

**Minutes of the
Licensing Sub Committee 3**

**19th February 2019 at 10.00am
at Sandwell Council House, Oldbury**

Present: Councillor Padda (Chair);
Councillors S Crumpton, S Davies, K Davies and
Tranter.

8/19 **Minutes**

Resolved that minutes of the meeting held on 8th January 2019 be confirmed as a correct record.

9/19 **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

10/19 **Application for the renewal of a Dual Private Hire and Hackney Carriage Driver’s Licence in respect of Mr M**

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

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Mr M was present at the meeting with his son and confirmed that he had received a copy of the report.

Mr M appeared before the Licensing Sub Committee on 8th January 2019 and was asked about the conviction in respect to making a false representation. Mr M did not know why he had been convicted of this offence, therefore the Sub Committee deferred the matter in order that the Licensing Officer could make further enquiries with Birmingham City Council.

Birmingham City Council provided further information in respect to the conviction. It was confirmed that Mr M had been driving a private hire vehicle which had been licensed by Birmingham City Council, however he did not hold a Birmingham City Council Driver's Licence making the insurance held invalid.

Furthermore, Mr M had provided an insurance certificate, to Birmingham City Council, on two occasions which named a Birmingham Licence holder as being on the insurance policy, however it was found that the named driver had been removed from the insurance.

Mr M explained that he had taken advice from colleagues in respect of the removal of a named driver from the insurance certificate and had not been intentionally dishonest.

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 refuse to renew the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M. Members considered that Mr M had exhibited inappropriate behaviour for that of a Sandwell Licence Holder and that he was not fit and proper. Safety of the public is of paramount importance the Sub Committee. Policy stated that a driver should be free of dishonesty convictions for a minimum of 10 years and the Sub Committee had no reason to depart from the guidelines.

Resolved that renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M be refused.

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

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law, Council Policy and Guidelines and the Human Rights Act 1998.

Mr 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.

11/19

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

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

Mr A was present at the meeting with his friend Mr S for support and confirmed that he had received a copy of the report.

Mr A had previously appeared before the Licensing Miscellaneous Committee on 29th July 2009 for failure to disclose a conviction from December 1987 for Assault and the Private Hire Driver's Licence in respect of Mr A was granted with a warning to future conduct and the effect that any further issues may have on his licence.

A complaint had been received by the Licensing Office alleging that Mr A had used intimidating behaviour towards vulnerable adult passengers.

The Sub Committee was advised that the three passengers had got into Mr A's Private Hire Vehicle and one of the rear seat passengers did not put their seat belt on, there was a noise as the vehicle moved off and it was found that the seat belt had been trapped outside of the vehicle and had sustained slight damage.

Mr A took the passengers to the taxi base where he made a phone call and met with other drivers. Mr A advised the passengers that a replacement seat belt would cost £90. Mr A returned the passengers to their home where they managed to raise £40 which they gave to Mr A. Mr A stated that he wanted a further £50 or he would call the police.

The Sub Committee heard a recording of the interview with one of the vulnerable adults. He stated that he told the driver that it was

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an accident and the driver seemed to be demanding and the threat of police frightened him.

Mr A accepted that he should have checked that the passengers were wearing seat belts before he set off. He knew the passengers and had a good relationship with them prior to the incident. Mr A stated that he did not intend to intimidate the passengers and had taken them to the base as the operators wanted to inspect the damage. Mr A apologised for his conduct.

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 Private Hire Driver's Licence in respect of Mr A for a period of 56 days.

Members considered that Mr A had exhibited inappropriate behaviour for that expected from a Sandwell licence holder, however he had a good driving record, had shown remorse and acknowledged that he should have dealt with the matter differently.

Resolved that the Private Hire Driver's Licence in respect of Mr 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, relevant case law, Council Policy and Guidelines and the Human Rights Act 1998.

Mr 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.

12/19

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

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

Mr N was present at the meeting with a friend Mr Z and confirmed that he had received a copy of the report.

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In December 2016 Mr N received three penalty points on his licence for a speeding offence and in October 2017 he was convicted of a plying for hire and no insurance offence and had received six penalty points and a fine.

In respect of the speeding offence, Mr N remarked that he had been driving at ten miles an hour over the speed limit.

Mr N explained the circumstances surrounding the conviction for plying for hire. He had taken friends to a nightclub in Birmingham using his licenced vehicle and two people asked if he would take them to the bus station. It transpired that the passengers were Enforcement Officers working as part of a licensing operation.

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 refuse to renew the Private Hire Driver's Licence in respect of Mr N.

The Policy stated that a driver should be clear of these convictions for a minimum of three years and members could see no reason to depart from the guidelines.

Resolved that the renewal of a Private Hire Drivers Licence in respect of Mr N be refused.

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 N 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.

13/19

Application for the Grant of a Private Hire Driver's Licence in respect of Mr T

Members considered an application for the grant of a Private Hire Driver's Licence in respect of Mr T.

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Mr T was present at the meeting with his legal advisor Mr S.

In March 2004 Mr T had been convicted of using a vehicle whilst uninsured, resist or obstruct a constable and driving otherwise than in accordance with a license. Mr T had failed to declare these convictions on the application form.

Mr T explained the circumstances surrounding the convictions and why he had failed to disclose them on his application form. He had been driving a friend's car on a provisional licence. As the convictions had been over 15 years ago he had forgotten them, it was not his intention to hide the convictions. The offences had occurred when he was very young and he was now a more mature and responsible individual.

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 grant the Private Hire Driver's Licence in respect of Mr T.

Members considered that the offences had occurred over 15 years ago and accepted that Mr T had not intentionally failed to disclose this information.

Resolved that the Private Hire Driver's Licence in respect of Mr T be granted.

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 T 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.

14/19

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

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

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In October 2018 Mr R was convicted of contravene/fail to comply with EU provision concerning food safety and hygiene on 12th March 2018 and 2nd August 2017.

Mr R explained that he had been the manager of a restaurant at the time of the convictions. Mr R did not realise that he would be prosecuted along with the owner for these offences.

Mr R completed his application form for a Private Hire Driver's Licence prior to his convictions for the offences.

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 grant the Private Hire Driver's Licence in respect of Mr R. Mr R had not failed to disclose the convictions as he had completed the application prior to the convictions, however he should have notified the Licensing Office once the convictions had been received.

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

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 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 14.35 pm)

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