

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE A
HELD ON 13th DECEMBER 2011 AT 11.50 AM**

- P Councillor Fi Hance
- P Councillor Alf Havvock (part)
- A Councillor Brenda Hugill
- A Councillor Jay Jethwa
- P Councillor Mike Langley (for Cllr Hugill) (part)
- P Councillor David Morris (for Cllr Jethwa) (in the Chair)

PSP

134.12/11 ELECTION OF CHAIR

RESOVED - that Councillor Morris be elected Chair for the duration of the Meeting.

PSP

135.12/11 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Hugill, substitute Councillor Langley; and Councillor Jethwa, substitute Councillor Morris.

PSP

136.12/11 DECLARATIONS OF INTEREST

The following declaration of interest was received and noted:

The Chair stated that in relation to Agenda Item No.7 a close relative has worked with the solicitor representing the licensee.

Councillor Havvock stated that in relation to Agenda Item No. 7 he knows Witness SS in a professional capacity.

PSP

137.12/11 PUBLIC FORUM

Nothing was received.

PSP

138.12/11 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

139.12/11 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

140.12/11 APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - AH

(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 an application for the grant of a private hire driver's licence.

AH 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.

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

- Although he has been trouble in the past he would now like one more chance to prove himself; he has children to support and does not want to rely on benefits
- He has satisfied all other elements of the fit and proper person test apart from the DSA test
- He did not realise he was required to disclose all of his convictions on his application form; he had not deliberately withheld information from the Council
- The theft related to an incident when he mistakenly took someone else's jacket from a club, he had been very drunk
- With regard to the 11 March court appearance there had been an exchange of words in the bookmaker and he used words which he should not have said, but he could not understand why the report described this as a racially aggravated incident, he had not called the lady any racist names and could bring a copy of the summons to prove this if required
- He had failed to provide samples because he did not agree with the test
- He has never taken Class A drugs and does not know why the Police would want to test him for them
- 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 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 application by AH for a Private Hire Driver's License be refused on the ground that the applicant has not satisfied the Council that he is a fit and proper person to hold such a license.

PSP

141.12/11 REPORT OF MISCONDUCT OF HOLDER OF A HACKNEY CARRIAGE DRIVER'S LICENCE - JHB

(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) seeking consideration of whether any action is required as a result of a restorative justice disposal (police) since the grant of a hackney carriage driver's licence.

JHB was in attendance, accompanied by AG (his solicitor) and AL (a supporter).

Also in attendance was Witness SS.

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

The Enforcement Officer introduced the report and summarised it for everyone. His understanding was the alleged offence is false imprisonment and that restorative Justice, like a Police Caution, requires that the person make an admission of guilt.

The Committee's legal advisor commented that cautions are subject of detailed Home Office guidance that makes clear the conditions precedent to a caution being offered and provision was made for rehabilitation of offenders who had been cautioned in the relevant legislation. She was not aware of the provisions governing the use of restorative justice and was not able to confirm if an admission of guilt was required, she would want the police officer to explain the position to the Committee but the officer was not in attendance.

AG said he agreed entirely with that advice and in fact Mr B does

not accept that he was guilty of any criminal offence; the “restorative justice” consisted in him writing a letter of apology to the woman who was a passenger in his cab, he had willingly done this but it did not constitute an admission of guilt of any crime.

AG then tabled documents including a statement and references on behalf JHB. A copy of the documents is in the Minute Book.

AG then put the case on behalf of JHB and answered questions highlighting the following:

- JHB does not accept the accusation of false imprisonment or that he locked the witness in his taxi
- The doors on his taxi lock automatically when they are in motion, this is a safety measure. This is what had happened and this did not constitute false imprisonment
- JHB accepts that he abandoned his passenger and he apologises for that. He does not accept that he swore at the witness; he is a devout church goer and he does not swear. He asks the committee to review his references and the man who is here in support of Mr B that he is a gentleman who is not given to swearing, violence or abuse
- Witness SS then made a statement. She referred to her written statement - she had arrived at Temple Meads station and as a female travelling alone she was especially keen to take a licensed Bristol blue taxi as the safest way to get home. Mr B had not communicated with her and; he did not inform her he had no change. When they reached her destination she offered him a £20 note and he “most definitely” swore at her. He had switched off the engine and then he locked her in the taxi. She is not a person who is easily intimidated but she was intimidated. When he took her to a cash point she told him he was the rudest person. He drove off whilst she was at the cash point she thought that he was turning the car around but then found herself abandoned, at a quarter to midnight near a common of her own. She had kept to her side of the bargain and had offered payment, she had been left feeling very frightened and concerned. As a lone female it was not a nice position to be in, she was left alone and had to get herself home.

AG had only one question of SS, namely about her memory. Mr B has never had a moustache and disputes much of what she said. AG stated that JHB accepted that he had abandoned her but does not accept that he locked her in and also points out that there is a sign in the cab that has to be there, so does not accept all that she says

SS responded that she was frightened, concerned and flustered by the events, she can accept there may have been a sign but she would not know where to look for it. She had not used a taxi since this night.

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

- He had picked up fares at about 23:30 and she asked to be taken to the Cross Hands Public House
- When they arrived there he stopped the taxi and turned to collect the fare, she offered him £20 note and he informed her that he could not change a £20 note; he had explained he was unable to change it up as he had changed three times already that night. He had not sworn at her, nor had he locked her in - the car locks automatically, and if she had asked he would have let her leave the taxi
- She had verbally abused him non stop all the way to the cash point and he by then he had had enough. He decided to leave the fare there and drive off. He accepts he should not have done this.
- If his float goes low any time in the future he will let passengers know in advance.
- He cannot remember the last time he swore, it just does not happen. He goes to Church, it never happened.
- He did not lock her in the vehicle, the engine was not switched off. He stopped the vehicle, he had his foot on the brake with the engine switched on. The doors lock anyway. Had the passenger asked at any time to let her out he would have done.

- He let her out at the cash point. He showed the Police officer how the automatic locking works. When he went to the Police station there was a conversation with the officer and he was sat in the Police car. He did not really understand the Restorative Justice, but had signed the PC's book and sent a letter of apology; this he did by recorded delivery on 10 August, four days after the interview on 6 August.
- AG said as it was a registered letter so reference to the apology taking "weeks" had been a bit of a surprise
- repeated his apology to SS, this was the first time anything like this had happened in all his years as a taxi driver

The Chair asked why he had driven away and JB responded that it was because SS continually abused him all the way to the bank. He had really had enough and wanted to get away.

Cllr H asked how long it was between the pub and the cash point and JB said about five minutes, that SS was just running him down really until he couldn't take any more, eg indicating he was not a good taxi driver.

Cllr L asked about the door lock engaging and JB said it is an auto lock and that if the passenger had asked he would have stopped to let her out.

SS stated that she tried the door and could not get out, it would not open. JB said it was in motion so it does lock, it unlocks when the vehicle is stopped. SS said it was not flat where she was being locked in, she was sure she was being locked in the vehicle by JB.

JB said when he explained he could not change money it had flared up from there. Councillor H observed that he must have to deal with some colourful behaviour in his job and JB said he had never experienced anything like this before.

SS said she was shocked, JB was rude to her and she told him he was rude. He turned his engine off and she told him that if he took her to the cash point she would get a £10 note. She asked him for his taxi number but he refused to provide it; There was no stream of abuse from SS, she did tell him he was rude and that she had kept her end of the bargain but this does not amount to a stream of

abuse. He only swore at her once but he did swear at her. She did not swear at him. She was a very frightened woman locked in the back of a taxi; the whole point of getting a taxi safety but the situation she was in she might as well have walked home.

AG said that if she had looked in the window the taxi number was there. SS said she would not argue with that but she had not known where to look, she wonders why, when she asked, he had refused to give the number to her?

AL then provided a character reference for JHB - he has known him for 3 to 4 years; he is a committed, reliable and honest person who does not swear. He can understand that he would be very upset at being abused. He finds it very hard to believe that JB could swear. JB does not always make the best decisions.

JB said he reached the cash point and he noticed there was a CCTV camera there and that the area was well lit. He did weigh the situation up before he decided drive away and leave her there.

AG summed up the case for JHB. He asked the committee to take into account JB's demeanour and did he look like a man who behaves in this way? He says no. Mr L and the written referees, all say JB not a man given to bad language or behaving in the manner described. He has not asked SS where she had been or where she was going but cannot believe an officer would say this was the rudest she had ever met, she is gilding the Lilly. He asks the committee to find in JB's favour. He has apologised, he knows he should not have done this and has promised that he won't do it again.

It was noted that neither JHB nor his solicitor has been provided with a copy of the Council's Policy and the policy had not been set out on the face of the report.

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

The Committee made the following findings of fact:

The Committee found SS credible. Her belief that JB had a moustache did not indicate a poor memory on her behalf. The Councillors had been shown JB's identity card and although he had no moustache he did have a shadow to his upper lip that in darkness may have appeared to be a moustache. This was not significant.

SS had believed herself to be locked in the vehicle. Whether this was accidental or not it must have caused the passenger to feel very ill at ease. JB's explanation, that he had applied the footbrake and kept the engine going, if true, indicated sub standard driving that was itself a cause of concern. If the vehicle had come to a halt he ought to have applied the handbrake.

On his own admission JHB had abandoned SS and in doing so he had neglected to take his passenger to her destination. He told the Committee that this was a considered act on his part; he had considered the presence of CCTV and lighting before deciding to abandon her. He had failed to take proper care of his passenger; she was a lone female and it was late at night.

Section 53 of the Town Police Clauses Act 1847 provides that:

“A driver of a hackney carriage standing at any of the stands for hackney carriagesor in any street, who refuses or neglects, without reasonable excuse, to drive such a carriage to any place within the prescribed distance.....to which he is directed to drive by the person hiring or wishing to hire such carriage, shall for every such offence be liable to a penalty not exceeding level 2 on the standard scale”

Members did not consider that JHB had been frightened by his passenger. He was vague about the detail of what she is alleged to have said to him on the journey to the cash point despite being pressed about this several times by committee members.

In contrast, SS did say what she said to JB. Having seen and heard both JB and SS the sub committee found SS to be a most credible witness. There was no reasonable excuse for JB's neglect to take his passenger to her destination.

JB's behaviour had fallen very short of that expected of a Hackney Carriage Driver. There was a dispute about whether or not he swore at her; she claimed to have heard him swear only once which hardly suggested she was gilding the lily. It is possible she misheard him, but whether or not JB swore at SS is not the most significant issue - the most significant issue for the licensing authority is passenger safety and care. JB had made a considered decision to abandon

his passenger and that is what warrants the attention of the regulator.

As the report had not referred to section 53 and neither JHB or his solicitor had received a copy of the Council's Policy, it was agreed that further consideration of this report should be adjourned until a later date. Following receipt of a copy of the Council's Policy, JHB could either make written representations and/or attend the Meeting of the sub Committee convened to consider those representations before deciding whether or not to take action and, if so, what form that action should take.

All parties and the representatives of the Director of Neighbourhoods and City Development returned to the room and were advised of the decision that had been made and the intention to reconvene following the policy being provided.

RESOLVED - (i) that the report of misconduct by JHB is made out;

(ii) that because JHB has not been provided with a copy of the Council's Policy is case be adjourned until a later date; and

(iii) that following receipt of a copy of the Council's Policy, JHB be given 14 days to make written representations and/or attend

the Meeting of the Committee when his case is reconvened to decide what - if any - action to take.

(Councillor Langley left the Meeting at the end of this Item.)

PSP

142.12/11 HACKNEY CARRIAGE DRIVER - RECENT COURT CONVICTION - SMA

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

The Licensing Officer advised Members that they had received a request for a deferment from SMA.

It was therefore

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

PSP

143.12/11 COMPLAINT OF OFFENDING CONDUCT - PRIVATE HIRE DRIVER'S LICENCE - 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. 9) considering whether action is necessary in respect of the private hire driver's licence held by M.H.

MH was in attendance, accompanied by SM.

Also in attendance were Witnesses AD and SM, BCC Parking Services.

Although the Sub Committee began to consider this item, it soon became apparent that MH requires the assistance of an interpreter.

It was therefore

RESOLVED - that consideration of this item be deferred until a future Meeting on the Committee when

an interpreter can be provided to assist MH.

PSP

144.12/11 COMPLAINT OF OFFENDING CONDUCT - PRIVATE HIRE DRIVER LICENCE - RHK

(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 whether action is necessary in respect of the private hire driver's licence held by RHK.

RHK was in attendance, accompanied by FD.

Also in attendance were Witnesses AD and SM, BCC Parking Services.

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

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

The Witnesses AD and SM confirmed their statements.

FD then put the case for RHK and RHK answered questions highlighting the following: RHK also tabled some character references

- RHK does not deny picking up the passengers
- RHK confirmed that his suggestion "to get rid of that paper" was made in a humorous fashion
- RHK has been a driver for six years and has not committed any other offences
- RHK is a member of a large family and has supported his mother and father enabling his siblings to go to university; his mother and father are now and there is a mortgage to pay so he needs to carry on working

- RHK has never done anything like this before, he deeply regrets it and considers that he has learnt a lesson
- RHK 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 the decision of the Committee.

RESOLVED - that the Private Hire Driver's License held by RHK be suspended for a period of three months on a ground contained in section 61(1)(a)(ii), namely that he has failed to comply with the provisions of the Act of 1847.

(Councillor Haavock left the Meeting after this Item.)

PSP

145.12/11 COMPLAINT OF OFFENDING CONDUCT - PRIVATE HIRE DRIVER LICENCE - WMQ

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

WMQ did not attend the Meeting.

It was therefore

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

INFORMATION ITEM

PSP

146.12/11 DATE OF NEXT MEETING

RESOLVED - that the next Meeting be held on Tuesday 10th January 2012 at 10.00 a.m. and is likely to be

a meeting of Sub-Committee B.

(The meeting ended at 3.30 pm.)

CHAIR

Appendix 1	
BRISTOL CITY COUNCIL MINUTES OF MEETING OF THE PUBLIC SAFETY AND PROTECTION SUB-COMMITTEE A HELD ON 13th DECEMBER 2011 AT 10.00 AM.	
PSP 140.12/11	Agenda Item No. 6
Agenda title APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - AH	
Finding of Facts AH has been convicted of a number of offences as detailed in the report.	
Decision That the application by AH for a Private Hire Driver's License be refused on the ground that the applicant has not satisfied the Council 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 information presented to them through the report and by the applicant in person. Having regard to the Council's policy AH did not satisfy that he is a fit and proper person to hold a Private Hire Driver's License given the nature and timing of his convictions. He had not been able to persuade the committee that they could make an exception to their Policy without undermining its public protection purpose and the application was therefore refused.

Chair's Signature**Appendix 2****BRISTOL CITY COUNCIL****MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE A
HELD ON 13th DECEMBER 2011 AT 10.00 AM.****PSP 141.12/11****Agenda Item No. 7****Agenda title****REPORT OF MISCONDUCT OF HOLDER OF A HACKNEY CARRIAGE
DRIVER'S LICENCE - JHB****Finding of Facts**

See Reasons for Decision.

Decision

That the report of misconduct by JHB is made out.

That because JHB has not been provided with a copy of the Council's Policy is case be adjourned until a later date.

That following receipt of a copy of the Council's Policy, JHB be given 14 days to make written representations and/or attend the Meeting of the Committee when his case is reconvened to decide what - if any - action to take.

Reasons for Decision

Please see under Minute No. PSP 141.12/11

Chair's Signature**Appendix 3****BRISTOL CITY COUNCIL****MINUTES OF MEETING
OF THE PUBLIC SAFETY AND PROTECTION
SUB-COMMITTEE A
HELD ON 13th DECEMBER 2011 AT 10.00 AM.****PSP 144.11/11****Agenda Item No. 10****Agenda title****COMPLAINT OF OFFENDING CONDUCT - PRIVATE HIRE DRIVER
LICENCE - RHK****Finding of Facts**

On the date alleged RHK was found to be unlawfully plying for hire which is an offence contrary to the Town Police Clauses Act 1847 .

Decision

That the Private Hire Driver's License held by RHK be suspended for a period of three months on a ground contained in section 61(1)(a)(ii), namely that he has failed to comply with the provisions of the Act of 1847.

Reasons for Decision

RHK had admitted unlawfully plying for hire. He had not been prosecuted and only this single isolated offence was known to have been committed. He was remorseful about what he had done. Normally the policy anticipated a six month suspension of the licence but the degree of co-operation afforded by RHK and his commitment to avoid being the cause of any problems again enabled the sub committee to halve the usual period of suspension without compromising the Council's commitment to effective regulation. The licence would therefore be suspended for three months.

Chair's Signature