

Minutes of Licensing Sub Committee 2

**Monday, 27 March 2023 at 10.00 am
at Committee Room 2 - Sandwell Council House, Oldbury**

Present: Councillor Fenton (Chair)
Councillors Dunn and A Hussain

Officers: Usha Devi (Senior Licensing Officer);
Christian Attard (Taxi Licensing Enforcement Officer);
Geraldin Chitakara (Licensing Officer)
David Elliott (Legal Advisor);
Connor Robinson (Democratic Services Officer);

28/23 Apologies for Absence

Apologies for absence were received from Councillor Akpoteni and Z Hussain.

29/23 Declarations of Interest

No interests were declared at the meeting.

30/23 Minutes

Resolved that the minutes of the meetings held on 14 and 28 November 2022 be confirmed as a correct record.

31/23 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 an individual.

32/23 Application for the Review of a Private Hire Driver's Licence in respect of Mr M T U

Further to Minute No. 27/23 (Licensing Sub Committee 3 - 23 January 2023), members considered a review of a Private Hire Drivers Licence in respect of Mr M T U.

Mr M T U was in attendance, represented by his solicitor.

The Sub Committee was advised that Mr M T U had appeared before the Licensing Sub Committee on 23 January 2023. The Sub Committee had resolved to suspend Mr M T U until he had been assessed by Sandwell Occupational Health.

The Sub Committee was advised that a Medical Fitness Certificate had been provided following the assessment considered Mr M T U fit to continue driving.

The Sub Committee was informed that Licensing was only made aware of the change in Mr M T Us medical circumstances following a conversation with the Taxi Licensing Enforcement Officer in response to a number of complaints received which related to concerns around Mr M T U's fitness to operate a vehicle. Mr M T U had during the conversation, informed Licensing of his recent medical diagnoses a month prior. Under the Policy a change in medical circumstances must be declared within one working day.

Mr M T U's representative advised the Sub Committee that his client had fully cooperated with the proceedings following his suspension and it was unfortunate that the advice he had been given by his GP had not been wholly correct. Mr M T U understood that it was very important to inform Licensing of any change and that the process had been a learning curve for him.

It was also stressed that Mr M T U had undergone the Occupational Health assessment and had been found fit.

With respect to the number of complaints, it was advised that while it was correct to note them, no formal witness statements had been obtained. However, it was stressed that the nature of the complaints required the review of the licence.

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 remove the suspension of the Private Hire Driver's Licence in respect of Mr M T U. In coming to its decision the Sub Committee had taken account of Mr M T U's cooperation with the process and the results of his Occupational Health Assessment.

Resolved that the suspension of the Private Hire Driver's Licence in respect of Mr M T U be removed.

33/23 Application for the Renewal of a Private Hire Driver's Licence in respect of Mr M H

Members considered a renewal of a Private Hire a Driver's Licence in respect of Mr M H.

Mr M H was in attendance, supported by his brother in law and represented by his solicitor. Mr M H had appeared before the Committee previously.

The Sub Committee was advised that Mr M H had been breach of Licensing Conditions due a failure to declare the revocation of a Private Hire Driver's Licence by Wolverhampton City Council, along with an ongoing investigation for plying for hire by Birmingham City Council.

The Sub Committee heard that in June 2021 a notification had been received from Wolverhampton City Council informing them that Mr M H had been caught plying for hire in Birmingham in May of that year. Licensing was informed that Wolverhampton Council had revoked Mr M H's licence in September. As the matter was not taken to court there was no conviction for no insurance.

Mr M H had failed to declare on his application in early September that he held a licence with Wolverhampton City Council and that it was under review. Licensing confirmed that Mr M H should have made them aware of the decision of Wolverhampton City Council as per his conditions of licence and that he should have also made them aware he was being investigated for plying for hire in Birmingham.

Mr M H's representative disagreed with the report and argued Mr M H had not misled Licensing and that his application that was submitted in early September was correct. The Sub Committee heard that Mr M H had voluntarily surrendered his Wolverhampton Private Hire Vehicle Driver Badges and Private Hire Vehicle Plates in early July 2021 and therefore was not licensed with Wolverhampton when he submitted his application. In addition, it was also argued that Wolverhampton could not have revoked Mr M H's licence as at the time of the Wolverhampton review he no longer held a Wolverhampton licence.

The Sub Committee sought legal advice on the argument presented. It was confirmed that a driver may at any point voluntarily surrender their licence and it was correct that a licence cannot be revoked if it had been surrendered.

Addressing the finding of Birmingham City Council of Mr M H plying for hire, it was argued that there had been no formal conviction. It was also stated that Mr M H had been a licensed driver in Sandwell since 2009 and bar a minor traffic offence a decade ago had an unblemished record.

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 renewal of the Private Hire Driver's Licence in respect of Mr M H with a stern warning as to his future conduct. The Sub Committee appreciated the uniqueness of the case, there had been no formal conviction of plying for hire and it

had been accepted that a revocation could not be applied to a surrendered licence. The Sub Committee was confident that Mr M H remained a fit and proper person to hold a licence.

Resolved:-

- (1) that the Private Hire Driver's Licence in respect of Mr M H be renewed;
- (2) that Mr H be issued with a warning as to future conduct.

34/23 Application for the Review of a Private Hire Driver's Licence in respect of M A

The Sub Committee was advised that Mr M A was unable to attend 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.

35/23 Application for the Review of Private Hire Driver's Licence in respect of Mr A M

Members considered a renewal of a Private Hire a Driver's Licence in respect of Mr A M.

Mr A M was in attendance, supported by a friend. Mr A M had not appeared before the Sub Committee before and had no previous convictions.

The Sub Committee was advised that, at the end of May 2022, Licensing had received a photograph that depicted a taxi bearing Mr A M's number and plates parked in a Hackney Carriage rank on Dudley High Street. The photograph was accompanied by a complaint and witness statement stating that the vehicle was parked in the Hackney Carriage rank for a period of two hours.

Mr A M had attended the Licensing Office in June and admitted to parking in the Hackney Carriage rank. Mr A M stated that he had parked in the rank and that he had done so as he had to visit a local bank.

In addition the Sub Committee heard that Mr A M had around the same time been issued with a fixed penalty notice from Dudley Council following an Environmental Enforcement Officer witnessing Mr A M discarding a cigarette onto the floor. Mr A M had driven off

before a penalty could be issued however the driver was identified through his plates and the penalty was sent via post.

Mr A M reiterated that he had been parked in the Hackney Carriage rank as he was visiting the bank. He explained that while he had initially been waiting in the vehicle, he subsequently left his vehicle to support a family member visiting the local bank, he stated that he was not plying for hire. He now realised that the area was reserved for Hackney Carriages and that as a private hire vehicle he was not permitted to park there.

In addition, Mr A M admitted how he handled the Environmental Enforcement Officer from Dudley Council was a mistake and he wished he had handled the situation differently.

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 issue Mr A M a severe warning. In making its decision the Sub Committee accepted the explanation of Mr A M visiting the bank and also noted the long period Mr A M had held a licence without issue.

Resolved that Mr A M be issued with a severe warning as to future conduct.

36/23 Application for the Review of a Private Hire Driver's Licence in respect of Mr K S

Members considered a renewal of a Private Hire a Driver's Licence in respect of Mr K S.

Mr K S was in attendance, supported by his wife. He had not appeared before the Sub Committee before.

The Sub Committee was advised that Mr K S had been referred to the Sub Committee following a driving conviction for using a mobile phone whilst driving.

Mr K S had contacted Sandwell Licensing in late-October to confirm he had received a letter regarding using his mobile phone whilst driving and that he had been issued with 6 penalty points.

The Sub Committee also noted that Mr K S had at the same time been convicted of driving whilst not wearing a seat belt, however, there was no separate penalty.

Mr K S explained to the Sub Committee the circumstances surrounding the use of the mobile phone. Mr K S stated that he had recently purchased a new phone holder, the phone holder was not very secure, and his phone had moved from the original position it had been placed. Mr K S stated that while stuck in traffic and not moving he had attempted to move the phone into its original position.

Mr K S told the Sub Committee that he did not receive any notification of the charge until a few months later at which point he was out of the country. He informed the Sub Committee that he had not been given the opportunity to explain himself and when he attended court he only had the option to plead guilty or not guilty and was not given the chance to explain the situation.

Mr K S also confirmed that he had not been wearing his seat belt as was required by law.

Mr K S stated that he had been a taxi driver in Sandwell for almost 40 years and had never had an issue.

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 issue a severe warning. The Sub Committee in making its decision noted the honesty of the driver along with his very long and clean record.

Resolved that Mr K S be issued with a severe warning as to future contact.

Meeting ended at 4.04pm
(with adjournments between 10.40am to 11am, 11.44am to 11.55am,
12.50pm to 2.31pm and 3.02pm to 3.15pm)

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