



Agenda Item No:4

Bristol City Council
Minutes of the Public Safety and Protection
Committee (Sub-Committee A)
Tuesday 10th February 2015 at 10.45am

Members Present:-

Councillor Lovell, Councillor Hance, Councillor Langley, Councillor Pearce, Councillor Morris

Officers in Attendance:-

Kate Burnham-Davies, Carl Knights, Patricia Jones

90. Apologies for Absence

None.

91. Declarations of Interest

None.

92. Public Forum

None.

93. Consideration of the Suspension of Committee Procedure Rules (CMR 10 and 11) Relating to the Moving of Motions and Rules and Debate for the Duration of the Meeting.

Resolved - that having regard to the quasi-judicial nature of the business on the agenda, those Committee Rules relating to the moving of motions and the rules of debate (CMR 10 and 11) be suspended for the duration of the meeting.

94. Exclusion of the Press and Public

Resolved - that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the consideration of the following item, on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 Part I of Schedule 12A to the Act (as amended).

95. Application for the Grant of a Private Hire Drivers Licence – AYH

(Exempt paragraph 3 - Information relating to a person's financial or business affairs)

The Committee considered an application for the grant of a Private Hire Drivers Licence. The applicant (AYH) was present and was accompanied by his representative TM from Bobbetts Mackan Solicitors.

The Chair outlined the procedure that would be followed and introductions were made.

The Licensing Officer summarised the report and drew attention to the key issues set out in detail in the report. The Committee was advised that only the offence detailed at paragraph 3 in respect of which the applicant was convicted, should form part of their considerations.

Reference was also made to the written warning in relation to the applicant's motoring conviction, and a complaint relating to the applicant's driving (related letters at Appendices B and C to the report).

Below is a summary of the principal points made in support of the application by TM:-

- He highlighted the points made in support of the applicant at page 21 of the papers – letter from AP (Bobbetts Mackan)
- The applicant had remarried following the death of his wife in 1996. He was responsible for 6 children and his elderly parents.
- Resident in the UK for a number of years, he had never claimed financial assistance from the state.
- AYH had one conviction of a criminal nature. This was an isolated occurrence amounting to insults and abuse rather than violence or threatening language. It was unconnected to his work or passengers.
- He was well-regarded in the community – a man of good character who worked as a volunteer support worker. Attention was drawn to letters from the Bristol

Somali Forum and Mosque Education Centre. All went to his standing in the community.

- Looking at the factors surrounding the offence in the context of the applicant's background and good character, it was suggested that the Committee's discretion to depart from policy guidance would be appropriate in this case. His application should be allowed with a warning about future conduct.

Discussion followed in relation to the applicant's conviction. His representative highlighted Appendix A – this was the only offence for which he was convicted and this was therefore pivotal to the Committee's considerations.

Officers confirmed that the information relating to the conviction was provided by a Councillor in February 2014. An appeal by the applicant failed and the conviction therefore stood from November 2014. No action was taken until the applicant made an application to renew his licence in January 2015.

The applicant was invited to comment on the incident which took place outside St. Michael's Hospital and the complaint which resulted in a letter from the Enforcement Section. The applicant's representative stated that his client had not received the written warning regarding the motoring conviction at Appendix B but had received the letter relating to the complaint about his driving at Appendix C. There had been no further offences since submitting his licence.

The applicant was advised that the role of the Committee was to decide if he was a fit and proper person to hold a licence, and in doing so the over-riding factor was that of public safety. It was emphasised that BCC Policy guidance on the relevance of criminal behaviour stated that an application would normally be refused if a conviction was less than 5 years old. The Committee sought assurances that the applicant would demonstrate better judgement in future should they use their discretion to set the policy aside and grant the licence.

The applicant stated that he was fully aware that he held a duty not only to customers but to other road users and that he wished to protect his licence and his livelihood. Regarding his conviction, he stated there was a language barrier and he could not make himself understood. There were no witnesses or CCTV and he had appealed.

The parties withdrew from the room.

Members noted that should they decide to make an exception to the Policy, they must be satisfied that the exception is justified. Following careful consideration of all of the written and verbal evidence presented to the Committee, it was unanimously agreed that the application should be refused.

The parties returned to the room and were advised of the Committee's decision. The details of the Committee's findings and reasons for the decision are set out below.

Resolved:-

- (1) The applicant failed take responsibility for his conviction and fully accept the findings of the court on 13th February 2014.**
- (2) The applicant had failed to demonstrate a duty of care to other road users arising from an incident on St Johns Lane, Bedminster on 20th May 2014.**
- (3) The applicant failed to provide compelling reasons that would enable the Committee to make an exception from the Policy and grant the licence.**
- (4) The Committee could not be satisfied in these circumstances that the applicant was a fit and proper person to hold a licence and the application was therefore refused under section 51 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1976.**

96. Application for the Grant of a Private Hire Drivers Licence - MKT

(Exempt paragraph 3 - Information relating to a person's financial or business affairs)

The Committee considered an application for the grant of a Private Hire Drivers Licence. The applicant (AYH) was present and was accompanied by his representative.

The Chair outlined the procedure that would be followed and introductions were made.

The Licensing Officer summarised the report and drew attention to the key issues set out in detail in the report. As part of the Committee's considerations, members were invited to take into account the disqualification from driving dating back to 2011 and address history discrepancies relating to both BCC and DVLA set out in the report. It was noted that the 2 Offence Codes MS90s detailed in the report were not a consideration for the Committee.

The Committee heard that the applicant had left the 47 Devon Road address in 2010 or 2011 but was unsure of the exact date. He then moved to 15 Church Court, Leicester Square, Bristol BS16 4QA. However he continued to put his old address on his applications to renew his PHD licence and failed to update his DVLA licence with his new address. Mr Troudi was also apparently unaware of his driving ban. The applicant reported that all of the circumstances had arisen as a result of him getting married and moving to a new family home. He stated that he had behaved stupidly and was disorganised.

His representative added that the points on his licence had now expired and that today's hearing had been a salutary lesson for his client. The disqualification had arisen as a result of the points he had accrued. He invited the Committee to consider the length of time his client had held a licence and the honesty he had demonstrated

in bringing the recent penalty charge to the attention of the Licensing Officer. It was submitted that the key issue for the Committee was the applicant's driving record.

The parties withdrew from the room.

Members noted that should they decide to make an exception to the Policy, they must be satisfied that the exception is justified. Following careful consideration of all of the written and verbal evidence presented to the Committee, it was unanimously agreed that the application should be approved.

The parties returned to the room and were advised of the Committee's decision. The details of the Committee's findings and reasons for the decision are set out below.

Resolved:-

(1) The applicant had demonstrated to the Committee that he was a fit and proper person to hold a licence.

(2) Members noted the applicant's previous good record and that he had received no complaints in some 12 years of working as a taxi driver, the fact he was not acting in the course of his duties as a driver when the speeding offence took place and that the matters were approaching the 5 year expiry period cited in the Policy.

(3) It was therefore appropriate to depart from the Policy guidance and grant the licence under section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976. The applicant was warned as to his future conduct and informed the licence was granted in expectation of future compliance.

97. Application for the Grant of a Hackney Carriage Drivers Licence - AAH
(Exempt paragraph 3 - Information relating to a person's financial or business affairs)

The Committee considered an application for the grant of a Hackney Carriage Drivers Licence. The applicant (AAH) was present and was accompanied by his brother.

The Chair outlined the procedure that would be followed and introductions were made.

The Licensing Officer summarised the report and drew attention to the key issues as set out in detail in the report. The Committee heard that the applicant's licence had expired on 28th September 2014 and an application for renewal was received on 14th October 2014. A caution for the offence of soliciting was disclosed dating back to 2012. It was noted that the applicant had not disclosed the caution when applying for his previously held HCD licence.

The Licensing Officer drew the Committee's attention to BCC Policy guidance on the relevance of criminal conduct. He reported that the key issues related to the applicant's failure to disclose the caution as part of his application in 2012 and the circumstances which led to the caution.

The Committee heard from the applicant's representative ML (Allen Hoole Solicitors) and noted that the caution was conditional to the applicant attending an educational course which he had completed. The caution itself was not in effect when the application form was completed and came into play after completion of the course.

ML submitted that there were mitigating circumstances which enabled the Committee to depart from policy guidance and grant the licence. Attention was drawn to the appendices to the report setting out the applicant's personal circumstances. ML invited the Committee to exercise its discretion and grant the licence because the offence in question was isolated and there were relevant mitigating circumstances. It was accepted that the applicant's contact with the sex worker would have gone further had the Police not intervened. The applicant was not working as a taxi driver at the time of the incident and he was under a lot of personal stress. He was not in a good place at that time. It was emphasised however, that if the purpose of a conditional caution was to reduce offending by attending change programme, the Committee could have confidence that the risk of this happening again was extremely low.

A copy of the applicant's drivers licence and counterpart licence were circulated.

The Chair advised the applicant that the role of the Committee was to decide if he was a fit and proper person to hold a licence, and in doing so the over-riding factor was that of public safety. The applicant was invited to explain why the Committee should use the discretion to set the policy aside and grant the licence.

The applicant stated that he recognised the seriousness of the offence and its impact on both himself and the community. He was now aware that sex workers were often drug dependent, vulnerable and susceptible to trafficking. He accepted he made a bad decision on the evening in question but had lived in the UK all his adult life and had never made a bad choice like this before.

The parties withdrew from the room.

Members noted that should they decide to make an exception to the Policy, they must be satisfied that the exception is justified. Following careful consideration of all of the written and verbal evidence presented to the Committee, it was unanimously agreed that the application should be approved.

The parties returned to the room and were advised of the Committee's decision. The details of the Committee's findings and reasons for the decision are set out below.

Resolved:-

- (1) The applicant had demonstrated to the Committee that he was a fit and proper person to hold a licence.**
- (2) The Committee was satisfied that the offence for which the applicant was cautioned had emerged from one single incident and that the applicant had admitted the offence and expressed his genuine and honest regret. The applicant had also declared the caution when he had applied to renew his licence. He had clearly learned from his mistake and gave examples of how he understood the impact of the offence on the wider community. He took full responsibility for his actions and gave assurances he would never act in such a way again.**
- (3) It was therefore appropriate to depart from the Policy guidance and grant the licence under section 59 (1) of the Local Government (Miscellaneous Provisions) Act 1976.**

98. Application for the Grant of a Private Hire Drivers Licence - WB
(Exempt paragraph 3 - Information relating to a person's financial or business affairs)

The Committee considered an application for the grant of a Private Hire Drivers Licence. The applicant (WB) was present.

The Chair outlined the procedure that would be followed and introductions were made.

The Licensing Officer summarised the application, highlighting the key issues set out in detail in the report. The Committee noted that all applicants for a PHD licence were required to pass The Knowledge test, broken down into four sections - Districts, Routes, General and Outside Bristol. For a PHD licence, an overall pass mark of 75 was required with additional minimum scores in each section of the test. The applicant had sat the test on 3 occasions, achieving a mark of 72 on the last occasion. It was recommended that the application be refused on the basis that the applicant failed to meet the fit and proper criteria as he had failed to pass the requisite test.

The Chair advised the applicant that he needed to explain to the Committee why they should grant the licence when he had failed the test which all applicants were required to pass.

Detailed discussion followed in relation to the purpose of the test and its content. The applicant maintained that the test contained errors and that there was more than one correct answer to the questions. He stated that some of the locations that formed part of the test no longer existed and it was unfair that he had spent time and money on a process that was not entirely fair. On 2 previous occasions he had passed the Outside Bristol part of the test which he failed on the last occasion.

The Committee asked for further details about the boundaries of the test – how far it extended outside Bristol. The Legal Advisor stated that this was not relevant when the correct answer was included in the multiple choice options provided. The Licensing Officer added that there was provision for crediting applicants with an extra mark if there was any ambiguity around questions when the test results were reviewed.

In conclusion, the applicant stated that the committee should take into account his effort and not only the test results, when considering if he should be granted a licence.

The parties withdrew from the room.

Members noted that should they decide to make an exception to the Policy, they must be satisfied that the exception is justified. Following careful consideration of all of the written and verbal evidence presented, it was unanimously agreed that the application should be refused.

The parties returned to the room and were advised of the Committee's decision. The details of the Committee's findings and reasons for the decision are set out below.

Resolved:-

- (1) The Committee could not be satisfied in these circumstances that the applicant was a fit and proper person to hold a licence because all applicants were required to pass The Knowledge test and the applicant had failed to pass the test on 3 occasions. It was not within the remit of the Committee to remedy this.**
- (2) The application was therefore refused under section 59 (1) of the Local Government (Miscellaneous Provisions) Act 1976.**

CHAIR