

**Minutes of the
Licensing Sub Committee 3**

**14th August 2017 at 10.00 am
at Sandwell Council House, Oldbury**

Present: Councillor Tranter (Chair);
Councillors K Davies and Downing.

Apology: Councillor Eaves.

7/17 **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.

8/17 **Minutes**

Resolved that the minutes of the meeting held on 11th July, 2017 be approved as a correct record.

9/17 **Application for the Grant of a Private Hire Driver's Licence in respect of Mr A M**

Mr A M was not in attendance at the meeting the Sub-Committee therefore determined that the application for the grant of a Private Hire Driver's Licence be deferred to invite Mr A M to attend.

Licensing Sub Committee 3

14th August, 2017

Resolved that consideration of the application for the grant of a Private Hire Driver's Licence in respect of Mr A M be deferred.

10/17 **Application for the Grant of a Private Hire Driver's Licence in respect of Mr A H**

Mr A H was not in attendance The Sub Committee therefore determined that the application for the grant of a Private Hire Driver's Licence be deferred to invite Mr A H to attend.

Resolved that consideration of the application for the grant of a Private Hire Driver's Licence in respect of A H be deferred.

11/17 **Application for the renewal of a Private Hire Driver's Licence in respect of Mr N A**

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

Mr N A attended the meeting with his brother Mr R A.

Mr N A explained that he was not driving a taxi at the time the offences took place, but that he was delivering pizza using his own vehicle. Mr N A explained that he had spoken to several insurance companies to check prices and had told them that he needed delivery driver insurance. He took out an insurance policy which was the cheapest option he believed it would cover his delivery driving, because he had told them he was a delivery driver and it had cost more than his previous policy. When the insurance document was received, it named his occupation as a delivery driver and he assumed that he was insured.

In response to questions about the offences, Mr N A confirmed that he had been driving about 39 miles per hour in 30 mile per hour zone and that the police had stopped him for tailgating the car in front. He had told the police that he had insurance to deliver and the police highlighted that he only had ordinary insurance. Mr N A indicated that he could speak English but he

Licensing Sub Committee 3

14th August, 2017

could not read it well. The Committee agreed that an assumption had been made and that in future Mr N A should tell his insurance company what insurance he needed.

On 24 October 2016, Mr N A had attended the Taxi Licensing Office and produced a Notice of Endorsement letter from Birmingham and Solihull Magistrates Court confirming that Mr N A had been convicted of driving without due care and attention and no insurance on 13 October 2016.

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

Having considered all the information before them the Committee were minded to suspend the Private Hire Driver's Licence in respect of Mr N A for a period of 56 days.

The reason for the decision was that the Committee considered that Mr N A was a fit and proper person to hold a private hire drivers licence however on this occasion he had not checked his insurance certificate properly when received and had exhibited behaviour which in the opinion of the Authority was inappropriate to a Sandwell licence holder, namely driving without due care and attention.

Resolved that the Private Hire Driver's Licence in respect of Mr N A be suspended for a period of 56 days.

In making the decision the Committee took into account the Local Government (Miscellaneous Provisions) Act 1976, council policy and guidelines, the case of Merrdad Kavanpoor v Sussex (2015), the case of Cherwell DC v Anwar and the Human Rights Act 1998.

Mr N A was 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.

12/17

Application for the Review of a Private Hire Driver's Licence in respect of I A

Licensing Sub Committee 3
14th August, 2017

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

Mr I A explained that at the time of the accident he had just dropped a customer off and a car had hit his vehicle and driven off.

The following day Mr I A had called his insurance company to report the incident at which time it was revealed, by the insurance company, that they had no knowledge of his second job and that they said he was not covered by the insurance in place and the insurance company voided the insurance cover. When the police checked the insurance details on the computer they saw that he had no valid insurance, at which time they reported him for the offence.

In response to questions about the offence, Mr I A confirmed that he had got taxi insurance but that his second job as a factory worker had not been declared, he said that the insurance company had not asked him if he had a second job. The reason the insurance company voided the insurance was that a second job could add additional hours and therefore more risk when driving.

The legal advisor advised that the insurance was void from inception because he had not declared a second job.

Mr I A explained that his factory job was not full time and that work days varied, but usually he worked two or three days a week in the factory. He confirmed that he did not work in his taxi on the same day that he worked in the factory.

On 24 July 2017, Mr I A attended the Taxi Licensing Office to report that he had received a conviction for no insurance.

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

Having considered all the information before them, the Committee were minded to suspend the Private Hire Driver's Licence in respect of Mr I A for a period of 56 days.

Licensing Sub Committee 3

14th August, 2017

The reason for the decision was that the Committee considered that Mr I A was a fit and proper person who had exhibited inappropriate behaviour to that expected of a Sandwell licence holder, driving without insurance.

Resolved that the Private Hire Driver's Licence in respect of Mr I A be suspended for a period of 56 days.

In making the decision the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976, Council Policy and guidelines, the case of Kaivanpoor v Sussex (2015), the case of Cherwell DC v Anwar and the Human Rights Act 1998.

Mr I A was 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.

13/17

Application for the Grant of a Private Hire Driver's Licence in respect of Mr N S S

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

Mr N S S explained that when completing the application form he had spoken to other private hire drivers and was under the impression that he only had to declare the last seven years for previous offences, he apologised that he had not declared the older offences and repeated that after talking to other people in the trade he was advised that he did not need to put anything on the form.

Mr N S S explained that his ban from driving had been the result of points adding up on his licence from separate incidents including speeding and turning right into a one-way street. He explained that he had taken out insurance on his vehicle at the end of the driving ban, but had applied for the wrong month and when stopped by the police had been told his ban was still in force, this had resulted in a driving whilst disqualified offence and no insurance because he did not have a valid driving licence. These offences were not taxi related, they were in his private vehicle.

Licensing Sub Committee 3
14th August, 2017

Mr N S S submitted an application for the grant of a Private Hire Driver's Licence on 27 September 2016. On his application form he stated that he had never been convicted by a court, or cautioned/reprimanded for any offence whatsoever.

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

Having considered all of the information before them the Committee were minded to grant the licence with a warning to the applicant of the requirement to disclose offences and the need to follow the licence conditions. The reason for the decision was that the Committee had accepted Mr N S S's explanation, and found him to be a fit and proper person. The Committee took into account that it had been 26 years since the offences had occurred.

Resolved that the Private Hire Driver's Licence in respect of Mr N S S be granted with a warning with regard to future conduct and the effect any further problems may have on this Licence.

In making the decision the Committee had regard to the Human Rights Act 1998, Council Policy and Guidelines, the Local Government (Miscellaneous Provisions) Act 1976 and the case of *McCool v Rushcliffe Borough Council* 1998.

14/17

Application for the Grant of a Private Hire Driver's Licence in respect of Mr Z A

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

Committee was advised of a typographical error relating to the date the application was submitted and noted that the date should be 14th December 2015.

Mr Z A attended the meeting and in relation to the non-disclosure of possessing an offensive weapon in a public place, Mr Z A explained that he had forgotten the event, he had been cautioned by the roadside for having a baseball bat in the passenger foot

Licensing Sub Committee 3
14th August, 2017

well of his car. He said that the caution had happened six years ago, and that at the time he was younger and kept it in the car for protection, in Smethwick at this time there had been some car snatching. He clarified that he had never been in trouble before or after.

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

Having considered all of the information before them the Committee was minded to grant the licence with a warning to the applicant of the requirement to disclose offences and the need to follow the licence conditions. The reason for the decision was that the Committee had accepted Mr Z A's explanation and decided he was a "fit and proper" person to hold a Private Hire Drivers Licence.

Resolved that the Private Hire Driver's Licence be granted and Mr Z A be warned in respect of his conduct and the effect any further problems may have on his Licence.

In making the decision the Committee had regard to the Human Rights Act 1998, Council Policy and Guidelines, the Local Government (Miscellaneous Provisions) Act 1976 and the case of *McCool v Rushcliffe Borough Council* 1998.

(proceedings ended at 1.55 pm)

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