

Agenda

Licensing Sub Committee 3

Monday, 16 August 2021 at 10.00 am
in the Council Chamber - Sandwell Council House, Oldbury

This agenda gives notice of items to be considered in private as required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

- | | | |
|----------|---|---------|
| 1 | Apologies for Absence | 5 - 6 |
| | To receive any apologies for absence. | |
| 2 | Declarations of Interest | 7 - 8 |
| | Members to declare any interests in matters to be discussed at the meeting. | |
| 3 | Minutes | 9 - 12 |
| | To confirm the minutes of the meeting held on 8 March 2021 as a correct record. | |
| 4 | Exclusion of the Public and Press | 13 - 20 |
| | That the public and press be excluded from the rest of the meeting. This is 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 the | |



financial and business affairs of any person,
including the authority holding that information.

**Matters Delegated to the Sub Committee to consider
Local Government (Miscellaneous Provisions) Act 1076
– Private Hire Driver’s/Vehicles/Operator’s Licensing
related matters.**

5. **To consider Local Government (Miscellaneous
Provisions) Act 1976 - Private Hire and Hackney
Carriage Drivers/Vehicles/Operators Licence related
matters.**

21 - 28

1, 7

Neil Cox
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Distribution
Councillor Rouf (Chair)
Councillors Fenton, G Gill, Hadley and R Jones

Contact: democratic_services@sandwell.gov.uk

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Members who cannot attend the meeting should submit apologies by contacting Democratic Services (democratic_services@sandwell.gov.uk)



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Licensing Sub Committee 3

Apologies for Absence

The Committee will receive any apologies for absence from the members of the Committee.



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Licensing Sub Committee 3

Declarations of Interests

Members to declare any interests in matters to be discussed at the meeting.



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Minutes of Licensing Sub Committee 3

**8 March 2021 at 10.00am
Virtual Online Meeting**

Present: Councillor S Davies (Chair);
Councillors E M Giles, Dhallu and Downing.

Officers: Fiona Gee (Licensing Supervisor)
David Elliot (Solicitor)
Shane Parkes (Democratic Services Officer)
Connor Robinson (Democratic Services Officer)

1/21 **Apologies for Absence**

Apologies were received from Councillors G Gill and Moore.

2/21 **Declarations of Interest**

No interests were declared at the meeting.

3/21 **Minutes**

Resolved that the minutes of the meeting held on 30 November 2021 be confirmed as a correct record.

4/21 **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

5/21

Application for the renewal of a Private Hire Driver’s Licence in respect of Mr LA

Members considered an application for the renewal of a Private Hire Driver’s Licence in respect of Mr L A.

Mr L A was in attendance and confirmed that he had received a copy of the report.

Mr L A had previously attended Committee on two previous occasions in 2007, when his licence had been granted (Minute no. 185/07 referred – 2 November 2007) and in 2014 when he had received a period of 28 days suspension to his licence following a complaint (Minute No. 90/14 referred – 17 July 2014).

The Sub Committee was advised that Mr L A had received two endorsements for exceeding the speed limit on a motorway. He had failed to declare the endorsements within the required time period, in accordance with conditions of his licence.

Mr L A stated that while he had held the licence over a period of eleven years, he had only operated his vehicle as a taxi for a period of one and a half years. Mr L A informed the Committee that he currently operated a business in Telford and subsequently did not think he had to report the offences to the licensing office as he was not using his vehicle as a taxi at the time of the offence.



The offences had taken place within two consecutive days and Mr L A stated that on both occasions he had been traveling to his business in Telford on a route he regularly takes. Roadworks on the road had meant a temporary speed limit had been imposed, Mr L A stated that on both occasions he had failed to recognise the temporary limit and had continued to travel at the regular limit.

Mr L A was asked to provide his DVLA Code which had not previously been submitted on request. Mr L A provided the Licensing Manager with the Code in order that his record could be viewed.

Mr L A confirmed that there were no passengers in the vehicle at the time of the offences.

Mr L A advised the Sub Committee that he may want to operate a taxi service in the future if his circumstances required.

The Sub 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 unanimously felt they were able to depart from the policy on this occasion and revoke Mr L A's Private Hire Drivers Licence.

Due to the close succession of the speeding convictions the Committee was not confident in the ability of Mr L A to carry passengers safely in his vehicle. In addition, failure to notify the Licensing Authority despite being licensed with them since 2009 and being unaware of this requirement was regarded as unacceptable by the Committee.

The previous incidents also caused concern and the opinion of the Committee that Mr L A was not deemed to be a fit and proper to hold a license.

Resolved that the Private Hire Driver's Licence in respect of Mr L 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 L A would be advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.

Meeting ended at 11.15am

Contact: democratic_services@sandwell.gov.uk



Report to Licensing Sub Committee 3

16 August 2021

Not for Publication

Exempt information 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.

The information contained in this report is strictly confidential and in accordance with the appropriate Codes of Conduct, must not be disclosed to unauthorised persons.

Subject:	Private Hire/Vehicles/Operators Licence related matters
Director:	Interim Director, Borough Economy Nicholas Austin
Contact Officer:	Fiona Gee – Licensing Manager Fiona_gee@sandwell.gov.uk David Elliott – Solicitor David_Elliott@sandwell.gov.uk

1 Recommendations

That the Committee take appropriate action in respect of individual licence applications and current licences in view of the information presented.



2 Reasons for Recommendations

To allow the Licensing sub-committee to make an informed decision in



respect of individual licence applications and current licences in view of the information presented to them.

3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people: Our workforce and young people are skilled and talented geared up to respond to changing business needs to win rewarding jobs in a growing economy locally.</p>
	<p>Strong resilient communities: Our communities are built on mutual respect and taking care of each other, supported by all the agencies that ensure we feel safe and protected in our homes and local neighbourhoods.</p>

4 Context and Key Issues

4.1 Section 51 of the Act provides that a district council shall on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a licence:

- a) unless they are satisfied that the applicant is not a fit and proper person for the grant to that person of a licence to drive private hire vehicles, grant to that person a licence;
- b) to any person who has not for at least twelve months been, and is not at the date of application for a driver's licence, the holder of a licence granted under part III of the Act of 1972, 1988 (not being a provisional licence) authorising him to drive a motor car.

4.2 Section 61 (1) of the Act states that a district council may suspend, revoke or refuse to renew a private hire/hackney carriage driver's licence on any of the following grounds:

- a) the holder has, since the grant of the licence;
 - i) been convicted of an offence involving dishonesty, indecency or violence, or
 - ii) been convicted of an offence or failed to comply with the provisions of this part of the Act, or



iii) any other reasonable cause.

(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

(2B) if it appears that the interest of public safety requires the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

4.3 Section 48 of the Act states that a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied:-

- (a) that the vehicle is:-
- (i) suitable in type, size and design for use as a private hire vehicle;
 - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - (iii) in a suitable mechanical condition;
 - (iv) safe; and
 - (v) comfortable;
- (b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of part VI of the Act of 1972.

Section 55 of the Act states:-



(1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence:

Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.

(2) Every licence granted under this section shall remain in force for such period, not being longer than five years, as a district council may specify in the licence.

(3) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

(4) Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.

4.4 Section 56 of the Act states:-

(1) For the purposes of this Part of this Act every contract for the hire of a private hire vehicle licensed under this Part of this Act shall be deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle.

(2) Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep a record in such form as the council may, by condition attached to the grant of the licence, prescribe and shall enter therein, before the commencement of each journey, such particulars of every booking of a private hire vehicle invited or accepted by him, whether by accepting the same from the hirer or by undertaking it at the request of another operator, as the district council may by condition prescribe and shall produce such record on request to any authorised officer of the council or to any constable for inspection.

(3) Every person to whom a licence in force under section 55 of this Act



has been granted by a district council shall keep such records as the council may, by conditions attached to the grant of the licence, prescribe of the particulars of any private hire vehicle operated by him and shall produce the same on request to any authorised officer of the council or to any constable for inspection.

(4) A person to whom a licence in force under section 55 of this Act has been granted by a district council shall produce the licence on request to any authorised officer of the council or any constable for inspection.

(5) If any person without reasonable excuse contravenes the provisions of this section, he shall be guilty of an offence.

4.5 Section 62(1) of the Act states a district council may suspend or revoke, or (on application therefore under section 55 of this Act) refuse to renew an operator's licence on any of the following grounds:-

- (a) any offence under, or non-compliance with, the provisions of this Part of this Act;
- (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
- (c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or
- (d) any other reasonable cause.

4.6 Section 60 of the Act states that a district council may suspend or revoke or refuse to renew a vehicle licence on any of the following grounds:-

- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this part of this Act by the operator or driver; or
- (c) any other reasonable cause.

4.7 Individual case details are appended which refer to unspent convictions.



Unspent convictions are those not covered by the Rehabilitation of Offenders Act 1974.

4.8 If an application is refused, suspended or revoked the applicant has the right of appeal to the Magistrates Court.

5 Alternative Options

There are no alternative options.

6 Implications

Resources:	There are no resource implications in this report
Legal and Governance:	<p>Article 6 of the Human Rights Act 1998 state that in determination of a person’s civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.</p> <p>Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence.</p> <p>Part II, Article 1 of the Act states that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles on international law.</p>
Risk:	The Licensing sub-committees help to deter and prevent disorder by exercising its quasi-judicial powers.
Equality:	It was not necessary to undertake an Equality Impact Assessment.
Health and Wellbeing:	There are no direct health and wellbeing implications from this report.
Social Value	Implications for social value and how the proposals are meeting this (for e.g. employment of local traders, young people)



7. Appendices

Cases for consideration attached.

8. Background Papers

- Licensing (Miscellaneous Provisions) Act 1976
- Council Policy and Guidelines
- Human Rights Act 1998



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By virtue of paragraph(s) 1, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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