

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee A



21 June 2022 at 10.00 am

Members Present:-

Councillors: Chris Davies and Tessa Fitzjohn

Officers in Attendance:-

Lynne Harvey (Legal Advisor), Carl Knights (Licensing Policy Advisor), Oliver Harrison (Democratic Services)

1 Welcome and Safety Information

The Chair welcomed everyone to the meeting and issued the safety information.

2 Apologies for Absence

Apologies were received from Cllr Ali, Cllr Bennett and Cllr Eddy.

3 Declarations of Interest

None received.

4 Minutes of the Previous Meeting

RESOLVED the minutes of the previous meeting on 19 April 2022 were agreed as a correct record.

5 Public Forum

None received.

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



RESOLVED – that Committee procedure rules CMR10 and CMR11 be suspended relating to the moving of motions and rules of debate.

7 Exclusion of Press and Public

RESOLVED – that that the press and public be excluded from the following items of business to allow consideration of items containing exempt information under Paragraph 1 of Part 1 of Schedule 12(A) of the Local Government Act 1972.

8 JR - REPORT OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE

The applicant and his representative were present.

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

The applicant's representative made the following points:

- The offence in question was from 2008 and involved the arrangement of fraudulent set-top cable boxes. This was a major case for which the applicant was under the umbrella. The organisation was not led by the applicant and it was not only him involved.
- The offence was non-violent and we do not believe the applicant presents a risk to the public. The conviction was in 2016, so it took a long time for the case to reach court.
- It has been 6 years since the conviction and 14 years since the offence. The representative said he believes the applicant is a reliable individual with a history of good conduct.

The following points arose from questioning:

- The policy starting point for this type of offence is not to grant a licence until 7 years has passed since the completion of a sentence.
- There was a large organization based in Leicester that was manufacturing and supplying fake set-top boxes for cable TV.
- The applicant received an 18 month prison sentence, which indicates the court regarded this as a serious offence. The applicant had a server installed in his property which facilitated the boxes, hence the serious sentence.
- The applicant completed his sentence on 25 February 2018.
- Since release, the applicant has been working in a restaurant in Thornbury. If he were to be licensed, he intends to work for Uber.

Decision and reasons

The policy starting point is that a period of 7 years should elapse from expiry of the sentence, which will run from 25 February 2018.



JR was convicted of an offence involving dishonesty on the criminal standard of proof and was sentenced to a significant period of imprisonment, which reflects that the Court considered the offending conduct to be at the more serious end of the scale.

The Committee decided to refuse the application on the ground contained in section 51 of the Local Government (Miscellaneous Provisions) Act 1976 in that it cannot be satisfied that JR is a fit and proper person to hold a private hire driver's licence or that this case should be treated as an exception to policy without undermining it.

9 SH - REPORT OF AN APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE DRIVER LICENCE

The applicant and his legal representative were present.

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

The representative made the following points:

- SH has held a licence since 1998. The 2003 revocation was a 3-month suspension, and a licence was granted after this period. SH has admitted speeding but was not racing. The 2008 conditional caution was for driving without a licence, he was not without insurance.
- The historical offences do not show the change in SH's character over time. He has matured, married and now has a child. He completed a course in 2012 that was highly beneficial. He has not offended since.
- SH offending should be considered low-level. In comparison with the policy on other offences such as violent conduct, he should be granted a licence as 10 years has passed since the offence.
- He has been a taxi driver for 20 years; he is very experienced and has no complaints from customers or employers. He was part of the Council's emergency response to Covid in 2020 and distributed over 20k masks to drivers. He is fit and proper person to hold a licence and the representative believes the committee should depart from policy in this case.
- The applicant personally apologised to the committee for his conduct at the time of the offence and reiterated he has not offended since then.

The following points arose from questioning:

- The starting point for the policy is to not issue a licence to individuals that have been convicted of a sexual offence, including soliciting. This policy does apply retrospectively, which has resulted in this hearing.
- The applicant was surprised that the policy was retroactive as his conviction was spent and that he would not have applied if he had known it would result in a hearing.

Decision:



The Committee considered the skeleton argument submitted by the solicitor and the representations made today.

The Committee notes that SH has been actively working in the trade since the last committee appearance which was more than 10 years ago. The Committee also notes that the offending conduct was at the less serious end of the scale.

The applicant was treated as an exception to Council policy 10 years ago and since then, there have been no complaints or problems in respect of the licence. The Committee therefore considers that SH is a fit and proper person and can be treated as an exception to Council policy and granted the application for a licence.

1 VS - REPORT OF AN APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE

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The applicant and his legal representative were present.

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

The representative made the following points:

- VS claims that he called BCC and emailed about attending the Magistrate's Court on 30 November, but was advised by police and solicitors not to disclose the offence until convicted. He accepts non-disclosure based on this advice.
- VS pled guilty to the offence but maintains it was accidental. He denies the allegations in the witness statement.
- Regarding the speeding offence, the points are spent and this was 3 years ago. Note the offence was committed without passengers on board. VS disclosed this offence late as he misunderstood the policy requirements, but he understands what is needed now.
- The assault case is at the lesser end of the scale for violent offences, the policy states not to licence within 10 years but the representative asked the Committee to consider this case on own merits and depart from the policy.
- The witness statements were withdrawn and never proved in court, so the representative requested that the Committee view them as unreliable.
- VS denies abuse or control in the relationship. VS only had one drink on the night of the incident. His wife threw purse at him, he threw it out of the room and it hit their daughter. VS has since left the family home to help the relationship.
- VS has no complaints on record, customers view him as very positive. Uber feedback is 4.9 out of 5, with 4.5k trips ranked as 5 star.

The following points arose from questioning:



- VS said that he had called the police himself following the purse incident, but that his wife said that this was not necessary. His daughter then called his sister-in-law, who reported the incident to the police.
- The current policy guidelines state that for violent offences a licence should not be granted for a period of 10 years.
- The court disposal was a £750 fine and 60 hours of unpaid work, which is yet to be completed.
- A section.39 offence states that an assault can be intentional or reckless. VS conduct would come under reckless behaviour.
- The representative asked the Committee to consider VS good conduct while working and that this was unintentional and isolated incident.

Decision

The policy starting point in respect of offences involving violence, which is consistent with National Standards, is that a period of at least 10 years should elapse following the completion of any sentence imposed before an application should be entertained.

The conviction in this particular case is very recent and the sentence of 60 hours unpaid work has not yet been completed. Committee noted that the offence was considered serious enough by the Court for the community punishment threshold to have been met so the offending conduct was not at the minor end of the scale. Committee notes that VS pleaded Guilty to the offence on the basis of recklessness so cannot accept that what happened was accidental as the Committee is not entitled to “go behind” a conviction in the criminal courts. VS showed no remorse for what happened.

Committee notes the representations made by the legal representative concerning the admissibility of the evidence due to statements having been withdrawn, but the Committee is not a criminal court and is entitled to consider all information before it.

The Committee is also concerned at the failure to promptly disclose to the Council the details of the arrest and pending criminal case. The Committee has considered VS explanation with caution as it finds it very difficult to believe that the police and defence team would issue advice concerning what information should be disclosed to the Council.

The National Standards state that a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

The decision is that the Committee cannot be satisfied VS is a fit and proper person to hold a Private Hire Driver’s licence or that they should be treated as an exception to Council policy without undermining it.



The application is therefore refused on the grounds contained in Section 61(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976 in that VS had been convicted of an offence involving violence and section 61(b) of the Act – any other reasonable cause.

1 AS - APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE VEHICLE LICENCE SEEKING 1 DEPARTURE FROM BRISTOL CITY COUNCIL POLICY

The applicant was present.

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

The applicant made the following points:

- AS father was severely ill, this is his vehicle and AS was his carer. He was suffering from lung cancer and as all focus was on the treatment the window for renewal was missed.
- AS father flew out to Pakistan to see his family in this period. AS bought this vehicle in February 2022. AS planned to sort out the licence on behalf of his father after he left the country, but it was too late.
- After the licence ran out the vehicle was used for personal reasons. The vehicle has failed MOT testing several times because of lightbulbs, which AS considers a minor issue.

The following points arose from questioning:

- The vehicle was licenced up to November 2021. There is a 3-month grace period to renew up to February 2022. This is a new application for a diesel vehicle. It could have been licenced if it were a renewal application.
- The Bristol clean air zone is coming in and restricts the use of diesel vehicles. This vehicle would be acceptable under a renewal, but not for a new application. It would need to be an Ultra-Low Emission Vehicle, which is very expensive.
- A ULEV Hackney Carriage is around £65k. AS has every intention of getting one, but needs the existing vehicle to build up enough money to buy a ULEV.
- AS has no intention of operating this vehicle in the clean air zone due to costs. He has two disabled children who can be accommodated in the vehicle and there is a shortage of accessible taxis in the city.
- AS understands the environmental issues at stake but the cost of a new vehicle is too high. He only missed the renewal date due to caring for his sick father.

Decision

The Committee sympathises that AS father has been in poor health and appreciate there were difficult personal circumstances which resulted in the application being made late, but cannot take these into account in deciding whether or not to depart from the policy. The Committee believes that



the application to renew the licence could have been made on time even though AS' father was away, as it could have been submitted online.

Due to the lateness of the application, the Committee is entitled to treat the application as one for a new vehicle and therefore the policy applies. The Purpose of policy is to eventually eliminate diesel vehicles from the fleet – and the Committee is also concerned about the imminent clean air zone which this vehicle will not conform to.

This is an old vehicle which is not environmentally friendly and the Committee do not consider it can depart from the policy without undermining it.

**1 BJ - APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE VEHICLE LICENCE SEEKING
2 DEPARTURE FROM BRISTOL CITY COUNCIL POLICY**

This case was withdrawn.

Meeting ended at 3.00 pm

CHAIR _____

