

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee



27 March 2018 at 10.00 am

Members Present:-

Councillors: Ruth Pickersgill (Chair), Lucy Whittle and Chris Windows

Officers in Attendance for all Items:-

Lynne Harvey (Legal Advisor) and Abigail Holman (Licensing Policy Advisor) and Jeremy Livitt

1. Apologies

Apologies were received from Councillor Fi Hance.

2. Declaration of Interest

There were no Declarations of Interest.

3. Public Forum

There were no Public Forum items.

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

The Committee agreed to suspend these Procedure Rules.

5. Exclusion of the Press and Public

The Committee agreed to exclude the press and public for the following items.

6. Application for the Grant of a Private Hire Driver's Licence - JH

(containing exempt information under Paragraph 1)



The Committee considered an application by JH for the grant of a Private Hire Driver's Licence.

Members noted the history of the case as outlined in the report. In particular, the Committee noted the convictions for stealing electricity and production of a controlled drug, in addition to a community punishment order for battery.

JH made the following points:

- He was now changing his life since being convicted of stealing electricity and production of a controlled drug
- He had trouble sleeping in the past due to depression which had resulted in him starting to grow and use cannabis. However, his GP had now prescribed a stronger anti-depressant which was working more effectively
- In relation to the community punishment order for battery, he explained that he had pushed his girlfriend during an argument and she had hit her head. However, he had now been on an anger management course and there had been no trouble with violence since this incident
- In addition, he had cleared his debts and was now self-employed as a personal fitness instructor at Cribbs Causeway

Following questioning, the Panel requested that the Appellant withdraw from the meeting to consider their decision. Once both parties returned to the room, the following decision was given to them.

RESOLVED – that it was noted that the applicant had been convicted of a series of offences over a long period of time which gave the committee greater cause for concern that the applicant could not satisfy the test that he was a fit and proper person to hold a Private Hire Driver's Licence. This demonstrated a pattern of inappropriate behaviour which the committee is entitled to take into account.

The convictions were also of a serious nature and included drug related offences and offences of dishonesty and violence.

Although the most recent convictions are dated June 2013 they still fall within the Council's policy concerning offending behaviour which requires a period of 3 to 5 years free of conviction. Given that the court imposed a suspended sentence of imprisonment, this demonstrates that the offences were considered to be at the more serious end of the scale. Consequently, the longer period of at least 5 years free of conviction would be required before an application would even be entertained. The burden of proof is on the applicant to satisfy the Council that he is a fit and proper person and that he should be treated as an exception to the Council's policy on offending behaviour.

The Committee listened carefully to everything the applicant had to say and considered his written representations but could not be satisfied that he had discharged the burden of proving that he was a fit and proper person to hold a Private Hire Driver's Licence or that he should be treated as an exception to Council Policy. Therefore, the application is refused.



The Committee indicated that they would expect to see a greater period of rehabilitation before a further application can be considered. The applicant was advised to produce further evidence that he is drug free and that he successfully completed the anger management course.

7. Application for the Grant of a Private Hire Driver's Licence - SS

(containing exempt information under Paragraph 1)

The applicant and his wife were in attendance for this item.

Members noted the following:

- The applicant had requested that he be allowed to be granted a licence without passing the required knowledge test
- The applicant has failed to pass the test on six previous occasions
- Paragraphs 7 and 8 of the report set out policy guidance on the knowledge test and criminal behaviour
- In respect of the applicant's conviction for violence, it was required that they were free of any convictions for 5 to 10 years

The applicant made the following points:

- He was doing everything he could to become an HC Driver
- During the tests, he had found that a number of the venues that he was being asked to identify were closed or had their name changed which caused confusion
- On each occasion, the applicant was only failing in 1 or 2 categories
- The applicant had experienced a lot of trouble with some people who had lived next door to them in 2010. They had entered his garden without his permission and put objects in his letter box. The Police were aware of this situation and had placed CCTV cameras and smoke alarms in the property. They had also stole some of his property ie a bike and threatened him. As a result of support from both the Police and SARI, the individuals had been banned and had moved away from the area
- The applicant had operated a taxi in Taunton for 2 years

Members noted that, even if some of the failures were quite small, overall the applicant was failing by some considerable margin. In addition, it was noted that reviews of the test were regularly carried out to identify where applicants failed by 5 marks or less and provide credit marks where appropriate (ie in instances where venues had changed etc.).

Both parties were requested to withdraw while the Sub-Committee made its decision.

After consideration of the facts, it was



RESOLVED: that the Sub-Committee does not consider that 2010 caution on its would debar him from obtaining a licence because of its age and the offending conduct being at the less serious end of the scale.

However, they also do not consider that the Applicant had discharged the burden of proving that there are exceptional reasons to depart from Council policy and exempt him from taking the knowledge test and to do so in the present case would undermine the purpose that underlies the policy.

8. Application for the Grant of a Hackney Carriage Licence seeking departure from BCC Policy - SRA

(containing exempt information under paragraph 1)

The applicant was in attendance.

Members noted the following:

- The applicant had received registration on their vehicle in 2009. Bristol City Council had failed to take into account the requirements under ECWVTA which had been approved in 2008 at the time of the 2009 application
- Guidance from the Vehicle Registration Agency was set out in Paragraph 6
- Appendix B to the report was a certificate from GM Coachworks which was received by the applicant at the time of acquiring the vehicle and which stated that it did not compromise any previous approval. However, this was not a certificate of conformity which would normally be obtained through the manufacturer. It was not possible to say with certainty whether or not the vehicle had previously complied with ECWVTA

The applicant stated the following:

- The certificate was specifically issued to my vehicle
- He had received very short notice that it would not be extended
- He had applied in December 2017. It was not clear originally for how long it would be extended. Whilst this was eventually confirmed at 3 months, the Licence Team had taken a fee for 6 months. It was noted that the fee which was originally collected at the Citizens Service Point would be for the usual 6 monthly period. The procedure for reimbursing for 3 months was lengthy and may not have yet been completed

Both parties were requested to withdraw while the Sub-Committee made a decision and upon return were advised of it.



Resolved - that the Sub-Committee has a lot of sympathy for the applicant and in the individual circumstances of the case the application can be treated as an exception to the policy on this occasion with renewal to be granted for 9 months from the end of June 2018 which will give an opportunity for the applicant to renew his vehicle to one that does comply with policy.

9. Application for the Grant of a Hackney Carriage Licence seeking departure from BCC Policy - AA

The applicant was in attendance, together with the Secretary to the Taxi Drivers' Association.

Members noted the following:

- Details of the application were set out in Paragraphs 1,2 and 3
- Bristol City Council's Licensing Section acknowledged that they had made an error in failing to check if the applicant had an ECWTA approved vehicle during their 2009 application following the introduction of this requirement in 2008. It was noted that Paragraph 5 of this policy stated that the vehicle cannot be licensed after 31st March 2018
- The vehicle had a low volume vehicle type approval but not ECWTA approval
- The policy was set out in Paragraphs 8 and 9
- There were technical differences between the two types of approval. Whilst there was physically very little difference, vehicles without ECWTA approval had a different loading procedure for wheelchairs
- Vehicles going through ECWVTA had to go through a series of different tests than the Low Volume User to pass the required standard

The applicant made the following comments:

- This vehicle had been bought from Cab Direct. Certificates had been obtained with the vehicle when it was purchased
- The vehicle had been licensed after the policy was supposed to have been introduced
- In discussions with Licensing, they had indicated to the applicant that, as he was licensed following his 2009 application, there would be no difficulty with his vehicle. It was only at a later date that a number of drivers (including him) would not be covered
- The applicant had been a driver for 18 years. If there was a problem with the certification of this vehicle, he should have been made aware of this
- The applicant's livelihood had effectively been taken away until he was able to obtain a replacement vehicle
- The Sub-Committee were requested to consider this case with sympathy
- The applicant had never received complaints about the loading arrangements from disabled passengers for their vehicle



The Committee requested that all parties withdrawn while a decision was made and on their return advised them of it.

RESOLVED - that the Sub-Committee has a lot of sympathy for the applicant and in the individual circumstances of the case agreed that the application can be treated as an exception to the policy on this occasion and renewed for 6 months to provide the applicant with the opportunity to renew their vehicle to one that does comply with policy.

10 Application for the Grant of a Hackney Carriage driver's Licence - LKS

As the applicant was not in attendance, this item was withdrawn to be heard at a future meeting.

11 Conviction of a Private Hire Driver - HSMH

(containing exempt information under Paragraph 1)

The applicant was in attendance with the following other attendees:

Samira Hussain (Solicitor, Witness for the Applicant)
Wayne Jones (Neighbourhood Enforcement Team) – presenting the case
Briana O'Malley (Observer, Neighbourhood Enforcement Team)

Members noted the following:

- The applicant had obtained Private Hire Driver Licence in 2013 which was due to expire in 2019
- Paragraphs 3, 4 and 5 of the report set out the circumstances leading to the applicant's conviction and its details
- Appendix D included a letter from the District Judge
- The applicant had been convicted of playing for hire and for driving without insurance. This was considered a major traffic offence

The applicant made the following points:

- He had been booked for a job to pick up a passenger in Cheltenham but had been unable to find them. He had become frustrated and, when some individuals approached his car, he did not take their names to confirm they were the booked fare. However, he was not deliberately plying for hire
- When the customers got into the vehicle, he had no idea who they were. If he had, he would not have let them into the car as he would not have otherwise travelled all the way from Bristol to pick up a random fare
- 2 Character references were provided
- All the evidence had been placed before the judge whose conclusion was set out in his letter



- The date of the incident should be taken into account
- The applicant was sorry about what happened and requested that he be shown leniency as he needs to support his family.

The Legal Adviser made the following points:

- There seemed to be a disconnect between the conviction and the comments of the judge. If it was demonstrated that it was a pre-booked fare, this would be acknowledged and the defendant would have been acquitted. However, it should be noted that the letter only set out a summary of the conviction. There was a comment included that the applicant did not make sufficient checks concerning the occupants of his vehicle
- Normally an applicant would be expected to be 6 months free of conviction from the date of conviction before their application could be approved

Both parties were requested to withdraw whilst members made their decision. Upon their return, they were advised of it.

RESOLVED – that the starting point under the policy is that there is a period of 6 months suspension based on the date of the conviction for an offence of plying for hire and no insurance. There does seem to be a disconnect between the summary comments from the District Judge and the fact of the conviction because if the court believed the licensee had made an innocent mistake he would have been acquitted. This Sub-Committee cannot go behind the conviction but they believe his explanation, supported by the District Judge, that he did genuinely have a pre-booked fare in Cheltenham – otherwise why would he have driven outside of the District just to commit the offence. The Sub-Committee considered there was a degree of frustration in that he was unable to pick up the pre-booked fare and then simply transported the officers who approached his vehicle without making any enquiries as to their identity. They also consider there is strong mitigation involved and given the Licensee’s previous good record and the remorse he showed to the committee, he has satisfied the Sub-Committee that he should be treated as an exception to the policy. There is no action on the licence on this occasion but a warning as to future conduct.

12 Two Applications for renewal in relation to Street Trading Consent(s) at Ashton Road - SC

The Committee returned into open session for this item.

Brianna O’Malley (Neighbourhood Enforcement Team) and Mr Gaspar Corsentino (representing his brother – the applicant) were in attendance for this item. It was noted that he had produced a consent form from the applicant requesting that GC to attend in his place.

Members noted the following:



- 2 applications had recently been made by the applicant for the renewal of a Street Trading Consent for refreshment stalls outside of Bristol City Football grounds. A site location map was provided to members
- Both the previous licences had expired on 30th September 2017
- Following a visit by the Neighbourhood Enforcement Officer to the site on 20th December 2017. The individual present (Mr Gaspar Corsentino) could not produce evidence of consent or of applying for consent since their expiry in September 2017
- Despite a request, no evidence was provided the next day of evidence of consent
- A subsequent application was made for consent, together with attempts to pay for use of the locations for historic dates which were not allowed
- Officers were concerned about the signature on the forms which were not the same. There was no information to confirm who was the consent holder for the operating unit
- There was evidence that there had been trading on other days without consent, in addition to concerns about some breaches of conditions (ie relating to littering)
- Gaspar Corsentino had been prosecuted for and had admitted to trading under the applicant's name for many years. However, there was no evidence of any sub-letting
- Officers were recommending refusal of the application since there was no evidence at all that the applicant had been involved in trading at the locations. It was their view that Gaspar Corsentino should be making the application instead

Gaspar Corsentino made the following points:

- He had been trading in the applicant's name. This has not been carried out maliciously and had been passed down through the family over many years.
- The stalls had always been run by him without any previous involvement from the applicant. He had received no complaints since he had first started

Both parties were requested to withdraw whilst members made their decision. Upon their return, they were advised of it.

RESOLVED – that the Sub-Committee expresses concern that the applicant is a family business trading contrary to legislation and potentially committing a criminal offence. The applications were refused on the basis that they were both being made in the name of the person who had not previously operated stalls at the sites and should instead be made under the name of Gaspar Corsentino. It was noted that the latter was free to re-apply in future for both locations in accordance with the requisite processes for such applications.

13 Three Applications for the Grant of Street Trading Consent(s) at Paved area by the Fountains outside City Hall, College Green - GS/CS/HS

The applicant was not in attendance for this application and it was, therefore, adjourned.



14 To consider whether action is required in relation to a Private Hire Driver - RA

The Sub-Committee returned to exempt session for this item.

(containing exempt information under Paragraph 1)

The applicant was in attendance with a friend for support.

The Committee considered whether to take action in respect of RA.

Wayne Jones (Neighbourhood Enforcement Officer) presented the report.

The Committee noted the details of this case in the report. It was noted that on two separate occasions RA had been found to have tyres on his Private Hire vehicle below the legal requirement for tyres (1.6 mm) (in 2016 his rear tyres and in 2017 three tyres at an MOT test). This resulted in the vehicle being dangerous for both drivers and passengers.

RA made the following points:

- RA presented 2 character references on his behalf
- Following some additional information presented by RA, it was noted that he had carried out no Private Hire Driver work between 19th and 26th November 2017 but that a job was listed as having been carried out on 27th November
- Immediately before the MOT test in 2017, he had travelled to Aberdeen and, since he had used a different brand of tyres than before, it has used more tread than usual. He was unaware that the tyres had worn down otherwise he would have replaced them
- He accepted that he should check the tyres more often but this had not been done on purpose
- He confirmed that he had refused to meet the Enforcement Officer at the site with the vehicle since he was at his girlfriend's address and did not want this to be revealed. In addition, he had also refused to attend with the car at a street location nearby. However, as soon as he had realised there was a problem, he had not driven the car and had never put anyone else knowingly at risk

Following questioning, the Panel requested that the Appellant withdraw from the meeting to consider their decision. Once both parties returned to the room, the following decision was given to them.

RESOLVED - that the Committee expressed real concern that not only did the Licensee present his vehicle in November 2017 with four bald tyres but also presented it in 2016 with illegal tyres. It was, therefore, not an isolated incident.

Therefore, his conduct was akin to an offence of using a vehicle with defective tyres. The Committee expressed the view that the licensee was very lucky not to have been prosecuted for this offence and that, if he had, it would have attracted 3 penalty points for each tyre meaning that he may have been disqualified under the totting up procedure.



They also noted that the number of defective tyres places the offence into the category of a major traffic offence under the Council's policy.

Therefore, the conduct had therefore fallen well below the standards expected of a Private Hire Driver and that the public were put at risk because of the offence. Whilst the Committee noted that the Licensee stated that he was not aware of the offences, ignorance does not provide an excuse in these cases.

The Committee is no longer satisfied that he is a fit and proper person to hold a Private Hire Driver licence. Therefore there is "reasonable cause" to revoke the licence on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

It was noted that RA has a right of appeal.

Meeting ended at 3.30pm

CHAIR _____

