

**Minutes of the
Licensing Sub Committee 3**

**8th January 2019 at 10.00am
at Sandwell Council House, Oldbury**

Present: Councillor B Piper (Chair);
Councillors S Crumpton, K Davies, Tranter and
White

Apology: Councillor S Davies.

1/19 **Minutes**

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

2/19 **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 Licensing Sub Committee to consider Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Driver’s/Vehicles/Operators Licensing related matters

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3/19

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

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

Mr M was present at the meeting along with his friend, Mr D, for moral support and confirmed he had received a copy of the report.

Mr M had previously appeared before the Licensing (Miscellaneous) Committee on 23rd August 2016 (Minute No. 99/16 referred), in respect to a caution for false representation. The Committee had decided that Mr M's Private Hire Driver's Licence be suspended for a period of 56 days and warned him in respect of his future conduct and the effect any further problems may have on his licence.

Mr M provided a written explanation of the circumstances surrounding the offence and requested a second chance.

In June 2016, Mr M had received a caution from West Midlands Police for Fraud by false representation under the Fraud Act 2006.

Mr M explained the circumstances and Mr D gave further insight. Mr M stated that he was instructed by a mechanic, who was in an accident whilst driving Mr M's car, to commit the offence to receiving a claim pay-out. Mr M received a caution from the Police as he admitted to the crime and apologised for his actions.

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 Sub Committee was minded to renew the Private Hire Driver's Licence in respect of Mr M. The Committee departed from the guidelines in this instance as members considered Mr M had held a clean driving licence for nine years and had received a caution from Police not a conviction. Mr M had been to Committee previously and received a suspension for a period of 56 days.

Resolved that the Private Hire Driver's Licence in respect of Mr M be renewed.

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

4/19 **Application for the Review of a Private Hire Driver's Licence in respect of Mr M(2)**

Members considered an application for the review of a Private Hire Driver's Licence in respect of Mr M(2).

Mr M(2) was not present at the meeting and had asked the Licensing Office that the matter be deferred until he could obtain legal representation.

Members were minded to defer the review of a Private Hire Driver's Licence in respect of Mr M(2).

Resolved that the review of a Private Hire Driver's Licence in respect of Mr M(2) be deferred to 5th February 2019.

5/19 **Application for the Review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M (3)**

Members considered an application for the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M(3).

Mr M(3) was present at the meeting and confirmed he had received a copy of the report.

Mr M(3) had previously appeared before the Licensing (Miscellaneous) Committee on 18th November 2014 (Minute No. 148/14 referred) in respect to convictions for common assault and criminal damage offences. Mr M's Dual Private Hire and Hackney Carriage Driver's Licence had been granted for a short initial period of six months with the licence being renewed for the remaining period should no further issues arise.

In October 2010, Mr M(3) was summoned to Sutton Coldfield Juvenile in regards to destroying or damaging Property (value of

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£5000 or less) and three Battery charges which resulted in three referral orders six months costs including compensation.

Mr M(3) explained the circumstances surrounding the convictions, stating that the convictions occurred in his teenage years and he regretted his behaviour.

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 Sub Committee was minded to take no action in regards to the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M(3). The Committee departed from the Council's guidelines on this occasion as they considered that Mr M(3) had a good driving record and had showed remorse when reflecting on past offences.

The Committee also considered the offences had occurred in his teenage years over eight years ago and there had been no further issues.

Resolved that no action be taken against the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M(3).

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

06/19

Application for the Renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M(4)

Members considered an application for the renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M(4).

Mr M(4) was present with his son at the meeting and confirmed he had received a copy of the report. Mr M(4) also confirmed his name change via Deed Poll.

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Mr M(4) had previously appeared before the Committee in July 2017 (Minute No. 6/17 referred) in relation to driving a Private Hire Vehicle without a licence which resulted in the Dual Private Hire and Hackney Carriage Driver's Licence being granted with a warning to his future conduct and in June 2016 (Minute No. 66/16 referred) in regards to failure to declare previous convictions to the Licensing Authority and a Dual Private Hire and Hackney Carriage Driver's Licence had been renewed with a warning as to future conduct.

Mr M(4) explained the circumstances surrounding the convictions, however, when members questioned Mr M(4) in respect of a conviction for false representation to make gain for self or cause of loss to other/expose other to risk that occurred in July 2012, Mr M(4) was unable to give an explanation as he was unaware of the offence.

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 Sub Committee was minded to defer the renewal of a Dual Private Hire and Hackney Carriage Driver's Licence as the Committee felt further information around the fraud conviction was required.

Resolved that the application for the renewal for the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M(4) be deferred to a future meeting.

07/19

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

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

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

Mr H had previously appeared before the Licensing Miscellaneous Committee in September 2016 (Minute No. 110/16 referred) and his Dual Private Hire and Hackney Carriage Driver's Licence had been granted for a period of six months with a warning to his

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future conduct and the effect that any further issues may have on his licence.

Mr H had two SP30 offences for exceeding statutory speeding limit and had received a total of eight points between November 2017 and June 2018, as well as a CU10 offences for using a vehicle with defected brakes. Mr H clarified the CU10 offence was for defective brake lights and he had only received three penalty points for the offence.

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 Sub Committee was minded to suspend the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr H for a period of 56 days.

Members accepted that the CU10 offence was for defective brake lights rather than defective brakes and that Mr H had shown remorse.

Resolved

- (1) that the Private Hire Driver's Licence in respect of Mr H be suspended for a period of 56 days;
- (2) that Mr H be warned as to his future conduct and the effect that any further problems may have on his licence;
- (3) Mr H must complete the Safeguarding/CSE Training.

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

Mr H 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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(Meeting ended at 1 pm)

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