

Public Safety and Protection Sub-Committee B Agenda



Date: Tuesday, 21 July 2020

Time: 10.00 am

Venue: Remote Access - Remote Access

Distribution:

Councillors: Richard Eddy (Chair), Chris Davies, Fi Hance and Carole Johnson

Copies to: Ashley Clark (Legal Advisor), Sarah Flower (Licensing Policy Advisor), Lynne Harvey (Legal Advisor), Abigail Holman (Licensing Policy Advisor), Jonathan Martin, Wayne Jones, Carl Knights (Licensing Policy Advisor), Shreena Parmar (Legal Advisor), Emma Lake, Tony Johnson and Oliver Harrison (Democratic Services Officer)

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Date: 15 July 2020



Agenda

4. Minutes of the Previous Meeting

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Bristol City Council
Minutes of the Public Safety and Protection Sub-Committee B



23 June 2020 at 10.00 am

Members Present:-

Councillors: Richard Eddy (Chair), Chris Davies, Fi Hance and Carole Johnson

Officers in Attendance:-

Sarah Flower (Licensing Policy Advisor), Lynne Harvey (Legal Advisor) and Abigail Holman (Licensing Policy Advisor)

1. Welcome and Safety Information

The Chair explained the legal framework to the Meeting and how it would proceed.

2. Apologies for Absence

None were received.

3. Declarations of Interest

There were no declarations of interest.

4. Minutes of the Previous Meeting

Resolved – that the Minutes be agreed as a correct record of the Meeting for signature by the Chair.

5. Public Forum

There were no public forum statements.

6. Suspension of Committee Procedure Rules CMR10 and CMR11 Relating to the Moving of Motions and Rules of Debate



RESOLVED – that having regard to the quasi-judicial nature of the business on the Agenda, those Committee Procedure Rules relating to the moving of motions and the rules of debate (CMR10 and 11) be suspended for the duration of the meeting.

7. Exclusion of the Press and Public

RESOLVED - that under Section 11A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the ground that involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, as amended.

8. PSP Report SW

It was noted that SW was not in attendance. Upon being contacted by a BCC Officer, SW stated that he was working and would not be attending the Meeting.

The Committee agreed that as SW had previously stated that he would be attending the Meeting his case would be heard in his absence.

The Senior Licensing Officer introduced the report and summarised for everyone. In response to a question, she stated that she had no knowledge of what work SW was undertaking.

It was noted that SW had not provided any reasons by way of mitigation for his offences or had submitted any additional documentation in support of his application to satisfy the Committee that he should be treated as an exception to Council policy.

The Senior Licensing Officer left the Meeting whilst the Committee made its decision.

Decision and Reasons

The Legal Advisor provided legal advice to the Committee.

The Committee noted all of the written evidence put before it.

The Members of the Committee considered all of the information available and determined that they could not be satisfied that SW was a fit and proper person to hold a Private Hire Driver's Licence in accordance with section 51 of the Local Government (Miscellaneous Provisions) Act 1976. He had been disqualified from driving under the totting up procedures on 4 April 2019. He appealed against his conviction but the disqualification was upheld in the Crown Court. Under the Council's policy a period of 12 months free of conviction following restoration of the DVLA licence is required before an application will be entertained. The 12 month period in Mr Ward's case would not come to an end until 3 January 2021. Where a policy applies, the burden of proof is on the individual applicant to satisfy the Council that



an exception to the policy can be made without imperilling it or the reasons that underlie it. In SW's case he had not produced any evidence to discharge the burden of proof that a departure from the policy should be made. It was also a concern that he had not disclosed his disqualification to South Gloucestershire Council, with whom he had previously held a licence. The application was therefore refused.

The Senior Licensing Officer returned to the Meeting to hear the Chair announce the decision.

Resolved – (voting 4 for, 0 against) that the Committee having considered all of the information available determined that they could not be satisfied that SW was a fit and proper person to hold a Private Hire Driver's Licence in accordance with section 51 of the Local Government (Miscellaneous Provisions) Act 1976. The application was therefore refused.

9. PSP Report SL

It was noted that this item had been withdrawn from the Agenda.

10 PSP Report BCCL

The proprietor was in attendance accompanied by his wife.

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

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

The proprietor and his wife put their case highlighting the following:

- They had purchased the car on 30th March following the expiration its licence on 28th March but were not aware of the implications of the vehicle being unlicensed on the date of transfer
- They were advised that it would be fine
- However they did not contact Licensing Section or consult the BCC website
- They have a number of other vehicles licensed with BCC primarily for chauffeur work; this vehicle was purchased for taxi work during difficult times because of Covid-19 and they just wanted to support their livelihood
- They summed up their case

The Senior Licensing Officer and applicants left the Meeting whilst the Committee made its decision.

Decision and Reasons

The Legal Advisor provided legal advice to the Committee.



The Committee noted all of the written evidence put before it.

Although the Members of the Committee had sympathy for the applicant concerning the timings of the purchase of the vehicle, it does not comply with Council policy in two respects. Where a policy applies, the burden of proof is on the individual applicant to satisfy the Council that an exception to the policy can be made without imperilling it or the reasons that underlie it. Members noted that one of the aims behind the move away from diesel PHVs was to improve the air quality in the city. Diesel vehicles emit significantly more Nitrogen Oxides (NOx) than petrol vehicles. The annual UK government legal objective for nitrogen dioxide is exceeded throughout wide areas of Bristol close to the busiest roads in the centre and along the main arterial routes. There are also a number of locations where the short term hourly UK government legal objective for nitrogen dioxide is exceeded. The policy change was introduced to help address this issue and therefore the licensing of a diesel vehicle, albeit the vehicle was previously licensed, would undermine the purpose behind the policy. The Committee could not therefore be satisfied that the vehicle was suitable in type, size and design for use as a private hire vehicle in accordance with section 48 of the Local Government (Miscellaneous Provisions) Act 1976. The application was therefore refused.

Everyone returned to hear the decision.

Resolved – (voting 4 for, 0 against) that the Committee were not satisfied that the vehicle could be treated as an exception to Council policy and consequently it was not suitable in type, size and design for use as a private hire vehicle in accordance with section 48 of the Local Government (Miscellaneous Provisions) Act 1976. The application was therefore refused.

11 PSP Report MH

It was noted that this item had been withdrawn from the Agenda.

Meeting ended at 11.35 am

CHAIR _____

