

Minutes of the Licensing Sub Committee 2

**6th November 2018 at 10am
at Oldbury Council House**

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

57/18 Minutes

Resolved that the minutes from the meeting on 18th September 2018 be confirmed as correct.

58/18 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

The meeting was adjourned at 10.05am and re commenced at 10.20am

59/18 Application for the Renewal of a Dual Private Hire and Hackney Carriage Licence in respect of Mr A(1)

Members considered an application for the renewal of a Dual Private Hire and Hackney Carriage Licence in respect of Mr A(1).

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Mr A(1) was present at the meeting and confirmed that he had received the report.

The Licensing Office had been informed by Birmingham City Council that Mr A(1) had been reported for a plying for hire offence early November 2015 and again on 4th December 2015.

In May 2016, Mr A(1) had been convicted for a plying for hire and no insurance offence at Birmingham Magistrates' Court and had received 6 penalty points on his licence and a £980 fine.

Mr A(1) had appeared before the Licensing Miscellaneous Committee on 7th June 2016 and the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A(1) had been renewed and suspended for a period of two months (Minute No. 69/16 referred).

Mr A(1) explained the circumstances surrounding the conviction. He stated that he had been picking up passengers from a venue in Birmingham and the door staff had been putting passengers in cabs and taking the cab number saying they would arrange the booking. He now realised that this was wrong and he had not had any further issues.

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 Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A(1) and warn him as to future conduct and the effect that any further issues may have on his licence.

Members considered that they could depart from their guidelines on this occasion as more than two years had elapsed since the conviction and there had been no further incidents. Mr A(1) had previously appeared before Committee and had been suspended for a period of two months.

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Resolved

- (1) that the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A(1) be renewed;
- (2) that a warning be given as to future conduct and the effect that any further issues 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.

60/18

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

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

Mr O was present at the meeting along with a colleague who acted as interpreter and confirmed he had received a copy of the report.

On 10th May 2018, a passenger had experienced an unpleasant Journey in a taxi driven by Mr O. The passenger had booked the Taxi the day before and had clearly told the Taxi firm that she would be accompanied by her dog. The passenger alleged that Mr O had been abusive to her and he had repeated stated that he did not like dirty dogs or dirty people in his taxi. The passenger continued to explained to the Committee the reasons behind their complaint and how the behaviour and conduct of Mr O had made them feel and how this affected their life.

The Committee asked Mr O to explain the circumstances and his conduct of behaviour towards the client. Mr O affirmed his uneasiness of dogs in his vehicle.

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 the Renewal the of a Private Hire Driver's Licence in respect of Mr O because of his inappropriate behaviour

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for a Sandwell Licence holder and the Committee considered that Mr O was not fit and proper .

Resolved that the renewal of a Private Hire Drivers Licence in respect of Mr O 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 O 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.

61/18 Application for the Renewal of a Private Hire Driver's Licence in respect of Mr A(2)

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

Mr A(2) was present at the meeting and confirmed he had received a copy of the report.

Mr A(2) had previously appeared before the Licensing Sub Committee on 14th August 2017 (Minute No. 11/17 referred) in regard to driving without due care and attention and using a vehicle uninsured against third party risk. The Private Hire Driver's Licence in respect of Mr A(2) had been renewed and suspended for a period of 56 days.

In February 2016, Mr A(2) was convicted of driving without due care and attention and using a vehicle uninsured against third party risk and had received six penalty points on his driver's licence.

Mr A(2) explained the circumstances surrounding his conviction. He stated that on the day of the offence was working as a fast food delivery driver and had believed he was driving under a delivery insurance policy. However Mr A(2)'s insurance did not cover his occupation as a delivery driver.

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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 renew 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 felt that they could depart from their guidelines on this occasion due to the length of time that had elapsed since the offence and there had been no further problems.

Resolved

- (1) that the Private Hire Driver's Licence in respect of Mr A(2) be renewed;
- (2) that a warning be given as to future conduct and the effect that any further issues 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.

62/18

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

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

Mr J was present at the meeting with his wife for moral support and confirmed he had received a copy of the report.

Mr J had previously appeared before the Licensing Miscellaneous Committee on 15th March 2016 (Minute No. 28/16 referred) and his Private Hire Driver's Licence was suspended for a period of 56 days.

In June 2015, Mr J was convicted at Birmingham Magistrates for driving without due care and attention and had received nine penalty points on his licence.

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Mr J explained the circumstances surrounding the offence, whilst driving his vehicle he cut a corner and had hit another vehicle driven by a learner driver. Mr J expressed his remorse and confirmed that since the conviction, he had been extra careful on the road and no problems had happened since.

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 J and to warn him of his future conduct and the effect any future issues may impact onto his licence.

The Committee considered that they could depart from their guidelines on this occasion due to the length of time that had elapsed since the offence had occurred.

Resolved

- (1) that the Private Hire Driver's Licence in respect of Mr J be renewed;
- (2) that Mr J be warned as to his future conduct and the effect that any further issues 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.

63/18

Application for the Renewal of a Private Hire Driver's Licence in respect of Mr A(3)

Members considered an application for the Private Hire Driver's Licence in respect of Mr A(3).

Mr A(3) was present at the meeting with a legal representative, Mr M, and confirmed he had received a copy of the report.

Mr A(3) had previously appeared before the Licensing Miscellaneous Committee on 15th September 2015 (Minute No. 99/15 referred) and was granted a Private Hire Driver's Licence for a period of six months.

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In January 2014, Mr A(3) had been convicted at Birmingham and Solihull Magistrates Court of making false representation to make gain for self or another or cause loss to other/expose other risk in August 2012 in relation to Fraud Act 2006 S.1(2) and S.2. Mr A(3) was disqualified from driving for six months, one month community service and fined £250.

In September 2017, Birmingham City Council had refused to grant a Licence to Mr A(3) due to a no insurance conviction being declared.

In January 2018, Mr A(3) received three penalty points and a fine for a speeding offence.

Mr M, the legal adviser, explained to the Committee the circumstances behind his conviction for dishonesty and fraud. Mr A(3) had been convicted due to working in Birmingham when he held a Licence from Shropshire Council. Mr M explained that this was an unusual prosecution and that it was unlikely that this matter would now be prosecuted in Court.

The Committee heard that Mr A(3) had changed his life and was honest and considerate to passenger. Two references were presented to the Committee from employers.

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 A(3) and to warn him of future conduct.

The Committee departed from guidelines, as they considered the time elapsed since the offence, the good driving record, character references and the unusual nature of the offence.

Resolved

- (1) that the Private Hire Driver's Licence in respect of Mr A(3) be renewed;

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- (2) that a warning be given as to future conduct and the effect that any further issues 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.

64/18

Application for the Renewal of a Private Hire Driver's Licence in respect of Mr A(4)

Members considered an application for the Renewal of a Private Hire Driver's Licence in respect of Mr A(4).

Mr A(4) was present at the meeting and confirmed that he had received a copy of the report.

Mr A(4) had previously appeared before the Licensing Miscellaneous Committee on 7th February 2017 (Minute No. 13/17 referred) and his Private Hire Driver's Licence had been suspended for a period of two months.

In July 2016, Mr A(4) was convicted for using a mobile device whilst driving and had received three penalty points on his licence.

Mr A(4) was incredibly apologetic to the Committee regarding his conviction and admitted his mistake. Mr A(4) gave details of his clean history of being a taxi driver for 20 years and he had learnt his lesson and would not re-offend.

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 A(4) and warn him as to future conduct and the effect that any further issues may have on his licence.

Members considered that they could depart from their guidelines on this occasion, as there had been no further incidents and the Committee considered him to be fit and proper to hold a Sandwell Licence. Mr A(4) had previously appeared

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before Committee and had been suspended for a period of two months.

Resolved

- (1)** that the Private Hire Driver's Licence in respect of Mr A(4) be renewed;
- (2)** that a warning be given as to future conduct and the effect that any further issues 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.

(Meeting ended at 2.20pm)

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