

**Minutes of the
Licensing Sub Committee 3**

**10th July 2018 at 10am
at Sandwell Council House, Oldbury**

Present: Councillor White (Chair);
Councillors K Davies and S Davies

Apology: Councillor S Crumpton.

17/18 Minutes

Resolved that the minutes of the meeting held on 20th February 2018 be confirmed as a correct record.

18/18 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

19/18 Application for the Review of a Dual Private Hire and Hackney Carriage Driver’s Licence in respect of Mr S G

Mr S G was present at the meeting and confirmed that he had received a copy of the report.

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The Director - Protection and Prevention advised the Committee that the application for the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr S G had been brought to Committee under Section 7.2 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

On 15th November 1999, Mr S G was convicted of indecent assault on a female under 14 and received three months imprisonment at Warley Magistrates Court.

Mr S G had previously appeared before the Committee on four occasions and on 22nd June 2007 the Committee determined that the application for a Private Hire Driver's Licence in respect of Mr S.G. be granted for a period of 3 months, to be renewed for the remaining nine months if there were no problems. (Minute No. 95/07).

Mr S G explained the circumstances surrounding the conviction, he stated that he was at a fun fair and had sat next to a young girl, he disputed that he had touched her, however the young girl reported him to the police and he was charged.

Mr S G was advised that he had failed to declare that he had previously been licenced with Birmingham City Council on his 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, members were minded to warn Mr S G in respect of his conduct and the effect any further problems may have on his Licence.

The reason why the Committee had departed from their guidelines was due to the length of time that had lapsed since the conviction, his good driving record and good character. Mr S G had held a licence for 12 years and had not received any further convictions.

Resolved that Mr S G be warned as to his future conduct and the effect that any future issues may have on his Dual Private Hire and Hackney Carriage Driver's 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 and the Human Rights Act 1998.

20/18

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

Mr N M was present at the meeting and confirmed that he had received the report.

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

The Committee was informed that Mr N M had not previously appeared before the Committee, however a complaint had been received in respect to Mr N M's standard of driving.

On 15th October 2017, a complaint had been received from passengers who were travelling from Manchester Airport. It was alleged that Mr N M appeared to be overtired and had closed his eyes whilst driving at 82mph. He drank from a large bottle of soft drink and vaped four or five times on the journey. The complainant had also stated that the car smelt of smoke and Mr N M had asked if they minded him smoking.

On 6th November 2017 Mr N M returned his badges for safekeeping as he was applying to Dudley MBC for a Private Hire Driver's Licence.

On 9th January 2018 Mr N M was interviewed and accepted that he was the driver involved. He denied being tired, denied drifting between lanes and exceeding the speed limit. He did admit that he had vaped during the journey.

Mr N M explained the circumstances surrounding the incident and stated that he was not aware of the passengers being concerned about his driving, he also showed the Committee the vape pen that he used which did not expel any visible vapour.

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

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Having considered all the information before them, members were minded to suspend the Private Hire Driver's Licence in respect of Mr N M for a period of 12 weeks.

The Committee felt that although the witness statements were credible more weight would have attached to the witness statements had they attended the meeting.

The Committee considered that the inappropriate behaviour exhibited was not acceptable for a Sandwell Licence Holder.

Resolved that the Private Hire Driver's Licence in respect of Mr N M be suspended for a period of 12 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 N M 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.

21/18

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

Mr S Y was present at the meeting and confirmed that he had received the report.

The Director - Protection and Prevention advised the Committee that the application for the renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr S Y had been brought to Committee under Section 7.3 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

On 14th August 2015 Mr S Y had been convicted for plying for hire and no insurance at Birmingham Magistrates Court and received fines of £400 and £600, 6 penalty points, and had to pay a victim surcharge of £60 and £423 costs.

Mr S Y had previously appeared before the Committee on 23rd February 2016 and the Dual Private Hire and Hackney Carriage

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Driver's Licence had been renewed and suspended for 12 weeks (Minute No. 24/16)

Mr S Y felt that the matter had been dealt with at the previous Committee, however it was explained to him why he had been brought before Committee this time.

Mr S Y explained the circumstances surrounding the conviction of plying for hire and that he was sorry that he had not declared offence on a previous renewal application.

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 S Y in respect of his future conduct and the effect any further problems may have on his licence.

The reason for the decision was that the Committee felt that they could depart from the guidelines on this occasion as Mr S Y had received a suspension previously and a further suspension on this occasion would not be appropriate.

Resolved that Mr S Y be warned in respect of his future conduct and the effect any further problems 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.

22/18

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

Mr V S was present at the meeting along with his nephew for support.

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

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On 11th July 2014, Mr V S had received 3 fixed penalty points for exceeding the speed limit and on 3rd April 2018 had been convicted of driving without due care and attention, at Birmingham Magistrates Court. He received a fine of £300, 9 penalty points and had to pay victim surcharge £30 and costs of £80.

Mr V S had appeared previously appeared before the licensing Miscellaneous Committee on 1 August 1997 as he had failed two driving tests and the Committee decided to allow him to take a third test.

On 9th April 2018, Mr V S advised the Taxi Licensing Office of the conviction but had failed to report the offence, which had occurred on 28th November 2017, within the 72hour period as stipulated within the conditions of the licence.

Mr V S had completed an application on 10th February 2018 and had failed to declare the offence on the form.

Mr V S explained the circumstances surrounding the conviction, he had been worried about his son who was out of the country at the time and had suffered a fall. Mr V S had driven through a red light and caused an accident. He stated that he had been advised by his insurance company not to attend court. He was unsure if there had been any injuries sustained by third parties.

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 revoke the Private Hire Driver's Licence in respect of Mr V S. The reason for the decision was that Mr V S had not notified the Taxi Licensing Office within the 72 hour period as specified in the conditions of the Licence and had received 9 penalty points and a fine for a major road traffic offence. The Committee considered that Mr V S was not a fit and proper person to hold a Licence.

Resolved that the Private Hire Driver's Licence in respect of Mr V S be revoked.

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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 V S 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.

23/18 **Application for the Review of a Private Hire Driver's Licence in respect of Mr L R**

Committee was advised that Mr L R had failed to attend the meeting. Members were minded to defer the matter to a future meeting of the Committee.

Resolved that the application for the review of a Private Hire Driver's Licence in respect of Mr L R be deferred.

24/18 **Application for the Renewal of a Private Hire Driver's Licence in respect of Mr A S S**

Mr A S S was present at the meeting and confirmed that he had received the report.

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

On 8th March 2016 Mr A S S had been convicted at Birmingham and Solihull Magistrates Court for a CU20 offence of driving a vehicle in a dangerous condition.

The Committee was advised of the circumstances surrounding the conviction. He had been stopped during multi agency operation whilst driving his Sandwell Licenced Private Hire vehicle and it was found that two tyres had been below the legal limit. The tyres were changed on site.

Mr A S S had previously appeared before Committee and on 17th May 2016 his Private Hire Driver's Licence had been suspended for a period of 28 days (Minute No. 54/16).

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Mr A S S questioned the reason for being brought before Committee again and felt that he had been dealt with for this incident at the previous Committee.

The Director – Protection and Prevention explained the rationale behind the new policy and the reason he had been brought before Committee again.

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 S S and to warn as to future conduct and the effect that any further problems may have on his licence.

The Committee had departed from the guidelines due to the time that had lapsed since the conviction and a suspension had been given at a previous Committee and they did not feel that a further suspension would be necessary.

Resolved:

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

25/18

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

Mr R A K was present at the meeting and confirmed that he had received the report.

The Director - Protection and Prevention advised the Committee that the application for the review of a Private Hire Driver's Licence in respect of Mr R A K had been brought to Committee

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under Section 7.1 of the Private Hire and Hackney Carriage Licensing Policy dated 1st October 2017.

Mr R A K had an received a fixed penalty of 3 points and a fine for an SP30 speeding offence on 12th December 2016 and a fixed penalty of 6 points and a fine for an IN10 no insurance offence on 4th December 2017.

Mr R A K had not previously appeared before Committee.

On 10th November 2017 Mr R A K was issued with a Private Hire Driver's Licence and his badges were kept on file. His leave to remain in the UK giving him the right of residence and ability to work expires on 11th August 2018.

Mr R A K advised the Taxi Licensing Office on 29th January 2018 that he would be receiving 6 penalty points on his licence for a no insurance offence.

Mr R A K explained to the Committee the circumstances surrounding the offence of driving a vehicle with no insurance. He stated that he had driven a relative's car to a garage and thought that his insurance policy covered him for driving another car as he was over 25 years old.

Mr R A K confirmed that he was currently licenced with North Leicester and would be working there until that licence expired.

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 revoke the Private Hire Driver's Licence in respect of Mr R A K. The reason for the decision was that driving without insurance was a serious offence and they felt that they could not depart from their guidelines. The Committee considered that Mr R A K was not a fit and proper person to hold a Sandwell licence.

Resolved that the Private Hire Driver's Licence in respect of Mr R A K be revoked.

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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 R A 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.

(Meeting ended at 2.30 pm)

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

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