

Minutes of Licensing Sub Committee 1

**Monday, 20 February 2023 at 10.00 am
at Committee Room 2 - Sandwell Council House, Oldbury**

Present: Councillor Allen (Chair)
Councillor Dunn, J Giles, Z Hussain and N Singh

Officers: Usha Devi (Senior Licensing Officer)
Christian Attard (Licensing Officer)
Stuart Adams (Licensing Officer)
David Elliot (Legal Advisor)
Connor Robinson (Democratic Services Officer)

1/23 Apologies for Absence

Apologies for absence were received from Councillor M Gill and Wilkes.

2/23 Declarations of Interest

There were no declarations of interest.

3/23 Minutes

Resolved that the minutes of the meetings held on 17 and 24 October, 21 November and 12 December 2022 be approved as a correct record.

4/23 Exclusion of the Public and Press

Resolved 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 any individual.

Matter Delegated to the Sub Committee to consider Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Driver's/Vehicles/Operators Licensing related matters

5/23 Review of a Private Hire Drivers Licence in respect of Mr S K

Further to Minute No. 12/22 (5 September 2022), members considered a review of the Private Hire Drivers Licence in respect of Mr S K.

The Sub Committee heard that following Mr S K's suspension at Committee on 5 September 2022, he had notified Licensing on 30 September that he had been arrested, a subsequent notification had stated that the arrest had been due to a breach of his non-molestation order, appearing before a magistrate's court he had pleaded and was found guilty. Mr S K had been sentenced to an electronically monitored curfew for 18 weeks.

The Sub Committee was also informed of a separate incident relating to use of a mobile phone which was currently ongoing.

The Sub Committee was advised by its legal advisor that the decision made on 5 September 2022 following Mr S K's conviction, had taken into account his previous long record of good conduct and the peculiarities of the incident in question that was related to an ongoing family dispute.

With regard to the most recent charge, Mr S K stated that the use of his mobile phone was solely on his property and he was recording for his own safety.

With regard to the breach of the order, Mr S K stated that he had poured some water onto the ground outside of the house of the person he was involved with in the ongoing family dispute.

Mr S K was advised by the Sub Committee that his actions were detrimental, noting the Sub Committee had previously suspended him and warned him not to make contact with those involved in the ongoing dispute. Mr S K was reminded by the Sub Committee that

they were primarily concerned with the safety of the public, that drivers upheld the law and were fit and proper to undertake their role.

The Sub Committee was mindful that while Mr S K had been convicted of breaching his non-molestation order following his last appearance at Committee, he had only been charged following the most recent incident and was not convicted.

It was noted that the ongoing issues were related to an ongoing family dispute and there had been no involvement or incident with the public or his vehicle.

The Sub Committee took advice from its legal advisor before adjourning to make a decision on the application. Having considered all the information before it, the Sub Committee was minded to revoke Mr S K's licence. The Sub Committee had previously suspended Mr S K's licence however the repeated offences and alleged offences meant the Sub Committee had concerns about Mr S K's suitability as a fit and proper person to hold a licence.

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

6/23 Renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A H

Members considered a renewal of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A H.

Mr A H was in attendance and had appeared before the Committee previously.

The Sub Committee was advised that Mr A H had failed to declare within 7 days his minor traffic offences and 9 points on his driving licence.

The Sub Committee was advised that Mr A H had originally not completed his renewal application correctly, had failed to declare previous driving convictions along with stating that his licence had been suspended by Birmingham City Council rather than revoked. It was also noted that Mr A H had previously received a warning for not reporting his driving offences and, despite this, had failed again to report the most recent offences.

Mr A H advised that he had been in dispute with the Police and his possible attendance at a speed awareness course. He stated that once he had been convicted he had reported his conviction to Licensing.

Mr A H stated that he had mistakenly driven a little over the speed limit and had not meant to do so.

Mr A H explained that he had made a mistake when completing the application form and he had had the support of a family member when completing it.

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

Having considered all the information before it, the Sub Committee was minded to renew the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A H, however, the licence would be suspended for 28 days and Mr A H was issued with a warning as to his future conduct. The Sub Committee in making its decision recognised that the convicted offences were minor traffic offences.

Resolved that:-

- (1) the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A H be renewed and suspended for a period of 28 days;
- (2) Mr A H be issued with a warning as to his future conduct.

(Councillor Z Hussain left the meeting)

7/23 Renewal of a Private Hire Driver's Licence in respect of Mr M H

The Sub Committee was advised that Mr M H was unable to attend the Sub Committee and the matter would be considered at a future meeting.

Resolved that the renewal of the Private Hire Driver's Licence in respect of Mr M H be deferred to a future meeting.

8/23 Grant of a new Private Hire Driver's Licence in respect of Mr

A S

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

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

The Sub Committee was advised that Mr A S had been unable to obtain a Certificate of Good Conduct from his country of origin, along with failing to declare driving conviction. However, Mr A S had provided a statutory declaration.

Mr A S stated that he had tried to get onto a driving course and this had led to him not declaring the offence on his application.

Mr A S stated that he had been stuck in traffic which had resulted in him being positioned in the middle of the highway once the lights had changed, and his action had not been intentional. He stated that this was his first offence in the 20 years he had been driving in England.

Mr A S stated that the political situation in Afghanistan made it difficult to obtain the Certificate of Good Conduct.

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

Having considered all the information before it, the Sub Committee was minded to grant the Private Hire Driver's Licence in respect of Mr A S. The Sub Committee considered that he was a fit and proper person, however they warned and advised him of his responsibilities as a Private Hire licence holder and the need to understand his responsibilities.

Resolved that the Private Hire Driver's Licence in respect of Mr A S be granted with a warning to his future conduct.

9/23 Grant of a new Private Hire Driver's Licence in respect of Mr J

M

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

Mr J M was in attendance and had not previously appeared before the Sub Committee.

The Sub Committee was advised that Mr J M had been unable to obtain Certificate of Good Conduct from his country of origin, along with a dishonesty conviction.

The Sub Committee was advised that Mr J M had declared his conviction for dishonesty in his application. The conviction was six years old and was therefore not spent under the Council's Licensing Policy.

Mr J M was unable to provide a Certificate of Good Conduct from his country of origin due to the political make-up of the Iranian government. Mr J M had instead provided a number of character references.

Mr J M informed the Sub Committee of his circumstances which led to the dishonesty conviction, however, he had not appealed the matter.

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

Having considered all the information before it, the Sub Committee was minded to refuse the application for a new Private Hire Driver's Licence in respect of Mr J M. The Sub Committee had not grounds to depart from the Councils Licensing Policy which states that a licence would not be granted if a person had a dishonesty conviction within the last of 10 years.

Resolved that application for a Private Hire Driver's Licence in respect of Mr J M be refused.

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 J M would be advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.

Meeting ended at 4.24pm
(meeting adjourned between 11.06am -11.07am and 1.35pm – 2.30pm)

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