

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee A



24 April 2018 at 10.00 am

Members Present:-

Councillors: Chris Davies, Fi Hance, Carole Johnson and Mike Langley

Officers in Attendance:- Lynne Harvey – Legal Services, Shreena Parmar – Legal Services (Observing) Carl Knights – Licensing Section, Christopher Swinscoe – Neighbourhood Enforcement Team, Norman Cornthwaite – Democratic Services.

Also in Attendance:- P C 4645 Patrick Quinton - Taxi Compliance Officer

1. Apologies

Apologies were received from Councillor Eddy.

2. Declaration of Interest

None were received.

3. Public Forum

Nothing was received.

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

Resolved – 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).



5. Exclusion of the Press and Public

Resolved – that under Section 11A (4) of the Local Government Act 1972, the press and public be excluded for the following item of business on the ground that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, as amended.

6. Private Hire Driver dealt with by Out of Court Disposal - HS

HS was in attendance.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Taxi Compliance Officer introduced the report and summarised it for everyone.

HS put the case highlighting the following:

- He was struggling financially at the time
- He does not usually work in the central area
- He was logged in with Uber but they logged him off
- He picked up the passengers
- He has never done it before
- He made a big mistake
- He has been a Private Hire Driver for 10 years and never done this before
- He had an incident some years ago when someone got into his car and this resulted in a fight
- He has family problems – his wife has had a number of miscarriages and has been diagnosed with a back problem
- He relies on his job as it is the only family income
- As he is self-employed he is able to work around family commitments
- A 6 months suspension is a long time and would cause him great problems
- He summed up his case
- He tabled a number of character references

The Taxi Compliance Officer explained that due to the unusual wording on the insurance certificate HS had not committed an offence.

The Licensing Officer, Taxi Compliance Officer and HS left the room whilst the Committee made its decision.



Decision

The Members considered very carefully all of the written and verbal evidence presented to them.

The Members noted their Policy.

The Members noted that he had not committed an insurance offence.

The Members also noted the mitigating circumstances of the case – he has been a taxi driver for 10 years and has committed no other offences, he co-operated with Police and produced good character references particularly the one from the customer.

The Members therefore agreed to set aside their Policy in this case and suspend his Licence for a period of only 2 months.

Everyone returned to the room to hear the decision announced.

Resolved – that the Private Hire Driver’s Licences held by HS be suspended for 2 months.

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

NS was not in attendance.

It was therefore

Resolved – that consideration of this case be deferred until a future Meeting of the Committee.

8. Application for the Renewal of a Hackney Carriage Licence Seeking Departure from BCC Policy - AQ

AQ was in attendance, accompanied by 2 colleagues.

The Chair explained the procedure that would be followed and everyone introduced themselves.

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

On behalf AQ one of colleagues stated that his car had received its plate in 2010 and was still in very good condition. AQ had been unable get a new car.

The Licensing Officer explained that the trade had been advised about the change in 2008. AQ had also received an e-mail in 2015.

AQ stated that he thought he had secured a suitable second hand car, but was then advised by the seller that the car was no longer available. He could not afford a new car and thought that he would be allowed



a further 2 years with the car he has. The other colleague added that AQ had been verbally advised in 2010 that the car could be licensed for 10 years.

The Licensing Officer explained that in 2008 the Committee had allowed a transitional period of 8 years. This subsequently extended to 10 years. During this period existing owners could change vehicles under the old Policy. This had created a lot of inequality in the trade. Unfortunately when AQ visited the offices the files were due available due to the impending move to Temple Street. No Doblos have whole type approval and the Officer involved was not aware that the vehicle was a Doblo.

AQ summed up his case – he needs an extension to allow him time to save for a new car.

The Licensing Officer AQ and colleagues left the room whilst the Committee made its decision.

Decision

The Members considered very carefully all of the written and verbal evidence presented to them.

The Members noted their Policy.

The Members noted the long standing line of case law that where the Council has a policy – that policy should be applied consistently and if an applicant is seeking to be treated as exception to the policy the burden of proof is on the applicant to demonstrate that an exception can be made in the individual circumstances of his case without undermining the policy or the reasons that underlie it.

The vehicle does not conform with the Council policy in question which was introduced in the interests of public safety. The change in policy was well publicised to members of the trade who have been given sufficient opportunity and a considerable period of time (including two extensions) in which to change their vehicles. AQ has benefitted from Grandfather rights and there is nothing unusual or exceptional about the individual circumstances of his case to justify a departure from Council policy in this case.

Personal circumstances are irrelevant – since the primary concern of the Committee is the public safety and protection.

Application to renew is therefore refused. He still has benefit of licence until 8 June 2018 – Committee did have the power to revoke the vehicle licence but decided not to do so – as such he still has a period of grace in which to change his vehicle due to the administrative error in granting him a licence beyond 31 March 2018.

Everyone returned to the room to hear the decision announced.

Resolved – that the application by AQ for a Hackney Carriage Licence seeking departure from the BCC Policy be refused.

9. Conduct of a Hackney Carriage Driver - ZS



It was noted that it had not been possible to obtain the services of a BCC Interpreter to assist ZS.

It was therefore

Resolved – that consideration of this case be deferred until a future Meeting of the Committee.

10 Application for the Grant of a Hackney Carriage Licence Seeking Departure from BCC Policy - AI

AI was in attendance, accompanied by a colleague.

The Chair explained the procedure that would be followed and everyone introduced themselves.

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

AI put his case highlighting the following:

- He has been renting a car since November 2017 when his car failed the MOT
- He managed to find the money to buy a new on 1st March 2018
- He had to have the car approved and had missed the deadline
- The delay in obtaining a new car was related to the time it took him to raise the finance

The Licensing Officer, A

I and his colleague left the room whilst the Committee made its decision.

Decision

The Members considered very carefully all of the written and verbal evidence presented to them.

The Members noted their Policy.

They noted that AI was only days outside the 3 month period. On the basis that the vehicle is a Euro 6 vehicle, there are no public protection issues if an exemption is granted in this case. They therefore agreed to set aside their Policy in this case and grant the Licence.

Everyone returned to the room to hear the decision.

Resolved - that the Hackney Carriage Licence applied for by AI be granted.

Application for the Grant of a Private Hire Driver Licence and to determine if any action is required against the Holder of a Hackney Carriage Driver's Licence –ZI (Agenda Item No. 11)

ZI was in attendance, accompanied by a colleague.



The Chair explained the procedure that would be followed and everyone introduced themselves.

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

ZI put his case highlighting the following:

- Incident on 5th March 2011 - Appendix A refers
- Incident on 25th February 2012 – Appendix B refers
- Incident on 17th October 2014 – This was an oversight – Appendix C refers
- Incident on 8th October 2015 - He was not the driver; the car was rented out at the time. He tabled a letter from someone else claiming to be the driver.
- Incident on 30th December 2016 – It had been an oversight not to declare the offence. But there had been mitigating circumstances concerning family issues.
- He had learnt lessons from the offences. He had taken too much on himself without realising it
- He provided details of domestic circumstances concerning care arrangements for family members and also bereavements within the family
- Family obligations have greatly impacted on his time
- He has not worked since 1st April 2018
- He apologised for the non-disclosure
- He summed up his case

The Licensing Officer, ZI and his colleague left the room whilst the Committee made its decision.

Decision

The Members considered very carefully all of the written and verbal evidence presented to them.

The Members noted their Policy.

The Members noted the offences had been spread out over a long period of time. They also noted that no action had been taken in relation to the serious offence. It was a later less serious offence that had not been declared.

They therefore agreed to grant the Private Hire Driver's Licence and take no action against the Hackney Carriage Driver's Licence.

Everyone returned to the room to hear the decision announced.

Resolved – that the Private Hire Driver's Licence applied for by ZI be granted and that no action be taken against the Hackney Carriage Driver's Licence held by ZI.



Application for a Private Hire Driver's Licence – ST (Agenda Item No. 12)

ST was in attendance, accompanied by a Representative.

The Chair explained the procedure that would be followed and everyone introduced themselves.

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

The Representative put the case for ST highlighting the following:

- A set of papers from ST's Solicitors were tabled
- ST has not worked for 7 months
- He has been a taxi driver since 2005
- The other allegations concerning him driving a taxi came from a company with a grudge against him; his mother during the week in question so he was not driving a taxi
- In relation to the sexual case, a number of disclosures were asked for by the defence
- There was no Pepsi can in the car and no evidence was offered
- There are a number of significant discrepancies in the accounts of the alleged incident provided in the written statements
- The judge did not adjourn the trial and the CPS did not request an adjournment; no evidence was offered
- There have been no issues of any kind in the time has been a taxi driver
- He accepts that he should have advised Licensing at the time
- TS confirmed that he has been a taxi driver for 14 years and committed no offences
- The Representative summed up his case – he has not worked for 7 months, the offence did not take place and the written statements are inconsistent

The Legal Representative reminded everyone that the Committee's function is regulatory. The Members are not trying to assess what may or may not have happened had the matter gone to trial. The written statements can be taken into account and the Members have to decide what weight to give to them. They have to decide if ST is a fit and proper person to hold a licence. The onus is on ST to convince the Committee that he is a fit and proper person.

The Licensing Officer, ST and his Representative left the room whilst the Committee made its decision.

Decision

The Members considered very carefully all of the written and verbal evidence presented to them.



The Members noted their Policy.

They noted that ST has been a taxi driver for 14 years and had committed no offences. They also noted that they had not been able to test the evidence from the witnesses.

They agreed that they would grant a licence to ST.

Everyone returned to the room to hear the decision announced.

Resolved – that the Private Hire Driver’s Licence applied for by ST be granted.

11 Application for the Grant of a Private Hire Driver's Licence and to determine if any action is required against the holder of a Hackney Carriage Driver's Licence - ZI

ZI was in attendance, accompanied by a colleague.

The Chair explained the procedure that would be followed and everyone introduced themselves.

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

ZI put his case highlighting the following:

- Incident on 5th March 2011 - Appendix A refers
- Incident on 25th February 2012 – Appendix B refers
- Incident on 17th October 2014 – This was an oversight – Appendix C refers
- Incident on 8th October 2015 - He was not the driver; the car was rented out at the time. He tabled a letter from someone else claiming to be the driver.
- Incident on 30th December 2016 – It had been an oversight not to declare the offence. But there had been mitigating circumstances concerning family issues.
- He had learnt lessons from the offences. He had taken too much on himself without realising it
- He provided details of domestic circumstances concerning care arrangements for family members and also bereavements within the family
- Family obligations have greatly impacted on his time
- He has no worked since 1st April 2018
- He apologised for the non-disclosure
- He summed up his case

The Licensing Officer, ZI and his colleague left the room whilst the Committee made its decision.



Decision

The Members considered very carefully all of the written and verbal evidence presented to them.

The Members noted their Policy.

The Members noted the offences had been spread out over a long period of time. They also noted that no action had been taken in relation to the serious offence. It was a later less serious offence that had not been declared.

They therefore agreed to grant the Private Hire Driver's Licence and take no action against the Hackney Carriage Driver's Licence.

Everyone returned to the room to hear the decision announced.

Resolved – that the Private Hire Driver's Licence applied for by ZI be granted and that no action be taken against the Hackney Carriage Driver's Licence held by ZI.

12 Application for the Grant of a Private Hire Driver's Licence - ST

ST was in attendance, accompanied by a Representative.

The Chair explained the procedure that would be followed and everyone introduced themselves.

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

The Representative put the case for ST highlighting the following:

- A set of papers from ST's Solicitors were tabled
- ST has not worked for 7 months
- He has been a taxi driver since 2005
- The other allegations concerning him driving a taxi came from a company with a grudge against him; his mother during the week in question so he was not driving a taxi
- In relation to the sexual case, a number of disclosures were asked for by the defence
- There was no Pepsi can in the car and no evidence was offered
- There are a number of significant discrepancies in the accounts of the alleged incident provided in the written statements
- The judge did not adjourn the trial and the CPS did not request an adjournment; no evidence was offered
- There have been no issues of any kind in the time has been a taxi driver
- He accepts that he should have advised Licensing at the time



- TS confirmed that he has been a taxi driver for 14 years and committed no offences
- The Representative summed up his case – he has not worked for 7 months, the offence did not take place and the written statements are inconsistent

The Legal Representative reminded everyone that the Committee's function is regulatory. The Members are not trying to assess what may or may not have happened had the matter gone to trial. The written statements can be taken into account and the Members have to decide what weight to give to them. They have to decide if ST is a fit and proper person to hold a licence. The onus is on ST to convince the Committee that he is a fit and proper person.

The Licensing Officer, ST and his Representative left the room whilst the Committee made its decision.

Decision

The Members considered very carefully all of the written and verbal evidence presented to them.

The Members noted their Policy.

They noted that ST has been a taxi driver for 14 years and had committed no offences. They also noted that they had not been able to test the evidence from the witnesses.

They agreed that they would grant a licence to ST.

Everyone returned to the room to hear the decision announced.

Resolved – that the Private Hire Driver's Licence applied for by ST be granted.

13 Application for the Renewal of a Hackney Carriage Licence seeking departure from BCC Policy - HJ

HJ was in attendance, accompanied by his nephew.

The Chair explained the procedure that would be followed and everyone introduced themselves.

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

SZ put his case highlighting the following:

- He is awaiting a new car
- He had hoped to buy a second hand car but was not able to
- He is requesting that the licence for his present vehicle be extended



The Licensing Officer, HJ and his nephew left the room whilst the Committee made its decision.

Decision

The Members considered very carefully all of the written and verbal evidence presented to them.

The Members noted their Policy.

The Members noted that there is long standing line of case law that where the Council has a policy – that policy should be applied consistently and if an applicant is seeking to be treated as exception to the policy the burden of proof is on the applicant to demonstrate that an exception can be made in the individual circumstances of his case without undermining the policy or the reasons that underlie it.

The vehicle does not conform with the Council policy in question which was introduced in the interests of public safety. The change in policy was well publicised to members of the trade who have been given sufficient opportunity and a considerable period of time (including two extensions) in which to change their vehicles. Applicant has benefitted from Grandfather rights and there is nothing unusual or exceptional about the individual circumstances of his case to justify a departure from Council policy.

Personal circumstances are irrelevant – since the primary concern of the Committee is the public safety and protection. Vehicle is also 10 years old.

Application refused. In the interests of fairness to broader trade and those who have complied and absorbed the information.

Everyone returned to the room to hear the decision announced.

Resolved – that the application for a Hackney Carriage Licence made by HJ be refused.

14 Application for the Grant of a Hackney Carriage Driver's Licence seeking departure from Council Policy - AM

AM was in attendance.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Neighbourhood Enforcement Officer introduced the report and summarised it for everyone.

AM put his case and answered questions highlighting the following:

- He had a mild stroke
- He has a letter at home from the DVLA allowing him to drive



- When he went to Southmead Hospital he had an MRI scan and was advised to rest for a couple of weeks; he stayed off work for 2 months
- He has a letter from his GP

The Legal Representative clarified that AM must present evidence of passing the Group 2 Test before the Committee could grant him a licence.

The Licensing Officer and AYJ left the room whilst the Committee made its decision.

Decision

The Members considered very carefully all of the written and verbal evidence presented to them.

The Members noted their Policy.

They decided to adjourn the case until AM is able to present evidence of having passed to the Group 2 Test at a future Meeting of the Committee.

Everyone returned to the room to hear the decision announced.

Resolved – that the case be adjourned until AM is able to present evidence of having passed to the Group 2 Test at a future Meeting of the Committee.

Meeting ended at 3.45 pm

CHAIR _____

