

**Minutes of the
Licensing Sub Committee 3**

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

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

Apologies: Councillors Downing, Frear and White

15/17 Minutes

Resolved that the minutes of the meeting held on 14th August 2017 be approved as a correct record.

16/17 Matters Delegated to the Sub Committee to consider the licensing of sex establishments in accordance with Section 101 of the Local Government Act 1972

17/17 Application for a transfer of Sexual Entertainment Venue Licence Angels Gentlemen's Club, 303 High Street, West Bromwich B70 8ND

The Panel considered an application for the transfer of a sexual entertainment venue licence in respect of the Angels Gentlemen's Club, 303 High Street, West Bromwich.

The application had been made for administration purposes and there would be no changes to the Designated Premises Supervisor. The Committee noted that no objections had been received from the police in relation to the application and there had been no issues since 2012.

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The Committee took advice from its legal advisor before adjourning to consider the matter.

Having considered all of the information before them, members were minded that the transfer of the sexual establishment licence in respect of the Angels Gentlemen's Club, 303 High Street, West Bromwich be transferred from Anchor (WB) to WB2 Anchor Limited.

Resolved that the sexual establishment licence in respect of the Angels Gentlemen's Club, 303 High Street, West Bromwich be transferred from Anchor (WB) Somerset House, 6070 Birmingham Business Park, Birmingham B37 7BF to WB2 Anchor Limited, 114 Holly Lane, Smethwick B67 7LA.

18/17 **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.

19/17 **Application for the Grant of a Private Hire Driver's Licence in respect of Mr A M G**

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

Mr A M G was not in attendance and had failed to attend a previous Committee meeting on 19th September 2017, therefore the Committee heard the matter in absence.

Mr A M G had submitted an application for a Private Hire Driver's Licence on 16th March 2017 and had failed to disclose any cautions, convictions or reprimands. The DVLA trace disclosed a conduct hearing where Mr A M G had been issued with a warning

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due to a disqualification and the DBS disclosure returned with convictions and cautions.

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 refuse to grant a Private Hire Driver's Licence in respect of Mr A M G.

The reason for the decision was that the Committee felt that Mr A M G was not a fit and proper person to hold a Sandwell licence. The guidelines stated that a licence holder should be free of convictions for at least 10years, Mr A M G's last conviction was in 2012. The convictions were of a serious nature and Mr A M G had also failed to disclose these on the application form.

Resolved that the grant of a Private Hire Driver's Licence in respect of Mr A M G be refused.

In making the decision the Committee took into account the Local Government (Miscellaneous Provisions) Act 1976, relevant case law, Cherwell DC v Anwar -2011 and R v Maidstone Crown Court ex parte Olsen -1992, council policy and guidelines and the Human Rights Act 1998.

Mr A M G 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.

20/17

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

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

Mr M F attended the meeting with his Solicitor Ms B.

On 6th June 2017 Mr M F had attended the Taxi Licensing Office and provided a summons in respect of an offence of parking on a hackney carriage rank without reasonable excuse.

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On 12th July 2017 Mr M F was convicted of the offence and received a £400 fine, £475 cost and a £40 victims surcharge. Mr M F explained the circumstances surrounding the conviction for parking on a hackney carriage rank without reasonable excuse. Mr M F stated that his vehicle started to shake and he could smell fumes, he found a safe place to pull over and got out of the vehicle, he did call recovery but later was able to drive the car home. He had not realised that it was a hackney carriage rank until a hackney carriage driver told him and took a photograph of the vehicle in the rank.

Mr M F stated that the Court had not accepted his explanation and stated that a vehicle was not allowed to park on a taxi rank for any reason.

The Licensing Manager advised the Committee that Mr M F had not declared the conviction on his renewal application form.

The Committee allowed an adjournment so that the Solicitor could consider the application form and discuss with Mr M F as this had not been included with the report paperwork.

Ms B confirmed that it was a genuine mistake, he had informed the Taxi Licensing office about the summons and the conviction. He had filled in the incorrect form and had been given the correct form in the Taxi Licensing Office and he had forgotten to transfer the convictions on to the new form.

On 4th July 2017, a complaint had been received from members of the public, Ms K B and Mr J M, who had been Mr M F's passengers. The complaint stated that Mr M F made sexist and racial comments during a journey, which has been prematurely ended by the complainants.

At this point the witnesses joined the meeting along with Mr M K a witness who was attending on behalf of Mr M F.

The Licensing manager read out the witness statements and Ms B went on to question the witnesses.

Ms K B was asked if they had been arguing when they entered the vehicle. Ms K B replied that they had not been arguing, Mr M

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F had not asked for them to keep the noise down and Ms K B stated that she had not made a racist comment to Mr M F.

Mr M F claimed that Ms K B and Mr J M had been having a domestic argument and had been drunk, and he had ended the journey prematurely by asking them to leave the vehicle and stated that he would be blacklisting the couple. He felt that they had made a complaint due to him asking them to leave the vehicle.

Mr M K gave his statement to the Committee he said that prior to Mr M F picking up the customers, they had been speaking on the phone and Mr M F failed to end the call and Mr M K could hear the couple arguing when they entered the vehicle. The Enforcement Officer present at the meeting stated that he had asked for evidence of this phone call and a written witness statement, however no evidence or statement had been presented.

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 refuse to grant the renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M F.

The reason for the decision was that the Committee did not consider that Mr M F was fit and proper to hold a Sandwell licence. They found that the passengers evidence was credible and that Mr M F had exhibited inappropriate behaviour to that of a Sandwell licence holder. Mr M F had failed to disclose convictions on the renewal application form which could have been an attempt to hide his convictions.

Resolved that the application for the renewal of a Dual Private Hire and Hackney Carriage Driver's Licence be refused.

In making the decision the Committee took into account the Local Government (Miscellaneous Provisions) Act 1976, council policy and guidelines and the Human Rights Act 1998.

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Mr M F 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.

21/17

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

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

The matter had previously been to Committee on 31st October 2017 and was deferred so that the Taxi Licencing Officer could attempt to obtain further information on the offence from West Midlands Police.

Mr N U was present at the meeting and explained the circumstances surrounding the conviction in February 2017 for failure to give information as to the identity of driver. He had loaned his vehicle to a friend who had committed a speeding offence. When Mr N U received notification of the offence he had given the form to his friend to complete as he did not know where he lived.

The Licensing Manager informed the Committee that it was an offence to allow an unlicensed driver to use a licensed vehicle as they could impersonate a taxi driver and the unlicensed driver of the vehicle would not have been insured.

Mr N U had declared the offence as a speeding offence, however the offence of failing to declare was a more serious offence. Mr Nu had been convicted of the offence given six penalty points and a fine of £450.00 at Birmingham Magistrates Court on 8th February 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 the Members were minded to refuse the renewal of the Private Hire Driver's Licence in respect of Mr N U. The reason for the decision was that the conviction was for a major road traffic offence and the guidelines state that a driver should be free of these convictions

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for at least 3 years. Mr N U had not disclosed the conviction correctly on the application form declaring a less serious offence of speeding.

Resolved that the renewal of the Private Hire Driver's Licence in respect of Mr N U be refused.

In making the decision the Committee took into account the Local Government (Miscellaneous Provisions) Act 1976, relevant case law, Cherwell DC v Anwar (2011) and Kaivanpor (2015) Council policy and guidelines and the Human Rights Act 1998.

Mr N U 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.

22/17

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

The Licensing Manager advised the Committee that Mr N K had contacted the Taxi Licensing Office to inform them that he was unable to attend due to a family bereavement.

Resolved that the review of a Private Hire Driver's Licence in respect of Mr N K be deferred to the next available meeting of the Committee.

23/17

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

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

Mr W H S was present at the meeting and explained to the Committee the circumstances surrounding the caution for the offence of using threatening, abusive, insulting words, behaviour to cause harassment or alarm.

Mr W H S had seen his daughter's car parked when he had dropped off a fare at the gymnasium. He thought that his daughter was meeting a man who was not her boyfriend. He saw

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his daughter standing talking to another person but could not see whether they were male or female, he drove his car at the couple and they ran away. He got out of the car and ran after them. Mr W H S's daughter had been talking to a friend who reported the incident to police. Mr W H S was later taken into police custody and cautioned. Mr W H S stated that he did not know why he was so angry and now regretted his actions and causing distress.

Mr W H S had also been stopped by West Midlands Police for not wearing a seatbelt on 19th September 2016 and had received a fixed penalty.

The Licensing Manager informed the Committee that Mr W H S had failed to disclose the information on his renewal form which was submitted on the 5th October 2017, which meant that the Licence was issued in error without reference to the Licensing Sub Committee.

Mr W H S explained that his sister had completed the form on his behalf, as his written language skills were lacking and he did not think that the fixed penalty or caution needed to be completed on the application form.

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 decided to suspend the Private Hire Driver's Licence in respect of Mr W H S for a period of 252 days.

The reason for the decision was that Mr W H S had exhibited inappropriate behaviour to that expected of a Sandwell licence holder. The Committee considered that the caution received was for a very serious offence. The Committee suggested that Mr W H S would benefit by developing his English language/written skills for filling in forms in the future and advised him that not disclosing convictions and offences could have profound consequences.

Resolved that the Private Hire Driver's Licence in respect of Mr W H S be suspended for a period of 252 days.

In making the decision the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976, relevant case

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law, Cherwell District Council v Anwar (2011) and Kaivanpor (2015). Council Policy and Guidelines, the Human Rights Act 1998.

Mr W H S 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.

(proceedings ended at 1.55 pm)

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