

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 12th OCTOBER 2010 AT 10.00 A.M.**

P Councillor Christopher Davies
P Councillor Alf Havvock
P Councillor Jeff Lovell
P Councillor David Morris
P Councillor Guy Poultney (in the Chair)

PSP

**67.10/10 APOLOGIES FOR ABSENCE, SUBSTITUTIONS AND
DECLARATIONS OF INTEREST**

No apologies were received.

PSP

68.10/10 PUBLIC FORUM

A statement from Dr Rowland Dye on behalf of Sakir Yildirim was received. A copy of the statement is contained in the Minute Book. The Licensing Officer explained to Members the situation concerning this issue and it was

RESOLVED - that the Licensing Office arrange a meeting between all interested parties with a view to resolving the situation.

PSP

**69.10/10 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

70.10/10 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

71.10/10 HACKNEY CARRIAGE DRIVER COMPLAINT FROM PASSENGER - MV

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

The Licensing Officer explained that he had received a request from the solicitor representing MV asking for a deferment of the case.

It was therefore

RESOLVED - that consideration of this case be deferred until a future Meeting of the Committee.

PSP

72.10/10 PRIVATE HIRE DRIVER RECENT CONVICTION AND COMPLAINT OF ILLEGAL PLYING FOR HIRE – MH

(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. 8) considering whether any action is required as a result of a recent conviction at Bristol Crown Court.

MH was in attendance.

A witness and a Licensing Enforcement Officer were also in attendance.

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

The Licensing Officer introduced the report and summarised it.

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

- The woman involved in the assault case would have

attended the meeting but she is at work

- Had she attended she would have stated that the description of the incident in the papers is incorrect
- He emphasised that the assault did not involve a member of the public - but a friend with whom he had argued during the evening - and he had not been working at the time
- He had a bad year
- When he attended court he thought that he was going to receive a lesser sentence
- He has held a PHDL since 2002
- This was the first time that he had illegally plied for hire
- He had been parked and was on the 'phone when approached by two people who asked to be taken to the Marriott and without any thought agreed to take them
- When he was asked for a receipt he realised that he should not have picked them up and advised them that he could not charge them
- On realising his mistake he had panicked but disputes that he asked for a fare of £6.00

The witness confirmed his written statement.

MH 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 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 Private Hire Driver's License held MH be revoked as he is no longer a fit and proper person to hold such a license.

Following the delivery of the decision MH appeared to be surprised as he thought that no action was to be taken on his license as he was not being prosecuted.

PSP

73.10/10

APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE – APPLICANT: MSK

(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 an application for the grant of a Private Hire driver's licence.

MSK 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.

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

- He was very sorry for having committed the offences
- He had paid a heavy price - disqualification and fined - and had lost his livelihood
- He had thought the driver's license had to be renewed at the same time as the vehicle license as he thought they ran concurrently
- It has been two years since he worked as a taxi driver and over a year since is conviction
- He has not worked and is on Job Seekers Allowance
- His family has suffered, his debts have mounted up and vehicle has been repossessed
- His health has suffered, he has had panic attacks, been unable to sleep, is on anti-depressants and has recently been hospitalised as a result of a life threatening stress related illness
- During the period February to June 2008 he had worked in a

restaurant

- He had worked as a taxi driver for a short time in June, had been away during July and had resumed working as a taxi driver in August until October when he found that he did not have a Private Hire Driver's License
- He had been stopped by the Police on 6th November; he did not always wear his badge and had removed plates from the outside of the vehicle on the night that he was stopped as he was not working as a taxi driver and was only giving a friend a lift

The Licensing Officer confirmed that the plates must be affixed to the exterior of the vehicle they belong to at all times. He also explained that the last Private Hire Driver's License held by MSK had expired on 7th February 2008 and that MSK had continued to drive a Private Hire Vehicle until November 2008. MSK had completed an application form for a new license on 11th November 2008 and had subsequently been charged - and found guilty - of four specimen charges of Driving a Private Hire Vehicle without Insurance or a Private Hire Driver's License. He had since submitted another application resulting in his appearance before the Committee. The Licensing Officer also advised that a reminder about the expiry of his License was sent to MSK but he had changed his address without advising the Licensing Office.

MSK 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 MSK be granted a Private Hire Driver's License subject to him passing the Essential Skills Test, the DSA Driving Test, the Knowledge Test and a Medical Test.

PSP

74.10/10

APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE – APPLICANT: AFS

(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. 10) considering an application for the grant of a Private Hire driver’s licence.

AFS was in attendance, accompanied by an Interpreter. AFS was also represented by a solicitor - JP.

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

The Licensing Officer introduced the report and summarised it.

JP stated that although AFS has convictions to Benefit Entitlement and Driving without Insurance he felt that the Committee should treat him as an exception and set its Policy aside in his case. He added that he had provided AFS with a lot of legal help and his English was reasonable.

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

- The offences relating to the insurance had both occurred in the same week
- He had bought a second car and thought that the insurance from the first car also covered the second one
- After being stopped the first time he had thought that he had arranged insurance but after being stopped a second time he found out there had been a problem with the payment to the company and the insurance had not been activated
- The Benefit Entitlement conviction related to work his wife had been doing which he was unaware of; she had worked during hours when he was not present at the house as he was collecting their children from school so he had been unaware of her going to and coming back from work; during the school holidays he assumed that she was taking holiday from the job
- She had worked two hours per day initially for five days per week but when she became pregnant she worked fewer hours and fewer days and during school holidays she said she was going to see her sister

- He had not included details of his driving convictions on the application form as he did not understand the form because he thought reference to “last license” referred to his DVLA License not PHDL.
- He had not included details of his Benefit Entitlement conviction as although he had been interviewed under caution he did not expect to be prosecuted
- Until recently he had suffered a back problem and had been claiming Job Seekers Allowance

JP summed the case for AFS highlighting that Benefit Entitlement conviction was a low level offence that took place two years ago; the insurance offences took place three years ago; and that AFS is as an honest person who wants to make a living to support his family. The Committee should therefore set aside its Policy in 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.

RESOLVED - that the application for a Private Hire Driver’s License made by AFS be refused as he had not convinced the Council that he was a fit and proper person to hold such a license.

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

PSP

75.10/10 APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE VEHICLE LICENCE - APPLICANT: JEREMIAH CRONIN

The sub-committee considered a report of the Director of Neighbourhoods (agenda item no. 11) considering approval to license a vehicle that falls outside members’ current policy on the age of vehicles.

Mr Cronin was in attendance.

The Representative of the Service Director, Legal Services advised that in her opinion this application falls within the Policy that allows a “written off” vehicle to be replaced within 3 years of it being first licensed.

It was

RESOLVED - that vehicle registration number BF09 TWK be licensed as a hackney carriage vehicle.

PSP

76.10/10 DATE OF NEXT MEETING

RESOLVED - that the next meeting be held on Wednesday 20th October 2010 at 10.00 a.m. and will be a meeting of Sub-Committee A.

(The meeting ended at 2.55 pm.)

CHAIR

Appendix 1

BRISTOL CITY COUNCIL

**MINUTES OF MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 12TH OCTOBER 2010 AT 10.00 A.M.**

Agenda title**PRIVATE HIRE DRIVER RECENT CONVICTION AND COMPLAINT OF ILLEGAL PLYING FOR HIRE - MH****Finding of Facts**

- MH was found guilty at Bristol Magistrates Court on 2nd August 2010 of Common Assault.
- MH admitted to Illegally Plying for Hire on 16th May 2010.
- He had been given a 12 month conditional discharge, ordered to pay £85 towards costs.
- MH failed to comply with the provisions of the Town Police Clauses Act 1847
- There was reasonable cause to revoke the Private Hire Drivers Licence
- The Council was no longer satisfied that MHA was a fit and proper person to hold a Private Hire Driver's Licence

Decision

That the Private Hire Driver's Licence held by MH be revoked on the following grounds:

- (1) Section 61(1) (a) (i) of the Local Government (Miscellaneous Provisions) Act 1976 in that MH had been convicted of an offence involving dishonesty, indecency or violence,
- (2) Section 61(1)(a) (ii) of the Local Government (Miscellaneous Provisions) Act 1976 in that MH failed to comply with the provisions of the Town Police Clauses Act 1847, and
- (3) Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 there was reasonable cause to revoke the licence

Reasons for Decision

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

Members noted that MH had a previously unblemished record in relation to his taxi driving, the Common Assault offence had taken place when he was not working as a taxi driver and resulted in a Conditional Discharge and he had not been prosecuted for Illegally Plying for Hire.

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 first considered the conviction for common assault and although MH had been given a low level penalty Members were concerned MH had resorted to violence and appeared to be reluctant to provide an explanation for his behaviour.

Members noted that although MH had not been prosecuted for the Illegal Plying for hire, he had admitted that he did it. Plying for hire is considered a serious matter and is taken into consideration when considering in accordance with the Council's policy whether a driver is a fit and proper person to hold a licence and when considering the impact of such conduct on an existing license.

When a driver commits the offence of plying for hire the driver no longer has insurance consequently as the insurance cover does not cover the vehicle or passengers. Members noted that having no insurance was a separate offence in itself under the Road Traffic Offence. Having no insurance is classified as a major traffic offence in the Council's policy, which recommends a period at least 6 months free of conviction. Although MH was not prosecuted for these offences he had admitted to them. MH had clearly put members of the public at risk through not having the required insurance and the Members took a grave view of such offences and had a responsibility to ensure the safety of the public.

Plying for hire and having no insurance were considered to be serious offences. 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 mindful of the responsibility it was charged with to protect members of the public and the interests of those drivers who are lawfully entitled to ply for hire. The Members considered that it was necessary to revoke the license as they had to weigh this up against the conviction for assault including plying for hire and no insurance as well as the importance of deterring those drivers who unlawfully ply for hire thus preventing Hackney Carriage Drivers earning a legitimate income and putting members of the public at risk was a necessary and proportionate response in the circumstances.

Taking into account their Policy, Members did not consider that they had heard enough evidence from MH to persuade them to set it aside in this instance. Members therefore decided to revoke the Private Hire Driver's License held by MH.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 12TH OCTOBER 2010 AT 10.00 A.M.**

PSP 73.10/10

Agenda item no: 9

Agenda title

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

Finding of Facts

MSK was found guilty at Bristol Magistrates Court on 26th August 2009 of four specimen charges of Driving a Private Hire Vehicle without Insurance and without a Private Hire Driver's License.

Decision

That MSK be granted a Private Hire Driver's License subject to him passing the Essential Skills Test, the DSA Driving Test, the Knowledge Test and a Medical Test.

Reasons for Decision

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

They noted that MSK had thought that his Private Hire Vehicle and Driver's License ran concurrently. They noted it had been nearly two years since he had driven a taxi and over one year since his court conviction.

Members decided to set aside their policy after consideration of the representations made by MSK and agreed that his convictions of 26/08/09 should not be considered a bar to consideration of an application favourably provided all the other criteria are met.

They therefore decided that he be granted a Private Hire Driver's License subject to him passing the Essential Skills Test, the DSA Driving Test, the Knowledge Test and a Medical Test as they considered him a fit and proper person to hold such a license.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 12TH OCTOBER 2010 AT 10.00 A.M.**

PSP 74.10/10

Agenda item no: 10

Agenda title

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

Finding of Facts

AFS was convicted of Failing to Notify a Change of Circumstances affecting Benefit/Other Payment by North Somerset Magistrates Court on 20th August 2010.

In 2007 AFS was convicted twice of Driving a Vehicle Without Insurance.

Decision

That the application made by AFS for a Private Hire Driver's Licence be refused on the following grounds:

(i) Section 51(1) (a) of the Local Government (Miscellaneous Provisions) Act 1976 in that AFS has not satisfied the committee that he is a fit and proper person to hold a drivers license.

Reasons for Decision

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

Members noted that AFS had been convicted of Failing to Notify a Change of Circumstances affecting Benefit/Other Payment and of Driving a Vehicle Without Insurance on two occasions.

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 first considered the conviction of having no insurance, which in accordance with the Council's policy was classified as a major traffic offence, which recommended a period at least 6 months free of conviction. Although AFS pleaded guilty to the offences, he had clearly put members of the public at risk through not having the required insurance and the Members took a grave view of such offences and had a responsibility to ensure the safety of the public.

Members then considered the conviction for failure to notify the benefits agency of a change in circumstances. The Council's policy states that licensed drivers are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public, eg by demanding more than the legal fare.

For these reasons a serious view is taken of any convictions involving dishonesty. In general a period of 3-5 years free of conviction will be required before an application is likely to be considered favourably. Members appreciated that he received a low level fine and this occurred 2 years ago but the Members did not believe AFS.

Members did not believe that AFS did not know that his wife was working. Members did not believe the explanation given by AFS for his failure to disclose the insurance offences and that he was being investigated for Benefits Entitlement.

Members did not feel that they had heard enough evidence from AFS to persuade them to set it aside the policy in this instance. They therefore decided to refuse the application for a Private Hire Driver's License made by AFS as he had not convinced the Council that he was a fit and proper person to hold such a license.

Chair's Signature