Passenger Assistants while undertaking school contracts. Some of these conversations had taken place while young vulnerable passengers were in the vehicle.
2. The nature of the conversations had made the passenger assistants feel uncomfortable in relation to Mr K R H's character.
3. Mr K R H had showed or attempted to show an explicit video on his mobile phone to one of the Passenger Assistants.
4. Mr K R H had used his mobile phone and smoked cigarettes on his vehicle while the Passenger Assistants were present. Members found the Passenger Assistants evidence on this issue to be corroborated by the fact that two Licensing Officers had personally witnessed Mr K R H using a mobile phone while driving and smoking in his vehicle.
5. Mr K R H had allowed a vulnerable young passenger to sit next to him in the front of his vehicle in the full knowledge that the School Transport Service had specifically requested that this person should be transported seated in the rear of the vehicle with female passengers. It was accepted by Members that the Passenger Assistants were responsible for ensuring this child was seated in accordance with the instructions given. However Members found that Mr K R H had wilfully deceived the Passenger Assistants by advising them that he had approval from the School Transport Service for the child to be seated in the front of the vehicle with him and/or had spoken to the parents of their child and obtained their consent. Even if Mr K R H had spoken to the parents of the child this would be deemed inappropriate as it was not Mr K R H's role to make such arrangements. Even if Mr K R H had made such an arrangement, which Members did not accept, then he should have reported this to the School Transport Service in order for them to corroborate the arrangement and assess the suitability of such an arrangement.
6. Mr K R H had engaged in what could be perceived as inappropriate contact with children been transported by him as evidence was given that he had cuddled pupils.
7. In relation to the evidence of the staff from Hartburn Lodge (J B and L F) Members found that Mr K R H had acted inappropriately in relation to young vulnerable persons he was transporting. The evidence indicated that Mr K R H had been exchanging mobile phone numbers with one young female passenger. Mr K R H had also been found in an embrace with the same vulnerable young person who had been a passenger on his vehicle a few weeks

later.

8. Members were extremely concerned with Mr K R H's behaviour. In considering all of the evidence and the formal interview carried out with Mr K R H there appeared to be two possible explanations for Mr K R H's behaviour. Either Mr K R H genuinely did not appear to understand that his actions were inappropriate or his behaviour in relation to children indicated a degree of grooming and intentions that were perhaps more sinister. Either way, this was not fit and proper behaviour for a licensed driver.

9. It was noted that a number of years ago when Mr K R H was in his mid 30's he had been in a relationship with a 16 year old girl. Considering all of the evidence Members had concerns over Mr K R H's intentions in relation to the relationships he formed with children and the manner in which he conducted himself around them. The behaviour alleged in relation to M B's 15 year old daughter was clearly inappropriate. The incident when Mr K R H took her to MacDonalds and then parked his vehicle in a "country lane" was inappropriate but Mr K R H tried to justify his actions and minimise his culpability. The reasonable person would appreciate that for a 39 year old man to take a 15 year old girl to MacDonalds, leave the restaurant and then park his vehicle in a "country lane" was not appropriate behaviour. M B's daughter had been scared by Mr K R H's behaviour especially given that she alleged he had got out of the vehicle and urinated telling her not to look. M B's daughter made an excuse that she was on her period and needed to get home. If this had been a genuine situation it would be expected that she would have immediately been taken home. However Mr K R H accepted that he had offered to take her to the chemist to buy sanitary towels. The actions of Mr K R H were even more inappropriate given the evidence given by M B that Mr K R H made a comment to her stating "next time I take you out I don't want you bleeding". Mr K R H gave explanations for this that the 15 year old did not want to talk in MacDonalds but if this was the case he could have spoken to her in his vehicle in the car park and not driven to a "country lane".

Members set aside the suspension of Mr K R H's licences as detailed in letters from the Council to Mr K R H dated 29th June 2010 and went on to revoke Mr K R H's Private Hire Drivers and Operators Licences.

Members had concerns given their findings over Mr K R H's attitude towards women and children and vulnerable adults. Members found this rendered him unfit to hold a Private Hire Operators Licence. Members also found that their findings above were sufficient reasonable cause under Section 62(1)(d) to revoke Mr K R H's Private Hire Operators Licence. It followed that the application to renew this licence was also refused.

Members findings also constituted reasonable cause under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 to revoke Mr K R H's Drivers Licence. Members found that public safety was an issue and therefore the revocation was with immediate effect under Section 61(2)B of the Local Government (Miscellaneous Provisions) Act 1976. It followed that the application to renew this licence was also refused.

RESOLVED that:-

1. Mr K R H's Private Hire Operators Licence be revoked under Section 62(1)(d) of the Local Government (Miscellaneous Provisions) Act 1976.
2. Mr K R H's Private Hire Operators Licence application to renew this licence be refused.
3. Mr K R H's Private Hire Drivers Licence be revoked under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.
4. Public safety was an issue and therefore the revocation take immediate effect under Section 61(2)B Local Government (Miscellaneous Provisions) Act 1976.
5. Mr K R H's Private Hire Drivers Licence application to renew this licence be refused.