



## Agenda Item No: 4

### Bristol City Council

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

Tuesday 11 August 2015 at 10.00am

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#### **Members**

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

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

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

#### **16. Election of Chair**

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

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

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

#### **18. Apologies for Absence**

Apologies were received from Councillor Fi Hance.

#### **19. Declarations of interest**

There were no declarations of interest.

#### **20. Minutes – PSP Sub-Committee A – Tuesday 9<sup>th</sup> June 2015**

**Resolved – that the minutes of the above meeting be approved as a correct record and signed by the Chair.**

#### **21. Public Forum**

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

#### **22. 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.**

**23. 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.**

**24. Application for the Renewal Of A Private Hire Vehicle (PHV) Licence – MG (Exempt Paragraph 3 - containing exempt information relating to a person's financial or business affairs)**

The following people attended the hearing to support MG in his application:

Abdul Kadir – A friend who also acted as an Interpreter during the hearing where required

Councillor Hibaq Jama – Lawrence Hill Ward

Councillor Afzal Shah – Easton Ward

The Sub-Committee considered whether any action is necessary in respect of the PHV Licence held by the Applicant. It was reported by the Licensing Enforcement Officer that the Applicant had been convicted of 4 Offences in court. It was noted that two of the charged offences of dishonesty were concerning a failure to give prompt notification of a change in circumstances affecting entitlement to housing and council tax benefit – these offences had been downgraded at Court, following representations made by the Solicitor acting for MG to lesser offences under the relevant Act (and had not involved the element of dishonesty). However, it was also noted that the remaining two charges concerned a failure to disclose information relating to his employer and making a false representation in a letter to Bristol City Council both under the Fraud Act and the relevant Social Security legislation – these remaining two offences were offences of dishonesty.

The Sub-Committee noted the Applicant's difficult and traumatic personal circumstances. They also noted the health issues from which he had suffered, including psychological trauma, memory loss, problems with blood pressure and dizziness. They did, however, note that the memory problems had improved.

The Sub-Committee further noted that the Applicant was very remorseful for his actions and that he would never commit them again.

The parties then withdrew from the room to allow the Sub-committee to make a decision.

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 action should be taken in relation to the licence.

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

**Resolved:- the Panel noted the personal and financial circumstances of the Appellant and sympathised with his situation. However,**

- (1) The Sub-Committee was no longer satisfied that the Applicant was a fit and proper person to hold a PHV licence and resolved to suspend the licence for a period of 6 months. The Sub-Committee had not found MG to be credible in terms of his account and the answers given in response to questions. The Sub-Committee noted the seriousness of the offences charged. The fact the public purse had also been deprived of funds weighed heavily in the minds of Members.
- (2) In accordance with section 61 (1) (a) (i) of the Local Government (Miscellaneous Provisions) Act 1976, that being that since the grant of the licence, the driver of a Private Hire Vehicle has been convicted of an offence involving dishonesty, the license is suspended for a period of 6 months.

**25. Report of an Application for the Grant of a Private Hire Driver (PHD) Licence – NT (Exempt Paragraph 3 - containing exempt information relating to a person's financial or business affairs)**

The Sub-Committee considered an application for the grant of a PHD Licence and heard from the Senior Licensing Officer and the Applicant. It was noted that at a previous hearing for the grant of a PHD Licence without the requirement to pass the Knowledge Test, the Sub-Committee had indicated that they would expect no further requests for exemption. However, the Sub-Committee could not be bound by this resolution. It was a matter for the Sub-Committee to consider this case on its merits and come to a decision.

The Applicant explained that he had been a customer of the company 'Home James' years ago when he was in business himself. He was working up until 18 months ago but had now retired (he was 60 years old). The owner contacted NT to enquire whether he would like to work for the company. NT likes driving and was not otherwise engaged. The company has a new contract for work outside of Bristol and NT would be working up and down the motorway on contracts. He would not be carrying out any Bristol work. He had taken the knowledge test but had failed on the districts and general sections. He would be happy to do this only job and hand in his badge when he leaves the employ.

The parties then withdrew from the room to allow the Sub-Committee to make a decision.

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 granted.

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

**Resolved:- the applicant had demonstrated to the Sub-Committee that he was a fit and proper person to hold a licence. Given the unique circumstances of the case and the assurances given by the Applicant that he would not be undertaking regular private hire driver work within Bristol, Members felt it appropriate to depart from their Policy and grant the licence under section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976 without requiring that the Knowledge Test is passed by the Applicant.**

**26. Report Of An Application To Renew A Private Hire Driver (PHD) Licence In Respect of an Application Who Has Received A Motoring Conviction – AC (Exempt Paragraph 3 – containing exempt information relating to a person's financial or business affairs)**

The Sub-Committee considered an application to renew a PHD Licence in respect of an applicant who had received a motoring conviction for driving a vehicle without insurance. The Senior Licensing Officer advised the Panel that the Applicant had breached a condition of his licence by failing to advise the Council of his conviction of a criminal offence. In addition, he had failed to advise the Council that he

was under investigation when he was renewing his licence. Whilst it was not known whether or not the Applicant had been aware that he had a court hearing for this offence at the time of the renewal request, considering the hearing was only 9 days after the request, Members concluded on the balance of probabilities that the Applicant had known of the court case and had failed to inform the Council as required.

The Applicant indicated that he was very sorry for his actions and had learned his lesson concerning his insurance. He indicated that his previous insurance had been automatically cancelled without him realising in March 2015 and had not known when he had been stopped by the Police in April 2015 that he did not have insurance. He had however now renewed with another insurance Company and would ensure this situation did not re-occur.

The parties then withdrew from the room for the Sub-Committee to make their decision.

Following careful consideration of all of the written and verbal evidence presented to the Sub-Committee, it was unanimously agreed that the application should be refused.

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

**Resolved:-**

- (1) that the Sub-Committee believed that the Applicant's explanations for his failure both to ensure his vehicle was insured and to advise of any forthcoming criminal proceedings were vague and not credible**
- (2) that the Sub-Committee notes that the renewal of the licence would have been within 6 months of the conviction if it had been declared on time;**
- (3) that it was most likely on the balance of probabilities that the Applicant was aware of his forthcoming hearing for a criminal conviction at the time that he applied to renew his licence;**
- (4) that there were two breaches of conditions – a failure to notify when he was convicted and a failure to notify when he applied to renew that he was under investigation. These breaches coupled with the major traffic offence made the situation too serious for a simple warning to be given.**
- (5) The Applicant had been driving since 2007 and should have known how important insurance was, as an experienced driver.**

**(6) that the Applicant is therefore not a fit and proper person to hold a PHV Licence.**

**(7) The Sub-Committee therefore resolved to refuse to renew the licence under section 61 (1) (b) of the Local Government (Miscellaneous Provisions) 1976.**

- 27. Report of an Application For The Grant of A Private Hire Driver (PHD) Licence with Exemption from Knowledge Test and of a Request for Exemption From the Requirement To Display Vehicle Identification Plates – TF** (Exempt Paragraph 3 - containing exempt information relating to a person's financial or business affairs)

The Sub-Committee considered a request from the applicant to be granted an exemption from the knowledge test for a PHD Licence and to be granted exemption from the requirement to display Vehicle Identification Plates.

The Senior Licensing Officer stated that the Applicant had explained that he would be using his licence exclusively for chauffeur-style work. The Sub-Committee could decide whether or not to make an exemption from existing policy in this instance.

The Applicant confirmed that all his work would be to drive to and from locations outside Bristol on pre-booked appointments with SAT NAV being used on all occasions. He further explained that many customers preferred the anonymity of a vehicle without plates.

The Sub-Committee indicated that they were concerned that any passenger entering the vehicle should know that the driver could confirm their identity.

The parties withdrew from the room to allow the Sub-Committee to make a decision.

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 with the requested exemptions.

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

**Resolved:-**

- (1) that the Sub-Committee was satisfied that the Applicant was a fit and proper person to hold a licence;
- (2) that the Sub-Committee was satisfied that the Applicant had no desire to work within the city area as a PHD driver and that therefore, it is appropriate to depart from the Policy and grant him an exception in relation to the requirement to pass the knowledge test and the requirement to display Vehicle Identification Plates subject to a condition being included within the licence that a copy of the PHD licence and the vehicle side plates are always available within the vehicle for anyone to request at all times.
- (3) Members therefore granted the licence under Section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976 .

**28. Report of An Application For the Grant of a Private Hire Driver (PHD) Licence – TPH** (Exempt Paragraph 3 - containing exempt information relating to a person's financial or business affairs)

The Sub-Committee noted an application which had been received for the grant of a PHD Licence with an exemption from the requirement to pass the Knowledge Test. As the applicant was not in attendance, the Sub-Committee felt they could not make a decision on this issue at this time.

**Resolved:** that the application be deferred to a future meeting.

**29. Report Of An Application For The Grant Of A Private Hire Driver Licence (PHD)**

The Sub-Committee noted an application which had been received for the grant of a PHD Licence with an exemption from the requirement to pass the Knowledge Test. As the applicant was not in attendance, the Sub-Committee felt they could not make a decision on this issue at this time.

**Resolved:** that the application be deferred to a future meeting.

**30. Urgent Item - Report of A Private Hire Driver (PHD) Charged With An Offence Of A Sexual Assault on a Female - FA** (Exempt Paragraph 3 - containing exempt information relating to a person's financial or business affairs)

The Chair agreed to take this report as an urgent item for the following reasons:

Reasons for Urgency: On 29 July 2015 Mr Jonathan Martin, Licensing and Trading Standards Manager was sent a disclosure notification from Avon and Somerset Constabulary with regard to a licensed Private Hire

Drivers, FA. Due to an administrative delay, this notification did not come to the attention of Jonathan Martin until Monday 3<sup>rd</sup> August 2015, following which FA was immediately invited to a meeting to discuss the matter on Tuesday 4<sup>th</sup> August 2015. FA has voluntarily handed in his badge, but the matter needs to be properly considered by the Public Safety and Protection Sub-Committee. At present FA could request his badge back as no action had been taken on his licence and the surrender was on a voluntary basis. The Committee is requested to determine his suitability to hold a licence as a result of this charge.

The Senior Licensing Officer presented the report. It was noted that FA had failed to advise the Council of the offence with which he had been charged as required under the PHD Licensing conditions.

FA advised the Sub-Committee that this was the first time he had been charged with any kind of offence. He stated that he had been interviewed on 4<sup>th</sup> April 2015 and placed on bail, with bail being extended again on 5<sup>th</sup> May 2015 following return of forensic evidence and then charged with the offence on 27<sup>th</sup> July 2015. He explained that he had not contacted the Licensing Section about the charge as he was not aware this was required. He had believed that it would only be necessary to advise them if he was convicted. He also stressed the importance of being able to continue work to provide for his family.

The parties withdrew from the room to enable the Sub-Committee to make a decision.

The Sub-Committee noted the legal advice given in the addendum document entitled 'Legal Implications' and indicated that they had operated on the basis that FA was innocent of the offence until proven guilty. However, the Sub-Committee noted the serious nature of the allegation and the need for the public to have confidence in the integrity of the trade as well as the taxi drivers themselves. Further, the Sub-Committee noted their role in terms of the protection of public safety.

The Sub-Committee was concerned that FA had not advised the Licensing Team of the charge in accordance with the conditions of the licence. The Sub-Committee further noted that, if FA continued to operate with a PHD licence, members of the public could be placed in a vulnerable position and, in their view, the interest of public safety appeared to require action.

The Sub-Committee indicated that it was acting in a purely regulatory fashion and although the presumption of innocence has been in the forefront of its mind, the importance of acting with public safety as the Sub-Committee's primary concern was paramount.

The Sub-Committee resolved that with this allegation hanging over the head of the driver, members could no longer be satisfied that FA was a fit and proper person to hold such a licence even if he was innocent in the eyes of the law.

The Sub-Committee, therefore, unanimously agreed that FA's licence should be suspended in view of the seriousness of the allegation and the need to ensure the safety of members of the public.

The Sub-Committee resolved to suspend the licence until midnight on the day of the first PSP committee meeting following the Council being made aware that the criminal proceedings had concluded.

The Sub-Committee then considered whether to suspend the licence with immediate effect as per the provisions of section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976. Members considered that the interests of public safety appeared to require such action and noted FA's failure to disclose the investigation which had been going on since April 2015 or the fact he had since been charged – this was concerning given the fact FA had been driving since 2011. Members noted the information given during the hearing in relation to the nature of the driving carried out by FA – he works at night/at weekends and picks up 6 or 7 passengers per shift. Members noted FA would inevitably find himself in a similar situation again (a lone female passenger, late at night/in the early hours of the morning possibly in a vulnerable state of inebriation). Members noted the seriousness of the allegation, the nature of which goes to the very heart of the concept the Sub-Committee is charged with protecting, that of public safety.

Members noted the *prima facie* case was such that the CPS were confident enough to charge the assault. Members could not know and could not surmise how the incident ended and whether the alleged victim was placed at further risk but felt unable to put a future passenger at risk by travelling in a licensed vehicle with the driver standing accused of an offence of this nature.

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:- that the licence be suspended with immediate effect under section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 that being 'any other reasonable cause' until midnight of the day of the first PSP Sub-Committee following Bristol City Council being advised of the conclusion of court proceedings.**

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#### **Date of Next Meeting**

It was noted that the next meeting would be a meeting of Sub-Committee B at 10am on Tuesday 8<sup>th</sup> September 2015.

**CHAIR**