

Bristol City Council
Minutes of the Public Safety and Protection
Committee



20 December 2016 at 10.00 am

Members Present:-

Councillors: Mike Langley (Chair), Chris Davies, Anna Keen, Paula O'Rourke and Ruth Pickersgill

Officers in Attendance:-

Ashley Clark, Sarah Flower and Jeremy Livitt

1. Welcome, Introductions and Safety Information

At the beginning of each application, the Chair asked each party to introduce themselves

2. Apologies for Absence and Substitutions

Apologies for absence were received from Councillor Richard Eddy.

3. Declarations of Interest

There were no declarations of interest.

4. Minutes of Previous Meeting

Resolved – that the Minutes of the above meeting be confirmed as a correct record and signed by the Chair.

5. Public Forum

There were no Public Forum Statements for this meeting.



6. Suspension of Committee Rules CMR10 and CMR11

Resolved – that 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 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 item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) 1 (respectively) of Part 1 of schedule 12A of the Act.

8. Report Of An Application For The Renewal Of A Private Hire Driver's Licence - MQ

The Senior Licensing Officer introduced this report and made the following points:

- (1) MQ was seeking consideration of an application for the renewal of a Private Hire Driver (PHD) licence
- (2) MQ has held a PHD licence 3903 since 13 October 2006 and his current licence expires on 20th December 2016.
- (3) MQ applied for the renewal of a PHD licence on 3 October 2016 via the online facility and did not declare any convictions/cautions. The online application makes it quite clear that you cannot renew online if you have any convictions/cautions to declare and includes the following declaration:

“Section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976 states: If any person knowingly or recklessly makes a false statement or omits any material particularly in giving information he or she shall be guilty of an offence.”

By virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended spent convictions must also be disclosed.

- (4) MQ completed a Disclosure and Barring Service Check (DBS) which, when returned, revealed the following relevant information:

An offence of soliciting another for the purpose of obtaining their sexual services as prostitute in a street/public place which is contrary to Section 51A of the Sexual Offences Act 2003

Date of Caution 4 April 2013

Date of Offence 4 April 2013

- (5) A number of conditions are attached to the grant of a PHD's licence



set out below:

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;

- 16.1 The licensee being convicted of any criminal offence
- 16.2 The licensee being bound over by any court
- 16.3 The licensee being arrested or interviewed in connection with investigations into allegations of offences of the following type –
 - 16.3.1 Any offence involving an allegation of dishonesty, indecency or violence
 - 16.3.2 Any offence involving an allegation of a failure to comply with the relevant legislation
 - 16.3.3 Any offence arising out of the use or keeping of any motor vehicle
 - 16.3.4 Any offence which on conviction may result in a term of imprisonment.
- 16.5 The imposition of any penalty points upon the DVLA licence held by the licensee

- (6) It was noted that there was no record of this notification being received by the Licensing Authority.

MQ made the following points:

- (7) He was nervous that any communication from the Police concerning this offence would be seen by his wife and negatively affect his family life;
- (8) He believed that he had not been convicted of any criminal offence and had received a warning for his actions;
- (9) He had attended a course to help him deal with this situation;
- (10) When he had been advised about the process, he had asked if there was any way that he would be able to continue as a PHD licence holder if he agreed to a condition that he would not operate at night in certain areas of the city.

In response to Member's questions, he made the following points:

- (11) He noted that he needed to be free from conviction for serious offence for 5 years before he could be granted a licence unless the Sub-Committee agreed to depart from policy. Whilst he had not realised that he had been convicted of an offence, he acknowledged that the form also indicated "received a caution";
- (12) It was the first time he had solicited women when he was caught by Police. He had not heard of this situation happening to another driver since he started as a PHD. Whilst he had had contact with other night-time PHD's when he started in the role, he no longer worked nights so was unfamiliar with it;
- (13) He had 3 character references;
- (14) He had written a letter to the jury concerning this incident but no longer had it. This letter had not been received within the Licensing Office. It included details of MQ's time on the jury service;



- (15) MQ had not been working on the day of the vehicle but had removed his plates from his vehicle. The Senior Licensing Officer confirmed that it is an offence to remove plates from a licensed vehicle.

The Sub-committee noted that in 2008 MQ had received 3 points on his licence.

MQ was asked to withdraw whilst the Sub-Committee made its decision.

Resolved –

- (1) that the application to renew a Private Hire Driver's Licence be refused on the grounds that the Sub-Committee do not think it is appropriate to depart in this instance from Council policy which required a minimum of 5 years before a new licence is granted;**
- (2) MQ had not advised the Licensing Section of the caution that he had received;**
- (3) MQ is not a fit and proper person to hold a licence.**

9. Report Of An Application For the Grant of A Private Hire Drivers Licence - UA

This application was heard in the absence of the appellant with their agreement.

The Senior Licensing Officer stated that this application had been previously adjourned from 18th October 2016. She did not have anything further to add to the report.

Resolved – that UFA is not a fit and proper person to be granted a licence on the basis of the policy concerning resisting arrest.

10 Report Of An Application For the Grant Of A Private Hire Operators Licence - IR

The Senior Licensing Officer introduced this report and advised that IR had informed the section on his 16th September 2016 application for a Private Hire Operators Licence of his 14th April 2016 conviction for common assault. The Sub-Committee noted that an application for a PHO would normally be refused if someone had been convicted of such an offence within 5 years.

IR made the following points:

- (1) There had been a great deal of tension building up during 2016 between him and his wife with her behaviour leading to serious financial problems;
- (2) It had come as a shock to him that he had been arrested. He believed that his wife thought that if she pursued criminal charges against him, she would be able to claim access to the property;
- (3) When the case reached court, it became clear that her statements were fabricated;



- (4) The incident in question had only involved 2 people – IR and his wife. He stated that he had not threatened her with a knife as claimed. His wife had encountered him early in the morning getting a beer from the fridge and he held in his hand a bottle opener with a closed end;
- (5) However, he was aware that the incident would be a factor in assessing his suitability in any Disclosure Barring Check Service (DBRS). The magistrate had advised him at the hearing that his approach in this case had been the correct one (ie to plead guilty to common assault but to threatening behaviour) and was the minimum sentence they could impose in this instance;
- (6) IR indicated that he was currently in the process of a very difficult and costly divorce;
- (7) He had agreed to a restraining order being placed on him since his wife had been concerned about situation. Whilst he could have appealed against this, he decided not to do so and had not been able to communicate with her. However, he was not fully aware of the policy for a 5 year period when licences should not be issued with this offence.

The Sub-Committee noted that IR had pleaded guilty to having a knife rather than challenging this conviction.

The legal Adviser pointed out that:

- (8) The conditional discharge only applied for a year but that the offence would still continue to apply for any application;
- (9) In order for the courts to convict IR of common assault, they would need to be satisfied that the victim was in fear of harm.

The Sub-Committee asked all parties to withdraw whilst they made a decision.

Resolved – that

- (1) IR is not a fit and proper person to hold a licence due to his conviction for common assault;**
- (2) the application for a Private Hire Operators Licence is refused on the grounds that there is no reason for the Sub-Committee to depart from Council policy in this instance.**

11 Report Of An Application For The Renewal Of A Private Hire Drivers Licence - AM

Mohammed Mannah attended with the applicant as a friend. Since the Licensing team had not received the applicant's request for an interpreter, he acted as an interpreter with the agreement of all parties.

The Senior Licensing Officer made the following points:

- (1) No application had been made to renew a Hackney Carriage Licence. However, an application had been made for a Private Hire Drivers Licence and the applicant had at this time not revealed their conviction – this had only been revealed later under a DBRS;
- (2) Under the Council's policy, no licence would be issued to someone who had received a serious conviction within the previous 5 years (as in this case which was a common assault).



AAM made the following comments:

- (1) During the incident in question, the Police Officer had requested AAM to move since he believed the rank was full. However, a space became available and, when AAM moved to the side and stopped the car to get out and speak to the officer, he had been arrested;
- (2) This was his first ever offence. He received a 6-month caution on 8th July 2016 and had sent to licensing details of this case. He, therefore, did not believe that he received a conviction and would not have hidden it if he had known the true situation;
- (3) AAM did not believe the representation he had received in court had been satisfactory. In addition, language was a difficulty throughout the process and an interpreter was not arranged in court;
- (4) Whilst the vehicle had passed close to the police officer, it had not hit him. He referred to the CCTV which was shown in court and said that this demonstrated this. However he had been advised that, as the police officer was close to the car, it was AAM's responsibility to ensure there was sufficient space available;
- (5) The Police officer had leaned into the car to speak to AAM and had told him to move – at this moment, a space became available so he moved towards it;
- (6) He had not blocked Denmark Street as alleged

The Sub-Committee noted that:

- (7) The statement from the Police Officer had indicated that AAM had been rude and arrogant in his behaviour;
- (8) AAM had received 3 points on his licence for exceeding 20mph on 21st January 2014 which would remain on his record until 2018;
- (9) The statement from the Police Officer was not evidence given in court;
- (10) AAM need not have hit the Police Officer to be shared with common assault (just putting someone in fear) – if he had done so, then this would have been a more serious offence.

The Sub-Committee requested that all parties leave the room whilst they made their decision.

Resolved – that notwithstanding the criminal conviction, the licence is renewed on the basis that they accept AAM's comments concerning what had happened in this instance and due to his previous good character:

- (2) the Sub-Committee nevertheless expressed some concerns about the incident and reminds AAM to put the safety of a Police Officer first in any future incident;**
- (3) the Sub-Committee also expresses concern about the failure of AAM to declare the points he had received on his licence;**
- (4) the Sub-Committee also reminds AAM to ensure that he makes every effort in future to ensure he has an interpreter in similar situations.**



- (5) **notwithstanding the criminal conviction, the licence is renewed on the basis that they accept AAM's comments concerning what had happened in this instance and due to his previous good character;**
- (6) **the Sub-Committee nevertheless expressed some concerns about the incident and reminds AAM to put the safety of a Police Officer first in any future incident;**
- (7) **the Sub-Committee also expresses concern about the failure of AAM to declare the points he had received on his licence;**
- (8) **the Sub-Committee also reminds AAM to ensure that he makes every effort in future to ensure he has an interpreter in similar situations.**

12 Report Of The Conviction Of A Private Hire Driver Licence Holder - SA

Rahet Perveen Javed and Gulzar Hussan attended in support of SA. Members noted that the latter was a Hackney Carriage Driver.

The Senior Licensing Officer introduced this report and drew Sub-Committee members' attention to 2 character references from SA. The Sub-Committee were requested to consider whether any action is required as a result of a court conviction since the grant of SA's private hire driver's licence.

Members were reminded that in a situation where less than 3 years had occurred since a conviction of this type, it would normally merit refusal.

SA made the following points:

- (1) He had not been feeling well on the day of the offence since he had separated from his partner and was not being given access to see his children;
- (2) He had been looking after his mother and sister, who had a disability;
- (3) The incident in question was a one-off incident. He had not been abusive to the betting shop member of staff in question;
- (4) When he lost his money, he had complained to the staff and asked for it back. Whilst he was given it, he had decided before he left the premises that this was not right and had returned most of it. However, he was not aware that a small amount (£60 out of £300) remained in his pocket. When he tried to return it the next day, he had been advised that the incident had already been reported to the Police. He had never since returned to the shop in question;
- (5) SA had subsequently gone to a Police Station and reported the incident;
- (6) There was no complaint about SA's work or his character.

In response to a member's question, SA stated that he did not feel that he had placed the member of staff in fear.

The Sub-Committee was advised that SA was sober, courteous and physically fit. He helped passengers with special needs that used his vehicle. He held no other convictions. He was a fit and proper person to continue to hold a PHD licence.



The Senior Licensing Officer advised the Sub-Committee that he had received 3 points on his driving licence in March 2014 for speeding over 30mph.

The Sub-Committee requested that all parties leave the room whilst they made their decision.

Resolved –

- (1) that no action is taken in respect of the conviction arising out of this incident and that the Sub-Committee believes that SA is a fit and proper person to hold a PHD licence;**
- (2) that the Sub-Committee notes SA's previous good behaviour and that he had immediately reported the incident to the police when it had happened. However, the Sub-Committee stressed the need to declare all offences, including minor traffic offences.**

13 Date Of Next Meeting

The next meeting is scheduled for 10am on Tuesday 7th February 2017 in a Committee Room, City Hall, College Green, Bristol.

Meeting ended at 2.40pm

CHAIR _____

