

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



19 January 2021 at 10.00 am

Members Present:-

Councillors: Richard Eddy (Chair), Tom Brook, Chris Davies and Fi Hance

Officers in Attendance:-

Ashley Clark (Legal Advisor), Abigail Holman (Licensing Policy Advisor), Carl Knights (Licensing Policy Advisor) and Oliver Harrison (Democratic Services Officer)

Alison Wright (Neighbourhood Enforcement Team Officer) for item 11 only

1. Welcome and Safety Information

The Chair welcomed everyone to the meeting and drew attention to the safety information.

2. Apologies for Absence

None received.

3. Declarations of Interest

None received.

4. Minutes of the Previous Meeting

RESOLVED that the minutes of the previous meeting 15 September 2020 be agreed as a correct record.

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 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.

8. MA - APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER LICENCE

The driver was in attendance.

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

- This is a new application for a licence and MA has previously held a licence with this authority.
- MA's last application was refused at committee as he was found to have refused to transport a wheelchair-using passenger. The committee was satisfied that the witnesses to this incident were credible and that MA was not fit and proper to hold a licence.
- It would not be appropriate to summon the witnesses each time this driver is considered and neither the driver nor the committee can overrule the previous decision.
- MA has no other complaints or conduct issues on his file. MA is seeking exemption from the gold standard and knowledge tests. Officers recommend refusal.

The applicant gave the following evidence:

- MA reaffirmed his statement at interview, that there were two passengers at the taxi rank and that another able-bodied passenger was there before the wheelchair user.
- MA was concerned about the condition of his vehicle and that it would present a risk to a wheelchair user.
- MA discussed the matter with the taxi driver next on the rank, who agreed to take the wheelchair user.
- MA was sick in March at the last committee so was not able to attend and was ruled in absence.

After questioning from the committee, the following information was confirmed:

- The refusal was in March 2020. The policy on this offense is to refuse a licence for 6 months for one incident or for 2 years for more than one incident. This case is considered as two incidents.



- MA was reminded that the committee cannot overrule the March 2020 decision and that he will need to demonstrate circumstances have changed since that decision and he can now be considered a fit and proper person.
- MA said that if a similar situation should happen again, that he would explain to the two passengers that the wheelchair user should get priority. He would also check the condition of a car that he has leased to make sure it can transport a wheelchair user.
- MA said that he has passed the knowledge and gold standard previously so is seeking exemption. However, as this is a grant application MA is considered a new driver.

The Committee withdrew to deliberate on their decision.

RESOLVED (unanimous decision)

Whilst a reasonable amount of time had passed since the incident in question, members had not been reassured that it would not happen again if MA was placed in similar circumstances. They therefore were not satisfied that he was a fit and proper person to hold a licence and accordingly his application was refused.

9. KH - APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER LICENCE

The driver was in attendance, his friend AZ was also in attendance and spoke on the driver's behalf.

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

- This is an application for a new licence. KH's previously held licence was revoked on 25 September after he made inappropriate comments to a female passenger.
- The committee found the witness credible and was supported by the operator. KH was deemed not fit and proper to hold a licence, which was revoked with immediate effect.
- KH appealed this decision to the Magistrates' Court in 2019, where it was dismissed. There are no witnesses appearing today, as the committee cannot reconsider or overturn the previous decision.
- KH has no other previous complaints on record. He is seeking exemption from the knowledge test, as he has passed this previously, but on a date before electronic records.
- The committee need to decide whether KH is fit and proper to hold a licence, and he should evidence how he has changed since this incident. Would members be happy for a female relative to be alone in his vehicle? Officers recommend refusal.

AZ gave the following evidence on behalf of the applicant:

- KH has held a licence since 2004, a period of 14 years with no other offences. He has been a taxi driver for 25 years. This long period of service should be considered.
- Regarding the 2018 offense to female passenger, he accepts that has been ruled on, but he was not represented properly so believes this was a miscarriage of justice.
- The test of whether KH is a fit and proper person can be supported by the large number of character references which have been submitted to the committee. This includes many women who have used his taxi alone and in evenings.



- KH is also known for his charitable activities in the community, supported with a reference from the chair of the Fishponds mosque, where KH was elected secretary.
- KH is in financial hardship, which puts substantial pressure on his family. His only marketable skill is driving.
- KH recently held a licence with South Gloucestershire, but this was also revoked.

After questioning from the committee, the following information was confirmed:

- The character references submitted to the committee are largely before the offence.
- KH's South Gloucestershire licence was revoked because he did not declare this offence on his application. KH said that because of his poor English, a friend filled out the application for him and did not declare the offence. He was licensed by South Gloucestershire for 18 months before the revocation in October 2020.
- This was after KH made this application to Bristol, so his South Gloucestershire licence was live at the time.
- There are no English language requirements for a licence, though the gold standard course requires a good level of spoken and written English.
- Since the incident, KH has been working for community charities, making and delivering food, looking after the elderly during lockdown. Because of his limited language skills, he would struggle to take an official course.
- KH would be happy to accept a conditional or probational licence for a period of 6 months. While the committee could attach conditions to a licence, issuing a licence of any kind means the committee considers the holder a fit and proper person.

The Committee withdrew to deliberate on their decision.

RESOLVED (unanimous decision)

Members were concerned that KH did not accept that he had done anything wrong despite two PSP Committees and a Magistrates' Court having found that the very serious complaint was made out. Although he had a previously unblemished record, they were not satisfied that he was now a fit and proper person to hold a licence and his application to renew was refused

10 AA - REPORT OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER LICENCE

The driver was in attendance. Cllr Shah was also in attendance as the ward councillor for support.

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

- AA has held a licence since 2004, when electronic records began. His licence expired 13 October 2020 and he did not renew so this is considered a new application.
- DVLA check revealed 2 offences, which he declared on his application. 2019 driving without due care and attention and 2017 failure to identify.



- AA has some minor previous historical offences. Officers recommend refusal.

The applicant gave the following evidence:

- AA described his 2019 offence. He was driving on a cobbled street parallel to Baldwin Street, the vibrations from the cobbles shook his phone from its holder on the dashboard. AA bent down to retrieve the phone from the floor without stopping his vehicle. This was observed by the police and he received 3 penalty points.
- AA views this as a harsh decision as he was driving slowly and there were no pedestrians present. He considered taking the matter to court, but was warned if he lost, the penalty could be increased to 6 points.
- The 2017 offence was when another driver was borrowing AA's car and committed an offence. AA was found guilty in absence of failing to identify to the court, but he maintains that he did send the necessary paperwork to the court. The driver who borrowed the car refused to admit the offence.

After questioning from the committee, the following information was confirmed:

- While AA is disputing the 2017 offence, he has not appealed to court, so the offence still stands.
- AA's licence ran out on 13 October, he applied for a licence on 15 October.
- AA has been a taxi driver for 30 years and these are the only offences on his record. He believes his general good conduct over a long career should be considered.
- AA was asked why he thought he was prosecuted for undue care and attention and what he could have done differently. AA said that most people would do the same thing and his phone only took a few seconds to retrieve. AA was told that over a few seconds a car can travel a considerable distance. AA then said he should have stopped the vehicle before retrieving his phone.
- CS spoke on behalf of AA to say that he was apologetic and accepts that his retrieval of the phone was wrong. AA has 3 dependents and times are particularly tough for drivers now. AA has a good record and one of his regular jobs is to transport a disabled child to school, which shows a good deal of trust. AA understands driver standards are high, distractions are dangerous even when short and he is responsible for passenger safety.

The Committee withdrew to deliberate on their decision.

RESOLVED (unanimous decision)

Members were concerned that driving without due care and attention was a serious matter and AA had not satisfied them that he would behave differently should similar circumstances arise again. They saw no reason to depart from their policy and noted that the notification of offence had been given within the last 6 months. The application was therefore refused.

11 EC - REPORT OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE OPERATOR LICENCE

The operator (TH) was in attendance. Neighbourhood Enforcement Officer AW was also in attendance.



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

- This case is unusual as it refers to the grant of an operator rather than driver licence. TH held an operator licence between 2015-18 but this was not renewed.
- TH was investigated by the Neighbourhood Enforcement Team in 2020 for unlicensed activity. TH had made new vehicle applications over this period but did not renew his operator licence. TH admitted operation and said that he was not aware that his operator licence had expired.
- TH appeared at PSP in 2015 due to driving without a private hire licence.
- There is no specific operator policy now, but committee should use the driver policy as a guideline. Committee should consider fit and proper person test.

The applicant gave the following evidence:

- TH believed that his case had been reviewed by the BCC legal team and they had found there was no intention to operate without a licence. He was not sure why he also had to appear at PSP.
- Officers confirmed that was an interview under caution concerning possible criminal prosecution. PSP is not a criminal matter but is the policy and administration of the licencing authority.
- TH said as soon as he found out the operator licence was not in place, he put in an application. TH said he did not receive any kind of notification of expiry. In this time frame TH had renewed 4 vehicle licences with BCC, most recently in April 2020.

After questioning from the committee, the following information was confirmed:

- While officers do send out notifications to licence holders, it is still the responsibility of the licence holder to be aware of their expiry date, which is on their licence paperwork.
- TH said he would be more aware of his renewal dates in future and would also renew for a longer period (three years rather than one). TH said that it was a very difficult time for operators and drivers, especially for those dependent on hospitality, events, and travel.
- TH said he believed he was being harshly treated and this could have been dealt with informally rather than a referral to the NET. Officers said that all drivers and operators work under the same rules.
- Officers said TH has a track record of not having the correct licences in place and not reading his paperwork properly. TH admitted not being the most organised person, but that he operated four vehicles and drivers, all of whom have the correct paperwork.
- TH said he preferred to manage licencing paperwork face to face at Temple Street, but this has not been possible due to lockdown. He viewed the service via email as slow, however the licencing team has limited capacity. Applications are requested 10 days in advance as a minimum and the team aim to reply to emails within 5 days.
- TH has a driver renewal pending, but this is on hold until this hearing is concluded.

The Committee withdrew to deliberate on their decision.

RESOLVED (unanimous decision)

Decision



The Private Hire Operator licence is granted. The applicant was reminded he is obliged as an operator to make sure his paperwork is in order. The committee was prepared to grant a licence on the principle that the applicant takes his responsibilities more seriously.

Meeting ended at 1.30 pm

CHAIR _____

