

Agenda

Licensing Sub Committee 3

Monday, 31 July 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 - 16 |
| | To confirm the minutes of the meeting held on 23 January 2023 as a correct record. | |



4 **Exclusion of the Press and Public**

17 - 26

“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**

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

Distribution
Councillor Lewis (Chair)
Councillors Abrahams, E M Giles, Jalil and Khan

Contact: democratic_services@sandwell.gov.uk

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Licensing Sub Committee 3

Apologies for Absence

To 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

**Monday 23 January 2023 at 10.00am
at Sandwell Council House, Oldbury**

Present: Councillor Allen (part) and Gavan (part) (Chair);
Councillors J Giles, W Gill, Jalil and Singh.

Officers: Usha Devi (Senior Licensing Officer);
Christian Attard (Taxi Licensing Enforcement Officer);
James Diaz (Licensing Officer);
David Elliott (Legal Advisor);
Trisha Newton (Deputy Democratic Services Manager);
John Swann (Democratic Services Officer).

1/23 **Apologies for Absence**

No apologies for absence were received.

2/23 **Declarations of Interest**

Councillor Jalil declared an interest in respect of Minute No. 8/23 as he knew the driver. Councillor Jalil left the meeting prior to consideration of this case.

3/23 **Minutes**

Resolved that the minutes of the meetings held on 5 September, 9 and 29 November 2022 be approved as a correct record.



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

Application for the grant of a Private Hire Driver’s Licence in respect of Mr M H

Further to Minute No. 60/22 of Licensing Sub Committee 1 (12 December 2022), Members considered the grant of the Private Hire Drivers Licence in respect of Mr M H.

Mr M H was in attendance, supported by his legal representative, and had appeared before the Licensing Sub Committee previously.

The Sub Committee was advised that, as part of the application process, Mr M H had failed to declare previous conviction information.

Mr M H apologised and explained that his failure to declare had been accidental in nature, as he had copied his conviction history from his DBS certificate which displayed no conviction information.

Mr M H’s legal advisor outlined that Mr M H had struggled to fill in forms and stated that the conviction history was historic.

The Taxi Licensing Officer confirmed that Mr M H did not have any convictions identified on the DBS certificate and that he was registered with the DBS update service.

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 it, the Sub Committee was minded to grant Mr M H's licence with a warning around future conduct. The Sub Committee determined that Mr M H was a fit and proper person to hold a licence.

Resolved that the Private Hire Driver's Licence in respect of Mr M H is granted with a warning.

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 H was advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.

6/23

Review of a Private Hire Driver's Licence in respect of Mr M U

Further to Minute No. 62/22 of Licensing Sub Committee 1 (12 December 2022), Members considered a review of a Private Hire Driver's Licence in respect of Mr M U.

Mr M U was in attendance, supported by his legal representative and had not previously appeared before the Sub Committee previously.

The Sub Committee was advised that Mr M U had been referred to the Licensing Sub Committee following claims that he had fallen asleep whilst driving his licensed vehicle.

Mr M U's legal representative advised that Mr M U been diagnosed with a medical condition and was not aware that he had to inform the Council as a condition of his Private Hire Driver's Licence.

The Sub Committee was advised that Mr M U's medical details had not been received by the Council.

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 suspend Mr M U's Private Hire Driver's Licence until a Council approved registered medical practitioner had assessed him with regards to his medical condition. The Sub Committee was further minded to defer consideration of the review of Mr M U's Private Hire Drivers Licence to a future meeting of the Licensing Sub Committee.

Resolved that:-

- (1) the Private Hire Driver's Licence in respect of Mr M U be suspended until the required medical records had been provided and a registered medical practitioner approved by the Council had assessed and deemed him fit to drive;
- (2) the review of Mr M U's Private Hire Driver's Licence be deferred to a future meeting of the Licensing Sub Committee.

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

(Councillor Allen left the meeting)

(Councillor Gavan joined the meeting and in the Chair)

7/23

Renewal of a Private Hire Driver's Licence in respect of Mr B S

Members considered the review of a Private Hire Driver's Licence in respect of Mr B S.

Mr B S was in attendance, accompanied by a trade representative, and had appeared before the Licensing Sub Committee previously.

The Sub Committee was advised that Mr B S had been convicted of using a mobile phone whilst driving and had received 3 penalty points. In addition, Mr B S had not informed the Council of his



conviction, as required by the conditions of his Private Hire Driver's Licence.

Mr B S's representative and the device he had touched was a PDA which he used for work, not a mobile phone.

Mr B S stated that he was unaware that he was required to inform the Council of his conviction and had not seen the conditions of his licence.

The licensing officer confirmed that the current conditions of the licence were provided to drivers each time they took out or renewed their 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 the, the Sub Committee did not feel there was any compelling information or grounds to depart from Council policy. Mr B S had a conviction for using a mobile device whilst driving and guidelines stated that this should result in revocation.

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

(Councillor Jalil left the meeting)

8/23 **Application for a Private Hire Driver's Licence in respect of Mr R M**

Members considered an application for a Private Hire Driver's Licence in respect of Mr R M.



Mr R M was in attendance, supported by his legal representative, and had not previously appeared before the Sub Committee.

The Sub Committee was advised that concerns regarding Mr R M's conduct had been raised whilst licenced with another authority, resulting in revocation of his licence.

In addition, Mr R M had failed to declare his previous revocation on his application form which was in breach of Council guidelines.

Mr R M's legal advisor outlined that Mr R M had struggled to fill in forms and stated that the concerns were historic in nature.

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 Private Hire Driver's Licence in respect of Mr R M. The Sub Committee had concerns relating to his previous behaviour and had not received assurances that Mr R M was a fit and proper person.

Resolved that application for a Private Hire Driver's Licence in respect of Mr R 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 R M was advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.

Meeting ended at 4.50pm
(meeting adjourned between 11.26am – 11.45 am and 3.29pm – 3.45pm).

Contact: democratic_services@sandwell.gov.uk



Report to Licensing Sub Committee 3

Monday 31 July 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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