

Minutes of Licensing Sub Committee 1

**Monday, 28 June 2021 at 10.00 am
at The Council Chamber, Sandwell Council House, Oldbury**

Present: Councillor Allen (Chair)
Councillors Piper and Rouf

Also present: David Elliott (Solicitor); Usha Devi (Senior Licensing Officer); Trisha Newton (Senior Democratic Services Officer); Connor Robinson (Democratic Services Officer); Gabrielle Evans (Democratic Services Officer)

22/21 Apologies for Absence

Apologies were received from Councillors W Gill, Z Hussain, O Jones and K Singh.

23/21 Declarations of Interest

There were no declarations of interest made.

24/21 Minutes

Resolved that the minutes of the meeting held on 20 April 2021 be confirmed as a correct record.

25/21 Exclusion of the Public and Press

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

26/21 To consider Local Government (Miscellaneous Provisions) Act 1976 - Private Hire and Hackney Carriage Drivers/Vehicles/Operator's Licence related matters.

Application for the Review of a Dual Private Hire and Hackney Carriage Driver’s Licence in respect of Mr A K

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

Mr A K was in attendance and had not previously appeared before the Licensing Sub Committee.

The Sub Committee was advised that Mr A K had been referred following a complaint received regarding driver conduct and behaviour whilst licensed with Wolverhampton City which related to the refusal to carry a guide/assistant dog in early September 2019.

Mr A K had been informed in November 2019 that his Wolverhampton City Council private hire vehicle licence was under review following the incident, and the decision was taken to revoke his licence. Mr A K had informed Sandwell Licensing Office in early December 2019 of his revocation. Mr A K had subsequently been convicted at Birmingham Magistrates in mid-October 2020 and had failed to report this conviction within 7 days as was a condition of his licence.

It was also reported that Mr A K had not supplied the Licensing Officer with the necessary medical assessment required by drivers. Mr A K stated that he had supplied Sandwell Hospital with the necessary documentation and the Licensing Officer undertook to follow this up.

With regard to the incident, Mr A K explained that the guide dog entering the vehicle had surprised him. During his childhood he had been attacked by a dog. A medical statement in support of the claim was circulated.

Mr A K did not have a Medical Exemption from any Local Authority excusing him from carrying guide dogs. Mr A K stated that he had no issue with dogs and had carried them previously in his vehicle. On the occasion of the incident however Mr A K argued that the manner in which the guide dog entered the car had startled him.

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

The Sub Committee was minded to revoke Mr A K's Dual Private Hire and Hackney Carriage Driver's Licence. The starting point of the Sub Committee was Council policy; refusing the fare and not carrying the disabled person accompanied by a guide dog was against that policy. Mr A K had also failed to inform the Licensing Office of his conviction within 7 days as was a requirement of licence.

Resolved that the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A K be revoked.

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

Mr A K would be advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.

27/21

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

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

Mr F A was in attendance at the meeting and had not appeared before the Committee before.

The Sub Committee was advised that Mr F A had breached the conditions of licence after being convicted of plying for hire and no

insurance. Mr F A had not reported his potential conviction following the plying for hire incident, that had occurred in late-November 2019, and the Licensing Office had only been informed of this by Birmingham City Council's Licensing Office in mid-January 2020. Mr F A reported his conviction of the offence in late-November 2020 which was not within the 7-day period as was a condition of licence.

Mr F A explained that he was sorry for the incident. He had dropped off a passenger and, following a request from a couple accepted to take them to their destination, it was at this point that they announced themselves as Birmingham Licensing Officers. Asked to explain why he had not communicated the offence to Licensing Office Mr F A claimed that he had tried but had had no response.

Stressing the importance of following the licensing guidelines and the conditions of licence, Mr F A was asked if he understood them and consequence of plying for hire and not reporting the incident within the allotted time. Mr F A said that he had read and understood them but, on that occasion, had forgot.

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

The Committee was minded to revoke Mr F A's Dual Private Hire and Hackney Carriage Driver's Licence. Members saw no reason to depart from Council policy.

Resolved that the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr F A be revoked.

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

Mr F A would be advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.

28/21

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

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

Mr R K was in attendance and had not previously appeared before the Committee. Mr R K was joined by his legal representative and his wife, for support.

The Committee was advised that the Licensing Office had been made aware of an incident involving Mr R K in early January 2021.

West Midlands Police had advised the Licensing Office that Mr R K had admitted the offence and that it was understood to be part of a longstanding domestic dispute. Being Mr R K's first offence the Police with the aggrieved parties' consent agreed to a Community Resolution Order. The committee were advised that West Midlands Police did not consider Mr R K a threat to the public and that the matter had been resolved at the end of January 2021.

Mr R K's representative spoke on behalf of his client and advised that Mr R K was not proud of the incident and regretted his actions that day. On the day of the incident Mr R K had snapped and acted out of frustration.

With an agreement between the applicant, the owner of the affected vehicle and the Police, an apology had been given and a Community Resolution had been reached.

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

The Committee was minded to issue a written warning regarding Mr R K's future conduct. The Committee recognised the matter as a domestic dispute and took into consideration the community resolution.

Resolved that the Private Hire Driver's Licence in respect of Mr F A issued with a written warning regarding his future conduct.

29/21

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

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

Mr M R was in attendance at the meeting and this was the third time Mr M R had attended committee.

The Sub Committee was advised that Mr M R had driving offences which accumulated to 9 points (3 points in mid-July 2019 for an exceeding statutory speed limit (SP30) offence, and 6 points in mid-December 2019 for driving without due care and attention (CD10) offence) on his DVLA driving record. Along with failing to notify the Licensing Office of convictions, fixed penalties, cautions, reprimands (including those under current investigation by the Police) within the required 7 days as is a condition of licence.

The Committee was advised on the CD10 incident that took place in mid-December 2019. In late-December 2019 Mr M R had contacted the Licensing Office to report a collision regarding a teenage girl and his vehicle while he was parked.

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

The Committee was concerned about the driver's understanding of the questions put to him and also clarity on what had actually happened. Committee members also wished to view the evidence before making a decision. It was decided that the decision be deferred to enable officers to obtain the evidence requested.

Resolved that the application for the renewal of the Private Hire Driver's Licence in relation to Mr M R be deferred for consideration at a future meeting.

Meeting ended at 2.45 pm

Contact: democratic_services@sandwell.gov.uk