

# Bristol City Council

## Minutes of the Public Safety and Protection Sub-Committee B



**21 September 2021 at 10.00 am**

### **Members Present:-**

**Councillors:** Barry Parsons (Chair), Tessa Fitzjohn, Katja Hornchen, Jonathan Hucker and Barry Parsons

### **Officers in Attendance:-**

Ashley Clark (Legal Advisor), Lynne Harvey (Legal Advisor), Carl Knights (Licensing Policy Advisor), Dakota Ferrara and Graham Lange

## **1. Welcome and Safety Information**

The Chair welcomed everyone to the meeting and drew attention to the emergency evacuation procedure.

### **1. Apologies for Absence**

Apologies for absence were received from Councillor Guy Poultney (Councillor Tessa Fitzjohn substituting).

### **1. Declarations of Interest**

There were no Declarations of Interest.

### **1. Minutes of the Previous Meeting held on 27th July 2021**

RESOLVED – that the minutes of the meeting held on 27<sup>th</sup> July 2021 be approved as a correct record and signed by the Chair.

### **1. Public Forum**

There were no Public Forum items.



## **1. Suspension of Committee Procedure Rules CMR10 and CMR11 Relating to the Moving of Motions and Rules of Debate**

RESOLVED - that Committee Procedure Rules CMR 10 and CMR 11 be suspended for the remainder of the meeting.

### **1. Exclusion of the Press and Public**

RESOLVED – that the public be excluded from the remainder of the meeting to allow consideration of items containing exempt information under Paragraph 1 of Part 1 of Schedule 12(A) of the Local Government Act 1972.

### **1. Report to Determine Whether Action Should Be Taken Against The Holder of a Hackney Carriage Driver and a Hackney Carriage Vehicle Licence - MSA**

Saif Hussain , Chair of Bristol Blue Licensed Taxi Association (BBLTA), accompanied MSA for this hearing. The complainant was also in attendance.

Prior to the commencement of this hearing, the Chair Councillor Barry Parsons indicated that he knew MSA prior to the hearing but confirmed that he retained an open mind in considering this issue. Following a request from the Chair, MSA confirmed that he was happy to proceed with Councillor Parsons as a Sub-Committee member for the hearing.

Alison Wright, Neighbourhood Enforcement Team, introduced the exempt report and outlined the key issues concerning the complaint. These were as follows:

- On 23rd June 2021, the complainant had asked his guide dog to get into the boot of the hackney carriage vehicle but it has refused three times.
- MSA had refused permission for the complainant to take the dog into the car with him as other passengers did not like the smell.
- In the time it took to resolve this matter the guide dog ran off and MSA would not run to find him and bring him back to the complainant.
- The complainant indicated that, as a guide dog, his dog was well behaved, obedient and friendly. The Equalities Act 2010 imposes a duty on taxi drivers to carry a guide dog where required and to allow a guide dog to remain with that person.
- he complainant had submitted a complaint to the Neighbourhood Enforcement team about this incident in September 2021
- On 5<sup>th</sup> September 2021, MSA had received a separate complaint against him about another incident. However, the person who submitted the complaint did not wish to pursue this

In response to questions from the Committee, Alison Wright made the following points:



- It was not usual for a guide dog to be placed in the boot of a car but this was an open vehicle.
- MSA had not taken the gold standard which covers guide dogs and wheelchairs.

MSA then outlined his case to the Sub-Committee. He made the following key points and also responded to questions from members of the Committee as follows.

- I have previously picked up many wheelchair users, disabled people and guide dog users before so I knew what is required. My father was disabled and I also helped him as required.
- As I knew the passenger had a guide dog, I moved down the road to pick him up from a suitable place.
- The separate complaint was in relation to a lady that he had picked up from the side of the road with an electric chair and had taken to Cribbs Causeway.
- When the battery in the chair ran out, she asked me to help her get it recharged. I had to explain that this was not my responsibility to do and that it rested with her to deal with this matter. There had also been a further delay because she did not have cash and I needed to use a machine to take payment. In all this fare took 45 minutes. This type of delay has a serious impact on my ability to get enough passengers to make a living.
- There is a fixed cost for any job that I carry out as indicated by the meter reading so I am not able to increase the price for certain types of fares to allow me more time between passengers or to take account of loading and unloading
- Sometimes dogs did not want to get into my car but most of the time there is no problem
- I suggested to the passenger that he put the dog in the car as it was pulling him. Normally, I would hold the guide dog while the passenger gets into the car but there can be a problem if the dog does not want to get in the vehicle
- I do not understand all of the terminology concerning this issue as I come from Pakistan ie the term footwell

Mr Hussain made the following comments in support of MSA:

- Drivers had to ring the doorbell of properties 20 years ago as there were no smart phones but now they are trained not to do this
- MSA was aware that the complainant was a blind passenger. He offered for the guide dog to sit in the boot as it was a big car. However, the dog would not go in despite three attempts. The dog ran off at that point so the option of putting the dog in the front was not available

The complainant spoke to the Sub-Committee and made the following points:

- The attitude of taxi drivers has changed dramatically in the last ten years. They do not ring your bell or escort you to their car as they used to
- There are only two taxi firms I can use in Bristol which are big enough to take guide dogs.
- MSA was the second taxi driver I had requested on the day of the incident in question as the first driver said he had been unable to find me



- I booked a taxi for 5pm but did not reach my destination for over an hour and was late for a meeting
- MSA did not offer to put the taxi in the car so I had to do it myself.
- National guidance is that guide dogs should sit in the footwell in the front of the car so putting a guide dog in the boot rather than the footwell can cause problems since guide dogs are trained to carry out specific tasks
- I understand that some drivers do not like dogs being placed in the footwell for hygiene or religious reasons
- As MSA refused to help me find my dog after it ran away, I told him to leave as he was not helping me resolve the situation.
- My dog returned after he left. I then phoned V Cars who sent out an assistant driver. He quickly resolved the situation
- In response to a member's question, the complainant confirmed that MSA did not offer for the guide dog to go in the footwell at the front of the car.

All parties were then requested to withdraw while the Sub-Committee made their deliberations. Upon their return, the decision was announced as recorded in the resolution below.

**RESOLVED (unanimously) –**

- (1) that the Sub- Committee has found that the allegations made against you have been made out and therefore you have breached the requirements of the Equalities Act on two occasions.**
- (2) members have therefore decided to revoke your licence in line with the Council's policy in respect of such offending behaviour.**

The Sub-Committee also suggested to MSA that he should not re-apply for this licence until he had completed the Gold Standard Course.

## **1. Application for the Grant of a Private Hire Driver Licence - MJ**

MJ was accompanied by a friend to this hearing.

Dakota Ferrara, Senior Licensing Officer, introduced this exempt report setting out an application for the grant of a Private Hire Driver (PHD) licence seeking departure from Council policy. She made the following key points in relation to this case and also responded to questions from Sub-Committee members :

- MJ had previously held a licence from 20<sup>th</sup> July 2005 to 12<sup>th</sup> February 2008



- This licence had been revoked on 12<sup>th</sup> February 2008 following a number of offences of illegally plying for hire and without insurance, an altercation with two female passengers resulting in police intervention and use of mobile phone whilst driving
- MJ is applying for a Private Hire Drivers Licence and had requested a departure from policy so he is not required to take the gold standard and knowledge tests
- An example of exceptional circumstances to avoid the requirement for a gold standard and knowledge test might be previous experience as a driver with the required knowledge or disability awareness training

MJ made the following comments to the Sub-Committee:

- Due to his past behaviour, I lost my house and family in 2008 but have changed significantly since then
- I need your support to help me continue with this
- I am still paying for my car
- I am now learning the necessary knowledge including navigation that I will need to be a Private Hire Driver without taking the knowledge test
- When I got advice from the licensing team in December 2020, I was advised that my application for a taxi badge was likely to be ok as I already had a badge

In response to members' questions, MJ gave the following responses:

- In my existing I am a driver who travels to places such as schools and have obtained the knowledge, writing and reading that I need to understand the customer
- I now understand what is required to make a vulnerable person feel safe in my taxi and what is required when dealing with someone who is drunk or difficult
- I have already paid a price for my past mistakes and have not breached the requirements of being a driver since my licence was last revoked.

All parties then withdrew to enable the Sub-Committee to make their decision. Upon their return, MJ was advised of the decision as set out below.

**RESOLVED (unanimously) – that members have not been persuaded that there are any exceptional circumstances to depart from the Council's policy in respect of the requirements of completing the knowledge test and Gold standard and therefore the application is refused.**

The Sub-Committee also advised MJ that this decision was not a bar to him reapplying for a Private Hire Drivers Licence without the exemptions.

## 1. Application for the Grant of a Hackney Carriage Driver Licence - MAEA



Saif Hussain, Chair of the BBLTA, attended in support of MAEA for this hearing.

Dakota Ferrara, Senior Licensing Officer, introduced this exempt report setting out an application for the grant of a Hackney Carriage Driver (HCD) licence departing from council policy. She made the following comments:

- MAEA's previous application for a replacement licence had been refused on 3<sup>rd</sup> March 2020 following a complaint from a member of the public that he had refused a fare from a passenger in a wheelchair
- MAEA had applied for a licence with exemption from the gold standard and knowledge test but would just require the latter as he had provided proof that he had met the gold standard
- If the licence was granted with the knowledge test exemption, MAEA would still need to submit to an enhanced Disclosure and Barring Service Check, together with a medical examination report and a DVLA mandate and check code

Members noted that a new policy was in place from July 2021 by the Department for Transport which required a prohibition for 7 years. They were also reminded that they could not re-consider the circumstances surrounding MAEA's previous disqualification from being a Hackney Carriage Driver.

MAEA made the following points:

- He indicated that he was struggling financially and needed to be granted the licence so he could support his family.
- His previous car was rented and had a broken lock which meant it had been difficult to take customers in wheelchairs
- He drew members attention to the experience he had gained from the additional 4 month customer service course to help him obtain the gold standard.

In response to a members' question, he confirmed that he would in future ensure any broken lock was repaired on any car he rented or owned.

All parties then withdrew to allow the Sub-Committee to make a decision. Upon their return, their decision was announced and is set out below

**RESOLVED (unanimously) – that members are not able to go behind the facts that previous committees have established and have not been persuaded that there are any exceptional circumstances to depart from the Council's policy in respect of breaches of the equality Act. Therefore, the application is refused**



## **1. Application for the Grant of a Private Hire Driver Licence - CF**

This hearing took place in the absence of CF.

Dakota Ferarra, Senior Licensing officer, introduced this report. She explained that CF was requesting an exemption from the Council's private hire knowledge and gold standard test and had provided supporting information in respect of this.

Following the withdrawal of the Senior Licensing Officer, the Sub-Committee made its decision and upon her return, stated their decision as set out below and with reasons indicated:

**RESOLVED: (unanimously) – that the Committee were not prepared to exempt CF from taking the knowledge and Gold Standard tests and treat CF as an exception to Council policy. Authority was delegated to officers to grant CF a PHD licence subject to him passing these tests.**

### **Reasons:**

**The Committee considered CF's documentation/CV in support of his application but notwithstanding he appeared to have a very good knowledge of driving in the city and possessed good customer care skills, this was not sufficient reason to treat him as an exception to Council policy without undermining it or the reasons that underlie it.**

**CF had not previously been licensed by the Council and the tests were part of the fit and proper person test to ensure that all drivers attain a high standard of driving & customer care and become ambassadors for the City.**

**The knowledge test goes further than simply demonstrating a good knowledge of landmarks and how to get around the city.**

**The Gold Standard scheme aims to deliver a high quality bespoke training programme for hackney carriage and private hire drivers with the ultimate goal of maximising the customer experience and making taxi drivers ambassadors for the city. The scheme was developed by the Gold Standard Board which is attended by the Council's Licensing and Equalities teams (in conjunction with BPAC), Unite, Destination Bristol and People 1st (Go Skills) the sector skills council for transport. In order to receive the Gold Standard Award candidates are required to complete the BTEC Introduction to the Role of the**



**Professional Taxi and Private Hire Driver (L2) and World Host training course with a training provider accredited by People 1st.**

**The training includes a bespoke training module around disability equality which has been incorporated into the programme and it is therefore important that applicants attain this qualification before being licensed.**

**1. Application for the Grant of a Private Hire Driver Licence - JM**

Graham Lange, Licensing Officer, introduced this exempt report from JM applying for a Private Hire Driver Licence and made the following points:

- JM had committed 8 separate archived motoring offences of various kinds between 1979 and 1997, 4 separate offences between 2006 and 2009, a further 4 separate offences between July 2018 and May 2020, as well as an additional totting up offence in January 2021 due to the number of penalties received
- He had received a driving ban for these for 6 months from 22<sup>nd</sup> January 2021 and had therefore been required to surrender his licence on 25<sup>th</sup> February 2021
- Whilst a single offence might be explained as a result of a particular set of circumstances, multiple offences suggested a pattern of behaviour
- Under existing rules, the licence will not be granted until at least 5 years from conviction or ban whichever is the later. Since the date of the last (non-totting up) offence was 8<sup>th</sup> May 2020, this would not be until 2025.
- Where someone is disqualified from driving, it would be at least a year following the restoration of the licence until it is approved
- The burden of proof lies with the applicant to show why the Sub-Committee should depart from policy

JM made the following points concerning his application:

- I am guilty of the offences given
- My brother in law was in hospital for two months intensive care and on the day of the offence in May 2020 my sister in law was rushed into hospital with a lung problem and subsequently died.
- I tried to pick up the phone to a call from my daughter but saw the Police behind me and realised I shouldn't have answered it. I have been paying the price for this mistake over the last 2 years
- I do not currently hold my driving licence as there is backlog and the DVLA haven't yet returned it to me



The Sub-Committee was advised that they could not consider an application until a DVLA licence was formally approved and would therefore need to defer this hearing and reconsider it once the licence had been granted.

**RESOLVED (unanimously) – Given the applicant does not possess a current DVLA licence the committee cannot grant an application for a PHD Licence in accordance with section 51 of the Local government (Miscellaneous Provisions) Act 1976 (“the Act”).**

**Reasons: The holding of a DVLA licence is a pre-requisite to being granted a licence under section 51 of the Act. The committee heard that since JM’s disqualification had come to an end, he had applied to the DVLA for restoration of his driving licence but to date, he was still waiting to hear back from them. In the circumstances the Committee were not able to determine whether or not JM was a fit and proper person to hold a PHD licence as the absence of a DVLA licence debarred the Council from granting him a PHD licence. Once JM’s DVLA licence has been restored to him the matter of whether he is a fit and proper person can be considered by the committee. The application could either be brought back before Committee or JM could submit a fresh application with no additional fee.**

### **1. Application for the Grant of a Private Hire Vehicle Licence Seeking Departure From Bristol City Council Policy - AF**

Graham Lange, Licensing Officer, introduced this report setting out an application for a Private Hire Vehicle Licence which requested a departure from Council policy. He made the following comments:

- The application was incorrectly signed under the previous owner following its transfer to the current owner AF
- This is an application for a new Private Hire Vehicle licence as it is being granted to a different owner to that previously held. However, the application is for a renewal. Regardless, the test is the same in terms of Bristol City Council policy.
- The vehicle is a diesel engine and in contravention of current private hire licensing rules

AF explained that it had taken some time to be able to properly explain the situation concerning the new ownership of the vehicle . The application had been made two months earlier in March 2021.

The Legal Adviser to the Sub-Committee confirmed that the Applicant was the proprietor of the vehicle and that the relevant act says it is the proprietor who can make the application. Therefore, AF complies with the policy in submitting this application.

The Sub-Committee then requested all parties to withdraw while they made their decision and upon their return gave the decision set out below.



**RESOLVED (unanimously) - that the application to renew the PHV licence in respect of vehicle registration SF64 VLL be granted in accordance with section 48 of the Local Government (Miscellaneous Provisions) Act 1976.**

**Reasons: On 16 March 2021 the PHV licence had expired but the Council's policy allows a period of 3 months grace in which to renew the licence otherwise the application would have to be treated as an application for the grant of a new licence. In this particular case there had been a fairly unusual set of circumstances whereby on 7 April 2021 the vehicle had been sold to AF which was followed by notification of the sale and an application to transfer the licence to AF on 2 June 2021, the applicant. An application to renew the licence was then made on 8 June 2021. Although the timings were unfortunate, the Committee noted that the application to renew was made within the 3 months grace allowed by the Council's policy and that AF was the proprietor of the vehicle at the time the application was made. The Committee therefore determined that the application could be granted on the proviso of a satisfactory inspection check being carried out**

### **1. Application for the Grant of a Private Hire Vehicle Licence Seeking Departure From Bristol City Council Policy - RWD**

Dakota Ferrara, Senior Licensing Officer, introduced this exempt report setting out an application for the grant of a Private Hire Vehicle (PHV) licence seeking a departure from Council policy. She made the following comments:

- RWD's vehicle was licensed from 5<sup>th</sup> April 2016 to 5<sup>th</sup> April 2020 but was not requested for re-licence until 6<sup>th</sup> August 2021 (more than 16 months after the expiry date)
- The vehicle is fitted with a diesel engine contrary to Bristol City Council policy
- The application was treated as a new application due to the time since the expiry of the original licence

RWD made the following comments to the Sub-Committee:

- I was intending to obtain an electric car and plan to buy a hybrid vehicle in about a year or so when my financial circumstances allow it
- I had COVID for about two months just before my previous licence expired and did not want to drive after that. I should have got in touch with Bristol City council but did not and was wary of catching COVID again so did not want to go out driving for a while

All parties withdrew from the room to allow the Sub-Committee to deliberate and when they returned, the decision set out below was provided.

**RESOLVED - that the application for the grant of a PHV licence in respect of vehicle plate No 3927 be refused in accordance with section 48 of the Local Government (Miscellaneous Provisions) Act 1976 in**



that the Committee could not be satisfied that it was suitable in type, size and design for use as a PHV because it did not conform to Council policy in two respects

#### Reasons

Given that 16 months had elapsed since the expiry of the previous licence, the application had to be treated as though the vehicle was a new vehicle presented for licensing for the first time. The purpose of policy is to remove diesels from the fleet and that any new vehicle presented for licensing for the first time is less than 3 years old. The vehicle did not therefore comply with Council policy in two respects and the burden of proving that an exception to policy should be made lies on the individual applicant.

The Trade were kept in contact with during the pandemic and options were given to them regarding licensing of their vehicles. Although the committee had sympathy with RWD regarding him falling ill during the pandemic, 16 months was a considerable period of time to wait until renewing the licence. The Committee did not therefore consider that there were exceptional reasons to depart from Council policy.

### 1. Application for the Renewal of A Hackney Carriage Driver Licence - JWB

Dakota Ferrara, Senior Licensing Officer, introduced this report setting out an application from JWB for consideration of an application for the renewal of a Hackney Carriage Driver Licence in view of new Bristol City Council policy.

She made the following points:

- JWB applied to renew his licence on 24<sup>th</sup> August 2021 which expired on 5<sup>th</sup> October 2021
- He has two speeding offences on his licence
- Bristol City Council has adopted a new policy on 21<sup>st</sup> July 2021 in line with national standards which states that more than one offence on a licence is referred to the Sub-Committee
- The Sub-Committee was requested to consider this application and to determine whether or not it is in line with this new policy

JWB made the following points:

- Penalty points are a hazard of the job
- In these two cases I was only driving at 36mph in a 30mph zone
- Given the number of hours I drive, this is occasionally bound to happen



- It seems unfair that the new policy should be applied retrospectively. Last year I had 6 points on my licence and was not faced with this situation. I have only had one other offence over the last 12 years
- Sometimes I am distracted when driving and do not notice the speed limit, for example if I have to take someone urgently to the train station
- I am a solid upstanding person with only two recent offences and would like to retain my licence

The Legal Adviser to the Panel Stated that the policy falls between minor single isolated and multiple offences. With two small offences committed unintentionally, the Sub-Committee could take into account a driver's good record. Since the applicant was granted a licence last year and not committed any further offences, members needed to consider whether the policy should take effect in this instance.

The Sub-Committee asked all parties to withdraw to deliberate on this case and when they returned, they advised JWB of the decision below.

**RESOLVED – that the application to renew the HCD Licence of JWB be granted in accordance with section 59 of the Local Government (Miscellaneous Provisions) Act 1976**

**Reasons:**

The Committee considered that the policy applied in this particular case. It was noted that JWB was granted a licence last year notwithstanding his two motoring convictions but the new policy which is in line with National Standards guides local authorities that any applications for new licences can take retrospective convictions into account.

However, the Committee considered that on this occasion, JWB could be treated as an exception to the policy because of his good driving record over the past 12 years, he had not committed any further motoring offences since his last licence was granted and the Committee accepted his explanation that these offences were committed unintentionally. The Committee therefore determined to grant JWB's application for a HCD licence.

However, the Committee were somewhat concerned about JWB's attitude towards speeding by his comment that it is an "occupational hazard" because exceeding the speed limit by only 6 mph can be the difference between killing someone or the victim surviving. The Committee therefore take speeding convictions very seriously indeed even though they are treated as minor traffic offences. The Committee therefore decided to give JWB a verbal warning as to his future driving standards. He was further advised that if he is convicted of any further motoring offences, then the matter of his licence would be placed before this committee again for further consideration.

## 1. Date of Next Meeting

It was noted that the next meeting was scheduled to be held at 10am on Tuesday 16<sup>th</sup> November 2021.



Meeting ended at 5.30 pm

**CHAIR** \_\_\_\_\_

