

**Minutes of the
Licensing Sub Committee 2**

**5th August 2019 at 10.00am
at Sandwell Council House, Oldbury**

Present: Councillor Rouf (Chair);
Councillors Eaves and I Jones.

Apologies: Councillors L Giles and Preece.

24/19 **Minutes**

Resolved that the minutes of the meeting held on 24th June 2019 be confirmed as a correct record.

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

25/19 **Application for the renewal of a sex shop licence in respect of Private Shop, 19 Bull Street, West Bromwich, B70 6EU**

The Sub Committee considered an application made by Darker Enterprises Limited/Private Shops UK Limited 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 Sub Committee that the applicant had complied with all the statutory requirements in respect of the application process and no objections had been received.

The premises had traded as a licensed sex shop at these premises since 2003 and the licence had been renewed annually.

At its meeting on 23rd September 2008 the Sub Committee gave approval for a limited form of open window display at the premises

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for the display of lingerie on mannequins but nothing of a sexual nature.

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 sexual 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 2019.

26/19 **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

27/19 **Application for the renewal of a Private Hire Driver’s Licence in respect of Mr AT**

Members considered an application for the renewal of the Private Hire Driver’s licence in respect of Mr A T.

Mr A T attended the meeting and confirmed that he had received a copy of the report.

The Sub Committee was advised that Mr A T’s Private Hire Driver’s Licence had been suspending following concerns regarding his standard of driving.

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Video footage of Mr A T driving his private hire vehicle over a footpath and undertaking a number of vehicles approaching a road junction was shown to the Sub Committee. The Sub Committee noted that moments prior to the driver's vehicle mounting the pavement, a young person in school uniform had just walked along the footpath on their way to school.

Mr A T confirmed that he had a passenger in his taxi when the offence was committed.

The matter was referred to West Midlands Police and subsequently Mr A T was convicted of driving without due care and attention in July 2019.

Mr A T explained that prior to collecting the passenger he had received a call from his wife as his daughter had suffered an asthma attack and needed collecting. He realised that he had made a mistake in mounting the pavement, however he felt he needed to deliver his passenger as quickly as possible to free himself up to attend to his daughter. He apologised for the mistake he had made.

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

Having considered all the information before them, the Sub Committee was minded to refuse to renew the Private Hire Driver's Licence in respect of Mr A T.

Mr A T had committed a serious Road Traffic Offence whilst carrying a passenger in the early morning when school children were walking to school. Guidelines specified that the starting point for the Committee was revocation of the licence and the Sub Committee could see no reason to depart from the guidelines.

Resolved that renewal of the Private Hire Driver's Licence in respect of Mr A T be refused.

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

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Mr A T 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.

28/19

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

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

Mr S M attended the meeting with his solicitor Mr R M, and confirmed that he had received a copy of the report.

Mr S M had been referred to Committee as he had received a conviction for failing to comply with duty in respect of wheelchairs in June 2019.

The Sub Committee was advised that in October 2018 Mr S M had collected a passenger who was a wheelchair user. Both the passenger and his carer felt that the driver had appeared inept and had difficulty using the vehicle ramps when entering and alighting the vehicle. It was stated that the wheelchair was initially dangerously positioned forwards to go down the ramp and the carer had to intervene to prevent the passenger from falling from the wheelchair.

Mr S M's solicitor clarified that although Mr S M had been convicted of the offence he had received a conditional discharge for 12 months, whereby an offender would not be sentenced for an offence unless a further offence was committed within a stated period.

Mr S M's solicitor explained the circumstances surrounding the incident and stated that Mr S M denied that the passenger had been taken down the ramp forward on leaving the vehicle. The wheelchair was taken into the vehicle through the rear doors frontwards and would have been unable to turn in the vehicle therefore it had to leave the vehicle rear first. Mr S M remarked that he had helped the passenger out of the vehicle and down the ramp and there had been no issues.

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

Having considered all the information before them, the Sub Committee was minded to warn Mr S M as to his future conduct and the effect that any further issues may have on his licence.

Members felt that they could depart from the guidelines on this occasion as they had taken into account that Mr S M had successfully provided service to disabled passengers on a regular basis without any complaint. Members recommended that Mr S M undertake further disability training in the future.

Resolved:-

- (1) that Mr S M be warned as to his future conduct and the effect that any further issues may have on his Licence.
- (2) Members recommended that Mr S M undertake further disability training in the future.

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

29/19

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 attended the meeting with his friend Mr M for moral support, and confirmed that he had received a copy of the report.

The Sub Committee were advised that on 28th May 2019 Mr I H had attended the Licensing Office and advised that he had received an endorsement for driving a vehicle with a defective tyre. The offence had occurred on 28th February 2019 therefore

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Mr I H had not notified the Licensing Office within seven days in accordance with the conditions of his licence.

Mr I H explained the circumstances surrounding the offence and it transpired that Mr I H had been involved in a collision as he had skidded on black ice. The Police, when called to investigate the collision, noted that Mr I H's vehicle had a defective tyre.

The matter was taken to court and Mr I H received a fine and three penalty points on his licence. Mr I H failed to declare the conviction until he had received the notification from Police as he was unaware that he should report within seven days.

The Sub Committee was advised that the Licensing Office should have been made aware of the accident within 72 hours of occurrence, however they had no notification that Mr I H had been involved in an accident.

Mr I H claimed that he had phoned the Licensing Office about the accident as he had licenced a new vehicle as his old vehicle was undriveable.

The Sub Committee considered that it required further information before making a decision on this matter and therefore deferred the matter to a future meeting.

Resolved that the application for the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr I H be deferred.

30/19

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

Mr A A attended the meeting.

Councillor Rouf declared that he knew the family of Mr A A and registered his interest in the matter. The application was deferred to the next meeting of the Sub Committee.

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

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31/19

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

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

Mr S H was present at the meeting, with his base operator for moral support, and confirmed that he had received a copy of the report.

The Licensing Manager advised that Mr S H had been brought before Committee as he had received six points for two speeding offences and three points for not complying with traffic light signals, a total of nine penalty points.

Mr S H explained the circumstances surrounding the failing to comply with traffic light signals offence, he stated that he was following a truck on a dual carriage way and the truck suddenly made a right turn and Mr S H took evasive action to avoid a collision and he continued driving and did not see the traffic signals.

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

Having considered all the information before them, the Sub Committee was minded to warn Mr S H as to his future conduct and the effect that any further issues may have on his licence, any further penalty points would jeopardise Mr S H's driving licence.

Members considered that they could depart from the guidelines on this occasion as Mr S H had been a taxi driver for 14 years and had a good driving record over the years.

Resolved that Mr S H 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, relevant case law and the Human Rights Act 1998.

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32/19

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

Members considered an application for the Private Hire Driver's Licence in respect of Mrs S B.

Mrs S B attended the meeting, with her husband for moral support, and confirmed that she had received a copy of the report.

Mrs S B had failed to declare convictions from 2008 on the application form, for failing to notify change of circumstances affecting entitlement to any benefit payment advantage under the Social Security Administration Act 1992 S111A(1A).

Mrs S B explained that her daughter had assisted with completing the application form and had misunderstood the question in regard to declaration of convictions and presumed that as the convictions were historic they did not need be entered on the application form.

Mrs S B explained the circumstances surrounding the convictions. It had not been a deliberate error, at the time Mrs S B's understanding of English was poor.

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

Having considered all the information before them, the Sub Committee was minded to warn Mrs S B as to her future conduct and the effect that any further issues may have on the licence.

The Sub Committee considered that they could depart from the guidelines on this occasion as they accepted that Mrs S B had not intentionally failed to declare, and the convictions were historic and fell outside of the guidelines.

Resolved that Mrs S B be warned as to her future conduct and the effect that any further issues may have on her licence.

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

(Meeting ended at 3.05 pm)

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