

**Minutes of the
Licensing Sub Committee 2**

**7th August, 2018 at 10am
at Sandwell Council House, Oldbury**

Present: Councillor Dr T Crumpton (Chair);
Councillors Eaves, Lewis, Padda and Millard.

Observer: Councillor S Crumpton.

35/18 **Minutes**

Resolved that the minutes of the meeting held on 12th June 2018 be confirmed as a correct record.

Matters delegated to the Sub Committee to consider the licensing of sex establishments in accordance with Section 101 of the Local Government Act 1972.

36/18 **Application for the renewal of Sex Shop Licence for Private Shop, 19 Bull Street, West Bromwich B70 6EU**

The Committee considered an application for the renewal of a sex shop licence in respect of Private Shop, 19 Bull Street, West Bromwich B70 6EU.

The Licensing Officer advised the Committee that the applicant had complied with all the statutory requirements in respect of the application process.

No objections had been submitted by West Midlands Police and no other objections had been received for this application.

The premises had traded as a licensed sex shop at these premises since 2003.

If the licence was renewed, it would run for a period of 12 months commencing 1st August 2018 and expire on 31st July 2019.

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

Having considered all of the information before them, members were minded to renew the sex shop licence in respect of Private Shop, 19 Bull Street, West Bromwich B70 6EU.

Resolved that the sex shop licence in respect of Private Shop, 19 Bull Street, West Bromwich B70 6EU be renewed for a period of 12 months with effect from 1st August 2018.

37/18 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

At this point Councillor Millard joined the meeting.

38/18 Application for the Grant of a Dual Private Hire and Hackney Carriage Driver’s Licence in respect of Mr A M

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

Mr A M was present at the meeting and confirmed that he had received a copy of the report.

Mr A M had previously appeared before the Committee on 7th January 2009 (Minute No. 10/09) and the Committee had refused to grant a Private Hire Driver’s Licence due to a conviction on 21st

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September 2006 for common assault for which he received a conditional discharge for 12 months and costs of £369.

On 21st August 2017, Mr A M had applied for a Dual Private Hire and Hackney Carriage Driver's Licence. He was informed that the application would be referred to Committee because of the refusal to grant in 2009 in respect of his convictions and a failure to declare convictions on his application form.

In 2003/4 Mr A M had received 3 penalty points on his licence for a PC20 offence, contravention of pedestrian crossing regulations with a moving vehicle. He confirmed that he had been parked on the zig zags of a pedestrian crossing.

In 2013 Mr A M had attended a speed awareness course for a speeding offence.

Mr A M explained the circumstances surrounding the conviction for common assault, and that he had failed to disclose a conviction on his original application in 2009, as he had received poor advice from colleagues.

Mr A M advised that he was sorry for his past mistakes and regretted his actions.

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 a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A M.

The Committee had considered the length of time which had elapsed since the offences and there had been no repetition.

Resolved that a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A M 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.

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39/18

Application for the Review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr I H

Members considered an application for the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr I H.

Mr I H was present at the meeting and confirmed that he had received a copy of the report.

Mr I H had been convicted of a TS10 offence failure to conform with traffic light signals on 17th December 2013 at Birmingham Magistrates Court and had received 3 penalty points. On 31st May 2018 Mr I H had been convicted of an IN10 no insurance offence and received 6 penalty points, £120 fine, costs and victim surcharge.

On 16th November 2017, Mr I H had presented a friend's vehicle for a routine appointment at Waterfall Lane site. The Licensing Officer noticed that the insurance certificate produced in respect of the vehicle only covered the owner to drive the vehicle, however CCTV showed that Mr I H had driven the car onto the site. Mr I H was subsequently interviewed under caution by a Licensing Enforcement Officer.

Mr I H explained the circumstances leading up to the incident at Waterfall Lane. He stated that the vehicle had been parked on the road outside the site, he had picked up a set of keys for the vehicle and the insurance certificate from the home of the vehicle owner and his wife had driven him to Waterfall Lane. The owner of the vehicle was out of the country at the time of the incident.

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 revoke the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr I H as the Committee did not consider that Mr I H was a fit and proper person to hold a licence.

Council Policy stated that a licence holder should be clear of convictions for 3 years. The conviction for no insurance was very

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recent and the Committee had no reason to depart from the guidelines.

Resolved that the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr I H be revoked.

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 I 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.

40/18 **Application for the Review of a Private Hire Driver's Licence in respect of Mr L R.**

Members considered an application for the review of a Private Hire Driver's Licence in respect of Mr L R.

Mr L R was present at the meeting and confirmed that he had received a copy of the report.

Mr L R's vehicle had been checked on a multi-agency operation in Dudley on 28th October 2017 and the offside front tyre had been found to be defective.

Mr L R explained the circumstances surrounding the offence. He stated that the Licenced vehicle he used was rented from the base that he worked for and although he had checked the tyres, he had missed the wear on the inside of the tyre.

Mr L R was regretful and appreciated that he needed to check the vehicle thoroughly when he collected it in future. He advised the Committee that he was new to taxi driving, however he enjoyed the job and had good relationships with clients and colleagues.

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 take no action against the Private Hire Driver's Licence in respect of Mr L R.

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Resolved that no action be taken against the Private Hire Driver's Licence in respect of Mr L R.

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.

41/18

Application for the Review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr J S

Members considered an application for the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr J S.

Mr J S was present at the meeting and confirmed that he had received a copy of the report.

On 16th November 2017, another driver, Mr I H presented Mr J S's licenced vehicle for a routine appointment at Waterfall Lane, where he had presented the insurance document and keys. It was found that the vehicle insurance only covered Mr J S to drive the vehicle.

Mr J S had been out of the country when his vehicle had been presented to Waterfall Lane depot. Mr J S stated that Mr I H did not drive the vehicle to Waterfall Lane, that a recovery truck was used to take the vehicle and for the return journey, Mr I H had only driven the vehicle from the road where it was parked into the site entrance. Mr J S stated that the problem had been initiated by the driver of the recovery vehicle who had unloaded the car on the main road and rather than driving it onto the site.

Mr J S had produced invoices from a recovery company, however this evidence had been disputed by the recovery company who stated that the invoices had not been issued by their company.

The recovery company would not submit an official statement therefore due to lack of evidence no court proceedings against Mr J S had been initiated.

Mr J S stated that he had no problems previously and was an honest person and if he had done anything wrong he apologised.

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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 revoke the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr J S. They did not consider that Mr J S was a fit and proper person to hold a licence. Mr J S had provided false information to the Licensing Office and had exhibited inappropriate behaviour.

Resolved that the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr J S be revoked.

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 J 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.

42/18

Application for the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr L W

Members considered an application for the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr W L.

Mr W L was present at the meeting along with Mr C F a support worker from Second City Housing. Mr W L confirmed that he had received a copy of the report.

On 4th April 2018, Mr W L appeared at Wolverhampton Crown Court and pleaded guilty to one count of attempting to perverting the course of justice. He was sentenced to 6 months imprisonment. The offence related to a false nomination for an enforcement camera activation.

On 7th March 2017, West Midlands Police initially informed Taxi Licensing that Mr W L was being investigated in respect of two false nominations, one of which was in his licensed Private Hire vehicle.

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Mr W L admitted to the one count of false nomination as on the photograph taken by the camera showed clearly that he was driving the vehicle. Mr W L stated that he had not received a notice from the police on this occasion and he was not aware that he had activated a speed camera.

On 5th April 2018 Taxi Licensing had been informed by West Midlands Police that Mr W L had pleaded guilty to one count of attempting to pervert the course of justice and sentenced to 6 months imprisonment.

Mr W L explained the circumstances surrounding the conviction. Mr W L was selling a private car and a potential purchaser took it for a test drive and activated the speed enforcement camera and Mr W L had given the police the details that the individual had given to him had been false.

Mr W L stated that he liked his job and wanted to continue driving. The Committee received references which were taken into consideration and a representation from Mr C F, from Second City Housing on behalf of Mr W L.

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 revoke the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr W L.

The reason for the decision was that Council policy stated that any dishonesty offences would be taken seriously and someone who was convicted of perverting the course of justice should be 10 years free from conviction before consideration would be given to granting a licence.

Resolved that the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr W L be revoked.

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 W L 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.

At this point Councillor Lewis left the meeting.

43/18

Application for the Renewal of a Private Hire Driver's Licence in respect of Mr Q Z

Members considered an application for the renewal of a Private Hire Driver's Licence in respect of Mr Q Z.

Mr Q Z was present at the meeting and confirmed that he had received a copy of the report.

Mr Q Z had appeared before Committee on 23rd June 2015 (Minute No. 70/15) and had been suspended for 2 months in relation to accumulating 9 points for Careless Driving, exceeding the speed limit, and using a mobile phone whilst driving.

On 11th January 2018, Mr Q Z applied to renew his Private Hire Driver's Licence the matter was referred to Committee due to the previous motoring convictions on the basis of Section 7.3 of the new policies.

Mr Q Z explained the circumstances surrounding his convictions. In respect to the careless driving, Mr Q Z had turned right into a car park, however he had made the turn too early and the police had been following the vehicle.

Mr Q Z realised that he had made mistakes in the past and apologised to the Committee. He said that he had not had any further problems and felt that he was now more mature. He had recently undertaken the CSE and Safeguarding training and enjoyed driving.

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 take no action in respect of the Private Hire Driver's Licence in respect of Mr Q Z.

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They felt that Mr Q Z had been clear of offences for almost four years therefore they could depart from their guidelines.

Resolved that no action be taken in respect of the Private Hire Driver's Licence in respect of Mr Q Z.

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.

44/18 **Application for the renewal of a Private Hire Driver's Licence in respect of Mr M A B**

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

Mr M A B was present at the meeting and confirmed that he had received a copy of the report.

Mr M A B had previously appeared before Committee on 23rd August 2016 and his Private Hire Driver's Licence had been suspended for a period of two months and he was warned as to his future conduct in relation to Plying for Hire and No Insurance conviction on 2nd August 2016.

Mr M A B had applied to renew his Private Hire Driver's Licence on 18th January 2018 and was referred to Committee in respect of Section 7.3 of the current policy.

Mr M A B explained the circumstances surrounding his conviction for plying for hire and no insurance. He stated that his customers had cancelled, however he had not been informed by the taxi base. He presumed that the people who asked for a taxi were his customers.

Mr M A B stated that he had made a mistake and was sorry that it had happened.

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 Private Hire Driver's Licence in respect of Mr M A B.

The Committee felt that they could depart from their guidelines on this occasion as Mr M A B had been clear of offences for two and a half years and the guidelines stated that a driver should be clear for a period of three years. Mr M A B had previously appeared before Committee and had received a period of suspension.

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

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.

45/18 **Application for the Review of a Private Hire Driver's Licence in respect of Mr S S G**

Mr S S G had notified the Taxi Licensing Office that he would be unable to attend Committee as he was out of the country.

Members were minded to defer the matter to a future meeting of the Committee.

Resolved that the application for the review of a Private Hire Driver's Licence in respect of Mr S S G be deferred.

46/18 **Application for the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr S S H**

Members considered an application for the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr S S H.

Mr S S H was present at the meeting with Mr S A a friend who would interpret when necessary.

Mr S S H confirmed that he had received a copy of the report.

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Mr S S H was reported to have used racist remarks in dealing with a customer.

Mr S S H had previously appeared before the Committee on 12th June 2018. The matter was deferred in order for Mr S S H to obtain an interpreter.

On 6th November 2017 Mr S S H applied to renew his licence and on his application form had disclosed a failing to stop offence and six penalty points, the offence was committed on 15th February 2016. He had failed to disclose a further offence of Driving without due care and attention on the same date for which there was no separate penalty.

A complaint had been made on 16th December 2017 to West Midlands Police in regard to racial abuse made towards a customer of Mr S S H.

The customer boarded the taxi on a car park in Wednesbury with her 11-year-old child. The door had not locked and came open whilst travelling. The customer raised the issue with Mr S S H and it was alleged that he had racially abused the customer, stopped the taxi and told her to get out. The taxi driver denied the allegation after caution, however the customers child confirmed without hesitation what had happened and what was said. The customer did not want to take further criminal action, however felt that the taxi driver should not be able to act the way he did.

The Police Officer attending found that the door closed however it did not seem to seal correctly and there was a gap between the door and frame.

On the 21st December 2017, Taxi Licensing requested that Mr S S H present his licenced vehicle to the Waterfall Lane depot for inspection, the reply from Mr S S H was that he was too busy. It was explained that information from the Police suggested that the vehicle was unsafe and on hearing this Mr S S H terminated the telephone call.

Enforcement Officers issued an immediate suspension notice and informed the operator of the situation. The operator immediately blocked Mr S S H from receiving any further work.

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Approximately two hours later Mr S S H produced the vehicle and upon examination the door in question was found to be faulty.

Mr S S H disputed that he had made a racist comment to the customer and stated that he had offered to call another taxi for her to complete her journey.

Mr S S H stated that he had family matters to attend to which prevented him from taking the vehicle for inspection.

In respect to the failure to stop and driving without due care, Mr S S H said that he had not realised that his vehicle had hit the other vehicle whilst changing lanes. The other vehicle had a camera which had recorded the incident.

The Committee was advised that the complainant had been willing to attend Committee, however was unable due to medical circumstances.

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 revoke the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr S S H.

The reason for the decision was the Committee considered that Mr S S H was not a fit and proper person to hold a licence.

Mr S S H had exhibited inappropriate behaviour in respect of the alleged racial remarks, refusing to present his vehicle for inspection and terminating a telephone conversation with an Enforcement Officer.

Resolved that the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr S S H be revoked.

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 S S 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.

(Meeting ended at 4.25pm)

Contact Officer: Shane Parkes Democratic Services Unit 0121 569 3190
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