

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee A



26 May 2020 at 9.00 am

Members Present:-

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

Officers in Attendance:- Shreena Parmar (Legal Services), Sarah Flower (Presenting Licencing Officer), Alison Wright (Neighbourhood Enforcement Officer), Abigail Holman (Licencing Officer), Oliver Harrison (Democratic Services)

1. Welcome and Safety Information

The Chair explained the legal framework to the Meeting and how it would proceed.

2. Apologies for Absence

None received.

3. Declarations of Interest

None received.

4. Minutes of the Previous Meeting

RESOLVED – that the Minutes be agreed as a correct record of the Meeting for signature by the Chair.

5. Public Forum

None received.

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. NET Report SA

The Neighbourhood Enforcement Team (NET) Officer advised Members that SA had indicated that he would not be attending the Meeting for a number of reasons. SA had submitted a statement in his defence which officers and Members had read and noted.

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

- That SA has held a licence since 2003, apart from a period 2012-2013
- That SA made a false statement on his licence application by not declaring his spent convictions, as shown in appendix A.
- The Neighbourhood Enforcement Team (NET) received email from PC Quinton that on the 18 February 2020 he stopped SA, as he was smoking in the vehicle. SA was not carrying passengers at this time. He also had no identifying badge on his person. The rear taxi registration plate was not displayed. The vehicle also had problems with its lights.
- A Fixed Penalty Notice (FPN) for smoking in the vehicle was issued on 4 March 2020, which to date has not been paid. The NET received an email from PC Quinton saying he had witnessed SA smoking in his vehicle again. PC Quinton warned SA that the PSP would consider his conduct if he kept offending.
- On 24 March 2020, SA was seen smoking in his vehicle and the front plate of his vehicle was expired. On 27 March 2020, PC Quinton made a statement on the offences made by SA, as seen in the report.
- In April 2020, SA requested a meeting with PC Quinton, who advised that as SA was currently uninsured he could not drive his vehicle away however SA drove the vehicle away, see attached statement.
- In April 2007 SA was abusive to licensing officers, which resulted in a written warning, letter and officer statement in appendix F.
- In January 2012 SA appeared at PSP following a Magistrate Court hearing for not having a licence.
- On 20 December 2018, SA's licence was suspended for not displaying plates properly.

The recommendation was that the application be refused and other licence revoked.



Following questions from the Committee, the following information was confirmed:

- SA's statement refers to an appeal at the Magistrates' Court, however no decision has yet been made that could be appealed. There has been a previous appeal but it does not relate to the matter in front of Committee today.
- SA's statement states that he is being unfairly targeted by the NET because he is a Bristol registered driver. The policy officer confirmed that it is only possible for BCC NET to take action against Bristol registered drivers, but that PCQ as a police officer has the authority to stop any vehicle.
- SA claims that he did not receive his FPN. The NET officer confirmed that this was sent to SA by hard copy in the post and via email. SA's latest statement has a copy of the FPN as an attachment, so it is clear it was received.

The Members then withdrew to make their decision

RESOLVED – (unanimous decision) That the licence application be refused and that the existing vehicle licence be revoked.

The Committee considered these incidents in 2020 and note that SA has a history of offending behaviour. The Committee considered the 2020 incidents to be persistent; in a period of 5 weeks the applicant was observed smoking in his hackney carriage vehicle three times, failed to wear his second badge on two occasions along with other breaches of licence conditions. Further to this he failed to declare convictions on the application form and drove the vehicle away whilst he was unlicensed to do so in full awareness that that this was an offence.

The Committee determined that SA has shown a pattern of offending behaviour and a disregard for authority, the law and public safety. The Committee are not satisfied that SA is a fit and proper person to hold a Hackney Carriage Driver's Licence and determined to refuse the application. Furthermore, under section 60(1)(b) and (c) of the Local Government (Miscellaneous Provisions) Act 1976 the Committee determined that there is reasonable cause to revoke the Hackney Carriage Vehicle Licence.

9. REPORT OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - MA

The Driver (MA) was present.

The Licensing Officer introduced the report and drew attention to the following:

- That MA failed to declare relevant offences on his application.
- MA applied for a Private Hire Licence on 11 Feb 2020. MA has previously held a licence from 3 April 2018 to June 2019. A previous application was refused by members, the Committee report is attached in Appendix A.



- On 7 April 2004 MA appeared at PSP as he was driving without a licence and his application was refused. MA lodged an appeal, but this was dismissed. MA was disqualified for 12 months, see appendix B and C.
- In 2009 officers wrote to MA about not displaying plates. MA was interviewed and warned.
- MA has many historic endorsements relating to speeding, refusal to supply identifying documents, driving while uninsured, using a phone while driving and having faulty lights. Since January 2018, MA has received 15 points on his licence. A driver is usually disqualified from driving if they receive 12 or more penalty points within three years. SA has 15 points on his licence. SA argued exception hardship and was not disqualified from driving (but the 15 points remain)
- The policy states that where disqualification is considered by the court, even if the court does not disqualify the driver due to exceptional hardship, the Council is likely to refuse a hackney carriage or private hire driver's licence (where there are 12 or more points) and an applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non- disqualification
- MA has not completed the required tests, including: medical, gold standard, knowledge and enhanced DBS.

The Licensing Officer recommended that the Committee refuse the application.

MA put his case highlighting the following:

- MA has received no convictions since January 2017, which was a minor speeding offence, meaning that he has been clean for 2 ½ years.
- He has been off the road since 12 June 2019, which presents him significant hardship.
- MA stated that 6 points have recently been removed from this licence, that his current licence has 9 points and in November another 6 will be removed.
- MA stated that he was not the driver of the vehicle when certain offences were committed. The other driver is declared as an interested party on the application form, who was responsible for the vehicle at the time of the offences.
- MA has been driving for over 20 years, has received no customer complaints and does not believe he presents a danger to the public. After 2018, MA completed a driving awareness course.

Following questions from the Committee, the following information was confirmed:

- That declarations on licence applications cover offences currently being investigated, not just those that have resulted in conviction.
- That MA has responsibility for the vehicle as it is in his name. The renewal for licence 601 was submitted under MA's name with another interested party. Although MA stated that the other party renewed plates and he was the driver, MA is still liable as the vehicle owner.
- The Committee was concerned about the failure to give information as to identity of the driver offences. MA stated that he was in temporary accommodation so did not receive notifications of offences. As he did not submit identification papers to the DVLA and court in time, this was taken as a refusal to supply identification. MA confirmed that he has never refused to give identification to a police officer.



- MA stated that failing to give information as to the identity of the driver was due to the inaction of his brother, who is the other identified driver. MA asked his brother to fill in the relevant forms, but he did not do so.
- MA was informed that there is a vehicle registered in his name, with his brother insured to drive it. MA stated that this was done without his knowledge or consent.

The Members then withdrew to deliberate

RESOLVED – (unanimous decision) The Committee does not make a determination on this case and delegates it to officers for determination not before the 12 June 2020.

The Committee considered the previous Committee's decision in 2019, namely that under the Council's policy these circumstances would usually result in a period of 12 months off the road from the date of conviction but given that MA did not disclose this information to the Council, which is a concern of itself, he should not be entitled to benefit from the policy not biting in these circumstances.

Therefore, as the current application was heard within 12 months of the previous decision, the Committee decided not to determine the application on this date as it was contrary to the policy to the Council's policy on the relevance of criminal behaviour. The Committee delegated the application to officers to consider not before 12 June 2020 and note that MA has outstanding tests to undertake for his application.

This includes the knowledge test as it is a new application and not a renewal application.

MA raised the possibility of being exempt from the knowledge test, which did not form part of his application. The Committee informed MA that if he seeks exemption from the knowledge test, he will have to make an application regarding this.

10 APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER LICENCE - JM

The Driver (JM) was present. Also present were his supporters: ZA IM DR WA and SZ.

The Licensing Officer introduced the report and drew attention to the following:

In appendix A are the details of a major incident, where JM failed to secure a passenger in a wheelchair resulting in a head injury that required emergency medical attention.

- Even if the passenger had asked not to be secured, JM was still responsible.
- JM has demonstrated a pattern of offending behaviour over time and has received a number of convictions. Offences include soliciting prostitution, driving dangerously, not using a meter, use of a phone while driving, blocking the highway with his vehicle and inappropriate behaviour towards vulnerable women.
- JM did not declare some of these offences on applications.

The Licensing Officer recommended that the Committee refuse the application.



The Legal Adviser summarised the decision of the Magistrates' at the appeal hearing:

The Magistrates' at the appeal hearing were not satisfied JA is fit and proper to hold a licence. The Magistrates' did not find him to be a credible witness and found his evidence to be inconsistent; it was their view that it was JA's responsibility to take charge of assisting with the wheelchair to ensure it was properly secured in the correct position. The Magistrates' stated that the only concern is for public safety to the Council's decision was correct and the appeal was dismissed and JA was ordered to paid the Council's legal costs.

SZ put forward JM's case highlighting the following:

- JM expressed regret over the incident with the wheelchair user, said he had changed his life and that he was suffering financial hardship.
- SZ said that JM had received his licence 21 years ago and admitted that there had been some offences in that time, but they have been dealt with and he has been punished accordingly.
- Over the past 6 years SZ claimed that JM is a different man and has worked hard on his professionalism. There are several references in his defence. He accepts his responsibilities. JM accepts that he made a big mistake by not securing a disabled passenger, but that this was not an act of malice.
- JM is not working, his financial issues are significant and his family is suffering.
- JM has not committed any offences since the last incident.

IM gave a statement of support for JM concerning his good record of providing transportation for disabled passengers from Bristol Temple Meads train station, especially his willingness to transport wheelchair users and his reliability.

DR gave a statement of support for JM concerning his personal experience as a wheelchair user, being transported by JM since 2010.

ZA gave a statement of support for JM as a taxi company operator, concerning JM's regular transportation of vulnerable passengers and receiving no customer complaints over a 7 year period.

WA gave a statement of support for JM concerning his consistent transportation of his disabled son.

Following questions from the Committee, the following information was confirmed:

- That the Committee was considering anything new that had happened since the last hearing and appeal in January 2020.
- That after the court hearing, JM applied for a new licence only a week later.

The Members then withdrew to make their determination

RESOLVED – (unanimous decision) That the Committee is unable to make a determination on this occasion.



JM's licence was revoked in September 2019 and this decision was appealed in January 2020, which was dismissed. The Committee do not consider it appropriate to determine this matter without additional evidence that JA has taken a proactive approach to demonstrate that he is a fit and proper person to hold a licence and that references alone are unlikely to be sufficient to demonstrate that he is a fit and proper person. The Committee considered that a period of 12 months from the refusal to grant the licence in 2019 to be a starting point and will consider any further information that JA submits after such time.

Meeting ended at 1.30 pm

CHAIR _____

