

REGULATORY PANEL

WEDNESDAY 30 JULY 2014 AT 2.00 PM

PRESENT: Councillor Bell (Chairman), Councillors Cape, Dodd (as substitute for Councillor Ms Franklin), Layden, Morton, Mrs Parsons, Mrs Prest (as substitute for Councillor S Bowman), Scarborough, Mrs Stevenson, Mrs Warwick and Wilson

ALSO

PRESENT: PC Prangnell, Cumbria Police
Mr D J Hickie
Mr Harrison (Mr Hickie's representative)

OFFICERS: Legal Services Manager
Licensing Manager
Licensing Officer

RP.10/14 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors S Bowman and Ms Franklin.

RP.11/14 DECLARATION OF INTEREST

Councillor Cape declared an interest in accordance with the Council's Code of Conduct. Councillor Cape stated that he had known the licensed Hackney Carriage Driver's brother for a long period; he had met the gentleman outside the meeting and accordingly would retire from the Panel and take no part in the decision today.

RP.12/14 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 25 June 2014 be noted.

RP.13/14 DISCLOSURE OF POLICE CAUTION

Councillor Cape, having declared an interest, retired from the Panel and took no part in this item of business.

The Licensing Officer submitted report GD.32/14 regarding a licensed Hackney Carriage Driver who had accepted a Police caution.

Police Constable 1343 Prangnell; Mr Hickie (the licensed Hackney Carriage Driver); and Mr Harrison (legal representative) were in attendance at the meeting.

The Chairman introduced the Panel and Officers in attendance.

The Legal Services Manager outlined the procedure the Panel would follow. Mr Hickie and Mr Harrison confirmed that they had received and read the Licensing Officer's report, and understood the procedure for the meeting.

The Licensing Officer outlined the licensing history pertaining to Mr Hickie who had been a licensed Hackney Carriage Driver with the City Council since 27 June 2014. Mr Hickie had no convictions on his Driving Licence and his DBS (Criminal Disclosure) was clear. He had undertaken both taxi and wheel chair tests. Mr Hickie's medical form had been signed by Grosvenor House Surgery as 'fit' to drive using Group 2 standards, as per the Drivers Medical Unit, DVLA, Swansea.

On 3 July 2014 Mr Hickie had reported to the Licensing Office that he had received a Police Caution for criminal damage and possession of a Class B drug (Cannabis). Mr Hickie had stated to the Licensing Officer that he had 'done a silly thing on the Sunday night after he had had a drink'. He explained that he had been plagued for years by people parking in front of his garage and blocking his access. On the previous Sunday evening he had been frustrated that someone had done this and had spray painted the vehicle in question. Mr Hickie completed a disclosure form (Appendix A) and the Licensing Officer informed Mr Hickie that the Council would investigate the incident with the Police before deciding on a course of action.

On 16 July 2014 the arresting officer, PC Prangnell, forwarded his statement of the event to licensing, a copy of which was attached as Appendix B to the report. The statement outlined Mr Hickie's behaviour, recording that he appeared to be heavily intoxicated and, as a result of his conduct, he had been arrested and handcuffed. The Officer's statement also recorded that during the booking process Mr Hickie was asked if he was dependent on alcohol to which he responded to the effect that it was a ridiculous question to ask an alcoholic. Mr Hickie had been interviewed by the Police later in the day and had admitted that he had consumed half a bottle of vodka that morning as well as causing damage to his neighbour's car and being in possession of cannabis for his own use.

Further enquiries by the Officer revealed that Mr Hickie had surrendered a shotgun certificate in 2013 following an incident at his house where weapons were lying around unsecured whilst Mr Hickie was found to be heavily intoxicated.

On 16 July 2014 the Licensing Officer spoke to Mr Hickie at the Civic Centre regarding the content of the Police Officer's statement. Mr Hickie commented that the Officer had taken a dislike to him and searched his home despite the fact that he had openly admitted the offence. Mr Hickie was asked about his alcohol consumption. In response Mr Hickie said that he had not started work yet and his remark to the Custody Officer about being an alcoholic had been in retaliation as he was annoyed at being arrested and to 'p' off the Officer.

Mr Hickie's medical form/questionnaire (completed by his Doctor) had been checked. When asked the question 'please give number of alcohol units taken each week' the answer given was 20 units per week.

The Panel was advised that, for guidance, the acceptable units according to the Royal College of Physicians for a man should be no more than 21 units per week.

The Licensing Officer informed Members that, although Mr Hickie did not have any previous convictions, he had accepted a Police caution for criminal damage to a motor vehicle and possession of cannabis as an alternative to being charged. The Licensing

Officer had concerns with regard to Mr Hickie's dependency on alcohol given the evidence of the arresting Officer and Mr Hickie's own admission to the Custody Officer.

The Licensing Officer also advised the Panel that the Council had adopted the Department of Transport's guidance on the disclosure of criminal records and convictions which stated that convictions relating to drunkenness may indicate the need for a special medical examination to establish dependency, and for drugs related offences that a period of three years should elapse before an application was entertained.

In response to a Member's question, the Licensing Officer confirmed that details of the incident (where weapons were lying around Mr Hickie's house unsecured) which resulted in the surrender of a shotgun certificate in 2013 were not recorded on Mr Hickie's application for a Hackney Carriage Driver's Licence nor on his DBS Criminal Disclosure. The Licensing Section was therefore unaware of the incident when the above mentioned application was made.

Mr Harrison pointed out that the shotgun certificate had been surrendered voluntarily by his client.

PC Prangnell addressed the Panel stating that, having been called to Petheril Street, Carlisle, he had reason to arrest Mr Hickie on 30 June 2014 for the offence of criminal damage to a neighbour's car which was parked outside the address.

Mr Hickie had been found inside 47 Petheril Street, Carlisle and readily admitted spray painting his neighbour's car, stating that it had been illegally parked. He appeared to think that was an entirely rational response to take. There had been no contact with the Police before this incident.

PC Prangnell explained that Mr Hickie had been very drunk, hostile, aggressive and belligerent. PC Prangnell had been unable to speak to Mr Hickie and had no option but to arrest him at 0915 hours and remove him from his house. From searching the house for spray paint (which was located in the hallway) Mr Hickie appeared to be the sole occupant of the house.

PC Prangnell observed that Mr Hickie had a professional CCTV system installed outside his property which may have recorded the incident in question. Upon searching the property for the recording equipment (which was located in the living room) a cannabis grinder / cannabis was found, which was duly seized.

PC Prangnell added that he had observed that the recycling boxes located in the rear yard of Mr Hickie's property were full of empty alcohol bottles, suggesting significant alcohol consumption.

At Carlisle Custody Suite when Mr Hickie was being booked in he was asked a range of questions by the Custody Sergeant and, specifically, whether he had consumed any alcohol or drugs within the previous 24 hour period. Mr Hickie replied that he had consumed half a bottle of vodka already that morning. When asked whether he considered himself to be dependent on drugs or alcohol, Mr Hickie responded to the effect that it was a stupid question to ask someone who was an alcoholic. Mr Hickie's intoxication was such that he could not be interviewed for six hours.

During interview Mr Hickie admitted that he had caused the damage to his neighbour's car and further admitted that the cannabis in the house was his, for him to smoke. He

received a criminal caution for the damage on the proviso that he paid the neighbour's insurance claim excess of £100. Mr Hickie also received a caution for the possession of cannabis.

PC Prangnell further informed Members that, during the search, he had been alarmed to find a black handgun lying in open view on the kitchen worktop at 47 Petteril Street. Following a brief check, gun cases and a gun safe were located in the airing cupboard on the landing of the property. He had obtained the code and opened the safe which was found to be empty. PC Prangnell subsequently discovered that Mr Hickie had surrendered a shotgun certificate the previous year following an incident when he was found by a relative heavily intoxicated with the firearms and crossbows lying about the house. Since the shotgun certificate had been surrendered voluntarily it did not appear on the Police computer as having been revoked.

PC Prangnell did not consider that Mr Hickie was fit to have firearms; was horrified to discover that he was a licensed taxi driver; and would not wish his family to be conveyed by Mr Hickie.

PC Prangnell had therefore made further checks with the Firearms Department and reported the content of notes (dated June 2007) which indicated that Mr Hickie had an alcohol problem. In addition, notes dated 2007 recorded that Mr Hickie had resigned from his employment with Network Rail because he had failed a drugs test (i.e. he resigned before he was dismissed). Those notes were scanned into the Police computer system.

In response to questions PC Prangnell explained that:

- the discovery of a cannabis grinder at Mr Hickie's property was significant. Cannabis grinders, which were used to powder cannabis, could only be purchased from specific shops and suggested someone who was a long-term habitual user of cannabis
- he had made only one search of Mr Hickie's property
- Mr Hickie was not known to him

Mr Harrison then addressed the Panel. As had been mentioned, Mr Hickie had no previous convictions; no driver convictions and was of good character. Mr Hickie wished to apologise for his actions and in no way condoned what had happened.

Mr Hickie had reported people parking across his driveway to the Police, but should not have damaged his neighbour's car.

Mr Harrison emphasised that, on the evening in question, Mr Hickie had a few friends round for a party which accounted for the alcohol bottles in the recycling boxes located in the rear of his property. He had not drunk alcohol at 0915 hours, but at the party.

Mr Hickie had answered the door in an agitated state, and wished to apologise to PC Prangnell for his demeanour.

Referring to Section 1.4 of Report GD.32/14 which recorded that "Mr Hickie was asked about his alcohol consumption and he said that he hadn't started working yet". He said his remark to the Custody Officer about being an alcoholic was to 'P*** him off' as he was annoyed at being arrested." Mr Harrison commented that Mr Hickie was required to provide a medical report by his Doctor, which included questions in relation to alcohol / drug use. The Doctor had answered 'no' to questions 4 and 5 in the past 3 years.

Mr Hickie did smoke cannabis on a recreational basis. Cannabis remained within a person's system a lot longer than other drugs, which resulted in Mr Hickie failing a drugs test and his subsequent resignation from Network Rail.

Mr Hickie would apologise for his actions and his brother was in attendance to act as a character witness if required.

Mr Harrison acknowledged that there were a few things of which he was unaware. He emphasised, however, that a man painted an alcoholic would have come to the attention of the Police before now. Mr Hickie was the author of his own misfortune in this instance. Mr Hickie was not an alcoholic since that would have been recorded in the medical report provided by the Doctor.

The Chairman asked whether Mr Hickie wished his brother to give evidence at that point. Mr Harrison replied that they were content for the meeting to progress without the character evidence.

In response to questions Mr Hickie clarified the following points:

- the medical form (signed by Grosvenor House Surgery) had been completed following a personal discussion between Mr Hickie and a practice Doctor
- he had not been in personal receipt of his Hackney Carriage Driver's Licence and therefore had no actual start date
- he had seen the envelope on the Tuesday, but did not open it until the Wednesday and had no start date until that point
- he was working for a company, the intention being to progress towards buying his own vehicle in the long term
- the incident when he had been found by a relative heavily intoxicated with weapons lying around the house had occurred just after his mother had passed away. He had been quite upset and "did something silly"
- he had been a senior technician with Network Rail. He accepted that a mistake would have been dangerous, but emphasised that he would never drive or work under the influence
- cannabis did not remain active in a person's system, it just stayed in their system
- he lived alone with no dependents
- he still held a Doorman's Licence
- the purpose of holding a gun was to go shooting on his own land – pest control

The Legal Services Manager noted the conflicting evidence provided as regards Mr Hickie's alleged dependency on alcohol.

In summing up, the Licensing Officer reminded the Panel of the relevant Legislation and outlined the options open to the Panel in reaching a decision.

Councillor Cape and the respective parties then withdrew from the meeting whilst the Panel gave detailed consideration to the matter.

RESOLVED – (1) That Mr Hickie's Hackney Carriage Driver's Licence be revoked.

(2) The Panel gave the following reasons for their decision:

1. Members had listened to the accounts given by the Licensing Officer, Mr Harrison, Mr Hickie and PC1343 Prangnell.

2. Members accepted the account given by the Police Officer and noted the explanation given by Mr Hickie, and accepted in entirety the Police evidence.
3. Members were satisfied that Mr Hickie committed the act of criminal damage complained of and was found to be in possession of cannabis, both offences were admitted, and Mr Hickie received a police caution.
4. The offences were committed very soon after being granted his Hackney Carriage Driver's licence and showed a disregard for that licence, and the behaviour which would be expected of a Hackney Carriage Driver licensed by Carlisle City Council.
5. The quantity of cannabis found, and the presence of a cannabis grinder, suggested that Mr Hickie was more than an occasional user of the drug.
6. Possession of cannabis was not consistent with the fitness and propriety required to be a Hackney Carriage Driver. Mr Hickie admitted being a recreational user and had previously tested positive for drugs while at Network Rail.
7. Moreover, Department of Transport guidelines suggested that an applicant with a conviction for a drug related offence should have a period of three years free of convictions before an application was entertained. The Panel considered that the caution received was equivalent to a conviction in those circumstances. As a Hackney Carriage Driver, Mr Hickie was exempt from the provisions of the Rehabilitation of Offenders Act and the Panel may take account of the caution.
8. The act of criminal damage was also not consistent with being fit and proper to hold a Hackney Carriage Driver's Licence. The circumstances of the offence suggested that Mr Hickie lost his temper before spray painting his neighbour's car and the Panel considered that a calm and even temper was a vital component of being a Hackney Carriage Driver.
9. Although there was evidence that Mr Hickie consumed a large amount of alcohol on the night of the offence and the morning of the arrest, and there was a suggestion that he might be dependent on alcohol, in the absence of medical evidence the Panel did not use that as a reason for revoking the licence. The behaviour described by the Police Officer on arrest, however, was not that which would be expected from a person licensed to drive members of the public and, again, indicated that Mr Hickie was not fit and proper to be a Hackney Carriage Driver.
10. As such, the Panel unanimously found that Mr Hickie was not a fit and proper person to hold a Hackney Carriage Driver's Licence and revoked that Licence.

(3) That it be noted that Mr Hickie was informed that he had a right of appeal and that right would be confirmed in writing.

(The meeting ended at 2.52 pm)

