

BRISTOL CITY COUNCIL

MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE B
HELD ON 11TH OCTOBER 2011 AT 10.00 A.M.

P Councillor Chris Davies
P Councillor Mike Langley
A Councillor Tim Leaman
P Councillor David Morris (in the Chair)

PSP

82.10/11 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Leaman.

PSP

83.10/11 DECLARATIONS OF INTEREST

There were no further declarations of interest.

PSP

84.10/11 PUBLIC FORUM

A statement was received from Dr Rowland Dye on behalf of Sakir Yildirim. A copy of the statement is contained in the Minute Book.

**RESOLVED - that the statement be referred to the
Licensing Section for a written response.**

PSP

**85.10/11 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

86.10/11 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

87.10/11

COMPLAINT OF SMOKING IN A LICENSED VEHICLE AND OF INCONSIDERATE DRIVING – HOLDER OF PRIVATE HIRE DRIVER LICENCE AAA

(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 action is necessary against AAA, the holder of a private hire driver's licence.

AAA was in attendance.

Witness PC 2639 was also in attendance.

AAA stated that he did not have his DVLA Licence with him. The Licensing Officer stated that the Licensing Office had a copy of his licence on file, which was taken on 23rd August 2011.

The Licensing Officer also advised Members that the Private Hire Driver's Licence held by AAA expires on 23rd October 2011 and not 23rd August 2011 as stated in the report.

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

The Enforcement Officer introduced the report and summarised it for everyone.

AAA then put his case and answered questions highlighting the following:

- In relation to the accusations of inconsiderate driving, he denied them; he never exceeded the speed limit, had not driven in a dangerous manner and had only swerved to avoid potholes

- He has never had any complaints in 10 years of being a taxi driver
- He had not responded to letters from the Licensing Section because he did not receive them

PC2639 then made a statement and answered questions highlighting the following:

- He drew everyone's attention to his written statement (Appendix A)
- He was certain that AAA was smoking cannabis, as through his Police duties he was familiar with the smell of it
- He had not approached AAA at the time as he was off duty and was not wearing any protective equipment
- No other cars in the car park were occupied and nobody else in the vicinity was smoking
- It was not dark at the time and he could see the smoke clearly coming from the car. He could also see AAA smoking in the car. At his closest point the officer was less than two meters away from the car.
- He had noted the registration number and the taxi plate number from behind the vehicle and then walked past it

AAA denied smoking cannabis; he had stopped it 2 years ago, although he still smoked tobacco - but less than previously.

The Representative of the Service Director, Legal Services advised Members that they needed to decide whether to take AAA's spent conviction into account after hearing representations from AAA in this respect. Even if AAA objected the Committee could still take it into account if they considered it of relevance to the matters being considered.

AAA stated he had no objection to the spent conviction being taken into account by the Committee.

The Enforcement Officer advised Members that the spent conviction related to illegal plying for hire and having no insurance in 2005. He added the PSP Committee had subsequently suspended AAA's licence for a period of six months.

- AAA stated that he had felt pressurised into taking the passengers at the time of the offence. AAA stated he had not done this since.
- AAA confirmed that he had accepted the fixed penalties for smoking and speeding.
- AAA stated he was currently working for V Cars and had been doing so for almost three years. Before that, he worked for City Link Taxis for six or seven years.
- AAA summed up his case.

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

RESOLVED - that the Private Hire Driver's Licence held by AAA be revoked on the ground contained in section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause

PSP

88.10/11

COMPLAINT OF OFFENDING CONDUCT – HOLDER OF PRIVATE HIRE DRIVER'S LICENCE – AAO

(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 action is necessary in respect of the Private Hire Driver's licence held by AAO.

The Licensing Officer advised Members that AAO would not be in attendance but had agreed that the matter be dealt with in his absence.

The Enforcement Officer introduced the report and summarised it for everyone. He added that officers involved in these operations

are trained to play a passive role and never to coerce the driver when approached. He also stated that AAO had been co-operative throughout the investigation of the offence.

The Representative of the Service Director, Legal Services advised Members that after discussions with the solicitor representing AAO at Bristol Magistrates Court, AAO had agreed to plead guilty to the offence of illegally plying for hire. The no insurance was subsequently withdrawn. The Representative of the Service Director, Legal Services explained that instructions had been taken on this offer and the Licensing Team had agreed to this course of action.

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

RESOLVED - that the Private Hire Driver's Licence held by AAO be suspended for a period of six months on the ground contained in section 61 (1) (a) (ii) of the Local Government (Miscellaneous Provisions) Act 1976 in that he had been found guilty of an offence under the Town Police Clauses Act 1847

PSP

89.10/11

COMPLAINT OF OFFENDING CONDUCT – HOLDER OF PRIVATE HIRE 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. 8) considering whether action is necessary in respect of Private Hire Driver's Licence held by AA.

AA was in attendance, accompanied by an Interpreter.

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

The Enforcement Officer introduced the report and summarised it for everyone.

AA then put his case and answered questions highlighting the following:

- The offences on his DVLA Licence relate to parking on zigzag lines and going through a red light
- He made a mistake which he has owned up to; he did not realise what he was doing and would never do it again; his previous passengers had said that when they reached their destination, there would be some friends wanting a taxi ride. AA then thought the people who approached him were the friends – in fact, they were the Council Officers; he has a mortgage and children to support and needs to work.
- He summed up his case

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

RESOLVED - that that the Private Hire Driver's Licence held by AA be suspended for a period of six months on the ground contained in section 61 (1) (a) (ii) of the Local Government (Miscellaneous Provisions) Act 1976 in that he had been found guilty of an offence under the Town Police Clauses Act 1847 and section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause.

PSP

90.10/11

REPORT OF THE CONVICTION OF A PRIVATE HIRE DRIVER'S LICENCE – ZZ

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

The Licensing Officer advised Members that a request for a deferment of his case had been received from ZZ.

It was therefore

RESOLVED - that consideration of this case be deferred until the Committee Meeting on 8th November 2011.

PSP

91.10/11

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

(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.

HSMH 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 for everyone.

HSMH then put his case and answered questions highlighting the following:

- He had not divulged the offences on his application form as he did not consider them to be criminal offences and had immediately thought of violent crimes when reading the form for which, he has no convictions.
- He did not speak any English when he arrived in this country and had no help or support. He arrived in the U.K in 2003.
- He began to work part time (8 hours a week) and informed the Department for Work and Pensions who were paying his benefits.
- He then became a full time student and claimed Income Support or Job Seekers Allowance for a time. A friend had helped him to complete the application forms. He owed rent money and was advised to claim Housing and/or Council Tax Benefit. His friend advised him that in order to claim these

benefits, he needed to also be claiming Income Support or Job Seekers Allowance. He then did so but was still working.

- He was claiming for help with his rent that was approximately £160.00 per week. He was repaying the overpayment caused by the offences at a rate of £10.00 per week.
- He did not consider falsely obtaining benefits or payment to be theft.
- When he first arrived in the U.K he was homeless for about a week, which was the worst time in his life.
- He is in his last year as a student and wants to work as taxi driver. He is studying for a business and property course and originally from Somalia. He now helps the community by volunteering when he can.
- He summed up his case

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

Details of the Committee's findings and reasons for the decision are set out in Appendix 4.

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

RESOLVED - that the application by HSMH for a Private Hire Driver's Licence be refused on the ground contained in section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976 as he has not satisfied the Council that he is a fit and proper person to hold such a licence

PSP

92.10/11

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

(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. 11) considering an application for the grant of a Private Hire Driver's Licence.

NCR was not in attendance, but as consideration of the application had been deferred from the previous Committee Meeting, Members agreed to consider it in his absence.

The Licensing Officer introduced the report and summarised it for everyone.

The Representative of the Service Director, Legal Services outlined details of the offence and provided Policy advice.

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

Details of the Committee's findings and reasons for the decision are set out in Appendix 5.

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

RESOLVED - that that the application by NCR for a Private Hire Driver's Licence be refused on the ground contained in section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976 as he has not satisfied the Council that he is a fit and proper person to hold such a licence.

PSP

93.10/11 DATE OF NEXT MEETING

RESOLVED - that the next meeting be held on Tuesday 8th November 2011 at 10.00 a.m. and is likely to be a meeting of Sub-Committee A.

(The meeting ended at 2.10 pm.)

CHAIR

BRISTOL CITY COUNCIL**MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE A
HELD ON 11th OCTOBER 2011 AT 10.00 AM.****PSP 87.10/11****Agenda Item No. 6****Agenda title****COMPLAINT OF SMOKING IN A LICENSED VEHICLE AND OF
INCONSIDERATE DRIVING – HOLDER OF PRIVATE HIRE DRIVER LICENCE
AAA****Finding of Facts**

That AAA's version of events in relation to the cannabis incident was not credible on the balance of probabilities. The Police Officer's evidence that AAA smoked cannabis in his taxi on 24th May 2011 was believed to be fact.

AAA was issued with a fixed penalty notice on 20th June 2011 for smoking in a smoke free place.

AAA was previously issued with fixed penalty notices for exceeding the speed limit and for smoking in a smoke free place.

On 28th February 2008 AAA was banned from driving for six months for accumulating twelve points on his DVLA Licence.

On 14th March 2006 AAA was convicted of illegally plying for hire and having no insurance. The PSP Committee had subsequently suspended his licence for a period of six months. (Members noted that this conviction was now spent.)

There was 'reasonable cause' to revoke AAA's license as the Council was no longer satisfied that he was a fit and proper person to hold a licence

Decision

That the Private Hire Driver's Licence held by AAA be revoked on the ground contained in S.61(1)(b) of the Local Government Miscellaneous Provisions Act 1976 namely any other reasonable cause as he no longer 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 agreed that they believed the version of events put forward by PC2639 and they were sure AAA had smoked cannabis in his taxi on 24th May 2011.

Members noted that in accordance with their Policy concerning any related matters, this incident alone would justify a revocation of the licence held by AAA.

They noted that this transgression was just part of a pattern of behaviour that caused them great concern especially since his last appearance before the PSP Committee in 2009. AAA had previously received fixed penalty notices for exceeding the speed limit and for smoking in a smoke free place. He also had a spent conviction for illegal plying for hire and having no insurance. The PSP Committee had subsequently suspended his licence for a period of six months these offences, which was at odds with AAA's comment that there had never been any previous complaints about him.

There were also two allegations - although unproved - of reckless and dangerous driving against AAA. Members could not attach much weight to these allegations at this time, as the witness from Parking Services was not available to attend the meeting.

Members considered that AAA's standards of conduct had fallen well below those expected of the holder of a Private Hire Driver's Licence and that he was no longer a fit and proper person to hold such a licence. Members explained they were entitled to expect high standards as public safety was the priority of the Committee.

Members therefore unanimously decided that there was reasonable cause to revoke the Hackney Carriage Driver's Licence as he no longer satisfied the Council he was 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 no longer 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 11th OCTOBER 2011 AT 10.00 AM.****PSP 88.10/11****Agenda Item No. 7****Agenda title****COMPLAINT OF OFFENDING CONDUCT – HOLDER OF PRIVATE HIRE
DRIVER'S LICENCE – AAO****Finding of Facts**

On 24th August 2011 AAO had been convicted of illegally plying for hire in Bristol Magistrates Court.

Decision

That the Private Hire Driver's Licence held by AAO be suspended for a period of six months under 61 (1) (a) (ii) of the Local Government (Miscellaneous Provisions) Act 1976 as AAO had been convicted of an offence under The Town Police Clauses Act 1847.

Reasons for Decision

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

Members noted that AAO had been co-operative with the Licensing Office in relation to the offence and had entered an early guilty plea to the offence of plying for hire. Members also noted that AAO had not been prosecuted for having no insurance.

However Members noted that illegally plying for hire is widespread problem in Bristol and that as AAO had not attended the Meeting or even sent a letter or statement, they had not heard anything that would persuade them to depart from their Policy. Members therefore decided to suspend the licence for a period of six months under section 61 (1) (a) (ii) of the Local Government (Miscellaneous Provisions) Act 1976.

Chair's Signature

BRISTOL CITY COUNCIL**MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE A
HELD ON 11th OCTOBER 2011 AT 10.00 AM.****PSP 89.10/11****Agenda Item No. 8****Agenda title****COMPLAINT OF OFFENDING CONDUCT – HOLDER OF PRIVATE HIRE
DRIVER’S LICENCE – AA****Finding of Facts**

On 24th August 2011 AA was convicted of illegally plying for hire and driving without insurance at Bristol Magistrates Court.

Decision

That the Private Hire Driver’s Licence held by AA be suspended for a period of six months on the grounds contained in section 61 (1) (a) (ii) of The Local Government (Miscellaneous Provisions) as he had been convicted of an offence under The Town Police Clauses Act 1847 and 62 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause.

Reasons for Decision

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

Members noted that AA had claimed the people who approached his taxi were friends of his previous passengers. Had this been the case, this would still have constituted an offence of illegally plying for hire as the pre-booked passengers had reached their destination and had left the taxi.

Members also noted that illegally plying for hire is widespread problem in Bristol and that AA had not provided sufficient evidence to persuade them to depart from their Policy. Members therefore decided to suspend the licence for a period of six months on the grounds contained in section 61 (1) (a) (ii) as he had been convicted of an offence under The Town Police Clauses Act 1847 and 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause as he had also been convicted of an offence contrary to section 143 of the Road Traffic Act 1988 of driving without insurance.

Chair’s Signature

BRISTOL CITY COUNCIL**MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE A
HELD ON 11th OCTOBER 2011 AT 10.00 AM.****PSP 91.10/11****Agenda Item No. 10****Agenda title****APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE –
HSMH****Finding of Facts**

On 1st August 2008 HSMH was found guilty of six offences of making a false statement or representation to obtain benefit or payment. That HSMH was not a fit and proper person to hold a Private Hire Driver's Licence.

Decision

That the application by HSMH for a Private Hire Driver's Licence be refused on the ground contained in section 51 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1976, as the Committee was not satisfied that HSMH was a fit and proper person to hold a driver's licence

Reasons for Decision

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

Members were concerned that HSMH had made a false statement or representation to obtain benefit or payment on six occasions. He had then not declared the offences on his application form as he did not consider them be criminal offences and would not acknowledge that making a false statement or representation to obtain benefit or payment amounted to dishonest, fraudulent theft.

Members therefore found no reason to depart from their policy concerning offences involving dishonesty and, having taken into account everything HSMH said, considered the convictions to show a serious course of offending which, coupled with the non-disclosure meant the applicant fell far below the standards expected by the Committee when considering whether someone is a fit and proper person to hold a Private Hire Driver's Licence. The members concluded HSMH was not therefore a fit and proper person to hold such a licence and refused the application on the grounds contained in section 51 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1976.

Chair's Signature

BRISTOL CITY COUNCIL**MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE A
HELD ON 11th OCTOBER 2011 AT 10.00 AM.****PSP 92.10/11****Agenda Item No. 11****Agenda title****APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE –
NCR****Finding of Facts**

On 6th November 2009 NCR was convicted of the Offence of harassment under the Protection from Eviction Act 1977 at Bristol Magistrates Court.

Decision

That the application by NCR for a Private Hire Driver's Licence be refused on the ground contained in section 51 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1976, as the Committee was not satisfied that NCR was a fit and proper person to hold a driver's licence.

Reasons for Decision

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

Members noted that NCR had made a false declaration on his application form. He had not attended the Meeting and therefore Members had heard nothing to persuade them that he was a fit and proper person to hold a Private Hire Driver's Licence. Although the offence in respect of which NCR had been convicted was not specifically listed in the Council's policy on offending behaviour, the Members considered the circumstances of the offence to be akin to an assault. There is no presumption that an applicant satisfied the statutory 'fit and proper person test' and therefore, without the benefit of hearing from NCR, the Committee had grave concerns as to his suitability to be a Private Hire Driver. There were not therefore satisfied that NCR was a fit and proper person to be licensed by the Council.

Chair's Signature