

Agenda

Licensing Sub Committee 2

**Monday 11 March 2024 at 11.00 am
in Annexe 2 - Sandwell Council House, Oldbury**

- | | | |
|----------|---|---------|
| 1 | Apologies for Absence | 5 - 6 |
| | To receive any apologies for absence. | |
| 2 | Declaration of Interest | 7 - 8 |
| | Members to declare any interests in matters to be discussed at the meeting. | |
| 3 | Minutes | 9 - 20 |
| | To confirm the minutes of the meetings held on 4 December 2023, 23 and 29 January 2024 as a correct record. | |
| 4 | Exclusion of the Public and Press | 21 - 30 |
| | “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**

31 - 106

Shokat Lal

Chief Executive

Sandwell Council House

Freeth Street

Oldbury

West Midlands

Distribution

Councillor Fenton (Chair)

Councillors A Hussain, J Singh and Weston and Wilkes.

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 4 December 2023 at 10.20am
in Committee Room 1, Sandwell Council House, Oldbury**

Present: Councillor Fenton (Chair);
Councillors A Hussain, J Singh and Weston.

In attendance: Usha Devi (Senior Licensing Officer); David Elliott (Legal Adviser); Trisha Newton (Deputy Democratic Services Manager) and Johane Gandiwa (Committee and Constitutional Services Lead Officer).

85/23 **Apologies**

Apologies were received from Councillor Davies.

86/23 **Declarations of Interest**

There were no declarations of interest.

87/23 **Exclusion of the Press and Public**

Resolved that the public and press be excluded from the rest of the meeting. This was 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.



88/23

Application for review of Private Hire Driver's Licence in respect of Mr M H

Members were advised that a request had been received to defer consideration of the matter so that Mr M H could seek legal representation.

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

89/23

Application for a Private Hire Driver's Licence in respect of Mr M O A I

Members considered the application for a Private Hire Driver's Licence in respect of Mr M O A I.

Mr M O A I was in attendance.

The Sub Committee was informed that the reason for referral to the Sub Committee was a previous refusal by Wolverhampton City Council.

Mr M O A I informed the Sub Committee that he been driving for a food delivery company.

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

Having considered all the information before it, the Sub Committee was minded to grant Mr M O A I's Private Hire Driver's Licence. Members considered the applicant's honesty and presentation to the Sub Committee and consequently, Mr M O A I was deemed to be fit and proper person to hold a licence.

Resolved that the Private Hire Driver's Licence in respect of Mr M O A I be granted.



Application for renewal of a Private Hire Driver's Licence in respect of Mr A K

Members considered the renewal of the Private Hire Driver's Licence in respect of Mr A K.

Mr A K was in attendance.

The Sub Committee was informed that Mr A K had 9 live points on his DVLA licence for three traffic offences which he had not declared within the required timescales. Three of the points were due to be removed on 27 December 2023.

Mr A K explained that he had not declared the minor motoring offences because he assumed that the Council had all the information via his DVLA check.

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

Having considered all the information before it, the Sub Committee was minded to renew Mr A Ks licence with a 7-day suspension and sever warning as to his future conduct. In making its decision the Sub Committee had considered Mr A K's honesty and the fact he had not concealed his previous driving convictions. Mr A K was therefore considered fit and proper to hold a licence.

Resolved that the Private Hire Driver's Licence in respect of Mr A K be renewed and suspended for seven days and a severe warning issued as to future conduct.

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

Application for a Private Hire Driver's Licence in respect of Mr Z U R

Members considered the application for a new Private Hire Driver's Licence in respect of Mr Z U R.

Mr Z U R was in attendance, accompanied by his wife.



The Sub Committee was informed that the reason for the referral was a recent revocation by another local authority for plying/standing for hire and breaching conditions of a private hire drivers and vehicle licence. In addition Mr Z U R had failed to report a road traffic collision.

Mr Z U R outlined the circumstances of the incident to the Sub Committee.

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

Having considered all the information before it, the Sub Committee was minded to refuse Mr Z U R's application. The Sub Committee did not feel they could depart from guidelines and found Mr Z U R not fit and proper to hold a licence.

Resolved that the Private Hire Driver's Licence in respect of Mr Z U R be refused.

Mr Z U R was advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.

Meeting ended at 4.20pm.

Contact: democratic_services@sandwell.gov.uk



Minutes of Licensing Sub Committee 2

23 January 2024 at 11.20am
in Committee Room 1, Sandwell Council House, Oldbury

Present: Councillor Fenton (Chair);
Councillors Khan and Loan.

In attendance: Van Dong Nguyen (Applicant);
Arsalan Alikomak (Proposed Designated Premises
Supervisor);
Neil Aston- Bough (Fire Safety Officer, West Midlands Fire
Service);
David Elliott (Legal Adviser);
Makhan Singh Gosal (Senior Licensing Officer);
Kiran Dhesi (Licensing Officer);
Connor Robinson (Democratic Services Officer);
John Swann (Democratic Services Officer).

1/24 **Apologies**

There were no apologies for absence.

2/24 **Declarations of Interest**

There were no declarations of interest.



Application for the grant of a new Premises License at Oak Cha Phe, 614 Bearwood Road, Smethwick, B66 4BW

The Sub Committee considered an application for the grant of a new premises licence in respect of Oak Cha Phe, 614 Bearwood Road, Smethwick, B66 4BW.

A representation had been received from West Midlands Fire Service on the grounds of the Public Safety licensing objective.

The Fire Safety Officer addressed the Sub Committee and advised that premises had undergone substantial change and had been subdivided into a commercial premises and residential properties.

Concerns related to the fire alarm system having been deemed insufficient as it was not solely for the establishment. In addition, the requirement for the premises to have 60- minutes of fire separation had not been met.

The applicant acknowledged that some elements of the establishment were not suitable and explained to the Sub Committee that works were being undertaken to ensure the premises were fire safety compliant.

The proposed Designated Premises Supervisor outlined that the programme of building works was expected to take approximately ten weeks.

The Sub Committee acknowledged that the business had not set an opening date.

Members acknowledged that the applicant had engaged positively with responsible authorities to better improve the fire safety measures at the premises.

The Fire Safety Officer confirmed that the representation would be removed when West Midlands Fire Service was satisfied that the works were completed in accordance with building regulations which would ensure adequate fire- safety measures.



The Sub Committee was minded to defer consideration of the matter to allow the applicant time to complete the necessary works to the property to enable it to be fire- safety compliant and to address the concerns raised by West Midlands Fire Service in their representation.

Following consultation with all concerned parties, the matter was deferred to 10.00am on 23 April 2024, subject to the representations from West Midlands Fire Service not being withdrawn.

Resolved that subject to the Fire Authority not withdrawing its representation, the application for a new premises licence at Oak Che Phe, 614 Bearwood Road, Smethwick, B66 4BW be deferred to 23 April 2024.

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 12.02pm

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Minutes of Licensing Sub Committee 2

**Monday 29 January 2024 at 11.04am
in Committee Room 1 - Sandwell Council House, Oldbury**

Present: Councillor Fenton (Chair);
Councillors A Hussain and J Singh.

Officers: Christian Attard (Taxi Licensing Enforcement Officer);
David Elliott (Legal Advisor);
Connor Robinson (Democratic Services Officer);
Anthony Lloyd (Democratic Services Officer).

5/24 **Apologies for Absence**

An apology for absence was received from Councillor Weston.

6/24 **Declarations of Interest**

No interests were declared at the meeting.

7/24 **Minutes**

Resolved that the minutes of the meetings held on 27 March 2023, 15 May 2023, 22 May 2023, 17 July 2023, 18 July 2023, 27 July 2023, 7 August 2023, 11 September 2023, 18 September 2023, 30 October and 21 November 2023 are confirmed as a correct record.



8/24

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.

9/24

Application to renew a Dual Driver's Licence in respect of Mr M A

Members considered the application to renew a Dual Driver's Licence in respect of Mr M A.

Mr M A was in attendance and had previously appeared before the Sub Committee in October 2015 where his licence had been granted subject to a review after 6-months (Minute No. 111/15, Licensing (Miscellaneous) Committee, Tuesday 13 October 2015).

The Sub Committee was advised that Mr M A had failed to declare a refusal by another Local Authority, along with a failure to declare all historical criminal and/or driving convictions and cautions and/or warnings from other Local Authorities on his application. Mr M A had recently had a licence refused by Birmingham City Council.

The Sub Committee heard that Mr M As previous applications had included the required declarations and that it was only the most recent application that had omitted the details.

Mr M A admitted that a mistake had been made when filling out the application form as they were not yet used to the online application process. It was noted that Council officers had assisted the applicant in previous years when filling out the application form.

The Sub Committee was minded that policy stipulated that the Council would take a dim view of anyone trying to fraud the Council



when filling out application forms. However, the applicant argued that he had not tried to deliberately mislead 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 deemed that the applicant had made an honest mistake when filling out the application forms and that Mr M A was a fit and proper person to hold a licence. The Committee was minded to grant the renewal of the Private Hire Driver's Licence in respect of Mr M A with a stern warning to ensure that future applications included the required declarations.

Resolved:-

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

10/23

Application for a New Private Hire Driver's Licence in respect of Mr R H

Members considered application for a New Private Hire Driver's Licence in respect of Mr R H

Mr R H who was in attendance and supported by a friend and had not previously appeared before the Sub Committee.

The Sub Committee was advised that Mr R H had declared that his licence had been revoked by City of Wolverhampton Council. The reason given by Mr R H for this revocation was due to him being found Plying for Hire.

The Sub Committee noted that Sandwell's Private Hire and Hackney Carriage Licensing Policy stated that the Council would normally refuse to grant a licence if an applicant had their licence



revoked during the past 12 months. Members were also minded that offences such as plying for hire, which had occurred in the previous three years, would normally result in a licence not being granted.

It was noted by the Sub Committee that Mr R H had not been convicted of plying for hire but rather had been previously been revoked by Wolverhampton City Council for doing so.

Mr R H addressed the Sub Committee and acknowledged that a mistake had been made when picking up passengers. Mr R H had accepted a job in the same location that test purchases had been present at and that technological problems had resulted in the job not being correctly displayed as cancelled on the taxi driver's system. It was also explained that no form of cancellation from the taxi firm had been received by the driver during the trip.

Mr R H had not appealed to the magistrate's court, in relation to the revocation, despite being aware of his ability to do so. Mr R H had stated personal circumstances at the time had meant that the process would be difficult to withstand.

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 R H. While Mr R H had provided an explanation to the Sub Committee members had found no reason to depart from the Councils Policy.

Resolved that the application for a new Private Hire Driver's Licence in respect of Mr R H is refused.

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

Meeting ended at 1.36pm
(with an adjournment between 11.49am and 12.55pm)
Contact: democratic_services@sandwell.gov.uk



Report to Licensing Sub Committee 2

11 March 2024

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.

Document is Restricted

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