

## **DISCLAIMER**

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## **Agenda Item No: 5**

### **Bristol City Council**

### **Minutes of the Public Safety and Protection Committee (Sub-Committee A)**

Tuesday 9 June 2015 at 10.40 am

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#### **Members**

(P) Councillor Fi Hance, (P) Councillor Claire Hiscott, (P) Councillor Eileen Means

#### **Officers in attendance:-**

Kate Burnham-Davies (Regulatory Lawyer), Abigail Holman (Senior Licensing Officer), Jeremy Livitt (Democratic Services Officer)

#### **1. Election of Chair**

Resolved – that Councillor Fi Hance be elected Chair of the Public Safety Protection Sub-Committee A for the 2015/16 Municipal Year.

#### **2. Election of Vice-Chair**

Resolved – that Councillor Claire Hiscott be elected Vice-Chair of the Public Safety Protection Sub-Committee A for the duration of the meeting.

#### **3 Apologies for absence**

No apologies were received.

#### **4 Declarations of interest**

There were no declarations of interest.

#### **5. Terms of Reference**

The Sub-Committee noted their Terms of Reference which had been approved at the preceding meeting of the Annual Full Committee.

#### **6 Public Forum**

It was noted that no Public Forum items had been received.

#### **7 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 committee rules relating to the moving of motions and the rules of debate (CMR 10 and 11) be suspended for all subsequent Agenda Items.**

**8 Exclusion of the Press and Public**

**Resolved – that under Section 11A (4) of the Local Government Act 1972, the public be excluded for the following items of business on the ground that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, as amended.**

**9 Application for the Grant of a Private Hire Vehicle Licence Seeking Departure From Bristol City Council – AMA (containing exempt information relating to a person’s financial or business affairs)**

The Sub-Committee considered the grant of a Private Hire Vehicle (PHV) licence which sought a departure from Bristol City Council.

AMA indicated that the vehicle in question had recently been purchased. The applicant purchased the vehicle for the purpose of driving it as a taxilt was noted that this vehicle failed the minimum dimensions requirement for passenger comfort in respect of three measurements. At this point in the proceedings, the Sub-Committee inspected the car with the applicant, Legal Advisor and Senior Licensing Officer present.

The parties then 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 unanimoulsy agreed that the application should be refused in relation to a licence for 6 passengers as applied for but that a licence should be granted for the vehicle to carry 4 passengers.

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 purpose of the Policy was to ensure the comfort of the passengers.**

- (2) **Having inspected the vehicle, it was the space between the rear of the front passenger seat and the backrest of the rear seat causing the most concern as this was 3 inches less than the policy requires.**
- (3) **Members noted the other measurements were one inch and half an inch less than the policy requires but this was unlikely to affect the comfort of the passengers being conveyed.**
- (4) **Members noted there were many other vehicles of this type being driven as taxis and accepted the advice of the Senior Licensing Officer that there were differences in the measurements of vehicles purporting to be of the same type, make and model.**
- (5) **In the circumstances, Members felt the comfort of passengers would not be affected when the number being conveyed was four and not the six applied for. They therefore felt able to justify making an exception to their policy and granted the licence for 4 passengers only.**
- (6) **It was therefore appropriate to depart from the Policy guidance and grant the licence under section 48 of the Local Government (Miscellaneous Provisions) Act 1976.**

**10 Report of an Application for the Grant of a Hackney Carriage Driver (HCD) Licence – KK** (containing exempt information relating to a person's financial or business affairs)

The Sub-Committee considered an application for the grant of a Hackney Carriage Driver Licence. Members noted that this was technically an application for a grant, even though there was a short space between the incident and the application. Members noted that when submitting his application KK had declared that he had a conviction for driving without due care and attention to which he had pleaded guilty. The Sub-Committee's attention was drawn to the requirement within the policy for any Hackney Carriage Driver to be a fit and proper person and to ensure that the safety of the public was protected.

KK explained to the Sub-Committee that he did not believe he was at fault for this incident but had been advised to plead guilty to receive a minimal fine, rather than plead not guilty and end up paying more. This followed the case being proved in his absence, being re-opened and a not guilty plea being entered on his behalf by his solicitor following initial legal advice. Later, following further legal advice, the applicant changed his plea to guilty in order to avoid a larger penalty. He does not accept the prosecution evidence. In responding to a question concerning an independent witness, he stated that he did not believe the witness was truly independent.

The Legal Adviser explained that the Sub-Committee could not go behind the conviction and had to accept it as it is.

The applicant explained that he had been driving for 10 years and that this was the first conviction of any kind that he had received. He was not acting in his capacity as a driver at the relevant time and this was an isolated incident.

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, the fact he was not acting in the course of his duties as a driver when the incident took place and that he had been working for approximately ten years as a taxi driver without incident. This was an isolated incident for which the applicant had received a low level penalty from the Court.**
- (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.**

**11 Report of an Application To Renew A Private Hire Driver (PHD) Licence In Respect Of An Applicant Who Has Received a Motoring Conviction – SA** (containing exempt information relating to a person's financial or business affairs)

The Sub-Committee noted that the applicant had declared at the time of their application for the renewal of a PHD licence that they had a motoring conviction for being in charge of a vehicle with an alcohol level above the legal limit and for using an uninsured vehicle against the third party risks.

The applicant explained the following:

- (1) During the incident, he had been found sleeping on the pavement by Police with his car keys in his pocket and his car nearby but with no recollection of what had happened;
- (2) He believed that someone had tampered with his drink;
- (3) He stated that this incident had occurred on the day of the Eidh Festival and was a great embarrassment for him and his family
- (4) He pointed out that he had been in the taxi business for 15 years without any previous incident;
- (5) In responding to questions concerning his vehicle being uninsured, he explained that he had mistakenly thought he was insured through the Taxi Company he used to work for. However, he had been shocked to discover that he wasn't on the date in question and had subsequently taken out his own insurance.

The Legal Adviser pointed out that the Sub-Committee could not look behind the conviction and had to accept it as it is.

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. this application is deferred due to a lack of information on which to base a decision and that the applicant is requested to provide further information when it is reconsidered, such as evidence from friends who were with him during the night in question who can explain what happened or corroborate the applicant's account. Further any evidence available from the police should be put before the committee. This request was also put to the Senior Licensing Officer. Other useful material could include a letter from taxi company that used to provide his insurance as to why the applicant did not have the required insurance in place on the night in question.

**Report of a Motoring Conviction Received By A Licensed Private Hire (PHD) Driver and Applicant for the Grant of a Hackney Carriage Driver (HCD) Licence – MI** (containing exempt information relating to a person's financial or business affairs)

The Sub-Committee noted a conviction which had been received by a PHD driver and applicant for an HCD Licence.

MI confirmed that he was not aware that he was under investigation when he applied for the HCD Licence as it was not clear from the incident when he was stopped by the Police that he was under investigation. He did not believe that he was guilty of committing the offence but had pleaded guilty as advised to receive a minimal fine. At the request of the Sub-Committee, he handed in a character reference, court summons and driving licence.

The applicant confirmed that he had been driving for more than 30 years with only the convictions provided.

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. This was an isolated incident which resulted in a small fine from the Court.
2. The applicant was not acting recklessly or dangerously
3. No one else was involved
4. The conviction was more than 6 months old
5. The policy permitted a warning to be given in certain circumstances.
6. 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 subject to all other tests being passed. .
7. No further action to be taken in relation to the Private Hire Driver's License currently held by the applicant as he remains a fit and proper person to hold such a licence under section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976

**13 Report of An Application For the Renewal of a Hackney Carriage Driver Licence – JL** (containing exempt information relating to a person's financial or business affairs)

The Sub-Committee considered an application for the renewal of a Hackney Carriage Driver Licence (HCD). It was noted that the applicant had declared that he had received a caution in 2014 for the possession of cannabis.

The applicant was represented by a solicitor during the proceedings. The solicitor advised that he did not believe that the applicant should ever have accepted a police caution and was considering making an application to set it aside pending the decision at this Sub-Committee.

The Sub-Committee noted that the cannabis had been left in the car by a customer who had been unable to pay their fare. The applicant had confiscated it and had intended to dispose of it but had been stopped by the Police before he had been able to do so and had accepted a caution. He had not appreciated the consequences for him as a Hackney Carriage Driver. It was pointed out that the criminal law provides a defence in relation to the offence of possessing an illegal substance if the only reason for possessing the substance was in order to destroy it. The Sub-Committee also noted a large number of character references to challenge any assertion that he is someone that ordinarily uses drugs.

The applicant confirmed that he had been a taxi driver for 30 years without any previous serious convictions/incidents.

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 a 30 year career as a taxi driver and had given a very honest account as to what happened during the night in question.



2. The applicant was clearly very distressed at the prospect of losing his livelihood and had expressed remorse for the incident
3. It was a very small amount of cannabis arising from an isolated incident
4. The applicant accepted the caution without the benefit of legal advice and was not interviewed at the police station.
8. Members were satisfied that the applicant remains a fit and proper person to hold a Hackney Carriage Driver's Licence and agreed to take no action in relation to the application for renewal under section 59 of the **of the Local Government (Miscellaneous Provisions) Act 1976**

**14 Report of an Application To Renew A Private Hire Driver Licence In Respect of an Applicant Who Has Received a Motoring Conviction – FM** (containing exempt information relating to a person's financial or business affairs)

At this point, the Chair left the meeting and the Vice-Chair took the Chair in her absence.

The Sub-Committee noted that the applicant had applied to renew his Private Hire Driver (PHD) Licence and had declared at the time that he had received a motoring conviction.

The applicant confirmed that the Company who provided his insurance had automatically renewed it but that, when another Company had taken it over, this had not happened. During this time period, the applicant had been abroad and very pre-occupied in dealing with an emergency involving both of his parents who were extremely ill in Iran. The applicant had spent more time in Iran than he had intended to due to the seriousness of the situation. In addition, his wife suffered from mental illness and he had, therefore, not been able to leave her to deal with as many issues as he would have liked whilst he was away.

The Sub-Committee noted a letter from South Gloucestershire Council in relation which supported the contention that the applicant's wife was unwell.

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 was extremely sorry for the situation and had expressed genuine remorse.**
- 2. He had explained the situation his family found themselves in and had brought supporting evidence in that regard.**
- 3. This was an isolated incident and the applicant posed no future risk to public safety**
- 4. This was an unfortunate occurrence rather than reckless or malicious.**
- 5. Members were satisfied that the applicant remained a fit and proper person to hold a Private Hire Driver's Licence and agreed to take no action in relation to the application for renewal under section 51 of the of the Local Government (Miscellaneous Provisions) Act 1976.**

**15**

**Date of Next Meeting**

It was noted that the next meeting would be a meeting of Sub-Committee B at 10am on Tuesday 15<sup>th</sup> July 2015.

**CHAIR**