

**Minutes of the
Licensing Sub Committee 2**

**25th April 2018 at 10am
at West Bromwich Town Hall**

Present: Councillor Dr T Crumpton (Chair);
Councillors S Davies and Goult.

Apologies: Councillors Edis, Gavan and Millard.

20/18 **Minutes**

Resolved that the minutes of the meeting on 20th March 2018 be confirmed as a correct record.

21/18 **Exclusion of the Public**

Resolved that the public and press be excluded from the rest of the meeting to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order, 2006, relating to any individual and information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Matters Delegated to the Sub Committee to consider Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Driver’s/Vehicles/Operators Licensing related matters

22/18 **Application for the Renewal of a Dual Private Hire and Hackney Carriage Driver’s Licence in respect of Mr M H**

Members considered an application for the renewal of a Dual Private Hire and Hackney Carriage Driver’s Licence in respect of Mr M H.

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Mr M H was present at the meeting.

The Licensing Manager advised the Committee that the application for the renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M H had been brought to Committee under Section 7.1 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

Mr M H had received a number of convictions for various motoring offences from 1998 to 2009, and a police caution on 6th May 2001 for possessing a controlled drug, class B cannabis.

Mr M H had previously appeared before Committee on five occasions between 1997 to 2003.

On 17th November 2009, Mr M H appeared before Committee in respect to a conviction for using a mobile phone whilst driving. The Committee renewed the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M H and suspended the licence for a period of 14 days (Minute No.271/09).

On 25th October 2016, a complaint was received from an ACPOA Civil Enforcement Officer, who had issued Mr M H a fixed penalty notice for returning to a restricted parking area in his Taxi within a prescribed time.

The Civil Enforcement Officer had been wearing a body cam and recorded the conversation which took place at the time as Mr M H had been verbally abusive. Mr M H was subsequently interviewed at the Taxi Licensing Office and admitted that the person in the recording was him.

On 23rd November 2016, a complaint was received by the Taxi Licensing Office in respect of a road rage type incident which had taken place and involved Mr M H.

The complainant claimed to have been forced to a standstill by the licenced vehicle effectively cutting in front of their vehicle on exiting a traffic island. It was allegedly followed by offensive gesticulating by the driver. The complainant also claimed that the driver got out of his vehicle and approached their vehicle in an aggressive manner speaking in a language that they could not understand.

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Mr M H was interviewed at the Taxi Licensing Office on 20th December 2016 and accepted that he was the driver of the vehicle, however he claimed that the incident was the fault of the other driver. He accepted that he made a gesture to the driver of the other car.

On 28th September 2017, Mr M H advised the Taxi Licensing Office that he had returned a notice of intended prosecution document to West Midlands Police in relation to a speeding offence. Mr M H was told that he would need to advise the office in writing within seven days of receiving confirmation of the conviction. He failed to notify the office in writing and this was subsequently confirmed by an on line DVLA check on 15th March 2018 when Mr M H attended the office to extend his badges.

On 3rd November 2017, the Taxi Licensing Office was advised that the Integrated Passenger Transport Unit had issued a warning to Mr M H in respect of his conduct towards staff.

A member of staff from the Integrated Passenger Transport Unit joined the meeting and gave evidence in respect to abuse that he had received during a telephone conversation with Mr M H. Mr M H disputed that he had been abusive on the telephone, however, he apologised to the member of staff for raising his voice to him during the telephone conversation.

The member of staff from the Integrated Passenger Transport Unit left the meeting at this point.

Mr M H explained the circumstances surrounding the road rage type incident and stated that he believed he had been in the correct lane whilst exiting the road traffic island. He disputed that he got out of his vehicle and approached the other vehicle.

In respect to the caution for possession of drugs, Mr M H stated that he was driving a friend's car at the time and the police found cannabis in the rear of the car, as he would not name the owner of the vehicle he was charged with the offence.

Mr M H commented that he was ashamed of his past behaviour and apologised to Committee.

The Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

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Having considered all the information before them, Members were minded to refuse to renew the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M H.

The Committee felt that Mr M H had exhibited inappropriate behaviour on several occasions and there was evidence of how he had been abusive to parking attendants, the public and staff within the Council. The Committee considered that Mr M H was not a fit and proper person to hold a Sandwell licence.

Resolved that the application for the renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M H be refused.

In making the decision the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976, Council Policy and Guidelines and the Human Rights Act 1998.

Mr M H would be advised of his right to appeal, and should he wish to exercise that right, must do so to the Magistrates' Court within 21 days of receiving written notification of the decision.

23/18

Application for the Renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr Q A.

Members considered an application for the renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr Q A.

Mr Q A was present at the meeting along with Mr S his legal advisor.

The Licensing Manager advised the Committee that the application for the renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr Q A had been brought to Committee under Section 7.1 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

Mr Q A had previously appeared before the Committee on two occasions. On 6th February 2018, the matter had been deferred to a future meeting to give the complainant an opportunity to attend and the Committee had recommended that Mr Q A

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considered obtaining legal advice (Minute No 4/18). On 20th March 2018, Mr Q A requested that the Committee defer the matter as he had been unable to obtain legal representation. The Committee agreed to defer the matter until 25th April 2018 (Minute 12/18).

Mr S stated that he realised the matter had been deferred at a previous Committee due to a request from Mr Q A, however he noted that the complaint had been received on 30th March 2017 and asked why the matter had taken so long to reach Committee. The Licensing Manager confirmed that there had been a backlog of issues for Committee to consider.

On 30th March 2017, a complaint had been received regarding the conduct of Mr Q A whilst he was undertaking a journey on 19th March 2017. The passenger claimed that she had felt uncomfortable by comments that the driver had been making to her whilst in conversation.

Mr Q A explained the circumstances surrounding the accusation and stated that he asked for her postcode to enable this to be put into his sat nav. He stated that she had been the one making the inappropriate comments and had created an uncomfortable atmosphere for him and claimed that the passenger was laughing and joking throughout the conversation. The passenger had tried to advise him of another route for the journey, however he had followed the sat nav. He disputed that he had waited for a long time outside the passenger's residence after the journey was completed.

Mr Q A stated that he did not know why the passenger would make up the allegations, he had not met her before, however a friend of the passenger was a customer. He had never had any other complaints from customers.

Mr S remarked that Mr Q A had admitted being too familiar with the complainant and did not take the route as advised by the passenger as he was following his sat nav. Mr Q A had been working with the public for 12 months since the complaint had been made and there had been no other issues.

The Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

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Having considered all the information before them, members were minded to renew the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr Q A.

The complainant had not attended the meeting therefore the Committee had been unable to explore this evidence. The Committee considered that there had been no further complaints in respect of Mr Q A.

Resolved that the renewal of the Private Hire Driver's Licence in respect of Mr Q A be approved.

In making the decision the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976, Council Policy and Guidelines and the Human Rights Act 1998.

24/18

Application for the Grant of a Private Hire Driver's Licence in respect of Mr M B

Members considered an application for the grant of a Private Hire Driver's Licence in respect of Mr M B.

Mr M B was present at the meeting.

The Licensing Manager advised the Committee that the application for the renewal of a Private Hire Driver's Licence in respect of Mr M B had been brought to Committee under Section 6.1 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

On 15th June 2010, Mr M B had received a conviction at Birmingham Magistrates Court for an offence of battery and had received a restraining order and ordered to pay compensation and costs.

Mr M B disclosed on his application form that he had received a caution on 17th January 2012 for an argument.

Council policy required an applicant for a licence to produce a criminal history check from each country in which they had lived. At the meeting Mr M B produced a criminal record check from Tunisia and a French certified translated version.

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Mr M B explained the circumstances surrounding the conviction for battery and the subsequent caution. He stated that he had separated from his first wife and she was living with her parents. He arrived at the parent's home to collect his son however, his wife refused to let him see his son, there was an altercation and he was accused of battery. Mr M B was advised to plead guilty to ensure that he could remain in the country.

Mr M B advised the Committee that he was now a British Citizen and had re married and had custody of his son.

The Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

Having considered all the information before them, Members were minded to grant the Private Hire Driver's Licence in respect of Mr M B.

The Committee accepted Mr M B's explanation surrounding the conviction for battery and were satisfied that Mr M B was fit and proper to hold a licence in Sandwell.

Resolved that the Private Hire Driver's Licence in respect of Mr M B be granted.

In making the decision the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976, Council Policy and Guidelines and the Human Rights Act 1998.

25/18

Application for the review of a Private Hire Driver's Licence in respect of Mr B S

Members considered a review of a Private Hire Driver's Licence in respect of Mr B S.

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The Licensing Manager advised the Committee that the application for the review of a Private Hire Driver's Licence in respect of Mr B S had been brought to Committee under Section 7.1 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

Mr B S was not present at the meeting.

The matter had been previously listed for consideration by the Committee on 20th March 2018, however Mr B S failed to attend the meeting and the matter was deferred to a future meeting (Minute. 16/18).

On 15th January 2018, The Taxi Licensing Office had been made aware of the fact that Mr B S had been photographed urinating by a grassed area in Friar Park Road, Wednesbury.

Mr B S had received a stage one anti-social behaviour letter from West Midlands Police in respect to the incident.

Mr B S was subsequently interviewed at the Taxi Licensing Office and apologised for his actions. He stated that he felt an urgent need to urinate and would be uncomfortable using toilets in licenced premises due to his religious beliefs.

The Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

Having considered all the information before them, Members were minded to suspend the Private Hire Driver's Licence in respect of Mr B S for a period of 12 weeks.

The Committee considered that Mr B S had exhibited inappropriate behaviour for that of a Sandwell licence holder.

Resolved that the Private Hire Driver's Licence in respect of Mr B S be suspended for a period of 12 weeks.

In making the decision the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976, Council Policy and Guidelines and the Human Rights Act 1998.

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Mr B S would be advised of his right to appeal, and should he wish to exercise that right, must do so to the Magistrates' Court within 21 days of receiving written notification of the decision.

(Meeting ended at 1.45pm)

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