

**Minutes of the
Licensing Sub Committee 2**

**18th September, 2018 at 10am
At Sandwell Council House**

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

Apology: Councillor Eaves.

47/18 **Minutes**

Resolved that the minutes from the meeting on 7th August 2018 be confirmed as correct.

48/18 **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

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49/18 **Application for the Renewal of a Private Hire Driver's Licence
in respect of Mr E**

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

Mr E was present at the meeting.

In September 2017 Mr E had received 6 penalty points for a CU80 offence of using a mobile device whilst driving a vehicle, which he had failed to disclose to the Taxi Licensing Office as stated within the conditions of the licence.

The Committee was advised that Mr E had two previous offences, a TT99 totting up offence on in 2010, for which he had received a six month ban and a no insurance offence whilst holding a provisional licence in 2009, for which he had received six penalty points on his licence.

Mr E explained the circumstances surrounding the mobile phone offence and apologised as he realised he had made a mistake.

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 refuse to renew the Private Hire Driver's Licence in respect of Mr E. Guidelines stated a driver should be clear of mobile phone convictions for a minimum period of five years and the Committee felt there was no reason to depart from the guidelines. Safety of the public was of paramount importance to the Committee.

Resolved that the renewal of a Private Hire Driver's Licence in respect of Mr E 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 E 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.

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50/18 **Application for the Review of a Private Hire Driver's Licence in respect of Mr A**

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

Mr A was present at the meeting, along with his son for support.

In June 2018, Mr A was convicted at Birmingham Magistrates' Court for a plying for hire and no insurance offence.

Mr A explained the circumstances surrounding the offence and apologised.

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 Private Hire Driver's Licence in respect of Mr A. The policy stated that a driver should be free of plying for hire and no insurance convictions for a minimum period of three years.

Resolved that the Private Hire Driver's Licence in respect of Mr A 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 A 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.

51/18 **Application for the Grant of a Private Hire Driver's Licence in respect of Mr A(2)**

Members considered an application for the grant of a Private Hire Driver's Licence in respect of Mr A(2).

Mr A(2) was present at the meeting, with his wife Mrs L B for support.

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In October 2014, Mr A(2) had been cautioned by West Midlands Police for common assault on 11th October 2014 under the Criminal Justice Act 1988 (S39).

Mr A(2) had completed all training requirements, however he had not declared the caution for assault on the application form.

Mr A(2) explained the circumstances surrounding the caution and that it was a domestic incident. He had failed to declare the caution on his form as it was not a motoring related conviction.

Mrs B confirmed that Mr A(2) had been on an anger management course, which had been recommended by the Police.

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 A(2) and warn him as to his future conduct and the effect that further issues may have on his licence.

The Committee had departed from their guidelines on this occasion as they accepted that the non-disclosure of the caution had been a genuine mistake and they appreciated that Mr A(2) had taken steps to deal with his anger management.

Resolved :

- (1) that the Private Hire Driver's Licence in respect of Mr A(2) be granted;
- (2) that Mr A(2) be warned as to his conduct and the effect that any future problems may have on his licence.

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.

52/18

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

Members considered an application for the renewal of a Dual

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Private Hire and Hackney Carriage Driver's Licence in respect of Mr Z.

Mr Z was present at the meeting with a friend Mr M T for support.

In December 2017, Mr Z had been convicted at Birmingham Magistrates' Court for driving without due care and attention, failing to stop after an accident and failure to exchange particulars or report the accident within 24 hours.

Mr Z explained the circumstances surrounding the incident, and stated that he had hit another vehicle as he thought the vehicle had called him on from a junction. He stated that he had reported it to the Police and the Taxi Office and that the other vehicle had driven off. He advised that he had taken his vehicle into the Taxi Licensing depot for them to inspect the vehicle after the accident.

Mr Z was advised to plead guilty to the offence as it was suggested the court would be more lenient than if he had entered a not guilty plea and it would have cost him more to fight the case.

The Committee was advised by the Taxi Licensing Manager that they had no records of the matter being reported to them when the accident had occurred. Mr Z would have been issued an inspection document at the time. The Taxi Licensing Office had been advised of the Road Traffic Accident on 3rd January 2017.

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 refuse to renew the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr Z. Guidelines stated that a driver should be clear of major road traffic offences for a minimum period of three years and members felt that there was no reason to depart from the guidelines.

Resolved that the renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr Z 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.

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Mr Z 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 and Councillor Downing joined the meeting)

53/18

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

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

Mr K was present at the meeting along with Mr S his legal representative.

In November 2004, Mr K had received a caution for possession of an offensive weapon.

In April 2013, Mr K had been convicted at Birmingham Magistrates' Court of a PC30, contravention of a pedestrian crossing regulations with a stationary vehicle.

In December 2016, the Taxi Licensing Office had been notified by Birmingham City Council that Mr K had been caught illegally plying for hire in Edgbaston in his private hire vehicle.

In June 2017, he had been convicted at Birmingham Magistrates' Court of a Plying for Hire and no insurance offence.

Mr K had previously appeared before the Licensing Sub Committee on 4th August 2017 when the licence had been renewed and suspended for a period of two months (Minute No. 19/17 referred).

Mr S explained the circumstances surrounding the offences. In respect to the offence for contravention of a pedestrian crossing, he stated that a passenger had exited Mr K's vehicle on a pedestrian crossing whilst he was stopped at traffic lights.

In respect to the offence for plying for hire, it was a busy period over Christmas and Mr K had three consecutive bookings at Edgbaston, he could not locate his passengers and when

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someone else approached looking for a taxi he presumed that this had been the customer he was waiting for. Mr K had got a booking and it was not a deliberate act however, he realised he had made a mistake and would take more care in future.

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 renew the Private Hire Driver's Licence in respect of Mr K.

The Committee considered that it could depart from the guidelines on this occasion as members accepted Mr K's version of events. The matter had previously been dealt with at Committee and no further problems had been recorded.

Resolved that the Private Hire Driver's Licence in respect of Mr K 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.

(At this point Councillor Millard left the meeting)

54/18

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

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

Mr H was present at the meeting, along with Mr S his legal representative.

Mr H had previously appeared before the Licensing Sub Committee on 16th August 2011 for a CU80 offence of using a mobile phone whilst driving and his licence had been suspended for a period of 28 days (Minute No. 118/11 referred) and on 20th September 2016 for two CU30 offences of using a vehicle with defective tyre. The licence had been suspended for a period of 56 days (Minute No. 125/16).

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Mr S explained that the mobile phone offence had only recently been introduced when the offence had been committed and that Mr H now had hands free and would never repeat the offence.

A routine multi agency operation had detected the defective tyres, however Mr H stated that the vehicle had been inspected a month prior to the date of offence and he had not been warned that the tyres on the vehicle had been near to the legal limit.

Mr H stated that he did check his tyres regularly but could not see the inside tread which was worn and apologised to the Committee for what had happened.

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 renew the Private Hire Driver's Licence in respect of Mr H.

The Committee considered that they could depart from the policy and guidelines on this occasion as the offence had been more than two years ago and Mr H had already been dealt with at a previous Committee for this offence.

Resolved that the Private Hire and Driver's Licence in respect of Mr H 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.

55/18

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

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

Mr Y was present at the meeting along with Mr S his legal representative.

Mr Y had received a total of 11 penalty points for SP30 offences between 3rd October 2016 and 12th January 2017

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In April 1996, Mr Y had been convicted at Warley Magistrates Court for using threatening, abusive, insulting words or behaviour to cause fear or provocation of violence.

In April 2004, Mr Y had been convicted at Dudley Magistrates' Court for failing to surrender to custody at appointed time and on 27th April 2004 was convicted for destroy or damage property and Battery under Criminal Damage Act 1971.

Mr Y had previously appeared before the Licensing Sub Committee on the following occasions in respect of Licensing matters:

- 7th July 2006 for Common Assault and failing bail and possession of a class C substance, the Committee granted the licence Minute No. 59/06 referred.
- On 2nd June 2009 in respect to a Private Hire Vehicle and the licence had been refused (Minutes No. 126/09 referred).
- On 28th May 2010 in respect of road traffic offences and conduct and the licence had been granted and suspended for 28 days (Minute No. 69/10 referred).

The speeding offences had not been reported to the Taxi Licensing office in the timescale for reporting fixed penalties as per the conditions of the licence.

Mr Y explained that the speeding offences had occurred on a stretch of road where the speed enforcement had changed to an average speed system which had been confusing for drivers. He stated that he had challenged the speeding offences and that he had notified the Taxi Licensing Office of the speeding offences within the correct timescale.

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 refuse to renew the Private Hire Driver's Licence in respect of Mr Y. The policy stated that a licence should not be granted to a driver who has more than 10 points on their licence.

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The Committee considered that Mr Y had shown inappropriate behaviour and was not fit and proper to hold a Sandwell licence

Resolved that renewal of a Private Hire and Driver's Licence in respect of Mr Y 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 Y 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.

56/18

Application for the renewal of a Private Hire Driver's Licence in respect of Mr K(2)

Members considered an application for the Private Hire Driver's Licence in respect of Mr K(2).

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

Mr K had been suspended with immediate effect on 17th May 2018 in accordance with s61(2)(b) of the Local Government (Miscellaneous Provisions) Act 1976. He had chosen to appeal the suspension which was heard at Dudley Magistrates' Court in September 2018. His appeal was dismissed and he remained suspended pending his appearance before the Licensing Sub Committee.

The Committee was advised that a female officer at the taxi licensing office had alleged that Mr K was watching pornographic material on his mobile phone whilst he was waiting in the Taxi Licensing Office. She had found the incident distressing and returned to the main office to report the incident to her manager.

She had given evidence in Court and had produced a statement for the Committee.

Mr S explained that Mr K disputed he had been watching pornographic material and claimed that he had been browsing videos from a public site, the Licensing Officer had seen a few seconds of a video which could have been described as racy but not pornographic.

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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 refuse to renew the Private Hire Driver's Licence in respect of Mr K(2).

The reason for the decision was that the Committee considered that watching pornographic material in a Sandwell Licensing Office was inappropriate behaviour for a Sandwell licence holder.

Resolved that the application for the renewal of a Private Hire Driver's Licence in respect of Mr K(2) 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 K(2) 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 6.30pm)

<p>Contact Officer: Rebecca Hill/Shane Parkes Democratic Services Unit 0121 569 3190</p>
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