

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 21ST SEPTEMBER 2010 AT 10.00 A.M.**

A Councillor Christopher Davies
P Councillor Alf Havvock
P Councillor Jeff Lovell (in the Chair)
P Councillor Tim Leaman (for Cllr Davies)
P Councillor David Morris
A Councillor Guy Poultney

PSP

57.9/10

**APOLOGIES FOR ABSENCE, SUBSTITUTIONS AND
DECLARATIONS OF INTEREST**

Apologies were received from Councillor Davies, substitute Councillor Leaman; and Councillor Poultney.

PSP

58.9/10

PUBLIC FORUM

Nothing was received.

PSP

59.9/10

**CONSIDERATION OF THE SUSPENSION OF COMMITTEE
PROCEDURE RULES (CMR 10 AND 11) RELATING TO THE
MOVING OF MOTIONS AND RULES OF 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.

PSP

60.9/10

EXCLUSION OF PRESS AND PUBLIC

RESOLVED - that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act,

as amended.

PSP

61.9/10

**APPLICATION FOR THE GRANT OF A PRIVATE HIRE
DRIVER'S LICENCE – APPLICANT MR**

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

The sub-committee considered an exempt report of the Director of Neighbourhoods (agenda item no. 5) considering an application for the grant of a private hire driver's licence.

MR was in attendance.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Licensing Officer introduced the report and summarised it.

MR then made the case for the application and answered questions highlighting the following:

- He was not working at the time that he was stopped on 4th September 2009; his uncle was recovering in hospital from a heart operation and he was making frequent visits to the hospital,
- His cousin had been smoking cannabis in the car and the small amount of drugs found on him related to a packet he found in his taxi and had put in his pocket
- He has taken drugs in the past but no longer does so and had not been taking them prior to being stopped on 4th September 2009; (this is contrary to the Police report that MR had admitted smoking cannabis whilst driving)
- He could not remember why he had failed to surrender to custody resulting in a £50 fine on 23rd February 2007
- His Community Order had originally been deferred by 3 months because of a back problem
- The conviction on 27th November 2006 related to an incident involving his girlfriend
- He has 5 children to support and needs to work

- He has been working for 13 years as a taxi driver and has never had any problems with the public or in relation to his work
- He summed up his case

The Licensing Officer explained MR has never had to take the fit and proper person tests previously because his original license was issued before they existed.

In response to concerns about MR being stopped whilst not working, the Licensing Officer explained that the Police have the powers to stop any motorist and he had been stopped as a result of an Enforcement Officer recognising him; he was not displaying his Private Hire vehicle plates even though there is a requirement that the plates must be displayed on a licensed vehicle at all times irrespective of whether or not the driver is working as a taxi driver.

All parties and the representatives of the Director of Neighbourhoods left the room.

Details of the Committee's findings and reasons for the decision are set out in Appendix 1.

All parties and the representatives of the Director of Neighbourhoods returned to the room to hear the decision of the Committee.

RESOLVED - that the application for a Private Hire Driver's License by MR be refused as he has not convinced the Council that he is a fit and proper person to hold such a license.

**PSP
62.9/10**

PRIVATE HIRE DRIVER RECENT CONVICTION – HS

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

The sub-committee considered an exempt report of the Director of Neighbourhoods (agenda item no. 6) considering whether any action is required as a result of a recent conviction at Bristol Crown Court.

HS was in attendance.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Licensing Officer introduced the report and summarised it.

HS then made the case for the application and answered questions highlighting the following:

- He had been driving at 30 to 35 mph when his had lost power; he had pressed the throttle pedal harder to compensate for the loss of power and this resulted in a sudden gain of speed by the car causing him to swerve and hit a parked car
- He had elected to go for trial at the Crown Court and was found guilty of Driving without Due Care and Attention, and fined £60
- This was his first ever offence
- He was not falling asleep at the time of the accident as claimed by the passenger; on the contrary it was the passenger who had fallen asleep and he believes she made this false statement in order to claim from his insurance company
- The accident occurred at 5.00 to 5.30 am, but he could not remember what at time he started work
- The fault with the car was subsequently resolved but he was not advised what the problem had been; everything else on the car had been OK
- Both he and wife are students and look after their children between them as well as him working as a taxi driver
- HS summed up his case

All parties and the representatives of the Director of Neighbourhoods left the room.

Details of the Committee's findings and reasons for the decision are set out in Appendix 2.

All parties and the representatives of the Director of Neighbourhoods returned to the room to hear the decision of the Committee.

RESOLVED - that no action be taken in respect of the

Private Hire Driver's License held by HS, but that he receive a warning reminding him of the driving standards expected of him and of his responsibilities as a Private Hire Driver.

THE FOLLOWING ITEM WAS CONSIDERED IN OPEN (NON-EXEMPT) SESSION

PSP

**63.9/10 APPLICATION FOR THE GRANT OF A STREET TRADING CONSENT OUTSIDE ALLMEAD WASTE MANAGEMENT, ALBERT ROAD, BRISTOL
APPLICANT: MICHAEL DINHAM
PROPOSED TRADING NAME: SIZZLERS**

The Licensing Officer advised Members that he had received a message stating that the applicant had withdrawn his application for a Street Trading Consent at this location.

PSP

64.9/10 EXCLUSION OF PRESS AND PUBLIC

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

PSP

65.9/10 COMPLAINT OF OFFENDING CONDUCT – HOLDER OF HACKNEY CARRIAGE DRIVER'S LICENCE – AOA
(Exempt paragraph 3 – Information relating to a person's financial or business affairs)

The sub-committee considered an exempt report of the Director of Neighbourhoods (agenda item no. 9) considering whether action is necessary in respect of the Hackney Carriage Driver's Licence held by AOA.

AOA was in attendance accompanied by 3 Representatives of the NTA.

The Enforcement Officer was also in attendance, as was the Witness LA.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Licensing Officer introduced the report.

The Enforcement Officer provided details of the alleged incident and explained how he had investigated it drawing attention to the letters sent to AOA and the other taxi drivers, statements from the other taxi drivers, the letter dated 2nd August 2010 from AOA and the information from Safe and Sound, and the witness statements from the Taxi Marshall and LA.

Everyone then viewed CCTV footage of the alleged incident.

LA confirmed her written statement to be true and that she had had to wait around an hour for a taxi.

A Representative of the NTA then tabled two statements - one from AOA and one from the NTA on behalf AOA. A copy of both statements is contained in the Minute Book.

The Chair then drew attention to the fact that the statement tabled on behalf of AOA conflicted with his letter dated 2nd August 2010.

In response AOA stated that there had been a misunderstanding, he had been on holiday since the day of the alleged incident and the incident described in his letter was another one on the same night. He had refused to take a man in a wheelchair to Keynsham as he was about to finish work and go home. This incident had occurred at between 4.00 am and 5.00 am. He does not have a problem with wheelchair users.

AOA stated that although he has been a taxi driver for 4 years his English is not good and he sometimes has communication difficulties. He considered that this was the case in relation to the alleged incident as he felt there had been misunderstanding between himself and the Marshall. He had got out of his car, viewed the wheelchair and advised the Marshall that he could not take it as it was too big for his car.

A Representative of the NTA commented that although LA was a priority the Marshalls had allowed a number of taxis to leave the rank without taking her.

The Licensing Officer advised Members that Marshalls have general training to ensure the safety of passengers and taxi drivers. They are not trained in which vehicles can accommodate which particular wheelchairs.

A second Representative of the NTA tabled references from V Cars, a controller and a wheelchair user on behalf AOA. He stated that AOA had advised the Marshalls that he judged it unsafe to take LA and that the second taxi (in the cctv footage) was unable to take her was an identical vehicle to that AOA's. In relation to the other incident the same night, AOA had been within his rights to refuse the journey to Keynsham as it is outside the City Boundary.

In response to a question from the Chair concerning how AOA could get the two incidents on the night mixed up when one involved a man and the other involved a woman, AOA stated that he was not good at reading English.

LA stated that she had spoken AOA through the window and he had stated that he could not be bothered to put the ramps down because it was raining. He had refused to take her but would not leave the rank until he had an alternative fare. His story had changed significantly since the night in question and what had really happened. She had been sitting in the wheelchair so long that she had adjusted it to improve her comfort but AOA had not been prepared to get the ramps out of the car.

AOA summed up his case.

All parties and the representatives of the Director of Neighbourhoods left the room.

Details of the Committee's findings and reasons for the decision are set out in Appendix 3.

All parties and the representatives of the Director of Neighbourhoods returned to the room to hear the decision of the Committee.

After hearing the decision on the finding of fact AOA was invited to retire again so that he could make a further statement before the Members decided what action (if any) to take against his license.

The second Representative of NTA made a statement on behalf AOA:

- It was a misunderstanding between himself and the Marshal
- The Marshall had not been in attendance at the Meeting so AOA was unable to question his version of events.

- He is responsible for the safety of his passengers and had refused to take LA on safety grounds
- An identical vehicle had been unable to take her
- He was just trying to do his job

All parties and the representatives of the Director of Neighbourhoods left the room.

Details of the Committee's findings and reasons for the decision are set out in Appendix 3.

All parties and the representatives of the Director of Neighbourhoods returned to the room to hear the decision of the Committee.

RESOLVED - (i) that the version of events put forward by LA was more credible than the version put forward by AOA and therefore the finding of fact is that AOA had refused to take LA to her required destination; and

(ii) that the Hackney Carriage Driver's License held by AOA will be suspended for a period of 4 weeks.

**PSP
66.9/10**

DATE OF NEXT MEETING

RESOLVED - that the next meeting be held on Tuesday 12th October 2010 at 10.00 a.m. and will be a meeting of Sub-Committee B again.

(The meeting ended at 3.30pm.)

CHAIR

Appendix 1

BRISTOL CITY COUNCIL

**MINUTES OF MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 21st SEPTEMBER 2010 AT 10.00 A.M.**

PSP 61.9/10

Agenda item no: 5

Agenda title

**APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S
LICENCE – APPLICANT MR**

Finding of Facts

MR found guilty of two counts of Possession of a Controlled Drug at Bristol Magistrates Court on 28th October 2009.

MR found guilty of Possession of a Controlled Drug at Bristol Magistrates Court on 18th September 2008.

MR found guilty of Failing to surrender to Custody at the Appointed Time at Bristol Magistrates Court on 23rd February 2007.

MR found guilty of Breach of Community Order at Bristol Magistrates Court on 13th February 2007.

MR found guilty of Battery and Criminal Damage at Bristol Magistrates Court on 27th November 2006.

Decision

That the application for the grant of a Private Hire Driver's Licence in respect of MR be refused on the ground contained in Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 in that MR had not satisfied the Council that he was a fit and proper person to hold such a licence.

Reasons for Decision

Members considered very carefully all of the written and verbal evidence presented to them. Members noted that although none of his convictions related directly to his work as a taxi driver, Members had concerns about his continuing inability to stay out of trouble with the Police and act as a law abiding citizen.

Members of the Sub-Committee were mindful of their overriding responsibility to protect members of the public and therefore the Council was entitled to expect high standards of conduct from those whom it licensed. The Council has a duty to ensure so far as possible that those licensed to drive private hire vehicles are suitable persons to do so in that they are, amongst other things, safe drivers with good driving records and

honest.

Members considered that MR has a pattern of continuing to offend going back a number of years. The Members carefully considered the representations made by the applicant but decided not to exercise their discretion and depart from the Council's policy. The Applicant had not presented any exceptional circumstances for the Members to depart from the Council's policy.

The Members were not satisfied that MR was a fit and proper person to hold Private Hire Drivers Licence and decided to refuse his application.

Members, noting their Policy, did not consider that MR had produced enough evidence to convince them that he is a fit and proper person that they should set aside their Policy in relation to his application for a Private Hire Driver's License. Members therefore decided to refuse his application.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 21st SEPTEMBER 2010 AT 10.00 A.M.**

PSP 62.9/10

Agenda item no: 6

Agenda title

PRIVATE HIRE DRIVER RECENT CONVICTION – HS

Finding of Facts

HS found guilty of Driving without Due Care and Attention at Bristol Crown Court on 21st July 2010.

Decision

That no action be taken in respect of the Private Hire Driver's License held by HS, but that he receive a warning reminding him of the driving standards expected of him and of his responsibilities as a Private Hire Driver.

Reasons for Decision

Members considered very carefully all of the written and verbal evidence presented to them.

Members noted the previous good record of HS and that this was an isolated incident for which HS had been punished by the Courts.

Members therefore decided to take no action in respect of the Private Hire Driver's License held by HS, but that he should receive a warning reminding him of the driving standards expected of him and of his responsibilities as a Private Hire Driver.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 21st SEPTEMBER 2010 AT 10.00 A.M.**

PSP 65.9/10

Agenda item no: 9

Agenda title

**COMPLAINT OF OFFENDING CONDUCT – HOLDER OF HACKNEY
CARRIAGE DRIVER’S LICENCE – AOA**

Finding of Facts

That AOA had refused to take LA to her required destination.

There was reasonable cause to suspend the Private Hire Drivers
Licence

Decision

(1) That the Hackney Carriage Driver’s Licence held by AOA be
suspended for a period of 4 weeks on the following grounds;

(a) Section 61(1)(b) of the Local Government (Miscellaneous Provisions)
Act 1976 there was reasonable cause to suspend the licence

Reasons for Decision

Members considered very carefully all of the written and verbal evidence
presented to them. Members considered the verbal evidence from
witnesses including the CCTV footage that was available concerning the
incident.

Members of the Sub-Committee were mindful of their overriding
responsibility to protect members of the public and therefore the Council
was entitled to expect high standards of conduct from those whom it
licensed. The Council has a duty to ensure so far as possible that those
licensed to drive are suitable persons.

After consideration of the verbal evidence of the witnesses the members
adjoined to make findings of fact in relation to the incident.

Members believed the version of events put forward by LA was more
credible than the version put forward by AOA and therefore the finding of
fact is that AOA had refused to take LA to her required destination.
Members were concerned about the inconsistency in the evidence put

forward by AOA. Members found LA to be a credible witness.

Members then reconvened to give the parties the decision on the finding of fact the committee undertook. Members explained to AOA the options available to them and the Council's policy and gave him the opportunity to make further representations as to why the members should not take any action on his license. The meeting was adjourned to enable AOA and his representatives to discuss the representations they intended to make to the members.

The meeting was reconvened. The Applicant maintained that it was a misunderstanding. The members were unanimous that AOA had not presented any exceptional circumstances for the Members to depart from the Council's policy.

It was considered that AOA's conduct fell well below the standard that the Council was entitled to expect from those whom it licensed. Members did not consider that AOA had acted in a manner that is expected of him as the holder of a Hackney Carriage Driver's License and therefore decided to suspend his license for a period of 4 weeks.

Chair's Signature