



**Agenda Item No: 4**

**Bristol City Council**

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

Tuesday 22 December 2015 at 10.00am

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**Members**

(P) Councillor Christopher Davies, (P) Councillor Fi Hance, (P) Councillor Mike Langley.

**Officers in attendance:-**

Elaine Kale (Regulatory Lawyer), Peter Hogarth (Item 7) Carl Knights (Items 8 to end) (Senior Licensing Officers), Sam Mahony (Democratic Services Officer)

**1. Apologies for Absence**

Apologies were received from Councillor Means and Councillor Hiscott

**2. Declarations of interest**

There were no declarations of interest.

**3. Public Forum**

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

**4. Minutes – PSP Sub-Committee A – Tuesday 13<sup>th</sup> October 2015**

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

**5. Consideration of the Suspension of Committee Procedure Rules (CMR10 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.**

**6. 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.**

**7. Application for the renewal of a hackney carriage driver licence – IA (agenda item no.7)**  
(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 (IA) was in attendance along with representative, Mr Giles Nelson.

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. It was noted that the wrong surname in paragraph 8 of the report was purely administrative. In particular it was explained that IA had not declared his conviction on his renewal form and was asking the Committee to make an exception to its Policy as a fit and proper person.

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

- He had been convicted for three benefit fraud offences at Bristol Crown Court for which he received a four month suspended sentence. The charges related to allowing a false representation by his partner.
- He had visited the Licensing Office for help with the application form and had filled it out with assistance having shown his letter of conviction. The Licensing Officer could not confirm any contact with the office for assistance with the form.
- He was 57 years old with no previous convictions and no previous appearances at court. He had been driving a taxi for 28 years without complaints.
- He presented a letter from A Taxi's, his driving license (card only) to view and a screenshot of a request to drive a client.
- The Licensing Officer was unable to confirm if they had been informed of a speeding conviction 5/6 months ago. The Legal Advisor confirmed that one speeding conviction would fall outside the remit of the Committee.

The Sub-Committee retired to consider the application in the presence of EK and SM.

Members noted elements section 46 of the Town Police Clauses Act 1847, 59(1) of the Local Government (Miscellaneous Provisions) Act 1976 and 7a 'Offences of Dishonesty' of the Bristol City Council policy.

The Committee considered 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 rejected.

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) As there was no evidence either way regarding the assistance with the form, the Committee would give the applicant benefit of the doubt.**

**2) The Committee were unable to make an exception to the policy and consider the applicant a fit and proper person due to the conviction for fraud. The policy asked for applicants to have at least three years free of conviction.**

IA was advised to speak further with the Licensing Officer regarding any part refund of fees he had paid for a two year renewal.

**8. Application for the renewal of a Hackney Carriage Vehicle License – PT (agenda item no.8)**

The Committee considered an application for the grant of a Hackney Carriage Licence. The applicant was not in attendance. It was confirmed that the matter had been placed before the committee on 13<sup>th</sup> October and adjourned at the request of the applicant. The matter was then adjourned on 17<sup>th</sup> November 2015 as the applicant did not attend. A letter was sent to the applicant on 30<sup>th</sup> November 2015 by email and post explaining that the matter would be determined at the next meeting unless exceptional circumstances arose. The applicant had stated via email yesterday that he had another appointment in London and asked for an adjournment.

The officer recommendation was to proceed as the applicant had three opportunities to be heard. The first adjournment was for him to seek advice and documentation which had not been forthcoming.

The Committee decided to proceed. The Chair outlined the procedure that would be followed and introductions were made.

The Licensing Officer summarised the report. The application was to renew the licence for Hackney carriage 46. The previous licence for the vehicle expired on 15 August 2015.

On 27 May 2015 a letter had been sent to all current Hackney Carriage proprietors clarifying the intention of the Council policy with regard to applications for Hackney Carriage licences point seven, with references to Grandfather rights. The applicant had confirmed receipt of the letter.

The Sub-Committee noted that the letter was sent to Mr Taylor and Mr Gannaway for each of their vehicles, and the letter made clear that rights would expire on transfer. The officer reported that Mr Taylor confirmed he had received the letter but had thought it did not apply to him.

It was noted that the vehicle being considered was now too old (2004) under the policy and that Fiat Diablo was not a vehicle that had whole type approval. The Sub-Committee noted that of the vehicles in the applicant's fleet, none met the current policy but had applied grandfather rights.

The Sub-Committee retired to consider the application in the presence of EK and SM.

Members noted that the Council had previously misapplied its own policy but that following the letter of 27 May 2015 that had been sent to all, it was no longer bound by it. The Committee considered 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 Licensing Officer returned to the room and was 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 applicant had not demonstrated exceptional reasons to depart from the Council Policy.**

**Reasons:**

- 1. The Licensing Sub-Committee noted that the applicant had previously been permitted to transfer 'grandfather rights' however, following legal advice the letter of 27<sup>th</sup> May 2015 had explained the change to the application of the policy.**
- 2. The vehicle was too old (2004) under the policy and Fiat Diablo was not a vehicle that had whole type approval.**

**9. 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).**

**10. Report of an application for the grant of a private hire driver licence, request for plate exemption and installation of privacy glass on a private hire vehicle – TPH (agenda item no.13)**

The Committee considered an application for the grant of a private hire driver licence, exemption from the knowledge test, request for plate exemption and the installation of privacy glass on a private hire vehicle. The applicant was in attendance.

The Chair made introductions and outlined the procedure.

The Licensing Officer summarised the report. The Sub-Committee noted that it needed to consider three aspects within the application, The applicant also requested exemption from the knowledge test as the decision had been referred to Committee by the Licensing Trade Services Manager.

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

- He had not yet purchased a vehicle as a steer from the Sub Committee would affect the type of car he would buy as some models only came with privacy glass.
- Executive and Chauffeur work expected and requested cars with privacy glass. Customers tended to be business people who used laptops and required privacy glass as it meant less glare on the screen, and for snoozing on the way to and from airports.
- As the type of work was likely to be that of a chauffeur booked well in advance, detailed knowledge of Bristol was not necessary. Although the applicant had lived in Bristol all his life he did not have extensive knowledge of blocks of flats and pubs but would utilise a satnav.
- He currently worked as 'Envoy Cars' which traded as a wedding car firm.
- He knew of another driver who had been able to use privacy glass because of executive work.
- The general calibre of driver for chauffeur work was slightly different from that of private hire. The car was better and the charging higher. Typically the chauffeur would have a

minimum cost to prepare the car. The job would be different, likely to be long distance such as airport transfer for corporate travellers.

- Prices were approximately £1.70 per mile meaning a trip from Bristol to Heathrow would be £170/180 executive service. There would likely only be one job in a day.

The Sub Committee noted that the Council did not currently have a policy in force with regard to the issuing of exemption from the display of plates and the use of privacy glass/tinted windows. Officers had drafted a policy which had been consulted upon and would shortly be placed before the committee for consideration. Should a policy be established it would likely ask to consider the nature of the work being undertaken and the pricing structure of the fare.

The Sub Committee considered the licensing plates important in terms of visibility and assurance, showing how to contact the licensing authority. A drivers badge was also expected to be on display within the vehicle. If an exemption to visible plates was given it would be expected to be produced upon request.

The Sub Committee were mindful that some people want to see into a vehicle before getting in. The applicant confirmed that the driver would introduce themselves on arrival and the door would be opened for the passenger which would allow visual access into the car. The work would be executive work rather than lone passengers late at night who needed to be mindful of safety.

The Sub-Committee retired to consider the application in the presence of EK and SM.

EK left the room to ascertain that the applicant's current work was as a private hire company. EK returned to the room and confirmed that it was.

Members noted the Council's Hackney Carriage and Private Hire Fit and Proper Persons Policy with regard to knowledge tests, the provisions of the Local Government (Miscellaneous Provisions) Act 1976 with reference to Private Hire Vehicles sections 48, 48(6)(a), 51, 52(2)(a) and 75(3)

The Sub Committee decided that they were unable to award or reject the application for privacy glass as the car had not yet been bought. The Sub Committee were also unable to give a steer as to a future decision and noted that any future Sub Committee could have a different membership.

The parties returned to the room and were advised of the Committee's decision.

**Resolved - the Sub-Committee was satisfied that the applicant was a fit and proper person and therefore agreed to approve the private hire driver licence subject to the outstanding elements of the fit and proper person criteria excluding the knowledge test. The Sub-Committee agreed to depart from the policy and agree to exemption from the knowledge test and display of plates.**

**The licensee may only undertake private hire work booked in accordance with the operator licence held by Envoy Cars Ltd, trading as Envoy Cars. Should the licensee wish to undertake private hire work for another private hire operator he/she must first undertake and pass the Council's private hire knowledge test.**

**Reasons :-**

- The Sub-Committee was satisfied that the applicant would be working exclusively as a chauffeur of executive cars with pre booked clients and a different pricing structure compared to private hire clients.
- A drivers badge was expected to be on display within the vehicle. License plates were expected to be produced upon request.
- The Sub Committee were also unable to give a steer as to a future decision regarding privacy glass.

**11. Report of a request for privacy glass to be fitted on a private hire vehicle – NG (agenda item no.14)**

The Committee considered a request for the installation of privacy glass on a private hire vehicle. The applicant was in attendance.

The Chair made introductions and outlined the procedure.

The Licensing Officer summarised the report, in particular it was noted that the application had been presented to the Sub Committee B at their last meeting where exemption from plates were approved but request for privacy glass was left undecided and returned to Sub Committee for decision.

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

- The applicant had a growing business carrying out new executive work contracts for companies including Imperial Tobacco.
- Executive clients expected a particular package included tinted windows, contactless card payment, wifi and newspapers.
- The pricing structure had not changed, they were simply accessing a different market.
- Work tended to be Monday to Friday from 5/6am til half ten at night but not for the evening market specifically. The business was for bookings only.
- The executive work was a new venture which would be supplemented by private hire business until there was enough to continue with only executive work.

The Sub Committee were mindful of that some people like to see into a vehicle before getting in. The applicant confirmed that customers would be able to see into the car through the open door and he was safe with the public and had been awarded a licence.

The Council did not currently have a policy in force with regard to the issuing of exemption from the use of privacy glass/tinted windows. Officers had drafted a policy which had been consulted upon and will shortly be placed before the committee for consideration. Should a policy be established it would likely ask to consider the nature of the work being undertaken, such as the fare structure.

The Sub-Committee retired to consider the application in the presence of EK and SM.

The applicant was asked to return to the room to clarify that at times he would continue to cover work for private hire, although that was likely to be in the daytimes such as hospital visits with recurring clients.

The Sub-Committee retired again to consider the application in the presence of EK and SM.

Members noted the Hackney Carriage and Private Hire Vehicles Inspection Standards section 6.5(h). 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 - that the applicant had not demonstrated exceptional reasons to depart from the Council Policy.**

**Reasons:**

- 1. The Licensing Sub-Committee were unwilling to agree to privacy glass/tinted windows for private hire vehicles and work.**

**12. Application for renewal of a Hackney Carriage drive licence – LS**  
(Exempt paragraph 3 - Information relating to a person's financial or business affairs)

It was noted that the applicant was in attendance to support the applicant

The Chair made introductions and outlined the procedure.

The Licensing Officer summarised the report and explained that renewal applications in December 2013 and 2014 had asked if any cautions, reprimands and convictions had been received. None were declared until his application and Enhanced Disclosure and Baring Service (DBS) on 24 November 2015.

The Sub-Committee noted the case law regarding the fit and proper persons test and also the Council's policy included indecency and serious sexual offences (d) and (ii) whereby licenses could be refused from between 5 and 15 years after any conviction. The Town Police Clauses Act 1847 and Section 59(1) and 61(1) of the Local Government (Miscellaneous Provisions) Act 1976

The following points were made by the applicant:

- He had been a taxi driver for 33 years since 1981/82 with no problems in all that time. He was now 68 years old and he needed a job as his car was only half paid for and he had a tax bill to be paid by 31<sup>st</sup> January 2016. He also had family responsibility as his children needed a deposit to get onto the housing ladder.
- He didn't put the convictions on the renewal forms as he was ashamed. He was very sorry and wouldn't do it again out of respect for the people he worked for at the licensing office.
- His wife had depression and hadn't been able to work for years.
- The incidents were with the same woman who it transpired worked with the police. The second time he was being compassionate asking if she was okay after the first incident. He hadn't known she was linked to the police until she drove him to them after an exchange of money.
- The first time he had been in his taxi, on the second occasion in a private car

The Sub-Committee retired to consider the application in the presence of EK and SM.

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: that the applicant had not demonstrated exceptional reasons to depart from the Council Policy and therefore the Sub-Committee refused to renew the licence.**

**Reasons:**

- 1. The Licensing Sub-Committee given the nature of the convictions the application be refused.**

### **13. Date of Next Meeting**

It was noted that the next meeting would be a meeting of Sub-Committee B at 10am on Tuesday 26<sup>th</sup> January 2016.

**(The meeting ended at 2.20pm)**

**CHAIR**