

# Bristol City Council

## Minutes of the Public Safety and Protection Committee



22 January 2019 at 11.00 am

**Members Present:** Councillor Fi Hance, Councillor Sultan Khan (for Carole Johnson) and Councillor Ruth Pickersgill (Chair)

**Also in attendance:** Lynne Harvey – Legal Services, Carl Knights – Licensing Officer, James Roberts – Licensing Officer, Corrina Haskins – Democratic Services and Wayne Jones – Enforcement Officer (for item 11)

### 1. Welcome and Safety Information

The Chair welcomed everyone to the meeting and drew attention to the Safety Information.

### 2. Apologies

Apologies for absence were received from Councillors Carole Johnson and Steve Jones.

### 3. Declaration of Interest

There were no declarations of interest.

### 4. Public Forum

There were no public forum statements.

### 5. 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.



## 6. 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 ground that involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, as amended.

## 7. Application for the Grant of a Hackney Carriage Driver Licence (AKM)

The Applicant and a friend were in attendance.

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

- The applicant was applying for a Hackney Carriage Driver Licence and was requesting an exemption from passing the Knowledge Test;
- All applicants have to pass the knowledge test with a score of 90 and the applicant had sat the test on four occasions and scored 72; 80; 86 and 75;
- The applicant had requested a review, which happened for his 3<sup>rd</sup> test which had raised his score to 87;
- The Officer Recommendation was refusal, in line with Council policy.

The Applicant circulated a copy of a written statement supporting his application:

- He felt he had a good knowledge of Bristol;
- He was confident that he was going to pass the Knowledge test and questioned whether there was a system error;
- He had a family to support;
- He had bought a Hackney Carriage Vehicle and had to sell it as he could not afford to keep it without a licence;
- He held a Private Hire Drivers licence and had not received any complaints about his service.

Following questions from the Committee, the Licensing Officer confirmed:

- The review requested by the applicant had resulted in him getting an extra point as he had been asked to name the location of John Cabot City Technology College and the name of the school had changed to John Cabot Academy;
- The review found that the applicant had answered 14 questions incorrectly;
- Reviews were only allowed if the applicant was 6 points or less off the score of 90 which was the case for the applicant after his third test;
- There was no evidence to suggest that there was a system problem which resulted in the applicant failing the test.



At this point in the meeting the Licensing Officers, Applicant and his supporter withdrew from the meeting while the Committee considered the application. Everyone returned to the meeting to hear the decision.

**RESOLVED** – that an application by AKM for a Hackney Carriage Driver licence seeking an exemption from completing the Knowledge Test, a departure from Council policy, be refused for the following reason:

The Knowledge Test forms part of the 'Fit and Proper person' test when deciding on suitability to issue a licence. The Committee in this case could not be satisfied that the circumstances were exceptional to exempt the Applicant from undertaking the Knowledge Test.

#### **8. Application for the Grant of a Private Hire Driver Licence (MAA)**

The Licensing Officer confirmed that the Applicant had requested an adjournment.

**RESOLVED** - that consideration of the application be adjourned.

#### **9. Application for the Grant of a Private Hire Driver Licence (NMW)**

The Applicant was in attendance.

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

- The Applicant had applied for an exemption from the knowledge test;
- The Applicant had since provided evidence that he would be working as an Executive Driver for a company;
- The Applicant had not previously held a licence with Bristol City Council or any other authority;
- The Council Policy requires Private Hire Drivers to complete the knowledge test and the Officer recommendation was that the application be refused, in line with Council policy.

The Applicant outlined his case as follows:

- He had been offered a position as a chauffeur for Bristol Executive Travel;
- He would be working outside of the central Bristol area as he would be employed for airport runs and special events;
- He was not looking to work as a private hire driver picking up from Bristol City centre;
- He also worked as an on-call fire fighter
- He did not think the Knowledge Test would be needed for his role;
- He was happy for his licence to be conditioned appropriately.

In response to questioning it was confirmed:



- The Applicant would be driving a non-plated S Class Mercedes;
- The company had asked for a plate exemption for their vehicles which had been granted by the Council;
- A condition could be attached to ensure that the Applicant only participated in Executive work which would be fairer than a condition requesting the applicant surrender his licence if he changed employer.

At this point in the meeting the Licensing Officers and Applicant withdrew from the meeting while the Committee considered the application. Everyone returned to the meeting to hear the decision.

**RESOLVED** - the Committee were satisfied that the applicant could be treated as an exception to Council policy and be granted a licence without undertaking the knowledge test so long as an additional condition was attached to the licence to ensure he only engaged in “executive/chauffeur” work in an executive vehicle as defined by Council policy.

Section 51(2) of the Local Government Local Government (Miscellaneous Provisions) Act 1976 states that a district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

#### **10 Application for the Grant of a Private Hire Driver Licence (SH)**

The Licensing Officer confirmed that the applicant had requested an adjournment.

**RESOLVED** - that consideration of the application be adjourned.

#### **11 To consider the ability of a licensed Private Hire Driver to be considered a fit and proper person (NA)**

The Licensee was present.

The Enforcement Officer outlined the background to the case as follows:

- This report was being brought to the committee following PC Quinton’s report about the Licensee being caught plying for hire;
- In November 2018, he had been stopped outside BRI with a passenger on board. The passenger confirmed that he had flagged down the taxi and had not booked it in advance and that the driver was not wearing his badge, although it was hanging from the driver’s mirror.
- NA had said he had taken the passenger as it was on his way home.
- NA had initially lied about the circumstances and asked the passenger to lie, but later admitted the truth;
- He asked the Committee to consider whether to take any action.



The Licensee outlined his case as follows:

- He admitted that PC Quinton's report was accurate;
- He had been working as a Private Hire Driver for 6-7 years with no previous convictions;
- This was the first time he had been involved in plying for hire and he had not done it since;
- He regretted the incident and the impact on his livelihood.

The legal advisor confirmed that the Council policy stated that a licence should be revoked for 6 months after such an incident and this was regardless of whether or not a person had been convicted.

At this point the Enforcement Officer and Licensee withdrew from the meeting while the Committee considered the application. Everyone returned to the meeting to hear the decision.

**RESOLVED** that NA's licence be suspended for three months on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, namely "any other reasonable cause", for the following reasons:

Plying for hire was a serious problem in the Bristol area because not only does it deprive properly licensed Hackney Carriage Drivers of their lawful trade, but it also goes hand in hand with the offence of having no insurance which is a major traffic offence and places the public at risk. An aggravating feature of this particular incident was that the Licensee tried to get his passenger to lie to the police.

The Committee considered there was reasonable cause to suspend the licence. The policy starting point is usually a period of suspension of 6 months but given this is the first time this licensee has come to the attention of the Committee and he expressed remorse, the Committee was willing to shorten the period of suspension to 3 months.

## **12 To consider the ability of a Licensed Hackney Carriage Driver (HCD) to be considered a fit and proper person IA (Urgent Item)**

The Committee agreed to consider an urgent item in view of the circumstances relating to medical issues.

The Licensee was in attendance for the item.

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

- The Licensee had advised the Licensing Office that his GP had ordered him to take a break from driving for a week following an incident of chest pain and acute coronary syndrome on 17 January 2019;
- Although the GP confirmed he could drive after 1 week under Group 1 requirements (domestic use), this did not meet the Group 2 requirements and in these cases the licence was usually revoked;



- The Licensee would be able to get his licence back if he passed an exercise test after six weeks;
- There was no other disqualifying condition;
- The officers' recommendation was to revoke licence in line with Council policy.

The Licensee outlined his case as follows:

- He had suffered had chest pain and called an ambulance, but he had been discharged from hospital with a recommendation to stop smoking;
- He had been driving for a long time;
- He had bought a new car two years ago on the advice of the Council;
- His GP has said that he was fit and recommended a rest from driving from 1 week, which he had done;
- He considered himself to be fit and was a regular cyclist;
- His licence was important for his livelihood and he needed to support his family;
- He had called the Licensing Office while with his GP to see if he needed to do anything else to prove he was fit to work;
- His GP would be willing to undertake the exercise test.

In response to questioning, officers confirmed that the 6 week period was in line with Government Guidance.

At this point in the meeting the Licensing Officers and Licensee withdrew from the meeting while the Committee considered the application.

Everyone returned to the meeting to hear the decision.

**RESOLVED** - that in the interests of public safety, the Licence of IA be revoked with immediate effect in accordance with section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976, for the following reasons:

The Council policy, which is in line with Government guidance, requires all licensees and applicants to satisfy Group 2 medical which is a higher standard than that which needs to be met in order to undertake domestic driving. The Committee accepted that the applicant's doctor has said that he was fit to drive after one week's rest but that related to Group 1 and there was no evidence that he satisfied Group 2.

There was "reasonable cause" to revoke IA's HCD Licence on the ground contained in Section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976 because the Committee could no longer be satisfied that he was a fit and proper person to hold such a licence due to his inability to satisfy the Group 2 medical requirements at this time in accordance with Council policy. There was currently no evidence to satisfy the committee that he should be treated as an exception to the policy. The Committee had great sympathy for the Licensee but considered that it was in the interests of public safety to revoke the licence.



Meeting ended at 1.50 pm

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

