

Agenda

Licensing Sub Committee 2

Monday 27 March 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 - 20 |
| | To confirm the minutes of the meeting held on 14 and 28 November 2022 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

21 - 192

Shokat Lal
Chief Executive
Sandwell Council House
Freeth Street
Oldbury
West Midlands

Distribution
Councillor Fenton (Chair)
Councillors Z Hussain, Akpoteni, A Hussain and Dunn

Contact: democratic_services@sandwell.gov.uk

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Licensing Sub Committee 2

Apologies for Absence

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



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Licensing Sub Committee 2

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 2

**Monday 14 November 2022 at 10.12am
at Sandwell Council House, Oldbury**

Present: Councillor Fenton (Chair);
Councillors Akpoteni, Allen and Dunn

In attendance: Christian Attard (Taxi Licensing Enforcement Officer);
Usha Devi (Senior Licensing Officer);
David Elliott (Legal Advisor);
Trisha Newton (Deputy Democratic Services Manager);
Connor Robinson (Democratic Services Officer);
John Swann (Democratic Services Officer).

17/22 **Apologies for Absence**

Apologies for absence were received from Councillors A Hussain and Z Hussain.

18/22 **Declarations of Interest**

No interests were declared at the meeting.

19/22 **Minutes**

Resolved that the minutes of the meetings held on 25 August, 22 September and 7 October 2022 be confirmed as a correct record.



20/22 **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 an individual.

21/22 **Application for the Review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr O M**

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

Mr O M was in attendance and had previously appeared before the Licensing Sub Committee.

The Sub Committee was advised that Mr O M had been referred over historic convictions which had not resulted in a referral to the Sub Committee to consider granting a licence previously.

Mr O M had held his licence from Sandwell Council since 2019 and had a clean driving record and no complaints during this time-period.

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 and was minded to take no further action in respect of Mr O M. Members took into account a character reference and clean record and considered him to be a fit and proper person.

Resolved that no action be taken in relation to Mr O M's dual private hire and hackney carriage driver's licence.



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.

(Meeting adjourned 10.49 – 11.30)

22/22 Application for the Review of a Private Hire Driver's Licence in respect of Mr A M

Consideration of the review of the private hire driver's licence in respect of Mr A M was deferred to a future meeting.

23/22 Application for the Review of a Private Hire Driver's Licence in respect of Mr M K

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

Mr M K was in attendance, accompanied by his cousin for support, and had not previously appeared before the Licensing Sub Committee.

The Sub Committee was advised that Mr M K had been referred following a failed MOT test on his licensed vehicle.

The Sub Committee expressed concern but noted that the defects had accumulated rapidly and there had been a successful MOT test 3 months prior to the defects being detected.

Mr M K advised that he had purchased a new car which was licenced with the Council.

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 and was minded to take no action against Mr M K, other than to remind him to read the handbook and to



adhere to the guidance contained within it. Members took into account his previous clean record. Members also determined that it could not be concluded that an incident had taken place given that he had previously successfully passed MOT inspections.

Resolved that no action be taken in respect of Mr M K's Private Hire Licence.

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.

24/22

Application for the Grant of a Private Hire Driver's Licence in respect of Mr N K

Members considered the grant of a Private Hire Driver's Licence in respect of Mr N K.

Mr N K was in attendance and had previously appeared before the Sub Committee on three occasions.

The Sub Committee was advised that Mr N K had been referred as his previous licence application was refused in 2017 for smoking and using a phone in his licensed vehicle.

Members noted there were convictions listed on the DBS and no endorsements on the driver's licence.

Mr N K stated that he no longer smoked and had Bluetooth to enable hands-free calls.

The Sub Committee noted that Mr N K was not currently signed up to the DBS update service, as required.

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

The Sub Committee took into consideration representations made by all parties and was minded to grant Mr N K's Private Hire



Driver's licence. Members were satisfied that Mr N K appeared to be a fit and proper person to hold a licence.

Resolved that the Private Hire Driver's Licence in respect of Mr N K be granted, however, the licence would be suspended pending sign 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.

(Meeting ended at 14.58pm)

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Minutes of Licensing Sub Committee 2

**Monday 28 November 2022 at 11.30am
at Sandwell Council House, Oldbury**

Present: Councillor Fenton (Chair)
Councillor J Giles and N Singh

Officers: Kiran Dubb (Licensing Officer)
David Elliott (Legal Advisor)
Trisha Newton (Deputy Democratic Services Manager)
Connor Robinson (Democratic Services Officer)
John Swann (Democratic Services Officer)
Tommy Billingham (applicant)
Simon Waldron (in support of applicant)

25/22 **Apologies for Absence**

No apologies for absence were received.

26/22 **Declarations of Interest**

No declarations of interest were received.

27/22 **Application for the grant of a new Premises Licence at
Tividale Football Club, Packwood Road, Tividale, Oldbury**

The Sub Committee considered an application for a new Premises Licence at Tividale Football Club, Packwood Road, Tividale, Oldbury.



The applicant was present and was accompanied by his business partner.

(Meeting adjourned 11.38am to 11.50am to enable applicant to consider papers)

The Sub Committee considered an application for a new premises licence following a representation from a local resident who had raised concerns around the possibility of an increase in noise and disturbance, due to the sale of alcohol and playing of live or recorded music at the premises.

Representations had been made by Police and Environmental Health, however, these had been withdrawn following the applicant and the authorities coming to an agreement on the conditions.

The Police and the applicant had reach an agreement on a number of conditions namely:

- Reduced times for the sale of alcohol to 23.30 allowing for 30 minutes drinking up time and a closure of the premises at 12 midnight;
- CCTV be fitted/updated and managed to the specifications and recommendations of West Midlands Police Licensing Officer for the area;
- Door staff would be managed within guidelines and would be required to be signed in and possess a SIA badge and ID;
- The premises would operate a challenge 25 policy;
- Bookings for private functions should include full details of the person making the booking, details would be stored in a register and be available on request.

Environmental Health and the applicant had also reached an agreement on a number of conditions namely:

- Doors and windows would remain closed whilst any form of music was being played other than background music;
- The fire doors leading from the corridor to the toilets would remain closed at all times whilst music was playing other than in an emergency evacuation;
- No drinks would be drunk in the car park;



- There would be prominent, clear and legible notices displayed at all exits requesting the public to respect the needs of local residents and leave the premises quietly;
- The premises would take all reasonable steps to prevent children from being outside of the club building after 21.30;
- Taxis or private hire firms that are contacted by the licensee or staff to collect customers would be asked to enter the premises to collect their customers;
- The premises would ensure prominent, clear and legible notices are to be displayed outside the premises stating that the taxi and private hire drivers are not to sound horns to collect customers;
- A list of persons causing disruption would be kept and those on the list would be banned from entering;
- No amplified music would be played outside the premises;
- The agreed opening hours were:
 - Hours of Opening:
 - 11am till 11.30pm Monday to Thursday
 - 11am till 12pm Friday and Saturday
 - 11am till 11.30pm Sunday
 - Live Music
 - Friday 5pm till 11.30pm
 - Saturday 12 till 11.30pm
 - Sunday 12 till 11pm
 - Recorded Music
 - 11am till 11pm Monday to Thursday
 - 11am till 11.30pm Friday and Saturday
 - 11am till 11pm Sunday
 - Alcohol Served
 - 11am till 11pm Monday to Thursday
 - 11am till 11.30pm Friday and Saturday
 - 11am till 11pm Sunday.

The Applicant addressed the Sub Committee and reiterated their acceptance of the conditions agreed with the responsible authorities. The applicant stressed that he and his business partner had newly acquired the premises and the previous management no longer had any involvement at the premises.

The applicant emphasised his experience of managing similar establishments and his success in doing so.



The applicant hoped that he had addressed the concerns raised by the local resident and stressed that he was not operating a night club but rather a family orientated space catering for sport, wakes, wedding receptions and children and senior parties. It was stated that no anti-social-behaviour would be tolerated.

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

The Sub Committee had taken into consideration representations and had decided to grant the application of a new Premises Licence in respect of Tividale Football Club. The Sub Committee had taken into account the agreement the premises had made with the responsible authorities and believed the agreement satisfied any concerns around any potential breach in the licensing objectives.

Resolved that the application for a new Premises Licence at Tividale Football Club, Packwood Road, Tividale, Oldbury be granted subject to the conditions agreed with West Midlands Police and Environmental Health.

In making its decision the Sub Committee took into account the Licensing Act itself, the Section 182 Guidance and noted that it must carry out all its functions under the Act with a view to promoting the licensing objectives. It also took into account the Human Rights Act 1998.

Meeting ended at 12.34pm
(with an adjournment between 11.38am and 11.50am)

Contact: democratic_services@sandwell.gov.uk



Report to Licensing Sub Committee 2

27 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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