

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee B



8 June 2021 at 10.45 am

Members Present:-

Councillors: Chris Davies and Richard Eddy

Officers in Attendance:-

Lynne Harvey (Legal Advisor), Carl Knights (Licensing Policy Advisor), Iwan Jones (Licensing Officer), Alison Wright (Neighbourhood enforcement Officer), Oliver Harrison (Democratic Services Officer)

1. Welcome and Safety Information

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

1. Apologies for Absence

Apologies for absence were received from:

Cllr Guy Poultney

Cllr Jonathan Hucker

Cllr Barry Parsons

Cllr Katja Hornchen

The following Councillors acted as substitutes for today's business:

Cllr Christopher Davies

Cllr Richard Eddy

1. Declarations of Interest

None received.

1. Minutes of the Previous Meeting

RESOLVED the minutes of the previous meeting on 23 March 2021 are agreed as a correct record.



1. Public Forum

None received.

1. 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.

1. 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.

1. AK - REPORT TO DETERMINE WHETHER ACTION SHOULD BE TAKEN AGAINST THE HOLDER OF A PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER LICENCE

The driver was present.

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

- AK holds both a Private Hire Driver's licence and a Hackney Carriage Driver's licence, both of which expire on 28 July 2021.
- The Taxi Compliance Officer stopped AK on 13 March during test purchase test operation with undercover PCSOs.
- AK was not displaying or wearing a badge.
- AK admitted plying for hire immediately and showed remorse for his actions. The officer issued a fixed penalty notice, which if accepted results in a £300 fine and 6 penalty points.
- AK has no previous history of complaints or endorsements.
- Officers recommend a written warning or suspension.

The appellant gave the following evidence:

- AK admitted the offence, apologised, and said it would not happen again.
- AK said he was sitting in his taxi when he was approached by two women asking him to take them to Bristol Temple Meads. AK advised them to go to a nearby taxi rank, but the women said there were no taxis on the rank, and they were concerned about missing their train.



- Ak agreed to transport them and agreed a fee of £7. AK admitted to police that he was plying for hire when he was pulled over.
- AK said that he has been a taxi driver since 1995, that he has a clean record with no other offences.
- AK said he thought it was unfair for the undercover PCSOs to insist on hire when he had already referred them to a taxi rank. He thought he was helping someone who was in danger of missing a train but admitted he should not have charged them if this was a genuine act of charity.

After questioning from the committee, the following information was confirmed

- While AK has insurance cover generally, it was invalidated for that trip due to him plying for hire, which is a breach of the conditions.
- Background record checks do include the older paper records.
- AK said he did not display his ID badge at the time as he took it off as he was about to clock off due to a lack of business. Regarding his vehicle plates, AK said that he had a faulty holder, so the plate kept falling out. He has a new holder now so that issue is fixed.
- AK holds both a private hire and hackney driver licence. He was asked how often he uses these. AK primarily works as a private hire driver as he had to sell his hackney carriage vehicle due to poor health and financial difficulties. He now hires a vehicle for work and two licences means he can be more flexible in what vehicle he drives.

DECISION

To suspend Mr K's Private Hire Driver's licence for a period of two months on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause. No action will be taken in respect of his Hackney Carriage Driver's licence.

Mr K had admitted to the offence of unlawfully plying for hire and notwithstanding his explanation as to the circumstances of the offence, the Committee were satisfied that the undercover officers had not acted as agents provocateur because Mr K had not been threatened, incited, overborne upon or pressurised into committing the offence. The officers had acted no differently to an ordinary member of the public and Mr K could have refused to transport them.

The Council takes a dim view of plying for hire because not only does it deprive properly licensed hackney carriage drivers of their legitimate trade but it also places the public at risk because plying for hire will normally mean that the insurance will be invalidated in respect of that particular use of the vehicle.

Usually, the Council's policy starting point would be to impose a period of suspension of 6 months. However, given that Mr K put forward strong mitigation and was very remorseful as to what had happened, the Committee decided that there were exceptional reasons for them to depart from Council policy and impose a shorter period of suspension of 2 months of the PHD licence but to leave the HCD licence intact, since HC drivers are permitted to ply for hire.

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



The driver was present.

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

- This is an application for a Private Hire Vehicle Licence, where the vehicle does not meet comply with current policy due to the seats being too small.
- This requirement is public information, so applicants should be aware.
- Officers recommend refusal.

The applicant gave the following evidence:

- MG said that he was not aware that the vehicle would breach policy. This make of vehicle can be licenced in other authorities and the seat size is only slightly smaller than regulations.
- MG said that he bought the vehicle in good faith and took out a loan to do so. This is a substantial financial pressure on him and his family.

After questioning from the committee, the following information was confirmed

- The policy restricting this vehicle was published in 2018.
- MG did not go on the BCC website to check the list of approved vehicles before purchasing.
- MG said that he had seen this vehicle licenced on within Bristol. Officers confirmed that a licence could be renewed for an existing vehicle registered before 2018, but a new licence would be refused.
- MG will sell the vehicle if refused a licence but stands lose money.

DECISION

To refuse to grant the PHV licence in accordance with section 48 Local Government (Miscellaneous Provisions) Act 1976 as the Council could not be satisfied that the vehicle was suitable in type, size and design for use as a PHV and that it did not conform to Council policy.

It had been made clear on the Council website that the type of vehicle in question was too small to comfortably accommodate four passengers due to the internal dimensions.

MG had made an innocent mistake by not checking the Council's website to find out which vehicles were suitable to be licensed but this did not amount to a sufficient reason to depart from Council policy without undermining it or the reasons that underlie it.

1. AA - APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE VEHICLE LICENCE SEEKING DEPARTURE FROM BRISTOL CITY COUNCIL POLICY

The driver was not present, so the case was heard in absence.

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



- This is an application for the renewal of a Private Hire Vehicle licence for a vehicle that is over 10 years old and has a diesel engine. These are in contravention of the licensing policy.
- This vehicle has already been given a 6-month extension period.
- The vehicle has failed four inspections.

DECISION

To refuse the application to renew the PHV licence of AA seeking a departure from Council policy on the grounds contained in section 60(1)(a) and 60(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 namely that the vehicle is unfit for use as a private hire vehicle and any other reasonable cause. Nor were the Council satisfied that the vehicle is suitable in type, size and design for use as a private hire vehicle in accordance with section 48 of the Act.

The vehicle in this particular case did not conform with Council policy in two respects due to its' age and that it was fitted with a diesel engine. The Committee had received no evidence from the applicant to satisfy them that the vehicle should be treated as an exception to Council policy without undermining it or the reasons that underlie it such that a further extension to the licence could be justified.

1. JM - APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE VEHICLE LICENCE SEEKING DEPARTURE FROM BRISTOL CITY COUNCIL POLICY

The driver was not present, so the case was heard in absence.

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

- This is an application to renew a Hackney Carriage Vehicle licence. The vehicle is over 10 years old and fitted with a diesel engine.
- Due to an administration error, a licence was incorrectly issued.
- This vehicle was given a 6-month Covid extension which expires on 26 May this year.
- Council policy is to not license vehicles that are over 10 years old or fitted with diesel engines.

DECISION

That the application to renew the HCV licence seeking to be treated as a departure from Council policy be refused and that the licence issued in error be revoked on the grounds contained in sections 60(1)(a) and 60(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976, namely that the hackney carriage vehicle is unfit for use as a hackney carriage vehicle; and any other reasonable cause.

The vehicle failed to comply with Council policy in that it was more than 10 years old. The Applicant had already benefitted from a modest extension of the licence, but there was no further evidence advanced to justify another extension of time or a departure from Council policy without undermining it or the reasons that underlie it.

It was unfortunate that a licence had been issued in error but this was an administrative oversight which had been explained to the applicant in correspondence.



The applicant was not in attendance and had not requested an adjournment, so regrettably the Committee did not have the opportunity to invite him to make further representations in support of his application.

1. DA - APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE VEHICLE LICENCE SEEKING DEPARTURE FROM BRISTOL CITY COUNCIL POLICY

The driver was present, with a friend to assist with language.

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

- This is an application to renew a Private Hire Vehicle licence due to expire on 8 June 2021
- The vehicle is over 10 years old and fitted with a diesel engine.
- The vehicle was first registered on 14 June 2014 and has failed 8 out of 9 initial inspections.
- Council policy is to not licence vehicles that are over 10 years old or fitted with diesel engines.

The applicant gave the following evidence:

- DA understands the need for a time limit on the age of vehicles to maintain public safety.
- Covid has been very hard on the taxi trade, with an estimated 90% drop in customer numbers. We are coming back to some normality but not comparable to pre-lockdown.
- DA does not have the money to buy a new car or rent one. We are asking to consider a 6 – 12m extension to give him enough time to earn money to put towards a new car.
- DA believes that other vehicles have been given extensions under similar circumstances, so is requesting the same.
- The vehicle has passed a recent inspection and MOT.

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

- The committee is not allowed to consider personal circumstances of an individual but accept that Covid restrictions have a significant impact on the taxi trade.
- That the applicant needs to supply the committee with a good reason to depart from the policy of not licensing diesel engines and vehicles over 10 years of age.

DECISION

To refuse the application to renew the PHV licence of DA seeking a departure from Council policy on the grounds contained in section 60(1)(a) and 60(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 namely that the vehicle is unfit for use as a private hire vehicle and any other reasonable cause. Nor were the Council satisfied that the vehicle is suitable in type, size and design for use as a private hire vehicle in accordance with section 48 of the Act.

The vehicle in this particular case did not conform with Council policy in two respects due to its' age and that it was fitted with a diesel engine. The Committee had received no evidence from the applicant to satisfy them that the vehicle should be treated as an exception to Council policy without undermining it or the reasons that underlie it. The financial circumstances of the applicant were not relevant in arriving



at this decision. Another factor the committee considered was that the vehicle had not been well maintained during its' lifetime and in November 2020 it had 290k miles on the odometer.

Although the Applicant contended that some other vehicles had been granted extensions of their licences, this occurred during the height of lockdown and each case is considered on its' individual merits.

1. NB - APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE VEHICLE LICENCE SEEKING DEPARTURE FROM BRISTOL CITY COUNCIL POLICY

The driver was present.

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

- This is an application for renewal of a Private Hire Vehicle licence.
- On 17 March NB submitted a renewal application for the vehicle and was granted a 6-month extension up to 9 May 2021.
- The vehicle is over 10 years old and fitted with a diesel engine. Council policy is not to renew vehicles in these conditions.
- The appellant has been out of work due to Covid restrictions so was not able to take advantage of the extension he was granted.
- The vehicle has failed initial inspection on 5 occasions.

The applicant gave the following evidence:

- NB has health issues that make him particularly vulnerable to Covid, so was required to regularly self-isolate. Although he was given a 6-month extension, he was unable to work during this period.
- NB is asking for another 6-month extension to build up enough money to get a new car.
- NB argued that his car is in good condition and any previous inspection failures have been on minor issues.
- NB has been driving in Bristol for 15 years with an excellent record.

After questioning from the committee, the following information was confirmed

- NB confirmed that 6-months would be enough time for him to secure a new vehicle and he would not require another extension.
- NB asked why Bristol had different rules to South Gloucestershire. It was explained that each local authority can set its own licensing policy, so this may be different from place to place. Bristol is worried about poor air quality, hence the restrictions on vehicle age and engine types.

DECISION

That the application to renew the PHV licence seeking to be treated as a departure from Council policy be allowed for a period of 6 months only and subject to confirmation of a satisfactory inspection by Fleet services.



The vehicle failed to comply with Council policy in two respects in that it was fitted with a diesel engine and was more than 10 years old. The Applicant had already benefitted from a modest extension of the licence, but he was able to satisfy the committee that there were exceptional reasons to depart from Council policy. He produced evidence that he had been forced to self-isolate during the past few months and was therefore unable to benefit from the extension that had previously been granted to him. There was also evidence that the vehicle had incurred very little mileage during this period, confirming that the applicant had been unable to work.

Meeting ended at 4.00 pm

CHAIR _____

