

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee A



22 February 2022 at 10.00 am

Members Present:-

Councillors: Richard Eddy (elected to chair for the duration of the meeting), Marley Bennett, Chris Davies, Richard Eddy and Tessa Fitzjohn

Officers in Attendance:-

Lynne Harvey (Legal Advisor), Abigail Holman (Licensing Policy Advisor), Jeremy Livitt (Clerk)

Also In Attendance: Dakota Ferrara (Senior Licensing Officer) – Presenting Officer

14 Election of Chair for the Duration of the Meeting

RESOLVED – that Councillor Richard Eddy be elected for the duration of the meeting.

15 Welcome and Safety Information

Councillor Richard Eddy welcomed everyone to the meeting and reminded all attendees of the emergency evacuation procedure.

16 Apologies for Absence

Apologies for absence were received from Councillor Amal Ali.

It was agreed that Councillor Richard Eddy should write on behalf of the Committee to wish Councillor Ali well and to send her the Sub-Committee's wishes.

ACTION: Councillor Richard Eddy

17 Declarations of Interest

There were no Declarations of Interest.



18 Minutes of the Previous Meetings held on 14th December 2021 and 25th January 2022

RESOLVED – that the minutes of the meetings held on 14th December 2021 and 25th January 2022 be confirmed as a correct record and signed.

19 Public Forum

There were no Public Forum items.

20 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.

21 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.

22 Application for the Renewal of a Hackney Carriage Vehicle Licence - JM

JM attended for this meeting and was accompanied by a friend (Mr Zaidi).

Dakota Ferrara, Senior Licensing Officer, introduced this report and made the following points:

- The application was for the renewal of a Hackney Carriage Vehicle Licence which had been previously held but revoked
- Members' attention was drawn to the previous history of the licence holder which was set out in the report as follows: (i) revocation of licence following confirmation at Crown Court of June 2001 offence of driving dangerously and not using the meter, (ii) September 2004 complaint by an elderly lady to whom he had delivered medication that he had scratched her hand and asked her out for a drink (iii) February 2008 – complaint of overcharging (iv) complaint of using a mobile phone without hands whilst driving (v) December 2010 – receiving a warning for an obstruction with a vehicle (vi) March 2018 – arrested for conspiring to supply drugs which he had failed to declare
- The Sub-Committee also noted the following cautions that had been received in 2007 and 2012 for soliciting a woman for prostitution



- They noted the most recent incident in 2019 when JM had refused to secure a wheelchair on his vehicle which had resulted in a head injury. When this matter went to court, they upheld the decision to revoke it.
- In line with current Bristol City Council following recent changes in 2021, officers recommended that the Committee refuse the application

The Panel received guidance from the Licensing Policy Adviser and Legal Adviser and noted the following:

- this is a renewal application
- JM did not currently hold a licence He can be considered as whether or not he is a proper person to hold a vehicle licence
- JM was not applying for a drivers licence but for a vehicle licence. It was noted that this would enable him to rent out his vehicle to others with a drivers' licence
- The character of the individual was important in this instance. National standards say those holding Vehicle Licence must pose no risk to public and so maintain the safety benefits of regime. The Sub-Committee should therefore take the character of an individual into account when determining this application.

In presenting his case, JM and Mr Zaidi made the following points:

- JM noted the difference between a driver and vehicle licence and has a clean DVLA licence
- JM was requesting a renewal of a vehicle licence which can be driven by any driver who has a taxi licence
- JM does not have a licence to drive but has finance on it. He is renting out to drivers to help finance it. He understands that it is Important to make sure he complies with all Bristol City Council policies
- Bristol City Council are requested to take account of the applicant's situation. There are lots of similar cases where people made an investment to buy a vehicle and get someone else to drive it
- The Sub-Committee were requested to renew his vehicle licence as his suitability as a driver was not relevant in this case

In response to questions from members of the Sub-Committee, JM and Mr Zaidi made the following points:

- JM always made sure that safety was taken into account. He had carried out all relevant courses concerning safety in respect of wheelchairs and circulated a certificate for a course he had recently undertaken for wheelchair accessibility and safeguarding passengers
- Since 2019, JM had been faced with a difficult situation due to the lockdown caused by the pandemic. He had tried to improve his skill and make sure he does not make a similar mistake again. He had also received advice from local organisations (such as his local mosque) and had already submitted character references. He had tried to compensate for his mistake. Christine Morgan, Gold Standard Trainer, can vouch for this. JM was currently leasing out his vehicle



- JM acknowledged that he may have carried out some in the past and had paid the price for it. Since 2015, this was the last time accepted he was a fit and proper person and he had been granted a licence. Whilst the 2019 incident was unfortunate, no complaint had been made against him since then. He pointed out that if this incident had not happened, he would not be in front of the Sub-Committee today.
- JM was attending to show that he had changed. The Sub-Committee were urged to give him a chance with the knowledge that if he repeats an offence, action can then be taken against him. Character references show he is a changed person.
- JM apologises to the Licensing Policy Adviser for the allegations made in an e-mail against her and withdrew these.

After making their deliberations, the Sub-Committee advised both parties of their decision as follows:

RESOLVED (unanimously) – that in accordance with section 60(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 there is “reasonable cause” to refuse the application by JM to renew his Hackney Carriage Vehicle licence.

Reasons

The DFT Guidance enables the Council to take into account the character and suitability of an individual applicant as well as the suitability of the vehicle when determining an application for a vehicle licence. There is also High Court authority that enables the decision maker to take into account whether an individual is a fit and proper person to hold a vehicle licence as well as a driver licence. Nor does an individual have to be convicted of a criminal offence in order for there to be “reasonable cause” to suspend or refuse to renew a vehicle licence.

The Council’s policy (para.23) which adopts the National Standards also includes an expectation that the applicant for a vehicle licence is a fit and proper person to hold a licence.

Although we acknowledge that you have not been convicted of any criminal offence your track record as a licensee with the Council is extremely poor whereby you have been found wanting concerning your conduct towards passengers and your safety as a driver.

We Echo the findings of the Magistrates’ Court in a very recent appeal that was heard on 30 November 2021.

“The incident causing injury to the wheelchair user was significant. We do not discount evidence of witnesses who say other fares were carried safely but this one incident shows that there is not a safe service for everyone. We appreciate your willingness to learn from mistakes but these should not have been made in the first place. We therefore find that you are not a fit and proper person to hold a licence”



Even though you are currently leasing the vehicle to a third party the committee is not satisfied that you should be entrusted in ensuring that third parties adhere to the rules.

There is also High Court authority whereby the financial circumstances of the individual are an irrelevant consideration as the main focus of the Council is protection of the public and ensuring that those who have the benefit of a licence are upstanding members of the community.

23 Application for the Grant of a Private Hire Driver Licence - SM

Dakota Ferrara, Senior Licensing Officer, introduced this report and made the following points:

- SM had held a licence in 2007 to 2009
- SM's licence had been renewed on 15th December 2019. It had been revoked in March 2021 by PSP A Sub-Committee as a result of plying for hire in December 2020. SM had received a conviction for plying for hire and for being uninsured – neither of these were declared in his application
- The Sub-Committee was reminded that applicants with multiple convictions were not regarded as suitable to drive in accordance with policy. In relation to an offence for dishonesty, the policy states that an applicant must not be given a licence for seven years

The Sub-Committee received the following advice from the Licensing Policy Adviser:

- There had been a change of policy following new national standards. However, the March 2021 revocation of the licence had taken place prior to the new policy coming into effect
- The Sub Committee cannot go behind the reasons for the conviction. However, they may want to hear from SM as to why the Sub-Committee should go against the policy and the steps he has taken to address the situation
- Following the introduction of the new licensing standards, it was a normal expectation for someone with conviction as a result of one offence to be off the road for 6 months. If there was a conviction for more than one offence, the expectation was that they should be off the road for 2 years

SM made the following points to the Sub-Committee in support of his application:

- Last year during the pandemic I had no customers and was struggling. I was also working with Uber
- SM described the incident which had led to his conviction for playing for hire. He explained that it was an honest mistake. Since the road was blocked, he had to wait for customers and a person had got into his vehicle and refused to leave. The individual had asked about the cost for a fare to go to Emersons Green but had not paid for the journey. He was not aware when he was stopped by PC Quinton that he had committed an offence.



- SM explained that he had pled guilty to the offence as he was advised that this would result in him receiving a reduced fine. Whilst he subsequently appealed this decision, the process had taken a long time

The Sub-Committee noted that evidence from Uber showed that a job came through after this incident and that the evidence from PC Quinton contradicted SM's account of it.

In response to further questions from the Licensing Adviser and the Sub-Committee, SM made the following points:

- He had to apply for other jobs whilst he waited for the licence to become available when the suspension period ends. However, he continued to serve the public as a driver and learn from his mistakes. He needed to keep his licence to look after his family
- He had not done anything to break the law since then and had learnt his lesson
- He stated that he understood that he could not just pick up a fare from anywhere. This was his first mistake and he would not do this again in future
- He thought that the court would tell Bristol City Council about his convictions and was surprised when he heard that had not happened

SM requested the Sub-Committee to allow him to retain his licence as this had been his only job for a long time. If he were to receive a warning from the Sub-Committee, he would make sure that nothing like this ever happened again.

Following deliberations by the Sub-Committee, both parties were advised of the following decision:

RESOLVED (unanimously) – that the application for the grant of a Private Hire Driver's Licence be granted subject to all other elements of the fit and proper person test being satisfied.

Reasons

The applicant's licence was revoked by the Committee on 23 March 2021 as findings of fact were made that on a balance of probabilities, he had plied for hire and in so doing would not have been insured in respect of that particular use of the vehicle. The applicant has since been convicted of these offences and had received a fine and penalty points. The applicant had therefore been "off the road" for almost 11 months and the Committee were of the view that he had learned his lesson as a result of the incident.

He had failed to fully disclose the details of his convictions on his application form but the members did not believe this to be a deliberate omission on his part in that he believed the Court would have told the Council about the convictions. It was not therefore found that he had not been dishonest.



The Committee also took into account that the applicant had been licensed for a number of years without any other complaints. He had therefore satisfied the Committee that he was now a fit and proper person to hold a licence.

24 Application for the Renewal of a Hackney Carriage Driver Licence To Determine Whether Action Should Be Taken Against The Holder of a Private Hire Driver Licence - MMO

It was noted that this item would be rescheduled to be held at a future date to allow an interpreter to be arranged for the applicant.

25 Application for the Grant of a Private Hire Driver Licence - MA

The Sub-Committee noted that the applicant was currently in prison and would therefore not be attending for this item. Members agreed to continue with the hearing in his absence.

Members noted from the report that the applicant had been convicted of offences of sexual exploitation, offences of indecency and exploitation. They noted that in this instance Council policy advice recommended that anyone convicted of such offences should never be granted a licence as they were not a fit and proper person to hold a licence.

Following deliberations, the Sub-Committee

RESOLVED (unanimously) – that the application be refused as the applicant is not a fit and proper person to hold a licence.

26 Date of Next Meeting

The Sub-Committee noted that the next meeting is scheduled to be held at 10am on Tuesday 19th April 2022.

The meeting ended at 1.40 pm

CHAIR _____

