

# Swindon Borough Council

## Private Hire and Hackney Carriage Licensing Sub-Committee

**Tuesday, 26 July 2016**

Committee Room 6, Civic Offices

**At 10.30 a.m.**

### **Conservative Councillors**

John Haines

Nick Martin

Caryl Sydney-Smith

Vera Tomlinson

### **Labour Councillors**

Abdul Amin

Derique Montaut

Peter Watts

**Committee Officer:** Shaun Banks (Telephone 01793 463606)

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## **AGENDA**

- 1. Appointment of Chair**
- 2. Appointment of Vice-Chair**
- 3. Apologies for Absence**
- 4. Declarations of Interest**

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

- 5. Exempt Items - Exclusion of Press and Public**

*Certain items are expected to include the consideration of exempt information and the Standards Committee is, therefore, recommended to resolve "That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in the items listed below, on the grounds that they involve the likely disclosure of exempt information, as defined in the respective paragraph of Part 1 of Schedule 12A of the Act, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information".*

<u>Item No.</u>	<u>Paragraph No.</u>
8	1 and 2

- 6. Minutes (Pages 3 - 4)**

To receive the minutes of the meeting held on 10<sup>th</sup> September 2015.

**7. Public Question Time**

See explanatory note below. Please phone the Committee Officer whose name and number appears at the top of this agenda if you need further guidance.

**8. Application for the Revocation of a Hackney Carriage and Private Hire Drivers Licence (Pages 5 - 14)**

**Date of Despatch:** 18 July 2016

**Public Question Time** - Swindon Borough Council remains committed to increasing its accountability to the public and to promoting active citizenship. 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from the public about the work of the Committee (except for confidential matters, and matters relating to planning and licensing applications). We will give priority to those who submit questions in writing at least two days before the meeting. Questions must be relevant, clear, and concise. You may not use Public Question Time as an opportunity to make speeches or statements.

Questions in writing should be sent to the Committee Officer whose contact details appear on the agenda above or to the Director of Law and Democratic Services, we will publish it, along with the answer, alongside the Minutes. The process associated with asking a public question is set out in the "Public Question Time at Council Meetings Protocol and Guidance" available on the Council's Website.

(<http://www5.swindon.gov.uk/moderngov/ecCatDisplay.aspx?sch=doc&cat=13338&path=0>) or from the Committee Officer named above.

**Access Arrangements** – *The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.*

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

**PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING SUB-COMMITTEE**

**THURSDAY, 10 SEPTEMBER 2015**

PRESENT:- Councillors Junab Ali, Derique Montaut, Eric Shaw, Caryl Sydney-Smith, Vera Tomlinson (Chair) and Peter Watts.

Apologies for absence were received from Councillors Oliver Donachie and John Haines.

**1. Appointment of Chair for the Municipal Year, 2015/16**

Resolved – That Councillor Vera Tomlinson be appointed as Chair of the Sub-Committee for the Municipal Year, 2015/16.  
(Councillor Tomlinson took the Chair.)

**2. Appointment of Vice-Chair for the Municipal Year, 2015/16**

Resolved – That Councillor Derique Montaut be appointed as Vice-Chair of the Sub-Committee for the Municipal Year 2105/16.

**3. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

**4. Minutes**

Resolved – That the minutes of the meeting held on 23<sup>rd</sup> October 2014, be confirmed and signed as a correct record.

**5. Exempt Items - Exclusion of Press and Public**

That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in Item 8 of the Notice of the Meeting on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1. (Minute 7 refers.)

**6. Public Question Time**

No public questions were received during the meeting.

**7. Consideration of Revocation of Hackney Carriage Drivers Licence**

The Sub-Committee considered a report of the Council's Licensing Manager setting out a request to consider the revocation of a Hackney Carriage Drivers Licence pursuant to Section 61(2b) of the Local Government Act 1976.

Resolved – That the Hackney Carriage Drivers Licence held by driver named in the report of the Council's Licensing Manager be revoked with immediate effect under Section 61(2)(b) of the Local Government (Miscellaneous Provisions) Act 1976.



**Application for the revocation of a Hackney Carriage & Private Hire Drivers Licence**

**Private Hire and Hackney Carriage Licensing Sub-Committee 26<sup>th</sup> July 2016**

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**Author:** Licensing Manager

**Wards Affected:** All

**Purpose**

- To consider the revocation with immediate effect in the interests of public safety of a Hackney Carriage & Private Hire Drivers licence pursuant to Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976

**Recommendation**

The Sub-Committee is asked to: -

- Consider the revocation of both Hackney Carriage and Private Hire Driver's licences, with immediate effect in the interests of public safety, following a complaint received regarding the use of inappropriate words and or language of a sexual nature and taking into account evidence of other incidents of impropriety of a sexual nature.

**1. Reasons**

- 1.1 This Sub-Committee has a duty to consider issues relating to Private Hire and Hackney Carriage Licensing on behalf of the Licensing Committee. In licensing Hackney Carriage and Private Hire drivers the Council requires that applicants should be of good character and 'safe and suitable' in order that the fare paying public can travel safely to their destination.

**2. Detail**

- 2.1 Mr Sunil Kumar Jainwal of 8 Morse Street, Swindon SN1 5QR is a licensed Hackney Carriage and Private Hire Driver with Swindon Borough Council. Mr Jainwal was first licensed on the 04/09/2012 as a Hackney Carriage driver. He subsequently obtained a Private Hire Driver's licence on the 03/10/2012.
- 2.2 As part of the application process, an enhanced certificate from the Disclosure & Barring Service is required. The initial Criminal Record Bureau, (CRB), check carried out in 2012 did not reveal any intelligence and the first reported incident which subsequently appeared on the CRB in 2015 occurred in 2011 which was before Mr Jainwal was first licensed.
- 2.3 In 2013 it was reported that there was an allegation of rape and Mr Jainwal's licence was suspended pending enquiries from the Police. The Police case was put before the Crown Prosecution Service. Due to 'significant'

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Further information on the subject of this report can be obtained from Kathryn Ashton Licensing Manager on 01793 466113 or e-mail [kashton@swindon.gov.uk](mailto:kashton@swindon.gov.uk).

## **Application for the revocation of a Hackney Carriage & Private Hire Drivers Licence**

### **Private Hire and Hackney Carriage Licensing Sub-Committee 26<sup>th</sup> July 2016**

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evidential weakness it was considered that there was not a realistic prospect of conviction and the case was closed undetected and Mr Jainwal's licence was re-instated by the previous Licensing Team Leader.

In 2015 the current Licensing Manager carried out an audit of the taxi licensing service and all licensed drivers were required to have an updated DBS check. As a result of this Mr Jainwal's DBS certificate was renewed on 9<sup>th</sup> June 2015. It was noted that there was intelligence from Wiltshire police which they felt was relevant to an employer's risk and suitability assessment when considering Sunil Jainwal's position of a taxi driver because it raised issues about the licensee's concerning behaviour towards vulnerable women whilst working in the role. A copy of the DBS intelligence from Wiltshire Police is at Appendix (1).

A concern was raised from the safeguarding team regarding Mr Jainwal's suitability and as a result his operator was informed that he should not be involved in any Swindon Borough Council contract work involving children or vulnerable adults. However, as the matter in 2013 had already been considered it was decided to allow Mr Jainwal to continue as a licensed driver with the condition that he have CCTV installed in his vehicle. Mr Jainwal agreed and a system was installed in his vehicle.

On the 11th July 2016 a complaint was received from a member of the public who had undertaken a journey as a fare paying passenger through V Cars, the driver at the time was Mr Sunil Kumar Jainwal a copy of the complaint is at Appendix (2) and is summarised below.

On the 10 July 2016 Mr Sunil Kumar Jainwal was driving for V Cars when he received a booking for a journey from Ermin Street, Swindon to Stafford Street in Swindon. He took the job at 5.41am on 10 July 2016. He picked up a male and female passenger, the male passenger was dropped off in Roseberry street Swindon leaving the female passenger alone with the driver, As soon as the male passenger had left the vehicle, leaving the female passenger alone, it is alleged that Mr Jainwal 'flirted' with the passenger and offered to buy her alcohol and during conversation with her he used sexually explicit language causing unnecessary alarm and distress.

On the afternoon of the 11<sup>th</sup> July 2016 V Cars were asked to log off Mr Jainwal and he was requested to attend with his vehicle at Wat Tyler House West, Swindon where he was seen by Mr Shears and Miss Ashton. He was asked to produce the data card from his CCTV system which he supplied, however, he informed the officers that the system was not operating and had in fact been broken for several months. He had failed to

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Further information on the subject of this report can be obtained from Kathryn Ashton Licensing Manager on 01793 466113 or e-mail [kashton@swindon.gov.uk](mailto:kashton@swindon.gov.uk).

# Application for the revocation of a Hackney Carriage & Private Hire Drivers Licence

## Private Hire and Hackney Carriage Licensing Sub-Committee 26<sup>th</sup> July 2016

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notify the Licensing Authority before this interview that this had been the case. Mr Shears checked the data card and found that the last entry was dated 25/03/2016 it was found that no data from the card was able to be recovered. Mr Jainwal was asked if he could remember the journey and after some initial difficulty he was able to recall the journey. He was advised to put details of the journey in writing including any conversations that may have taken place and to let officers have his written account as soon as possible and he agreed. However, at the time of writing this report no statement from Mr Jainwal had been produced.

Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 states that:

*61(1) 'Notwithstanding anything in the Act of 1847 or in this part of this Act, a District Council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:-*

*(a) that he 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 under or has failed to comply with the provisions of the Act of 1847 or of this part of this Act; or*

*(b) Any other reasonable cause.*

*2 (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 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 interests of public safety require 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 that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver."*

- 2.4 The Sub-Committee are required to consider this application and supporting information in order to determine whether it is satisfied that Mr Jainwal is a fit and proper person to hold a Private Hire or Hackney Carriage Driver's Licence.
- 2.5 If the Sub-Committee is not satisfied that Mr Jainwal is a fit and proper person to hold a Private Hire or Hackney Carriage Driver's licence it will

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# Application for the revocation of a Hackney Carriage & Private Hire Drivers Licence

## Private Hire and Hackney Carriage Licensing Sub-Committee 26<sup>th</sup> July 2016

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need to determine whether suspension or revocation is appropriate and whether in the interests of public safety such suspension or revocation should be with immediate effect

- 2.6 If the applicant is aggrieved by the decision of the Sub-Committee he has the right to appeal to the magistrate's court.

### Alternative Options

- None

#### Risk Management

##### *Financial and Procurement Implications*

There are no direct financial implications arising from this report. There are no procurement issues arising from this report.

##### *Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)*

A Healthy and Caring Place; An Economically Prosperous Place; An Environmentally Friendly Place; A Safe Place.

### Consultees

The Director of Finance (s.151 Officer) and the Director of Law and Democratic Services (Monitoring Officer) are consulted on all reports.

### Background Papers and Appendices

- Appendix 1 – Copy of a DBS Certificate for Mr Sunil Kumar Jainwall
- Appendix 2- Copy of a complaint letter



By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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