Bristol City Council
Minutes of the Public Safety and Protection Sub-Committee A

28 April 2020 at 10.00 am

Members Present:-
Councillors: Tom Brook, Steve Jones, Ruth Pickersgill (Chair), Estella Tincknell and Lucy Whittle

Officers in Attendance:-
Lynne Harvey (Legal Advisor), Abigail Holman (Licensing Policy Advisor), Wayne Jones, Carl Knights (Licensing Policy Advisor), Shreena Parmar (Legal Advisor), Emma Lake, Jeremy Livitt and Alison Wright

1. Welcome and Safety Information

The Chair welcomed all parties and explained that this meeting would be held under recent Government regulations enabling such meetings to be held remotely.

2. Apologies for Absence

There were not apologies for absence.

3. Declarations of Interest

There were no Declarations of Interest.

4. Public Forum

There were no Public Forum items.

5. Minutes of the Previous Meeting

The minutes of the previous meeting held on 18th February 2020 were approved as a correct record subject to the removal of the reference to Councillor Fi Hance acting as substitute.

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 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.

8. REPORT FOLLOWING ON FROM A RECENT REFUSAL OF A PRIVATE HIRE DRIVER RENEWAL APPLICATION NOW TAKING INTO ACCOUNT THE PRIVATE HIRE OPERATOR LICENCE - ST

The Driver was attending, together with two additional parties supporting him and outlining his case to the panel.

The Neighbourhood Enforcement Officer introduced this report and drew attention to the following:

- The driver has held a PHD licence since 08 February 2017. His most recent licence expired on 07 August 2019.
- He has been the Director of the taxi firm in question since its incorporation on 14 April 2014, and first licensed as a private hire operator with Bristol on 25 August 2015
- He attended Public Safety and Protection Committee on 28 January 2020 where members decided to refuse his latest application to renew his private hire driver's licence.
- The private hire operator's licence was not considered at that time. An initial
- appeal date hearing was listed for 1st April 2020, but now adjourned to a later date due to the current COVID-19 outbreak
- During that meeting it transpired that the driver was currently the sole Director of the tax firm in question
- The driver was due a Disclosure and Barring Service (DBS) check on 7th February 2019. Whilst the application was submitted on 15 January 2019, the certificate was not returned until 8 November 2019. During this time a number of short term licences were issued, the last of which expired on 07 August 2019.
- The certificate revealed that on 23rd April 2017 the driver was arrested on suspicion of being involved in the dwelling burglaries of a 68 year old male and his 22 year old grandson at their home address on 22nd April 2017.

- The circumstances of the case outlined were that the driver was alleged to have heard his three taxi passengers discussing their intent to burgle the address where he had been hired to take them and subsequently joined them in carrying out the offences.
- The driver's passengers threatened the 68 year old male with ahammer and a knife and used the weapons to assault the 22 year old male causing
- small cuts and minor bruising that did not require medical attention.
- £64000 was demanded from both alleged victims, and jewellery, a wallet and mobile phones were stolen.
- A male matching the description of the driver was alleged to have removed jewellery from the 68 year old male's person.
- In the police interview the driver denied entering the property, stealing anything, or threatening anyone, but admitted that he was the male seen on CCTV entering the driveway of the address.
- On 27th June 2018 the driver was charged with committing two aggravated burglary dwelling. These offences were later quashed at court and the driver was charged with the alternative offences of two robberies
- During the trial at Bristol Crown Court the driver disputed that he was the male shown in a still CCTV image or that a partial footwear mark found at the address was made by him
- Following the trial on 16th July 2019 a jury found the driver not guilty of all offences
- The driver's DBS certificate showed a number of historic convictions which have previously been considered but which officers feel are relevant to the applicants suitability to be considered fit and proper to hold a Private Hire Driver Licence as follows:

  29th July 2005 – Robbery: Community Punishment Awarded by a Juvenile Court
  29th June 2006 – Theft from Motor Vehicle: Community Punishment Awarded by a Juvenile Court
  2nd October 2006 – Breach of Community Order
  12th January 2007 – Using Vehicle Whilst Uninsured
  20th October 2006 – Aggravated Vehicle Driving Dangerously
  5th July 2007 – Breach of Curfew Order
  24th April 2008 – Breach of Community Punishment Order
  26th February 2014 – Possession of a Class B Drug

- The overriding issue in awarding the licence was the safety of the public and that the driver was a fit and proper person to hold it
- The Panel would need to consider these previous offences in making their decision

The driver and his fellow attendees made the following points and also in response to questioning by the Panel:

- He has not been involved in the robbery at all

- There were contradictions in the evidence given by the other people involved in the incident
- Taxi Drivers had a very difficult job. They frequently faced dealing inadvertently with drug dealers and were subject to assault
- He had been unable to afford a higher level of solicitor in court so had represented himself
- Whilst I had agreed with whatever they said as they had weapons, I only really wanted their taxi fare. However, this evidence didn't each court so it was just my word against theirs
- I frequently gave discounts to some of the customers. I wasn't aware that the people in question paid for their fare using a stolen credit card
- There are previous convictions from the past when I was young and stupid. The small bag of cannabis that was found in my car had been placed there by one of my customers. As it was unclear who had done this, we were all charged
- He is a highly motivated and intelligent man who went through 3 years of hell, represented himself in the crown court and was successful. Bristol City Council should support him.

In responding to questions raised by the Panel, the Licensing Policy Adviser stated that he had made a note of the following from the hearing that refused his licence:

"Said wanted chunk of money – you guys would probably have said the same thing in my shoes – all I knew was that someone had stolen money so all I was doing was wanting a bit of the money that was already stolen I admit to that –[didn't know there was going to be a robbery. As was already stolen thought was ok "

The Panel asked both parties to withdraw whilst they made their decision. Upon their return, the decision was read out as follows:

Decision:

Although we note that the applicant was acquitted of the offence of burglary following a full trial, this committee exercising a regulatory function is entitled to go behind the acquittal and consider the evidence available on the lower civil standard of proof.

We have made findings of fact that it was more probable than not that the applicant was involved in the incident whereby a dwelling house was burgled. Although he may not have participated in the burglary itself, we believe from the Police evidence and significant statements made by the applicant during his interview under caution and at a previous committee hearing, that it was plain he knew that criminal activity was taking place and was content to turn a blind eye to it in order to make financial gain for himself.

We have taken into account the new material produced by the applicant today and note inconsistencies in his versions of events. Given the police interview took place very soon after the incident, we consider this to be the more accurate version. Further, statements made by the applicant at a previous committee hearing and at today's hearing indicate to us that he knew what was going on which comes very close to aiding and abetting the offence.

We do not therefore find the applicant's explanation today to be a credible one.

We have also looked at the applicant's previous criminal record and have cause for concern that there is a pattern of offending behaviour over a period of time.
We do not believe his explanation that he disclosed details of his arrest to the licensing office since he had further opportunity to disclose this information to the licensing office upon renewal of his licence and failed to do so.

We cannot therefore be satisfied that ST of which the applicant was a director is a fit and proper person to hold a PH Operators licence. In consequence there is reasonable cause to revoke the licence under section 62(1)(d) of the Local Government (Miscellaneous Provisions) Act 1976

9. REPORT OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE VEHICLE LICENCE SEEKING EXEMPTION FROM COUNCIL POLICY - SA

The driver of this vehicle was in attendance for this item.

The Licensing Officer presented this report and made the following comments:

- The owner of the vehicle was seeking an exemption from Council Policy in respect of the Council's Private Hire Vehicle Specification Policy
- The vehicle was originally licensed on 3rd June 2015 but this had been revoked by the Sub-Committee on 20th November 2018 as a result of a report by PC Patrick Quinton, the Taxi Compliance Officer as it did not comply with the Council's Private Hire Vehicle Specification Policy concerning its fuel source. It is fitted with a diesel engine and not classified as an executive vehicle
- The driver was refused a fresh Private Hire Driver Licence Application on 13th June 2017 and confirmed by e-mail on 2nd January 2019 that he was aware that his licence had been revoked
- There was no certificate of insurance for this vehicle. The driver had named an interested party but there was no record of them holding a Private Hire Driver Licence with Bristol City Council, which was a requirement for holding a licence

The Sub-Committee noted that there was a 3.5 year period of grace during the transition period and that the applicant was free to make a separate application for an executive licence if he wished to do so.

However, it would be an offence for any passenger to enter the vehicle if they were led to believe that they would be charged for the journey. On this basis, a previous licence had been revoked.

The Applicant made the following points in his submission:

- There had been quite a long delay in the process. He clarified that a friend of his would be named as the driver of the vehicle in the event that his application was successful
- The vehicle has previously been plated and operated as a taxi for 4 years
- All the facilities required in a taxi were present. It was an executive type vehicle

The Sub-Committee noted that if the applicant wished to register his vehicle as an executive car this would require a separate application process.

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

Resolved – that that this application is treated as a new application since the previous licence was revoked and is refused.

10 REPORT OF AN APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE - AFA

The Licensing Policy Officer introduced the report and made the following points:

- The applicant was given a caution on 7th June 2017 for using threatening/abusive words or disorderly behaviour likely to cause harassment/alarm or distress at an incident on 9 December 2016
- He had received two previous convictions, one in 2003 for forgery and theft for which he was given a conditional discharge for two years and one in 2012 received under his new name changed by deed poll in 2011 for actual bodily harm and for which he received a community order for 50 hours unpaid service
- On the renewal application in 2013 the applicant had made a partial declaration of the 2012 incident which conviction related to an altercation with the driver of a vehicle who had run over his wife and as a result she had lost their baby. The applicant was issued with a warning letter at the time of this renewal
- However, upon renewal of the application in 2019, he failed to mention details of his 2017 caution despite it being received since his last renewal
- It was not entirely clear when the applicant knew he was being investigated

The Applicant made the following comments:

- There was a confusion over dates. The conviction with his current name had been made on 6th June 2011 not 16th February 2011
- The failure to mention the 2017 caution was an oversight. Since the DPS already had details of this, there was no reason for him not to mention it as it was clear it would be picked up by the Licensing Authorities

- The details of the caution was not on his driving licence and took place before he was aware that he needed to report it
- He provided further details of the 2017 incident in which his daughter was badly beaten on the way home from school. He was extremely angry and upset. When the Police arrived, he used language that was misinterpreted as being racist since one of the assailants was black and he had used the words monkeys and jungle. Because of his cultural background in Iraq, he did not realise its connotations in the UK. He also was not aware of the ethnicity of the attackers at the time
- His wife had lost their baby in 2012 incident and was now suffering from cancer
- He confirmed that he hadn't noticed that the name on the original caution document was incorrect when he signed it but had nothing to hide.

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

Resolved – that the applicant is given a warning for using the wrong name on the documents when his licence was last renewed but is awarded the licence.

11 To seek consideration of the ability of a licensed Hackney Carriage Driver (HCD) to be considered a fit and proper person to hold a licence - AA

Councillor Estella Tincknell was not in attendance for this item.

The licence holder, an interpreter for the licence holder and the licence holder's solicitor were in attendance for this item.

The licence holder's solicitor requested a postponement of the hearing as he indicated that due to the licence holder's limited English and the small period of time since he had been appointed, he had not been able to discuss this case in detail with him.

In considering this request, the Sub-Committee noted that this hearing had been postponed in March 2020 due to the licence holder being abroad and requested a postponement.

The Sub-Committee requested that all parties withdraw to enable them to make a decision as to whether or not to allow the postponement or to proceed with the hearing.

It was Resolved (3 for, 1 against) – that the hearing should proceed.

The Neighbourhood Enforcement Team Officer read out the report in full for the licence holder's interpreter to translate to him. Details of the key issues for consideration are set out below:

- At 01.55 GMT on Wednesday 1st January 2020, the Taxi Compliance Officer PC Quinton was on duty conducting static road checks on Whiteladies Road, Bristol.

- He stopped the licence holder driving his vehicle who had two young female passengers on board and noted that the meter was not on
- The passengers confirmed that they had agreed a fare of £25 with the driver to take them from the Triangle area to BS9 (Westbury-on-Trym). He did not appear to have an eligible reason for not using his meter within the Bristol boundary

It was noted that whilst there was no record of how much the journey should have cost, a meter should have automatically been used if it was in the Bristol boundary. The Sub-Committee was advised by the Licensing Policy officer that it would have been approximately £14.30 (almost half the requested fare).

The licence holder through his interpreter and also in responding to questions made the following comments:

- While waiting at an address for a particular fare, after 4 or 5 minutes initially no-one came out from the address but then two ladies appeared and got into the car. They requested that they were taken to two separate addresses. I did not switch on my meter but explained that it would be about £25 as I thought this would be the approximate cost. I explained that I would provide change if required
- I flew back early from aboard on 22nd March 2020 due to the coronavirus
- I have been a hackney carriage driver for the last 12 years and know from experience that passengers often try to run away from the vehicle without paying if I don't agree a charge in advance
- The cash I gave to the passengers was my own money as I had already taken it the agreed fare by card. I don't dispute my meter was not switched on. I forgot to do this.
- This is my livelihood. I have 6 children to support and have never done anything wrong before.

PC Patrick Quinton made the following comments:

- The meter in the vehicle was not on and should have been
- The occupants told me they were going from the Triangle to Westbury.
- The licence holder told me they would pay by card but at the end he gave them cash change. They denied they had asked to be taken to Cribbs Causeway as he claimed.
- He stated that he had made a mistake. However, whilst I accept that communication is difficult, the destination is different and cash was exchanged instead of a card payment

All parties were then requested to withdraw from the hearing whilst the Sub-Committee made their decision.

Resolved – that, since this is the licence holder's first offence, his existing licence is suspended for three months as he is not deemed to be a fit and proper person to hold a Hackney Carriage Driver Licence.

Meeting ended at Time Not Specified

CHAIR _____