

Public Safety and Protection Sub-Committee B Agenda



Date: Tuesday, 19 September 2023

Time: 10.00 am

Venue: 1P05: Beira Room - City Hall, College Green,
Bristol, BS1 5TR

Distribution:

Councillors: Fi Hance (Chair), Richard Eddy, Jonathan Hucker and Guy Poultney

Copies to: Sarah Flower (Licensing Policy Advisor), Lynne Harvey (Legal Advisor), Kate Burnham-Davies, Abigail Holman (Licensing Policy Advisor), Jonathan Martin (Trading Standards and Private Housing Manager), Wayne Jones, Carl Knights (Licensing Policy Advisor) and Shreena Parmar (Legal Advisor)

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Date: Date Not Specified

Agenda

1. Welcome and Safety Information

(Pages 5 - 6)

2. Apologies for Absence

3. Declarations of Interest

4. Minutes of the Previous Meeting

To confirm as a correct record for signing by the Chair.

(Pages 7 - 21)

5. Public Forum

Up to 30 minutes is allowed for this item

Any member of the public or Councillor may participate in Public Forum. The detailed arrangements for so doing are set out in the Public Information Sheet at the back of this agenda. Public Forum items should be emailed to democratic.services@bristol.gov.uk and please note that the following deadlines will apply in relation to this meeting:-

Questions - Written questions must be received 3 clear working days prior to the meeting. For this meeting, this means that your question(s) must be received in this office at the latest by 5 pm on Wednesday 13th September 2023.

Petitions and Statements - Petitions and statements must be received on the working day prior to the meeting. For this meeting this means that your submission must be received in this office at the latest by 12.00 noon on Monday 18th September 2023.



Please note, your time allocated to speak may have to be strictly limited if there are a lot of submissions. This may be as short as one minute

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

Recommended – 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

Recommended – 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. Application for the Renewal of a Private Hire Driver Licence - AMO'D (10.00 am)

(Pages 22 - 28)

9. Application for the Grant of a hackney Carriage Vehicle Licence (x 3) seeking Departure from BCC Policy (Tinted windows) - Magans Taxis Ltd. (11.00 am)

(Pages 29 - 46)

10. Application for the Renewal of a Hackney Carriage Vehicle Licence seeking departure from BCC Policy - AGA (11.30 am)

(Pages 47 - 59)

11. Application for the Grant of a Private Hire Vehicle Licence seeking departure from BCC Policy (Tinted windows) - KA (12.00 noon)

(Pages 60 - 65)

12. Application for the Grant of a Private Hire Vehicle Licence seeking departure from BCC Policy (Tinted windows) - CO (1.15 pm)

(Pages 66 - 70)



- 13. Application for the Grant of a Hackney Carriage Vehicle Licence seeking departure from BCC Policy (Tinted windows) - FA (1.45 pm)**

(Pages 71 - 76)

- 14. Application for the Grant of a Private Hire Vehicle Licence seeking departure from BBC Policy (Tinted windows, etc.) - Yellow Cars UK Ltd (2.15 pm)**

(Pages 77 - 84)



Public Information Sheet

Inspection of Papers - Local Government (Access to Information) Act 1985

You can find papers for all our meetings on our website at <https://www.bristol.gov.uk/council-meetings>

Covid-19: changes to how we hold public meetings

Following changes to government rules, we'll use video conferencing to hold all public meetings, including Cabinet, Full Council, regulatory meetings (where planning and licensing decisions are made) and scrutiny.

Councillors will use Zoom or Skype for Business to take part in the meetings and vote on agenda items.

We'll stream the meetings live on YouTube.

You can submit statements, questions and petitions ahead of the meetings in the same way as usual. We will send all statements to participating Councillors in advance and respond to all questions and petitions in writing.

You will not be able to present a public submission at the meeting at the current time. We're looking into options for increasing public participation at meetings held using video conferencing, including being able to present a statement or ask supplementary questions using Zoom. We hope to have this in place in by late May 2020.

Email democratic.services@bristol.gov.uk if you have any questions.

Public Forum

Members of the public may make a written statement ask a question or present a petition to most meetings. Your statement or question will be sent to the Committee. Please submit it to democratic.services@bristol.gov.uk The following requirements apply:

- The statement is received no later than **12.00 noon on the working day before the meeting** and is about a matter which is the responsibility of the committee concerned.
- The question is received no later than **5pm three clear working days before the meeting**.
- Any statement submitted should be no longer than one side of A4 paper. For copyright reasons, we are unable to reproduce or publish newspaper or magazine articles that may be attached to statements.

By participating in public forum business, we will assume that you have consented to your name and the details of your submission being recorded and circulated to the Committee and published within the minutes. Your statement or question will also be made available to the public at the meeting to which it relates and may be provided upon request in response to Freedom of Information Act requests in the future.



We will try to remove personal and identifiable information. However, because of time constraints we cannot guarantee this, and you may therefore wish to consider if your statement contains information that you would prefer not to be in the public domain. Public Forum statements will not be posted on the council's website. Other committee papers may be placed on the council's website and information within them may be searchable on the internet.

During the meeting:

- Public Forum is normally one of the first items on the agenda, although statements and petitions that relate to specific items on the agenda may be taken just before the item concerned.
- There will be no debate on statements or petitions. Public Forum will be circulated to the Committee members prior to the meeting and then noted at the meeting.
- Please note that only written submissions can be considered at this time.

For further information about procedure rules please refer to our Constitution <https://www.bristol.gov.uk/how-council-decisions-are-made/constitution>

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



25 July 2023 at 10.00 am

Members Present:-

Councillors: Brenda Massey, Guy Poultney and Richard Eddy

Officers in Attendance:-

1. Welcome and Safety Information

Councillor Eddy chaired the meeting in Councillor Hance's absence.

The Chair welcomed everyone to the meeting and drew attention to the safety information.

2. Apologies for Absence

Apologies were received from Councillor Fi Hance.

3. Declarations of Interest

None received.

4. Minutes of the Previous Meeting

RESOLVED the minutes of the previous meeting 30 May 2023 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 the Press and Public

RESOLVED – 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. APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE AND GRANT OF A PRIVATE HIRE VEHICLE LICENCE - AS

The applicant was present, accompanied by an interpreter and the chair of the taxi association. Cllr Eddy as chair of the meeting led introductions and explained the process.

The licensing officer introduced the report and summarised it for the committee:

- AS had on application declared an offence of using a mobile phone whilst driving.
- This offence was not declared at the time it occurred, contrary to licencing conditions.
- The policy is that in cases where the applicant has a conviction for using a mobile phone whilst driving, a licence should not be issued for a period of 5 years.
- Therefore, officers recommend the application is refused.
- AS has no previous offences or complaints.

AS was invited to present his case:

- AS apologised for the offence and said that he did not know about the need to inform the authority as the time.
- AS has not been driving for 1 ½ years. He was advised by a doctor to not drive due to his asthma and the risk of contracting Covid.
- AS wife has serious health conditions, AS needed to stay at home to look after the children in this period.
- Due to this time off, AS was not 'up to date' with his licensing conditions, so neglected to inform the authority.
- AS was not holding the phone during the offence but adjusting it within the stand. He was given 3 points rather than a possible 6.

The following information was confirmed by questioning:

- That AS has been working as a taxi driver for 13 years.



- He has a clean record apart from this offence.
- That the requirement to notify the authority of any offences committed within one working day is clearly stated on the licence conditions issued to drivers.
- Licensing officers have also run marketing campaigns to make drivers more aware of this.
- This requirement has been in effect for a very long time, not just the period where AS was out of work.
- The offence would still be relevant for the policy if it occurred in a personal vehicle.
- AS presented a personal statement, personal references and evidence of his medical condition, which the committee noted.
- AS adjusted his phone while the vehicle was in motion.

The applicant was invited to sum up, then left the room with the licensing officer while the panel deliberated, then returned to hear the decision.

DECISION

1. That the application to renew the Private Hire Driver's ("PHD") Licence of AS be refused on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely "any other reasonable cause" and that the Council could not be satisfied that AS was a fit and proper person to hold a PHD licence.
2. That the application from AS for the grant of a Private Hire Vehicle ("PHV") Licence be granted

REASONS

The Committee were asked to consider two applications; an application to renew AS's PHD licence and an application for the grant of a PHV licence.

It was noted that on his PHD renewal application AS declared that he had received the below motoring conviction, which was confirmed by a search on his DVLA licence.

Offence Code CU80 – Breach of requirements as to control of the vehicle, mobile telephone etc

Date of Offence 29 April 2022

Penalty points 3

He declared the conviction on renewal (16.03.23) but not the following working day which is in breach of his licence conditions and contrary to Council policy which states:

Licensee Self Reporting

Licence holders are required to notify the Council in writing by close of business on the following working day of the happening of any of the following events:

1. Receiving a simple or conditional caution or being convicted of any criminal offence



2. Being arrested, interviewed, charged, reported for summons or receiving a postal requisition in connection with any motoring or criminal offence.
3. Receiving any out of court disposal including formal warnings, community resolutions, restorative justice education and awareness courses, community protection warnings and notices or fixed penalty notices.

Although AS was very apologetic about failing to declare the conviction and contended he was not aware of the requirement, the Committee were of the view that a licensee of 13 years should take full responsibility for familiarising himself with the conditions pertaining to his trade. They did not consider that AS had been dishonest, but it was not acceptable for an experienced licensee to claim he was unaware of the requirement regarding licensee self-reporting. Furthermore, licensees are reminded of the requirement to promptly report offences to the Council in newsletters that are circulated to the trade.

As far as the offence itself was concerned, the Council's policy, which is consistent with the National Standards state:

"...Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion

The above conviction was received whilst AS held a PHD licence with the Council although he represented that he was not working as a PHD at the material time.

Having heard the circumstances of the offence, the Committee considered that although AS may not have been using the device and was fixing it back into the holder, his vehicle was in motion meaning that his eyes would not have been on the road and he would have been distracted, hence the police officer pulled him over.

The period of five years "off the road" as recommended by the National Standards reflects how serious the offence is viewed.

Even though the members noted AS's previous good driving record and character references, they did not consider this to be sufficient reason to depart from Council and National policy without undermining it or the reasons that underlie it.

Consequently, at this time, the Committee could not be satisfied that AS was a fit and proper person to hold a PHD licence. However, this would not debar the Committee from granting the application for a PHV licence which in all respects complied with Council policy. This would enable AS to rent the vehicle to a licensed driver.



9. APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE SEEKING DEPARTURE FROM COUNCIL POLICY - TS

The applicant was present, accompanied by a solicitor, translator and four personal referees. The Chair led introductions and explained the process.

The licensing officer introduced the report and summarised it for the committee:

- Committee is asked to consider renewal of Private Hire Driver and Private Hire Vehicle licences. TS has held a PHD licence since 2005.
- TS had been convicted of an assault offence in January or February of this year.
- He was ordered to pay costs of £775, victim compensation of £500 and serve a community order for 200 hours of unpaid work.
- He did not notify the authority of this offence on the next working day as per his licensing conditions. TS notified the authority via email in March.
- He did not declare this conviction on his renewal application.
- The policy for violent offences (including assault), is that 10 years must elapse since end of sentence before a licence can be granted. Note that the report incorrectly states from the date of the conviction.
- There are no other convictions or complaints on his record.

TS was invited to present his case and his solicitor did so on his behalf:

- While the officer recommendation is to refuse, the committee can use its discretion to consider individual circumstances and depart from the policy.
- TS was notified in March to attend PSP but was able to continue work until May. This shows that he does not present a danger to the public.
- The licensing authority has not revoked his licence, also demonstrating he is not an immediate threat to the public.
- TS is a responsible family man and his wife and son have considerable health issues. He has completed thousands of fares with no complaints at all. He is well-regarded in the community and there have been positive references submitted on his behalf.
- TS has driven for 18 years and has a clean record apart from this isolated incident. He has no history or pattern of violence or offending behaviour.
- The documents show the personal circumstances around the offence, that this was a domestic disturbance. It occurred at home, not work.
- TS deeply regrets the incident but would consider the punishment from the court to be sufficient.
- TS was unaware that the conviction had to be declared at the time. His wife submits applications on his behalf so the omission is human error.

The following information was confirmed by questioning:

- That TS conviction was prior to his application.
- That this was an isolated but serious incident and TS has no other record of violent offences or any complaints that were not pursued as an offence.



- That the committee cannot 'go behind' a judicial decision and reconsider it.
- The sentence penalties were moderate in scale, being neither just a fine nor a custodial sentence. A 200 hour community order is serious.
- Witness statements describe the victim as suffering cuts to the face and marks to the body. TS also sustained minor injuries in the incident.
- TS pleaded not guilty with a legal defence of self-defence but was found guilty by the court. TS said that he was poorly represented and did not have enough knowledge of the court system.
- The argument lasted around 10 minutes, the assault incident lasted around 3 minutes. There is video footage, but this only covers 1 minute.
- A counter claim was lodged against the victim, but the CPS did not pursue.
- TS renewal application was filled out by his wife. As she had submitted the details of the offence via email to BCC in March, she did not think that she needed to declare the offence on the form as it was not new information.
- This email was around 10 months after the incident happened. It is a requirement to declare the next working day.
- TS as the applicant is ultimately responsible for the accuracy of the application form.
- His licence expired in May, so he is not currently working.
- Any future application for a PHD is at the discretion of the applicant. This committee cannot predetermine a future committee.
- As this licence has expired, the committee only has the option of granting or refusing the application.

Character witnesses gave the following verbal statements:

- That TS was a victim of a miscarriage of justice and that the other party lied to the police and courts.
- That TS was known to them for 25 years. He is a regular at the Sikh temple. He has a very good reputation with no other offences.
- The chair for the Sikh memorial has known TS for a long time, who is very active in helping the community. The victim of the assault has a poor reputation and had to be removed from service at the memorial due to his bad conduct.

The applicant was invited to sum up, then all parties left the room with the licensing officer while the panel deliberated, then returned to hear the decision.

DECISION AND REASONS (TS)

DECISION

1. That TS's application for the renewal of a Private Hire Driver's ("PHD") licence be refused on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely "any other reasonable cause" and that the Council could not be satisfied that TS was a fit and proper person to hold a PHD licence.



2. That the application from TS for the renewal of a Private Hire Vehicle (“PHV”) Licence be granted

REASONS

The Committee were asked to consider two applications; an application to renew TS’s PHD licence and an application for the renewal of a PHV licence.

The Committee were informed that on 15 March 2023 TS had emailed the Licensing Team to advise that he had been involved in a fight at his house with a relative. He then stated that the Court had found him guilty of “...beating up my relative...”.

TS was requested to provide a copy of the prosecution file and subsequently did so.

The details of the assault are as follows:

Offence On 8 May 2022 in the City of Bristol, assault MB by beating him, contrary to section 39 of the Criminal Justice Act 1988

Court Bristol Magistrates’ Court

Disposal Costs: £775.00

Compensation: £500.00

Community Order: 200 hours unpaid work

Date of Conviction The Community Order and Notice of Financial Penalty

are dated 21 February 2023. TS was originally due to appear at Bristol Magistrates’ Court on 10 January 2023.

At the time of the offence and the conviction Mr Singh held a PHD licence and failed to promptly notify the Council of his arrest and pending court case until some ten months later. This is in breach of the conditions attached to his PHD licence and contrary to National Guidance which state:

Licensee Self Reporting

Licence holders are required to notify the Council in writing by close of business on the following working day of the happening of any of the following events:

1. Receiving a simple or conditional caution or being convicted of any criminal offence
2. Being arrested, interviewed, charged, reported for summons or receiving a postal requisition in connection with any motoring or criminal offence.
3. Receiving any out of court disposal including formal warnings, community resolutions, restorative justice education and awareness courses, community protection warnings and notices or fixed penalty notices.

TS via his legal representative and wife contended that he was not aware of the requirement to notify the Council of arrests or convictions and it was her fault as she completed the forms on behalf of TS. She also commented that as TS had already notified the Council of the conviction in March 2023, she did not think



she had to declare it again on the subsequent renewal application. However, the Committee considered that as a licensed driver of some 18 years, it was TS's responsibility to ensure that the information provided in forms signed by him were correct and to properly acquaint himself with the conditions pertaining to his trade.

As far as the offence itself was concerned Council policy which is consistent with National Standards states:

"Offences involving violence against the person/property

As hackney carriage and private hire drivers have close contact with the public, in general where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted, in general, until at least 10 years have elapsed since the completion of any sentence imposed.

This will include...

...Common Assault...

...This is not intended to be an exhaustive list..."

This was a serious incident whereby TS had been found guilty of assault on the criminal standard of proof following a full trial. Notwithstanding the suggestion that TS was acting in self defence and there had been a miscarriage of justice, the committee were not entitled to go behind a conviction in the criminal court. The sentence of a community order reflected that the Court considered the offence to be at the serious end of the scale and that TS was someone who had demonstrated he could suddenly lose control.

Although this appeared to be an isolated incident, the Council is entitled to expect high standards from those whom it licences and in TS's case his conduct, albeit he was not working as a PHD at the time of the offence, had fallen far below those standards.

The Committee took into account TS's previous unblemished record and character references but did not consider that he had discharged the burden of proving that he should be treated as an exception to Council policy or the Statutory National Standards without undermining it or the reasons that underlie it. Consequently, the Committee could not be satisfied that TS was a fit and proper person to hold a PHD licence. However, this would not debar him from being granted his application to renew his PHD licence which would enable him to lease the vehicle to a licensed driver.

10. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - DT

The applicant was present, accompanied by his employer. The Chair led introductions and explained the process.

The licensing officer introduced the report and summarised it for the committee:

- This is an application for a Private Hire Driving licence requesting exemption from the knowledge test.



- There is an error in the report, no exemption from gold standard training is requested.
- New PHD applications require a knowledge test. Officers recommend refusal.

DT was invited to present his case:

- DT will be exclusively using executive cars while licenced. The business he works for has a full executive fleet and does not run minicabs.
- The minimum fare is £55 and the customers are high-value individuals and companies.
- Drivers are issued their jobs 24 hours ahead of time so can plan their routes. They are not skipping from job to job.
- Most routes are outside the city centre, they are not in and out of the city and going from residential road to road.
- DT is very confident driver, used to work in TV and film as a prop transporter. This means his is familiar with high mileage routes and high value passengers and cargo.
- He has been driving for 35 years with no points, complaints or offences.

The following information was confirmed by questioning:

- Applicant must convince committee to deviate from the policy. Knowledge tests are running as normal, gold standard is not running.
- Members understood that pre booking customers long distance from a to b is less likely to be dependent on the driver's knowledge.
- The routes are mainly airport transport, major events and long-distance cross country.
- DT was happy for his licenced to be conditioned to attach to one company. This would ensure executive only work.

The applicant was invited to sum up, then left the room with the licensing officer while the panel deliberated, then returned to hear the decision.

DECISION

That DT's application to be treated as an exception to Council policy concerning an exemption to the knowledge test be allowed and that he can be granted a PHD licence subject to a condition that DT only undertakes executive driving work for Bristol Executive Cars and that DT satisfied all other elements of the "fit and proper person" test.

REASONS

The Committee were satisfied that DT could be treated as an exception to Council policy concerning the knowledge test as DT only intended to undertake executive work for Bristol Executive Cars.

The Committee had heard from both DT and a representative from Bristol Executive Cars that DT had been given the opportunity to become a chauffeur within their team. Due to his driving standard, smart appearance, people skills, and other qualities he was a good fit for Bristol Executive Cars and their clientele.



He intended to solely work with Bristol Executive Cars as a driver and only undertake bookings in their company cars which are plated by BCC.

All journeys undertaken from Bristol Executive Cars would be pre-booked and allocated 24 hours in advance of the booking taking place which allows drivers to research the collections and drop offs prior to undertaking the bookings, which would mostly be outside the Bristol area.

11. APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE - AC

The applicant was present. The Chair led introductions and explained the process.

The licensing officer introduced the report and summarised it for the committee:

- This is an application for Private Hire Driver renewal. On the application received March 2023, AC declared he had no health conditions. He also stated no health conditions on his earlier renewal application in 2021.
- On AC's medical report, it states he had angina diagnosed in June 2020, underwent a cardiogram in September 2020, was diagnosed with sleep apnoea in September 2022 and underwent another cardiogram in March 2023.
- Each of these conditions should have been disclosed to the licensing authority the next working day after they occurred.
- AC has an extensive history of behavioural issues as per the report pack.

AC was invited to present his case:

- AC gave hard copies of his written statement to the committee members and spoke to it.
- He is now signed up to automatic renewal of DBS checks to ensure that is not an issue in future.
- AC said that his angina was suspected rather than diagnosed. As he did not undergo surgery, he thought the issue was not serious enough to declare.
- He recently attended hospital and was told by staff that he did not need to declare the incident to the DVLA. He assumed this also meant BCC.
- AC experienced sleep apnoea following a racially motivated attack last year. Following treatment he believes the issue has been resolved.
- He is on medication for his heart issues.

The following information was confirmed by questioning:

- AC was asked about the anti-social incidents on his record, especially his hostility to a traffic warden. He replied that it had been dealt with by the courts so considered the matter closed.
- AC was asked about his 2019 collision with a cyclist. He said that the collision was declared to BCC at the time, and he believed he was in the right.

The applicant was invited to sum up, then left the room with the licensing officer while the panel deliberated, then returned to hear the decision.



DECISION

That AMC's application for the renewal of a Private Hire Driver's ("PHD") Licence be refused on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely, "any other reasonable cause" and that AMC could no longer satisfy the Council that he was a fit and proper person to hold a PHD licence.

REASONS

The Committee received information that AMC applied to renew his PHD licence on 26 March 2023. His existing licence expired on 4 May 2023. He had held a PHD licence since December 2010, although there had been some short gaps between the issue of some licences

On his renewal application AMC answered in the negative against the following question:

"Since your last licence was issued, have you developed any new medical conditions or any health problems, or has any existing medical condition changed, including any which could affect your ability to act as a PH or HC driver including loading and unloading passengers in wheelchairs or the carrying of assistance dogs? (emphasis added)

This was plainly an incorrect statement since a medical report provided to the Licensing Team by AMC on 26 March 2023 contained the following information:

Medical Information Angina

Date June 2020

Medical Information Moderate Obstructive Sleep Apnoea

Date of diagnosis 24 September 2022

The above medical conditions occurred whilst Mr Choudhury held a PHD licence and he failed to disclose this information to the Council which is in breach of conditions attached to his PHD licence which state:

"16. The licensee shall ensure the Council is notified in writing by close of business on the following working day of the happening of any of the following events...

...16.4 Any material change in the circumstances of the licensee where a material change is one that would require the licensee to provide different information on application to the Council than has been provided in connection with the most recent application for a Private Hire Vehicle Driver's Licence made by the licensee, including, by way of example, a change of address, change of name, change of employer or business, and diagnosis of a medical condition..



There is no record of any such notification being received from Mr Choudhury.

It was noted that he had been diagnosed with angina in 2020 but had failed to declare this on his 2021 application form.

He had therefore failed on two occasions to declare medical conditions. This was a matter of grave concern to the committee since had these conditions been revealed when they should have been, this would have resulted in AMC's licence being suspended or revoked until such time as he was able to satisfy the Group 2 medical which is an element of the "fit and proper person" test. This had therefore placed the public at risk.

AMC's explanation that he did not think he needed to declare these conditions as he considered himself to be a safe driver was not acceptable since AMC was not a medical expert and it was not therefore within his gift to judge whether he is safe to drive in these circumstances. AMC also continually referred to having "suspected" angina when nowhere in the medical reports was there any mention of this diagnosed condition being "suspected".

As far as the angina was concerned, AMC said that he did not need surgery, but he continued to take his medication and because he was managing the condition, he did not consider himself to have a "current medical condition that affected his driving". Clearly that was not his assessment to make and in order to satisfy the Group 2 medical he is required to undertake and pass an exercise test.

In respect of the sleep apnoea, AMC's view was that he had been misdiagnosed but the Council had received nothing from his doctor to support this. AMC said that he had been referred to the sleep clinic and had been given a machine, but it had not helped. However, notwithstanding AMC's views about this condition, the point was that it is potentially dangerous when behind the wheel and his failure to promptly disclose it, had placed the public at risk. It had also deprived the Council of the ability to make its' own assessment of whether AMC met the Group 2 medical.

Whilst the Members had sympathy for AMC's recent health issues, the overriding consideration is the safety of the public. The Council's policy is clear that it should ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest (emphasis added).

All applicants and licence holders must satisfy the Council that they are a fit and proper person to hold a licence. The Medical Fitness Policy comprises part of the fit and proper person test whereby applicants are required to satisfy a Group 2 medical.

Medical Fitness

The Council's current medical requirement is summarised as follows;



- a. Applicants shall demonstrate that they have satisfied the medical standard as specified by the Council.
- b. Applicants shall supply a Council medical examination report completed by their own GP, or other doctor who works at the applicant's own registered medical practice. This will be a Group 2 medical as specified by the (DVLA) for PCV/HGV drivers.
- c. A completed medical examination report must be provided by new applicants.
- d. Existing drivers must supply a medical examination report as follows:
 - i. Every five year period from the age of 45,
 - ii. Annually from the age of 65
- e. The Council will also have the right to recall the licence holder at any time during the lifespan of the licence for a medical examination should the Council have reason to doubt the fitness of the licence holder to hold the licence.

In AMC's case he did not satisfy the fit and proper person test as far as medical fitness was concerned. Even if he was able to subsequently satisfy it by taking the relevant fitness tests and providing medical evidence to support this, the Members considered that his failure to promptly disclose two medical conditions which placed the public at risk, to be a very serious failing indeed.

AMC had been a licensed driver for a number of years and should be fully acquainted with the conditions pertaining to his trade. However, his excuse for not disclosing the medical conditions on two occasions was not due to ignorance of the licensing conditions, but rather he had made a conscious decision not to disclose them because in his own view, he was a safe driver. The Members considered that these failures placed a question mark over the honesty of AMC but at the very least, it was irresponsible of him to conceal these conditions from the Council.

The Committee were also concerned to learn that there had been a series of complaints against AMC and although some had not been upheld or proceeded with, they were entitled to take these into account in building a fuller picture of whether AMC was a fit and proper person to hold a PHD licence.

The National Standards to which the Council must have regard state as follows:

"Complaints against licensees

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."

Taking into account all of the circumstances of AMC's case the Committee could not be satisfied that he was a fit and proper person to hold a PHD.



12. REPORT OF AN APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE - AA

The applicant was present. The Chair led introductions and explained the process.

The licensing officer introduced the report and summarised it for the committee:

- This is an application for a Private Hire Driver's licence. AA applied in November 2022. There was a delay in resolving the application as the authority was waiting for additional information received only last month.
- AA declared no medical issues on his application. BCC then received a medical report that details AA has experienced heart problems since February 2021, when his previous licence was in place. On his renewal application in 2019, AA declared no medical conditions, but had an angioplasty in 2020.
- AA said that he sent an email advising of his conditions, but this was never received.
- AA has supplied evidence of passing the Group 2 medical test.
- AA currently has 2 endorsements for using bald tyres and some historic convictions.

AA was invited to present his case:

- He has a complex medical condition, which was treated at hospital and believes is now resolved.
- AA was told by hospital staff that he did not need to notify the DVLA of his condition.
- On the first renewal application, AA was unsure whether the condition needed to be declared. On the second application, he asked his daughter to take a medical report to the CSP in Temple Street during covid. AA believes this was done, but BCC has no record of it being received.

The following information was confirmed by questioning:

- The DVLA does not have the same policies as BCC, and it is a requirement to declare health conditions as per the licence conditions.
- That AA failed to declare on both the 2019 and 2021 applications. He received a warning letter about this on the first application, so sent in the relevant information via his daughter for the second application.
- AA has 63% heart function, the threshold for the licence is 40%.
- He did not declare the condition on his renewal forms as he does not believe it is an ongoing health condition.
- AA is on medication for this condition and will be reviewed by doctors in a year.

The applicant was invited to sum up, then left the room with the licensing officer while the panel deliberated, then returned to hear the decision.

DECISION



The application is refused. While the committee is sympathetic to AA's health issues, he did not declare the relevant conditions on two separate applications despite receiving a warning letter to do so. Not declaring a health issue of this seriousness potentially puts the public at risk.

Meeting ended at 3.00 pm

CHAIR _____



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