

**Minutes of the
Licensing Sub Committee 3**

**20th February 2018 at 10am
at Oldbury Council House**

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

Apology: Councillor White

8/18 **Minutes**

Resolved that the minutes of the meeting held on 9th January 2018 be approved as a correct record.

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

9/18 **Application for the renewal of a sex shop licence for Simply Pleasure, 282 – 284 High Street, West Bromwich**

The panel considered an application for the renewal of a sex shop licence in respect of Simply Pleasure, 282-284 High Street, West Bromwich.

The Licensing Officer advised the Committee that the applicant had complied with all the statutory requirements in respect of the application process.

No objections had been submitted by West Midlands Police and no other objections had been received for this application.

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The premises had traded as a licenced sex shop at these premises since 2012 and no issues had been reported in that time.

If the licence was renewed it would run for a period of 12 months commencing 14th January 2018 and expire 13th January 2019.

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

Having considered all of the information before them, members were minded to renew the sex shop licence in respect of Simply Pleasure, 282 – 284 High Street, West Bromwich.

Resolved that the sex shop licence in respect of Simply Pleasure, 282-284 High Street, West Bromwich be renewed for a period of 12 months with effect from 14th January 2018.

10/18 **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

11/18 **Application for the Review of a Private Hire Driver's Licence in respect of Mr J S**

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

Mr J S was present at the meeting.

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The Licensing Manager advised that the application for the review of a Private Hire Driver's Licence in respect of Mr J S had been brought to Committee under Section 7.1 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

On 2nd November 1998 Mr J S had been convicted at Canterbury Crown Court for the offence of knowingly concerned in fraudulently evading prohibition/restriction on import of class B controlled drugs (Custom and Excise offence – Import controlled drug through an English port). Mr J S had received a sentence of 12-month imprisonment.

On 25th October 2017 Mr J S applied for a Private Hire Driver's Licence. He had not disclosed convictions or previous names used on the application form but had produced a standard DBS from the Security Industry Authority containing details of previous identities and two drugs convictions from 1998. A subsequent enhanced DBS disclosure had revealed two convictions for drug offences relating to the convictions from 1998.

On 4th January 2018 Mr J S signed a declaration stating that he had no convictions and the Private Hire Driver's Licence in respect of Mr J S was issued by the Licensing Office in error without referring to Committee.

Mr J S explained the circumstances surrounding the conviction. He had been a frequent traveller to Holland as a relative had a shop there and he delivered stock. He had been befriended by three individuals who had travelled to Holland with him in a different vehicle. On the return journey, he had cleared customs and the vehicle with the three acquaintances was stopped. Mr J S was subsequently stopped on the motorway. Police found a quantity of class B drugs in the vehicle. Mr J S claimed he did not know that the drugs were in the vehicle. Mr J S stated that he had been advised to plead guilty by his legal advisor.

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 warn Mr J S in respect of his conduct and the affect any further problems may have on his Private Hire Driver's Licence.

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The reason for the decision was the length of time which had elapsed since the convictions and Mr J S had not committed any offences since.

Resolved that Mr J S be warned as to his future conduct and the affect that any future issues may have on his Private Hire Driver's 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.

12/18

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

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

Mr A G K was present at the meeting.

The Licensing Manager advised that the application for the renewal of a Private Hire Driver's Licence in respect of Mr A G K had been brought to Committee under Section 7.1 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

On 14th October 2015, Mr A G K attended the Licensing Office to report a speeding conviction from 5th July 2015. Mr A G K had received three penalty points and a fine. The offence should have been reported earlier, however Mr A G K claimed that he had not received a notification from the DVLA and had to written to them to confirm.

On 25th July 2017, Mr A G K was convicted of an MS90 offence, failing to give information as to the identity of a driver, at Birmingham Magistrates Court and received six penalty points, a fine, victim surcharge and costs.

Mr A G K attended the Licensing Office on 25th January 2018 and his driving record had been checked and disclosed the conviction from 20th July 2017 and the speeding offence from 5th July 2015 which meant that he had nine points on his licence.

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Mr A G K had submitted a renewal application form dated 13th January 2018 and failed to disclose the MS90 offence.

Mr A G K explained the circumstances behind the conviction for failing to provide information as to the identity of a driver offence on 5th July 2015. Mr A G K stated that he had not understood the form that he had received in respect of the offence and did not have anyone to help him complete the form. He later asked his son to help him but was not sure what had happened to the form. Mr A G K admitted that it was his fault and he regretted the mistake.

Mr A G K had been licenced since 2010, however he stated that he did not understand written English.

The Licensing Manager asked Mr A G K if he understood the driver's handbook and knew that he should notify the licensing office within seven days of an offence.

Mr A G K stated that if he received documents in respect of his licence he always took them to the licensing office.

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 A G K.

The reason for the decision was that guidelines stated that an applicant should be free of MS90 convictions for a period of three years. Mr A G K had not reported the incidents in a timely manner and had failed to declare convictions on the application form. The Committee considered that Mr A G K was not a fit and proper person to hold a Sandwell licence.

The Committee advised Mr A G K that he should consider improving his English language skills which would help him to complete forms and understand the driver's hand book.

Resolved that the application to renew the Private Hire Driver's Licence in respect of Mr A G K be refused.

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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 G K 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.

14/18 **Application for the Review of a Private Hire Driver's Licence in respect of Mr A M A A**

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

Mr A M A A was present at the meeting.

The Licensing Manager advised that the application for the review of a Private Hire Driver's Licence in respect of Mr A M A A had been brought to Committee under Section 7.1 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

Mr A M A A had received three penalty points for exceeding the speed limit on the motorway on 15th June 2014.

On 27th February 2017, Mr A M A A's licenced vehicle failed an interim safety check. The vehicle licence plates were surrendered. These were returned on the 3rd March 2017 after the vehicle passed an interim safety check.

On 30th June 2017 the vehicle passed the MOT and a twelve-month licence was issued.

On 12th January 2018 during a multi-agency vehicle safety check operation the vehicle failed on numerous defects. It was discovered that the fuel filler cap was missing and a coffee cup lid had been put in its place. The DVSA vehicle examiner stated that the defects could have easily been identified by Mr A M A A by conducting a simple walk-round check and the conscious decision to fit the coffee cup lid to the fuel filler neck was inexcusable.

The vehicle passed the MOT test on 19th January 2018 with advisory notices.

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On 5th February, Mr A M A A reported to the licensing office that his vehicle had been involved in a collision rendering his vehicle un-drivable.

Mr A M A A explained that a family member had filled up the vehicle with fuel and had failed to put the fuel cap on. The next time that Mr A M A A refuelled the vehicle he noticed that the cap was missing and as a temporary measure had replaced it with a coffee cup lid, he did not consider that fuel could spill from the fuel tank. He stated that he did check the car and if he identified a fault he took it to be repaired.

Mr A M A A stated that the speeding offence had been due to overtaking a car on the motorway.

Mr A M A A admitted that he had carried passenger whilst the fuel cap had been missing from the 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 suspend the Private Hire Driver's Licence in respect of Mr A M A A for a period of 24 weeks.

The reason for the decision was that there had been serious defects on the vehicle and the safety of the public was of paramount importance to the Committee. Mr A M A A had clearly not looked after the vehicle as expected by a professional driver.

Resolved that the Private Hire Driver's Vehicle in respect of Mr A M A A be suspended for a period of 24 weeks.

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 M A 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.

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14/18

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

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

Mr C A was present at the meeting.

The Licensing Manager advised that the application for the review of a Private Hire Driver's Licence in respect of Mr C A had been brought to Committee under Section 7.1 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

Mr C A did not have any convictions or cautions on his DBS certificate and his DVLA licence was currently free from endorsements.

On 11th July 2017 a complaint had been made in respect of Mr C A's behaviour towards a customer. It was alleged that he had run in front of her as she approached the front door of her house blocking her from entering and had been verbally abusive finally stating the words I know where you live.

On 1st August 2017 Mr C A had been interviewed and denied the allegations.

Mr C A explained the circumstance surrounding the incident and had written details in respect to the booking.

The complainant thought that the driver who had collected her from the airport had been the same one who had taken her there. On the way to the airport there had been a misunderstanding in respect of the price of the two-way fare and there had been a disagreement between the driver and the passenger. As the operator had quoted an incorrect fare it was agreed that the operator would honour the return fare and the passenger had been given a receipt.

Mr C A had not been aware of the honoured agreement and had asked the passenger for the extra fare. If he had been informed of the agreement he would not have asked for extra payment.

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Mr C A explained that he had raised his voice and said that he would wait outside the customer's home, however he had not used bad language and not blocked her way to the door of her house. He only waited a matter of seconds outside the house and decided to leave the matter.

Mr C A identified inconsistencies in the complainant's statement and advised the Committee how he had waited for the passengers as the flight had been delayed and then there had been an issue with the luggage which meant another 90-minute delay.

Mr C A had a character reference from his employer and stated that he had never had any complaints before.

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 take no action against the Private Hire Driver's Licence in respect of Mr C A.

The reason for the decision was that the Committee accepted Mr C A's version of events as credible and there were inconsistencies in the complainant's statement.

Resolved that no action be taken regarding the Private Hire Driver's Licence in respect of Mr C A.

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.

15/18

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

The Licensing Manager advised the Committee that the licensing office had been informed that Mr I A was abroad and was unable to attend the meeting.

Members were minded to defer the matter to the meeting of the Committee on 20th March 2018.

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Resolved that the application for the review of a Private Hire Driver's Licence in respect of Mr I A be deferred to the Committee on 20th March 2018.

16/18

Application for the Renewal of a Hackney Carriage Driver's Licence in respect of Mr M M R

Members considered an application for the renewal of a Hackney Carriage Driver's Licence in respect of Mr M M R.

Mr M M R was present at the meeting.

The Licensing Manager advised that the application for the renewal of a Hackney Carriage Driver's Licence in respect of Mr M M R had been brought to Committee under Section 7.3 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

Mr M M R had two convictions on 24th May 2016 and received a fixed penalty of six points for a no insurance offence and a CU80 offence for using a mobile phone whilst driving a vehicle.

Mr M M R had previously appeared before the Committee on 7th March 2017 and the Hackney Carriage Driver's Licence in respect of Mr M M R had been renewed and suspended for a period of two months (Minute No. 26/17).

On 30th January 2017 Mr M M R attended the licensing office to submit an application to renew his Hackney Carriage Driver's Licence. The DVLA driver check disclosed the convictions from 24th May 2016 which had not been reported to the Licensing Office within the seven-day period as required under the conditions of the Licence.

Mr M M R explained the circumstance surrounding the offences for using a mobile phone whilst driving and no insurance. He stated that he had pulled his vehicle over and parked the car prior to answering the phone, however he had not turned the engine of the vehicle off. He had two motor vehicles and had assumed that as his insurance policy covered both vehicles.

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Mr M M R had failed to notify the licencing office in respect of the offences within seven days as he was not working as taxi driver at the time.

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 of the Hackney Carriage Driver's Licence in respect of Mr M M R.

The reason for the decision was that using a mobile phone whilst driving was a serious offence and policy guidelines stated that a driver should be free of such convictions for a period of five years. The Committee had no reason to depart from the guidelines.

Resolved that the application for the renewal of the Hackney Carriage Driver's Licence in respect of Mr M M R 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 M M R 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 1.45pm)

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