

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 26TH OCTOBER 2010 AT 10.00 A.M.**

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

PSP

**89.10/10 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS AND
DECLARATIONS OF INTEREST**

There were none.

PSP

90.10/10 PUBLIC FORUM

Nothing was received.

PSP

**91.10/10 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

92.10/10 EXCLUSION OF PRESS AND PUBLIC

**RESOLVED - that under Section 100A(4) off 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

93.10/10

COMPLAINT OF OFFENDING CONDUCT - HOLDER OF A HACKNEY CARRIAGE DRIVER'S LICENCE – AA

(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 whether action is necessary against the holder of a Hackney Carriage Driver's License.

AA was in attendance.

Two witnesses also attended the meeting but were brought in separately to give evidence.

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

The Enforcement Officer introduced the report and summarised it. He confirmed that AA had been interviewed under Caution in relation to the alleged incident on 29th November 2009 but not the alleged incident on 9th May 2010 because AA had ignored three requests to attend for interview on 26th May, 27th May and 1st June 2010, however informed members that he was not under a duty to attend.

Witness 1 confirmed his written statement at Appendix B to the report. He was unable to confirm whether or not AA was the driver in question. His friend Jessica had made a note of the Hackney Carriage Plate Number at the time of incident. He confirmed that the taxi in question was at the front of the rank with its lights on when approached it and it looked like it was part of the rank. Further the taxi was still there when Jessica left in the next taxi and he left in the following taxi.

AA then presented his version of the alleged incident on 9th May 2010 and answered questions highlighting the following:

- He did not dispute that he refused the fare on the date in question, however he cannot remember why he refused to take these passengers.

- He refuses many people every weekend for reasons of rudeness, drunkenness, carrying food or concerns for his own safety; he also does not travel to certain areas
- On this occasion he may have had another booking (for Fishponds) and was waiting on the taxi rank for that booking
- He has a log book but there is not always time to keep it up to date when he is busy
- He does take passengers to Bedminster.
- He sometimes parks up in a rank and waits for a private booking fare.
- He would not have had his lights on if he was waiting for a private booking.

Witness 1 left the meeting and was replaced by Witness 2.

Witness 2 confirmed his written statement at Appendix F to the report. He had returned from Dublin and it was late at night. When he asked the driver to take him to his destination, the driver shook his head and said it was not far enough. Witness 2 then moved onto the second taxi in the rank and the driver of the second taxi went to speak to the taxi in question. He could not hear the conversation .

Witness 2 said that he not been drinking alcohol on the day in question and vaguely recognised AA as the driver in question.

AA then presented his version of the alleged incident on 29th November 2009 and answered questions highlighting the following:

- He would not normally travel to St Annes (or Southmead) because of a BBC documentary that showed incidents of racism taking place in St Annes and Southmead
- Taxi driving can be a risky business he has two children at home and won't risk his life, he was cautious about going to St Annes and Southmead.
- It was at the time of the documentary and he was very aware of racism in these areas.

- He denied that he refused the fare because “It is not far enough” - he would never do that because the next fare may be for an even shorter distance
- He drove a Fiat Doblo
- He probably refused the fare because of the attitude of people or the destination
- He denied that there was an argument with another taxi driver or that members of the public were shouting “Hurry up”
- He can recall an incident when refused a fare and another taxi driver - Bob - took the fare.
- He does not dispute that either alleged incident took place but disputes the reasons for refusal; he does not recall refusing to take anyone to St Annes
- He never refuses a fare for reasons of distance but may have stated that he does not go to St Annes without elaborating on his reasons for that
- He feels vulnerable as a taxi driver and has often not been paid fares; when this has happened he has contacted the Police but they have not helped him
- He said that he had never refused a journey to St Anne’s.
- He said that he hadn’t been to St Anne’s for ages.
- He says that he does not dispute the incident on 8/5/10 but says it was because he was booked.
- He 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 on the finding of fact.

The Chair announced the decision on the finding of fact. On a finding of fact the witnesses' events, namely Witness 1 and Witness 2 were believed and that the incidents had occurred as they had stated. They found that AA's version of events were not credible and that he had refused fares because they were not going far enough. The Chair then invited AA to make a statement to Members on the appropriate outcome before they decided what action to take as the burden of proof was on AA to satisfy the Members that he is a fit and proper person.

AA stated that he no longer refuses to take passengers to St Annes; he only refuses fares on the grounds of rudeness, drunkenness, carrying food or concerns for his own safety; he is a very honest and courteous driver who has never had any other complaints made against him; most passengers are very happy with him and he has a lot of regular customers; he feels that he has to be very careful when driving a taxi especially on Fridays and Saturdays; and the Police do not help.

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 on the action to be taken.

RESOLVED -

- (i) that on the balance of probabilities Members found the versions of events put forward by the witnesses more credible than the versions of events put forward by AA; and**
- (ii) that the Hackney Carriage Driver's License held by AA be revoked under the ground contained S.61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 for any other reasonable cause in that he is no longer a fit and proper person to hold such a license.**

(Councillor Morris left the Meeting at this point.)

94.10/10 APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE – APPLICANT NH
(Exempt paragraph 3 – Information relating to a person's financial or business affairs)

Licensing Officer advised Members that NH had stated to her he could no longer wait for his case to be considered as a he has another appointment to attend. He asked that consideration of his application be deferred until a future meeting.

It was therefore

RESOLVED - that consideration of this application be deferred until a future meeting.

PSP

95.10/10 HACKNEY CARRIAGE DRIVER RECENT COURT CONVICTION – JH
(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. 7) considering whether any action is required as a result of a recent court conviction.

JH was in attendance, accompanied by his wife.

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

The Licensing Officer introduced the report and summarised it.

JH then put forward his case and answered questions highlighting the following:

- The incident was a family argument
- It had happened at a time of family and financial pressures
- He had pushed his wife and she had fallen over but not been injured
- He said that he not got a history with the Police.
- Her mother had arrived at the house at the time of the

incident and had called the Police

- The situation has since been resolved and they have a child and are getting on much better
- He drew attention to the letter dated 27th September 2010 that he had submitted, which is at Appendix B to the report
- It had evolved out of a small argument and should have been dealt with better
- He said there was no history of problems with the Police
- He summed up his case

His wife stated that she had been upset and crying when her mother arrived at the house. She had since tried to withdraw her statement and have the case dropped but the Police had treated it as a domestic violence incident. She considered her husband to be a fit and proper person to hold a hackney carriage driver's license and his job provides income for the family.

The representative of the Service Director Legal Services explained that physical contact including a push, may amount to battery.

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.

PSP

96.10/10

PRIVATE HIRE DRIVER RECENT POLICE CAUTION – KS

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

The Licensing Officer advised the Members that KS would not be attending the Meeting and had asked for a deferment of his case.

It was therefore

RESOLVED - that consideration of this case be deferred until a future meeting.

(Councillor Davies left the Meeting at this point.)

PSP

97.10/10

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

(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 License.

VBS was in attendance, accompanied by his father.

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

The Licensing Officer introduced the report and summarised it.

VBS tabled a reference and read out a statement. A copy of each of these documents is contained in the Minute Book. He then answered questions highlighting the following:

- He has contacted a number of taxi companies with a view to working for one of them should his application for a license be successful
- If his license is granted he will leave Orange and do taxi work during the days
- His father has been a taxi driver for 20 years and considers that he could earn more money as a taxi driver than he can earn working for Orange
- Prison is behind him now and he is moving on with his life; he gained certificates when he was in prison
- The Common Assault relates to an incident in Park Street when he was hit and retaliated

- In relation to the drink/drive offence, he drinks very little now and never drinks and drives
- He attends the Temple regularly and does voluntary work
- He did consider being legally represented at the meeting but felt that he could better represent himself
- Since the incidents he has a better relationship with his family, has now bought a flat and wants to support himself and his family
- He said he could not take his knowledge test until he obtained a Licence
- He has bought a flat but cannot move in as he has financial difficulties
- He summed up his case

He presently lives with his mother and father and his family

His father stated that he would like to see him given a chance to prove himself as he now has responsibilities and works full time.

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 by VBS be refused on the ground contained in Section 51(1)A of the Local Government Miscellaneous Provisions Act 1976 as the Council are not convinced that he is a fit and proper person to hold such a license.

INFORMATION ITEM

PSP

98.10/10 DATE OF NEXT MEETING

**RESOLVED - that the next meeting will be held on Tuesday
23rd November 2010 at 10.00 a.m. and will be a
meeting of sub-committee A.**

(The meeting ended at 3.05 pm.)

CHAIR

BRISTOL CITY COUNCIL

**MINUTES OF MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE A
HELD ON 26TH OCTOBER 2010 AT 10.00 A.M.**

PSP 93.10/10

Agenda item no: 5

Agenda title**COMPLAINT OF OFFENDING CONDUCT - HOLDER OF A HACKNEY
CARRIAGE DRIVER'S LICENCE – AA****Finding of Facts**

On 29 November 2009 AA refused a fare at Temple Meads Station because the journey was not far enough. AA's version of events were considered but on the balance of probabilities were deemed to be not credible, the version of events by witnesses were believed as fact.

On 9 May 2010 AA refused a fare at St Augustine's Parade and AA's version of events, on the balance of probabilities, was not credible. The Committee considered that AA refused the fare because he said he was only covering the Fishponds area. AA's version of events on the balance of probabilities, was not credible.

That he was not a fit and proper person to hold such a Licence.

Decision

That on the balance of probabilities Members found the versions of events put forward by the witnesses more credible than the versions of events put forward by AA.

That the Hackney Carriage Driver's License held by AA be revoked under S.61(1)(b) of the Local Government Miscellaneous Provisions Act 1976 for any other reasonable cause as he is no longer 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 AA did not dispute that the incidents had occurred, however his version of events as to why he refused the fare were not credible. There had been two isolated incidents reported to the Local Authority, one on 29 November 2009 and the second on 9 May 2010. There were three people who witnessed the incident on 9 May 2010 and two on 29 November 2009.

There were two live witnesses and in attendance at the Committee. Members considered that both of the witnesses that attended the meeting were credible and the evidence was clear and convincing. Each witness was brought into the hearing separately and both stuck clearly to their statement. Members also considered that the other written statements were consistent with those of witnesses 1 and 2.

Members did not consider that the reasons for refusal of the fares put forward by AA were consistent. When questioned on the one hand he said that he could not remember why but then he gives reasons that are not credible. Further, when he was brought back by the Committee so that they could introduce their finding of fact to him, he informed the Committee that he no longer refused fares, therefore acknowledging that he had refused fares in the past. AA said that he had never refused a fare to St Annes, however he maintained that he could have refused the passenger on the 29 November 2009 because they wanted to go to St Annes, which is clearly not credible. However, it was also noted that in the interview under caution on 27 January 2010, AA stated that he had refused certain jobs in the night time to St Annes, however the journey on 29 November 2009 was at 5:00 pm in the evening.

With regard to the incident on 9 May 2010, AA said that he refused the fare because he was waiting for a pre-booked fare. However he did not bring any proof of this pre-booked fare and Witness 1 stated that the taxi was at the front of the rank. One of the witnesses to 9 May 2010 incident was a taxi driver who remembered that the taxi in question was in the rank. Further when Witness 1 was asked during questioning in the Committee, he confirmed that the taxi was at the front of the rank with its lights on when he approached it and it certainly looked like it was part of the rank. AA had stated during the hearing that he would not have had his lights on if he was waiting for a private bookings, therefore acknowledging that if he had his lights on then he would indeed be part of the rank. This is clearly not a credible account from AA because it is not consistent. Further Witness 1 said that he vaguely remembered AA as a taxi driver. Members also noted that AA had not attended for an interview on 26 May, 27 May or 1 June 2010 without providing any reason for his non-attendance. Although it was noted that AA was not obliged to attend the interview, AA clearly was not co-operating with the Local Authority.

Members decided that on the balance of probabilities, versions of events put forward by the witnesses was found to be fact and therefore more credible than the version of events put forward by AA.

Members therefore decided that the Hackney Carriage Driver's Licence held by AA be revoked for any other reasonable cause as he is no longer a fit and proper person to hold such a Licence. There is no presumption in

the legislation that the Applicant passes the test, therefore it was refused on the ground contained in Section 61(1)(b) of the Local Government Miscellaneous Provisions Act 1976 of any other reasonable cause in that they were not satisfied that he was a fit and proper person to hold the Licence.

Chair's Signature

BRISTOL CITY COUNCIL

**MINUTES OF MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE A
HELD ON 26TH OCTOBER 2010 AT 10.00 A.M.**

PSP 95.10/10

Agenda item no: 7

Agenda title**HACKNEY CARRIAGE DRIVER RECENT COURT CONVICTION – JH****Finding of Facts**

JH was found guilty of Battery at Bristol Magistrates Court on 14th June 2010.

Decision

That no action be taken.

Reasons for Decision

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

Members noted that each case would be decided on its own merits. They also noted that the overriding consideration is to the safety of the public, although JH was found guilty of battery at Bristol Magistrates' Court, he wanted to put forward his version of events to the Committee when making their decision if he was a fit and proper person to hold a Licence. The burden of proof is upon JH to satisfy the Members that he is a fit and proper person. There is no presumption in the legislation that an Applicant passes that test.

Members noted that it was a relatively minor domestic incident and that JH had received a Conditional Discharge. His wife was also present at the meeting and had spoken up for him. She said that the situation had since been resolved and that they now have a child and are getting on much better. It was a time when there was a lot of family and financial pressures.

Members also noted that his wife had also tried to withdraw her statement and had the case dropped but the Police had treated it as a domestic violence incident. She also considered her husband to be a fit and proper person to hold a Hackney Carriage Drivers Licence.

Chair's Signature

BRISTOL CITY COUNCIL

MINUTES OF MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE A
HELD ON 26TH OCTOBER 2010 AT 10.00 A.M.

PSP 97.10/10

Agenda item no: 9

Agenda title**APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE – APPLICANT VBS****Finding of Facts**

On 13th July 2006 VBS was found guilty at Bristol Magistrates Court of Driving a motor vehicle with excess alcohol and Without insurance.

On 29th June 2007 VBS was found guilty at Bristol Crown Court of Wounding and inflicting Grievous Bodily Harm and Common Assault.

VBS was not a fit and proper person to hold a Private Hire Driver's Licence.

Decision

That the application for a Private Hire Driver's License by VBS be refused on the ground contained in Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 as the Council could not be satisfied that he is a fit and proper person to hold such a License.

Reasons for Decision

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

The burden of proof is on VBS to satisfy the Council that he is a fit and proper person to hold such a Licence. There is no presumption in the legislation that an Applicant passes that test. Members considered the guidelines relating to the relevance of criminal behaviour and noted that this case would be decided on its own merits. Members also noted their policy that VBS need not be permanently barred from obtaining a Licence but should be expected to remain free of conviction for an appropriate period and show adequate evidence of good character from the time of conviction.

Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character. Members noted that on 29 June 2007 VBS was found guilty at Bristol Crown Court of wounding/inflicting grievous bodily harm and common assault. In particular the policy says that an application will normally be refused where the Applicant has a conviction for an offence of grievous bodily harm or common assault where the conviction is less than 5 years prior to the date of application and

between 5 and 8 years after conviction, more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

Members noted that it was just over 3 years ago when VBS was convicted and simply remaining free of conviction would not be regarded as sufficient evidence of good character. Members noted that VBS had shown remorse for the offences he had committed. He had been in employment for 3 years and has done other things to turn his life around.

However, given the seriousness of the wounding/inflicting grievous bodily harm offence and noting their policy, they did not consider that they had heard enough evidence from VBS to make him an exception and set aside their policy in this case.

There was also the offence on 13 July 2006 where he was found guilty of driving a motor vehicle with excess alcohol and without insurance. VBS was disqualified for one year and fined £175. Members noted their policy which makes clear that a serious view will be taken of convictions of driving or being in charge of a vehicle whilst under the influence of drink. Where disqualification has occurred as a result of the drink driving offence, at least 5 years free from conviction should elapse after the restoration of the DVLA Licence before an Applicant is granted a Licence.

Members noted that VBS was convicted on 13 July 2006 which was over 4 years ago. However, there was also the incident on 29 June 2007 which was unrelated which Members had to take into account when deciding if VBS was a fit and proper person to hold such a Licence. There were two offences that Members had to take account of when considering if VBS was a fit and proper person. Given the seriousness of both offences, Members did not consider that they had heard enough evidence to make VBS an exception to their policy. Further, with regard to the incident on 29 June 2007, VBS had been sentenced to 7 months imprisonment, reflecting the seriousness of the offence. As the Council has a duty to ensure that those licensed to drive private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, that they are sober and honest and that members of the public entrusted themselves to the care of drivers. Members were unable to deem VBS as a fit and proper person. Multiple offences over a period of time gave Members cause for greater concern and also demonstrated a pattern of inappropriate behaviour which they were bound to take into account.

They therefore decided that the application for a Private Hire Driver's Licence by VBS be refused as he had not convinced the Council that he is a fit and proper person to hold such a Licence.

Chair's Signature