

# Bristol City Council

## Minutes of the Public Safety and Protection Committee



16 April 2019 at 10.00 am

### **Members Present:-**

**Councillors:** Chris Davies, Richard Eddy, Mike Langley and Estella Tincknell

### **Officers in Attendance:-**

Shreena Parmar (Legal Advisor), Carl Knights (Licensing Policy Advisor), Wayne Jones and James Roberts

### **1. Welcome and Safety Information**

Everyone was welcomed to the meeting and introductions were made at the beginning of each hearing.

### **2. Election of Chair**

RESOLVED – that Councillor Richard Eddy be elected Chairman of the meeting

### **3. Apologies**

There were none.

### **4. Declaration of Interest**

There were no declarations of interest.

### **5. Public Forum**

There was no public forum.

### **6. 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.

## 7. Exclusion of the Press and Public

**RESOLVED** – 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 grounds 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 IM

The Applicant was in attendance assisted by an interpreter.

The Licensing Officer outlined the background to the application as follows:

- The application had been made for the renewal of a private hire driver’s licence.
- The Applicant had not declared his endorsement points on his application of the 3<sup>rd</sup> September 2018 as he had ticked the box for “I confirm that I haven’t received a criminal or driving conviction, caution or reprimand since my last licence was issued (including DVLA points)”. A new licence had commenced on 11<sup>th</sup> October 2018.
- The Applicant had telephoned and emailed the office on the 5<sup>th</sup> March to inform them of the 9 points on his licence.
- A further three points may be awarded following an upcoming court appearance.

The Applicant made the following points in support of his application:

- He had worked as a taxi driver since 2010.
- When applying for renewals to his licence he had not understood the question or why he was ticking the box.
- He had been confused about ‘included’ and ‘excluded’.
- He had always informed the DVLA of any points received and had not known whether to inform the Licensing Office. He had misunderstood the procedures.
- He didn’t realise there was a problem so had not asked anyone to check he had correctly completed the form.
- Following a consultation about his upcoming court appearance he had been advised by a lawyer to go to the Licensing Office to inform them of the points on his license.
- One incident of speeding had occurred on the M32 which had changed from 60 to 40mph and he had not realised.
- For one offence he was only over the limit by a few miles per hour and he had asked the police for more information and proof but had not been able to challenge the points.



In response to questions, the Licensing Officer and Legal Officer clarified:

- The Applicant had filled out the form seven times in total.
- In October 2018 the officers had checked with the DVLA but only six points had shown at that time which meant a Sub Committee hearing had not been triggered. It was not known why all 9 points had not shown when checked.
- Advice could be sought in person via the office if requested but officers would not routinely go through forms with applicants when submitted.
- The Sub Committee would not consider points that could be awarded at an upcoming court case and it had not yet taken place.

The Applicant and the Licensing Officer then withdrew while the Committee considered the application and subsequently returned to hear the decision.

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

**RESOLVED:** that the license be REVOKED for the following reason:

The Committee noted their policy that where more than one offence was committed within the last two years preceding the date of the application, a licence would be refused. The Committee considered that there was a failure to declare on renewal, failure to declare at the time of the offences and also demonstrated a pattern of behaviour.

## 9. Application for the Renewal of a Private Hire Vehicle Licence AM

The Applicant was in attendance.

The Licensing Officer outlined the background to the application as follows:

- The application was for the renewal of a Private Hire Vehicle (PHV) Licence.
- The Applicant had his licence revoked by PSP Committee on 18<sup>th</sup> December 2018 for 'plying for hire'. He was currently appealing that decision and the appeal was due to be heard on the 22<sup>nd</sup> May 2019. Whilst the appeal was ongoing, the Applicant was able to continue to drive the vehicle up until the expiry of the PHV Licence.
- At that PSP Committee in December 2018 the enforcement report had not asked to revoke the licence for his vehicle which was an oversight.

The Applicant made the following points in support of his application:

- The PHV Licence had been granted with the expiry date of 5 April 2019. He had handed in the application form for an extension on the 21<sup>st</sup> March 2019 following a conversation with someone in the office.



- He was only told the vehicle licence would expire at 2.30pm on the date of expiration.
- He questioned the 'fit and proper person' requirement and policy.
- He was physically fit with no record of violence. He was courteous to customers and had no complaints of abuse or any other kind of bad behaviour.
- He had no issues on his driving licence e.g. no convictions, reprimands, theft or fraud.
- He had the skills and experience to earn his living from driving a taxi. It was too late in life to learn a new skill.
- He could provide good references.

In response to questioning, the Licensing Officer and Legal Officer confirmed:

- There was no malice in informing the Applicant on the day of expiry, the office was very busy. He had not been disadvantaged as the matter would have always have been referred to the Committee.
- It was considered that the 'fit and proper person test' applied to Vehicle Licences as the vehicle could be used as a tool in an offence.
- It was not the role of the Committee to dispute legislation as set but to consider only the issue as presented.
- The vehicle was not currently licensed.

At this point in the meeting the Applicant and the Licensing Officer withdrew while the Committee considered the application and subsequently returned to hear the decision.

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

RESOLVED – that the application be REFUSED in accordance with Section 60(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976, the Committee were not satisfied that the Applicant was a fit and proper person to hold such a licence for the following reasons:

- The vehicle had been involved in the matter considered at the PSP meeting of the 18th December 2018 at which his PHD Licence was revoked.
- Any future consideration of the vehicle licence could be considered if the appeal was won and a personal licence granted by the magistrate.

## **10 Application for the Grant of a Private Hire Driver Licence DC**

The Applicant was in attendance.

The Licensing Officer outlined the background to the application as follows:

- The Applicant had held a licence from 2012 to January 2018 when it had expired. A grant application had been required in January 2019 as there had been a year since expiration.



- The applicant had been convicted in January 2016 of driving without insurance and had declared as such on his application.
- A further check of his DVLA record had also shown a further conviction of TT99 'Totting Up' having reached 12 or more points within 3 years. The matter had been heard on 3 June 2018 for which he was disqualified for six months with a fine.
- The Applicants licence was returned to him on 3 December 2018.

The Applicant made the following points in support of his application:

- He had not received his paperwork through the post and therefore had to rely on his email.
- He had been driving a gentleman (Mr. A) around using Mr. A's car on the agreement that the relevant insurance had been arranged. This had been for an hourly fee.
- It transpired that the insurance in fact had not been in place. Mr. A would not agree to appear in court and had subsequently died. His estate had refused to bear any responsibility.
- He had appeared before the PSP Sub Committee at the time and they had decided not to take any sanctions.
- The 'totting up' had occurred largely due to the speeding cameras on the M32 which had caught 83,000 other people out. He did not see any signs and had been invited to the magistrates in Weston Super Mare but was not well enough to travel that far to attend.
- He had not worked for over a year due to ill health and a new hip. He had been driving for 51 years apart from the last two years. He wished to work again as he enjoyed working and looking after people.
- He had paid for a medical through the application process but had not been advised that there would be repercussions due to the driving enforcements.

The Licensing Officer responded to questions of clarification as follows:

- Council policy was that a period of one year free from conviction was required following disqualification and restoration of the DVLA licence. The Applicant's licence was returned on 3<sup>rd</sup> December 2018 and a year from that date was December 2019.
- The agenda and reports to the Committee had been sent via the post and email.

At this point in the meeting, the Applicant and the Licensing Officer withdrew while the Committee considered the application and subsequently returned to hear the decision.

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

**RESOLVED** – that the application for the grant of a Private Hire Driver Licence be REFUSED for the following reason:

Although sympathetic to the applicant that he wants to get back to driving the Committee noted their policy that where several minor traffic offences had resulted in disqualification, a period of 12 months free from conviction must have elapsed from the restoration of the DVLA licence. A sufficient period of



time had not elapsed from the date of the offence to persuade them to set aside their policy and grant the licence at this time.

## **11 Application for the Grant of a Private Hire Driver Licence and an Existing Private Hire Vehicle Licence AH**

The Applicant was in attendance.

The Licensing Officer outlined the background to the application as follows:

- The Committee were asked to consider an application for the grant of a Private Hire Driver (PHD) Licence and also whether he was a 'fit and proper person' to hold an existing Private Hire Vehicle (PHV) Licence.
- The Applicant had applied for the renewal of his PHD licence in October 2018 however this was refused by a PSP Committee in December 2018 due to the caution in April 2017 for solicitation of sexual services.
- The Applicant was the only person registered to drive the vehicle for private hire and it was currently licenced until 2020.

In response to questions, the Licensing Officer and Legal Officer confirmed the following:

- The traffic offences listed were to be treated as separate to the solicitation and it was noted that they had all expired.
- Policy stated that a minimum five year period should apply for a major sexual offence which would cease in April 2022.

The Applicant made the following points in support of his application:

- Since the incident the applicant had attended a police course at his own expense.
- He had been using his available time to complete educational course such as computer studies, maths and English.
- The last six months had been very difficult and as he was now in receipt of Universal Credit, he was on the verge of losing his house and had been borrowing money. He needed to regain his livelihood.
- It had been one lapse in judgement on his part which had not happened before and would not again.
- The PSP Committee in December 2018 had indicated that he should reapply in Spring 2019.

At this point in the meeting, the Applicant and the Licensing Officer withdrew while the Committee considered the application and subsequently returned to hear the decision.

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



**RESOLVED** – that the application for a Private Hire Driver’s Licence be REFUSED for the following reason:

The Committee noted their policy that a period of at least five years for the soliciting offence should elapse before a licence may be granted. A sufficient period of time had not elapsed from the date of the offence to persuade them to set aside their policy and grant the licence at this time.

## 12 Application for the Renewal of a Private Hire Driver Licence MAK

The Applicant was in attendance.

The Licensing Officer outlined the background to the application as follows:

- The application was seeking the renewal of a Private Hire Driver (PHD) Licence.
- A check carried out following application had shown four penalty points awarded on 15<sup>th</sup> July 2016.
- The applicant had ticked the box “I confirm that I haven’t received a criminal or driving conviction, caution or reprimand since my last licence was issued (including DVLA points)”.
- Although some other historic convictions were on the license, these were 2014 and prior.

The applicant made the following points in support of his application:

- The four points had been received nearly three years ago.
- He had held his licence since 1984 and had never given the Committee a need to question his conduct.
- The incident had been an unlucky event for which in his opinion he would have not been convicted had there been operational cameras as the traffic lights.
- He had been in his private car at a traffic light to turn right. Two cyclists had been beside his car and as he moved away slowly the cyclist must have stretched out their leg towards the car. He maintained that he did not go over her foot.
- He had chosen not to fight the case as his grandad had been very ill and he was required to go to Pakistan three weeks after the incident. His grandad subsequently passed away and he remained for three and a half months.
- He was not a careless person. He was on the Bristol Safeguarding Children’s Board, a Governor at a school, known to the Mayor and Cabinet Member Councillor Asher Craig. He presented emails of support and references to the Committee. He was the Chairman of Council of Bristol Mosques.

The Licensing Officer and Legal Officer clarified the following:

- An endorsement of four points constituted a major traffic offence and policy as such recommended a six month suspension.
- It was acknowledged that the offence was almost spent, however, also that the Committee had not had the opportunity to consider it at the time due as it had not been declared.



- It was not possible to go behind any conviction and it was to be considered as per the decision of the court.

At this point in the meeting, the Applicant and Licensing Officer withdrew while the Committee considered the application and subsequently returned to hear the decision.

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

**RESOLVED** – that the application for renewal of the private hire driver licence be REFUSED for the following reasons:

- Policy stated that the conviction of a major traffic offence should be six months prior to the date of the application.
- The Applicant had failed to note the conviction on his application form.
- The long serving, blemish-free driver record of the applicant was acknowledged.
- Mr Khan was welcome to reapply from July 2019 and could make a request to be exempt from undertaking the tests associated with the grant of a driver licence.

### **13 To consider if a Licence Holder is a ‘fit and proper’ person to hold a Hackney Carriage driver licence and Private Hire driver licence KAM**

The Applicant was in attendance, accompanied by the Chair of Bristol Blue Taxi Association.

The Licensing Officer outlined the background to the application as follows:

- There were three elements to the report,
  - i) To seek consideration of whether the Applicant was a ‘fit and proper person’ to hold a licence due to medical conditions.
  - ii) To seek consideration of whether an exemption should be granted from carrying wheelchair passengers
  - iii) To seek consideration of whether the Applicant should hold a Hackney Carriage Vehicle Licence.
- The Applicant had a history of back problems and an exemption for his Hackney Carriage Drivers Licence had been allowed from carrying wheelchair passengers between 2015-2018.
- The Applicant had a Private Hire Driver Licence from 2018 and had worked for Uber.
- The Applicant holds a Hackney Carriage Vehicle Licence valid until from 10 November 2018 to 5 September 2019.
- New accessibility policies and an exemption form now applied.
- The Applicant had been referred to Occupational Health and an examination took place in February 2019.

In response to questions the Licensing Officer clarified the following:





- Exemptions could be applied by the Committee to conditions governing private hire drivers (such as in this case, the lifting of heavy luggage and wheelchairs).
- The conditions governing Hackney Carriages were byelaws and the relevant elements were numbers two and six. These cannot be altered or exempted.
- Attention was drawn to section 60 of the Hackney Carriage Vehicle Licence which referred to the suspension and revocation of vehicle licences.
- There had not been any question of character or any incidents to report. The question of whether he was a 'fit and proper person' was of 'physical fitness' and whether the applicant could adhere to the conditions on the Private Hire Licence and the bylaws that applied to the Hackney Carriage Licence due to being unable to lift luggage and wheelchairs.
- If exempt, a driver should display a card/badge within the vehicle which can be discernible to the public. The card/badge outlines the legislation and the exemption from carrying wheelchair passengers.
- A medical was required every five years from the age of 45 years, and annually from the age of 65 years.
- It was not known how other Council's treat cases of people who are unable to help with luggage.

The Applicant and the Chair of the Chair of Bristol Blue Taxi Association made the following points in support of his application:

- From 2015 he had displayed a letter which showed customers that he had back pain.
- He would like to return to Hackney Carriage driving and renew his licence following a period of solely Private Hire.
- In the last six months he had not been approached by a customer in a wheelchair.
- He would like to obtain an exemption for his Hackney Carriage Vehicle Licence and had bought a new car. He would not be able to change his car.
- Occupational Health had indicated that he should not lift over 10kg. Suitcases tended to be between 5kg and 10kg. If luggage was heavier than 10kg, drivers and passengers tended to work together to load it.
- Having back problems should not affect his right to earn a living.
- In Bristol with 100% wheelchair accessible taxis, there were many other taxis that could happily take wheelchair passengers. Other drivers help each other too.
- He had not had any complaints during the period he had held his exemption.

At this point in the meeting, the Applicant and the Licensing Officer withdrew while the Committee considered the application and subsequently returned to hear the decision.

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

During the discussion (and in consultation with the parties withdrawn from the room), it was agreed to separate out the issues and deal with the wheelchair exemption only. It was agreed that the luggage



exemption would be deferred to another Committee, to allow time for a further consultation with Occupational Health in order to explore the maximum weight allowance further.

**RESOLVED –**

- i) That the applicant was considered a 'fit and proper person' and could continue to hold a Hackney Carriage Driver Licence and Private Hire Driver's Licence.
- ii) That an exemption was GRANTED from carrying wheelchair passengers for both his Hackney Carriage Vehicle and his Private Hire Vehicle (correct card/badge to be displayed as instructed)
- iii) That the exemption from luggage over 10kg be DEFERRED to a future Committee to allow for further medical referral and advice.

**14 Application for the Grant of a Private Hire Driver Licence OMM**

The Applicant was in attendance, along with his wife and child.

The Licensing Officer outlined the background to the application as follows:

- The application was received on 18<sup>th</sup> July 2018 and the knowledge test taken on 27<sup>th</sup> September 2018.
- The Applicant had scored 71 when the pass mark was 75. On appeal the score was increased to 74.
- An issue had also arisen with regards to his DBS check as his name had changed and a new DBS application in both his names would be required.

In response to questioning, the Licensing Officer confirmed:

- There was no one area where the Applicant had scored weakly. Each of the four sections had been passed but the mark overall was not enough for a pass mark.
- No one had been awarded a licence before that had not passed the test. Only total exemptions have been considered.
- The multiple choice tests were run weekly, with each test drawn from a pool of thousands of questions.

The Applicant made the following points in support of his application:

- He was living on Universal Credit of £140 a month so could not afford to take the test multiple times.
- He had to miss one test he booked due to a family emergency.
- He had already spent a lot of money on his application and could not afford to take the test again.
- He was sorry that he had made a mistake on his DBS application but he had now changed his name with all relevant authorities.
- He had a clean driving licence and wished to provide for his family.



At this point in the meeting the Applicant and the Licensing Officer withdrew while the Committee considered the application and subsequently returned to hear the decision.

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

RESOLVED – that the application for an exemption be REFUSED for the following reasons:

- The Committee were sympathetic to the Applicants position but were unable to make an exception as it would bring the validity of the test into question.
- Being aware that the Applicant had missed a test due to a family emergency, officers were asked to facilitate carrying over the fee from the test previously missed to allow another test to take place.

Meeting ended at 3.15 pm

**CHAIR** \_\_\_\_\_

