

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee A



25 October 2022 at 11.00 am

Members Present:-

Councillors: Richard Eddy (chairing the meeting), Marley Bennett and Chris Davies

Officers in Attendance:-

Lynne Harvey (Legal Advisor), Carl Knights (Licensing Policy Advisor- Presenting Officer), Alison Wright (Neighbourhood Enforcement Team – Presenting Officer) and Jeremy Livitt (Democratic Services Officer)

31 Election of Replacement Councillor to Chair the Meeting

In the absence of Councillor Amal Ali who had given her apologies, Councillor Richard Eddy was elected to chair for the duration of the meeting.

32 Welcome and Safety Information

Councillor Richard Eddy welcomed all parties to the meeting and explained the emergency evacuation procedure if it was required.

33 Apologies for Absence

Apologies for absence were received from Councillor Amal Ali and Councillor Tessa Fitzjohn.

34 Declarations of Interest

There were no Declarations of Interest.

35 Minutes of the Previous Meeting held on 16th August 2022

RESOLVED – that the minutes of the meeting held on 16th August 2022 be confirmed as a correct record and signed by Councillor Richard Eddy.



36 Public Forum

There were no Public Forum items.

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

RESOLVED – that CMR10 and CMR11 be suspended.

38 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.

39 HAK - Application for Renewal of a Private Hire Driver Licence (containing exempt information under Paragraph 1)

HAK and his wife attended this hearing.

Carl Knights, Senior Licensing Officer, introduced this report and made the following points:

- HAK had applied for a renewal of his existing licence which had recently expired
- HAK had failed to declare on this licence that he had received a conviction for speeding
- Following the recent expiry of his existing licence, HAK would need to undertake the Gold Standard Course to be awarded the licence under the Council's new policy
- The Council's new policy also stated that, with two minor traffic offences, HAK should be off the road for 5 years (i.e. until February 2023)
- Since the failure to declare the licence raised serious questions concerning the honesty of the applicant, officers recommended refusal of this application
- There was currently difficulty in drivers obtaining medical assessments from GPs and therefore any licence that was awarded would be subject to a full medical declaration

Since HAK had limited English, his wife spoke on his behalf with the agreement of the Sub-Committee. She made the following points:

- HAK had been awarded 4 speeding points following being stopped and not having his ID available to show
- Following this incident, HAK was now a safe driver



- HAK's wife had filled in the necessary forms for him to complete. However, although she had read the questions to her husband, she was not aware that he had received speeding points and so this was not included in the declaration
- He thought that the declaration of speeding offences took place at the time of the application and was not aware that it needed to be made immediately after any offence
- HAK's wife was on a high dose of morphine and sometimes got confused in such situations

All parties withdrew to allow the Sub-Committee to make a decision with the Legal Adviser and Democratic Services Officer in attendance.

Upon their return, they were advised of the decision as follows:

RESOLVED (unanimously) – that the application for a Private Hire Driver Licence renewal is refused.

REASONS: the Sub-Committee did not believe that the applicant was a fit and proper person to hold a licence since he had failed to declare a speeding infringement and had not provided sufficient reasons for not doing so.

The Sub-Committee noted that HAK was free to re-apply for a renewal when he wished albeit that under current Bristol City Council policy the disqualification period for his licence did not end until February 2023.

40 JSS - Application for the Renewal of a Hackney Carriage Licence Seeking Departure from Bristol City Council Policy (containing exempt information under Paragraph 1)

JSS attended the hearing.

Carl Knights, Senior Licensing Officer, introduced this report and made the following points:

- JSS had made an application for renewal of a Hackney Carriage Driver licence seeking departure from Bristol City Council policy
- The vehicle was licensed on 16th November 2012 (not 2022 as indicated in the report)
- The existing licence would expire on 14th November 2022. JSS had requested an extension
- Since the new policy requiring any new diesel vehicle to be a Euro 6 vehicle (in place since December 2018) but indicated that this licence could remain in place for 10 years, the Sub-Committee had the power to renew it for 2 days with the coming introduction of the higher Clean Air Zone restrictions

JSS addressed the Committee and made the following points:



- He explained that, whilst he had been looking for another vehicle, this had been difficult and no vehicles were currently in stock that met the requirements to comply with the policy. He had been advised that nothing would become available until 2023
- Whilst he had spent £700 on parts and labels, he would not be able to financially afford the required vehicle. In the meantime, he would require a new vehicle for a few months
- He explained that there was a huge shortage of vans and they were difficult to convert. Whilst some used vehicles were available, they were in short supply and were more expensive. It was noted that black cabs of the required type would cost approximately £65,000

In response to members' questions, JSS confirmed that he would have to find enough money to buy the required vehicle or he would not be able to continue to work.

The Legal Adviser confirmed with the Sub-Committee the various options that lay open to them:

- That the application is allowed for one extra day in line with existing policy
- That the application is refused
- To treat the application as an exception to policy and grant it for between 3 to 6 months

JSS and the licensing officer withdrew to allow the Sub-Committee to make the decision, The Legal Adviser and Democratic Services Officer were in attendance.

Upon their return, Councillor Richard Eddy advised JSS of the Sub-Committee's decision as follows:

RESOLVED (unanimously) – that the application for a renewal of a Hackney Carriage Licence departing from Bristol City Council policy be granted for a period of three months

Reasons: JSS had satisfied the Committee that in the circumstances of his individual case an exception could be made to Council policy on this occasion without undermining it. The Committee heard that JSS had been looking for a replacement vehicle but had been unable to find one due to the lack of availability. As a result he had spent a considerable amount of money on his current vehicle to ensure it remained suitable to be used as an HCV. A period of three months would therefore give him a little more time to continue with his trade whilst continuing his search for a policy compliant vehicle. The Committee also considered the MOT history of the vehicle and noted that it had been well looked after but the expectation is that following the three months period JS would have purchased a vehicle that complied with Council policy and the Clean Air Zone.



41 SK - Report To Determine Whether Action Should be Taken Against The Holder of a Hackney Carriage Driver Licence And Application for Renewal of a Hackney Carriage Licence Seeking Departure from Bristol City Council Policy (containing exempt information under Paragraph 1)

SK was in attendance, together with Alison Wright (Neighbourhood Enforcement Team) and Carl Knights (Senior Licensing Officer).

Alison Wright showed the Sub-Committee a recording from a CCTV camera without audio of an incident involving SK and another driver which also involved a substantial number of bystanders.

At the end of the recording, Alison Wright made the following comments as part of the presentation of her report:

- The alleged assault by and on SK during this incident would not be pursued since both parties declined to support prosecution
- Criminal damage to coffee shop furniture arising from this incident was likely to be dealt with by resolution between the parties
- Alleged racial comments made by SK during this incident were unlikely to result in prosecution since there were no independent witnesses
- The incident shown in the CCTV camera was due to be heard by the Crown Prosecution Service with a charge of affray against SK
- There had been a significant number of previous complaints made against SK listed in the report

The Sub-Committee noted that they were considering whether or not to take action against SK in the event of the incident described and previous incidents, as well as considering an application for renewal of a Hackney Carriage Licence which had expired on 24th October 2022 and would require a Euro 6 Diesel Engine under new Bristol City Council policy.

SK made the following comments:

- This was a very embarrassing episode and he was ashamed of his behaviour
- He was frustrated at the ongoing behaviour on ranks of private cars parking which he had complained about multiple times and for which he had received abuse and threats. Whilst Parking Services stated that they would get a traffic warden to deal with these situations, they rarely did
- On this occasion, he phoned Parking Services and provided them with the registration number of the vehicle. Following this, the incident had unfolded as you saw. He verbally abused and threatened me. Following an exchange of words, I had reacted as seen on the CCTV tape



In response to members' questions, SK made the following points:

- He acknowledged that he could be argumentative and that large members of the public were nearby during this incident and could have been affected. He frequently complained about private drivers but was frustrated that his complaints were rarely addressed
- He was not aware that he needed to disclose the previous incident if the matter did not go to court
- He explained in detail his recollection of the September 20i9 incident involving the drunk female passenger. He stated that the comment from one of the other drivers was incorrect since this driver had picked up a passenger from behind him and also was not correct in his description of SK's behaviour. This driver had also misinterpreted SK behaviour when SK had approached him two days later to ask if he was ok
- SK stated that he was badly injured in the incident shown and that his ear was nearly bitten off

SK indicated that he was clearly attacked and had reacted to defend himself but he acknowledged that he overreacted when his ear was bitten during the incident.

Councillors made the following comments during the discussion:

- It was a requirement of Hackney Carriage Drivers to retain composure in situations
- Whilst SK had portrayed this as a unfortunate extreme incident, there had been previous incidents of concern involving him. In 2003 he had come to Sub-Committee as a result of an incident which had resulted in his licence being revoked.
- There was ample time for SK to break off the conflict shown in the incident but he chose not to do so

SK and the various parties left the meeting to allow the Sub-Committee to take a decision. The Legal Adviser and Democratic Services Officer remained in attendance.

Upon their return, Councillor Richard Eddy announced the following decision of the Sub-Committee:

RESOLVED (unanimously):

- 1. That the HCD Licence of SK be revoked on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely "any other reasonable cause" and that in accordance with section 61(2B) it is in the interests of public safety that the revocation have immediate effect**
- 2. That the HCV licence be refused on the ground contained in section 60(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 namely "any other reasonable cause"**



Reasons:

We noted that the Police had disclosed information in relation to SK which was passed to the Neighbourhood Enforcement Team (NET) to carry out further investigations. The disclosure was to inform the Council that on 27 August 2022 SK was arrested on suspicion of causing an affray, following an incident with a member of the public who had parked on a taxi rank at The Horsefair. Both parties had sustained injuries during the incident. When interviewed by the police, SK raised self-defence as a reason for throwing the first punch.

The Committee viewed CCTV footage of the incident which took place in broad daylight in a busy public area. From this it was seen that although SK might have been provoked, he threw the first punch after which a fight ensued between the two parties which members of the public had to break up. The behaviour from SK, as a licensed driver with the Council, was inexcusable and had the potential to adversely affect members of the public who witnessed it. It was also clear from the footage that despite members of the public trying to break up the fight and restrain SK, he made numerous attempts to re-engage the conflict with the other party demonstrating that he is an individual who is unable to control his temper.

It is not the role of this committee to try to second guess the outcome of the criminal investigation but we are entitled to reach findings of fact on a balance of probabilities as to whether SK is still a fit and proper person to hold a private hire drivers licence.

In line with Council policy, offences involving violence (including findings reached by the Committee on a balance of probabilities) usually require a period of 10 years free of conviction/offending conduct before an application will be entertained. We have not heard anything from SK today to satisfy us that he should be treated as an exception to Council policy in this case.

We also noted with some concern the pattern of complaints against SK which we are entitled to take into account in accordance with the National Standards which state:

“Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the ‘balance of probabilities’ assessment that licensing authorities must take.”



SK's conduct had therefore fallen far below the standards the Council is entitled to expect from those whom it licenses. Consequently, the Committee could no longer be satisfied that SK was a fit and proper person to hold a HCD licence.

As for the vehicle application the vehicle is more than 10 years old and no longer compliant with Council policy. The Committee had heard nothing to persuade them to depart from Council policy without undermining it or the reasons that underlie it. In addition to this, it was not appropriate to allow SK to hold a HCV licence in view of the members reaching a finding he was no longer a fit and proper person to hold a HCD licence.

42 Date of Next Meeting

The next meeting is scheduled to be held at 11am on Tuesday 20th December 2022.

The meeting ended at 2.30 pm

CHAIR _____

