

Agenda

Licensing Sub Committee 1

Monday 20 February 2023 at 10.00 am
in Committee Room 2 - 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 | 7 - 8 |
| | To receive any apologies for absence. | |
| 2 | Declarations of Interest | 9 - 10 |
| | Members to declare any interests in matters to be discussed at the meeting. | |
| 3 | Minutes | 11 - 22 |
| | To confirm the minutes of the meeting held on 17 and 24 October, 21 November and 12 December as a correct record. | |



4 Exclusion of the Public and Press

“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”.

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

23 - 220

Shokat Lal
Chief Executive
Sandwell Council House
Freeth Street
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Distribution
Councillor Allen (Chair)
Councillors M Gill, Mayo, N Singh and Wilkes

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Licensing Sub Committee 1

Apologies for Absence

To receive any apologies for absence from the members of the Committee.



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Licensing Sub Committee 1

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 1

**Monday 17 October 2022 at 10.00am
in the Council Chamber, Sandwell Council House, Oldbury**

Present: Councillor Allen (Chair);
Councillor J Giles, M Gill, Singh and Wilkes.

In attendance: Usha Devi (Senior Licensing Officer);
David Elliott (Legal Advisor);
Sabby Gakhal (Transport Unit) (item 44/22 only);
Lisa Russell (Transport Unit) (item 44/22 only);
Trisha Newton (Senior Democratic Services Officer).

39/22 **Apologies for Absence**

No apologies for absence were received.

40/22 **Declarations of Interest**

No interests were declared at the meeting.

41/22 **Minutes**

Resolved that the minutes of the meetings held on 8 April, 19 May, 16 and 24 June, 4, 11 and 22 July 2022 be confirmed as a correct record.



42/22 **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 information relating to any individual.

43/22 **Application for the Grant of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr F T**

Members considered the application for a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr F T.

Mr F T was in attendance and had not previously appeared before the Licensing Sub Committee.

The Sub Committee was advised that, as part of the application process, if an applicant had lived outside the UK for a period of time they must provide proof of any foreign criminal history by providing a Certificate of Good Conduct from the originating country. Mr F T had arrived in the UK as an asylum seeker and was therefore unable to obtain this information. However, references, proof of employment and a statutory declaration were provided to the Sub Committee in support of the application, along with a DBS for the period of time Mr F T had been in the UK.

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

Having considered all of the supporting documentation provided, the Sub Committee was minded to grant the application for the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr F T.

Resolved that the application for a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr F T be granted.



44/22

Application for the Grant of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr T H

Further to Minute No. 38/22 (22 July 2022), members considered an application for the grant of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr T H.

Mr T H was in attendance, supported by his brother, and had appeared before the Licensing Sub Committee on a number of occasions previously.

Mr T H had a dishonesty conviction and, according to Council policy, at the time of application there should be a minimum of ten years free of conviction or at least ten years from completion of the sentence (whichever is longer).

The matter had been deferred on two previous occasions in order that further information could be obtained on Mr T H's work history.

Officers from the Passenger Transport Unit were in attendance but were unable to verify that Mr T H had been working as stated, as no evidence had been provided by the operator.

A reference had been provided from the family business and Mr T H's character was further endorsed by his brother.

Mr T H advised that he was a PSV holder and able to work in other areas should the licence not be granted.

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

Having considered all of the information before them, the Sub Committee did not feel there was any compelling information or grounds to depart from Council policy. Mr T H had a dishonesty conviction and guidelines stated there should be a minimum of ten years free of conviction before considering the grant of a licence.



Resolved that application for a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr T H 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 T H would be advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.

45/22 **Application for the review of the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M S**

The Sub Committee was advised that Mr M S's representative was unable to attend, consideration of the matter would therefore be deferred to a future meeting.

Resolved that consideration of the review of the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M S be deferred to a future meeting.

46/22 **Application for the grant of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr S M**

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

Mr S M was in attendance, supported by a friend, and had not previously appeared before the Licensing Sub Committee.

The Sub Committee was advised that Mr S M had been arrested for an offence involving violence, however, there was no conviction and the matter had been dealt with by a Protection Order. The matter was family related.

Mr S M outlined the event, which he deeply regretted, and apologised to the Sub Committee.



Mr S M advised that he was currently a security officer but was applying for a licence as he wished to change to a job which would permit flexible working so that he could spend more time with his family.

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

Having considered all of the information before them, members considered Mr M S to be a fit and proper person and were minded to grant the application.

Resolved that the application for a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M S be granted.

(Meeting ended at 3.34pm)

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Minutes of Licensing Sub Committee 1

**Monday 24 October 2022 at 10.10am
In Committee Room 1, Sandwell Council House, Oldbury**

Present: Councillor Fenton (Chair);
Councillors Dunn (pm), Gavan and Wilkes (am).

In attendance: Christian Attard (Taxi Licensing Enforcement Officer) (item 50/22 only);
Andy Poulton (Senior Licensing Officer) (item 51/22 only);
David Elliott (Legal Advisor);
Trisha Newton (Senior Democratic Services Officer);
Connor Robinson (Democratic Services Officer);
John Swann (Democratic Services Officer).

47/22 **Apologies for Absence**

Apologies for absence were received from Councillors Allen, M Gill and Singh.

48/22 **Declarations of Interest**

No interests were declared at the meeting.



49/22 **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.

(Meeting adjourned 10.11 – 10.39am)

50/22 **Application for the Review of a Dual Driver's Licence in respect of Mr M Z**

Members considered the review of a Dual Driver's Licence in respect of Mr M Z.

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

The Sub Committee was advised that Mr M Z had been referred due to a failure to report an arrest within the required timescale of 48 hours.

In addition, upon receiving details of his arrest from Wolverhampton Council, it was found that Mr M Z was not currently signed up to the DBS update service.

The Sub Committee was advised that at the time of the hearing, Mr M Z's badge licence was suspended and that he was released under investigation with no bail conditions attached.

Mr M Z acknowledged that he did not inform Sandwell Council within 48 hours and stated that he thought his Sandwell Council badge licence had already expired, as he had been working whilst licensed by Wolverhampton Council.



Mr M Z also explained that he was registered on the DBS update service with Wolverhampton Council, and explained that Wolverhampton Council had returned his badge licence to him. This was confirmed by the Taxi Licensing Team.

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

The Sub Committee had taken into consideration representations made by all parties.

The Sub Committee was minded to issue Mr M Z with a severe warning. Members took into account the nature of the case and the circumstances surrounding it, along with the fact there was no charge or criminal conviction and that Mr M Z had received no complaints conduct previously. The matter was considered serious and Mr M Z was informed that his badge licence would remain suspended until he sign's up to the DBS update service. In addition, Mr M Z was reminded of his responsibilities, including the need to inform the taxi licensing office within 48 hours of any arrest and his duty to adhere to council policy.

Resolved that Mr M Z be issued with a severe warning around future conduct with the licence remaining suspended until Mr M Z was signed up to the DBS update service.

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

(Councillor Wilkes left the meeting)

(Meeting adjourned 11.43 – 14.05pm)

(Councillor Dunn joined the meeting)



51/22

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

Members considered the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M S.

Mr M S was in attendance, accompanied by his legal representative.

The Sub Committee was advised that Mr M S had been referred following a major traffic offence.

Mr M S's representative gave an account of the incident and the circumstances.

In addition, the Sub Committee expressed concern that Mr M S had a long history of road traffic offences and eleven points on his driving licence.

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

The Sub Committee had taken into consideration representations made by all parties.

The Sub Committee was minded to revoke Mr M S's Dual Private Hire and Hackney Carriage Driver's Licence, the Council's policy starting point was revocation and members saw no reason to depart from this. In addition, the Sub Committee was not satisfied that Mr M S was a fit and proper person to hold a licence due to his long history of road traffic offences, particularly his two recent convictions for careless driving.

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

(Meeting ended at 3.38pm)

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Report to Licensing Sub Committee 1

Monday 20 February 2023

Not for Publication

Exempt information: relating to any individual

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:	Director of Borough Economy - Alice Davey
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?

	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.
	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.

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:	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. Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence. 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.
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

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



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Licensing Committee

Consideration with regard to granting licences for private hire vehicle and hackney carriage drivers and operators falls within the remit of the Licensing Committee and is delegated to the Sub Committee.

This requires the Sub Committee to receive personal information about the licence applicants that cannot be made publicly available under Access to Information and Data Protection legislation. Consequently the information cannot be released.

The Council would like to apologise to you for any inconvenience that the unavailability of this information may cause you.

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

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