

# Bristol City Council

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



**16 November 2021 at 10.00 am**

### **Members Present:-**

**Councillors:** Guy Poultney (Chair), Katja Hornchen, Jonathan Hucker (Chair) and Barry Parsons

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

Wayne Jones, Carl Knights (Licensing Policy Advisor), Shreena Parmar (Legal Advisor), Dakota Ferrara and Graham Lange

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

Councillor Guy Poultney welcomed everyone to the meeting and drew attention to the safety information.

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

There were no apologies for absence.

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

There were no Declarations of Interest.

### **1. Minutes of the Previous Meeting held on 21st September 2021**

RESOLVED – that the minutes of the above meeting are confirmed 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 CMR10 and CMR11 be suspended relating to the moving of motions and rules of debate.

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

RESOLVED – that the press and public be excluded from the following items of business 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. AG - Report To Determine Whether Action Should Be Taken Against The Holder Of A Hackney Carriage Driver Licence And Hackney Carriage Vehicle Licence.**

The Committee considered a report to determine whether action should be taken against the holder of a hackney carriage driver licence and hackney carriage vehicle.

Wayne Jones (Neighbourhood Enforcement Team) and PC Quinton were in attendance, as well as AG and his representative.

Wayne Jones presented this report and made the following comments:

- AG's current licence was due to expire on 14th July 2022
- Following an incident on 4th June 2021, PC Quinton had notified the Neighbourhood Enforcement Team on 27th August 2021 that AG had been observed using a hand held device while driving his vehicle. AG received a fine and 6 points on his licence. It was noted that this case would shortly be heard in court. AG had not notified licensing authorities of this incident as required
- It was also noted that there were several other endorsements on his licence between 2017 and 2020 relating to exceeding the statutory speed limit including exceeding the speed limit on the motorway
- In addition, between 2000 and 2020, AG had received a large number of other offences including a caution for failing to use a metre to record a journey and a failure to show a true fare on a taximeter, as well as allegations of using a mobile phone whilst driving, speeding, driving unprofessionally, overcharging and incorrectly displaying plates.
- Officers believed that AG was not a fit and proper person to hold a licence and that therefore his licence should be revoked

PC Quinton advised the Sub-Committee that there were further allegations of AG driving whilst using a mobile phone. Whilst AG had stated that the reason for the call was due to a phone call that he had received from the hospital, this had not been an emergency.



AG's Representative stated that AG requested leniency from the Sub-Committee on the grounds that he needed to retain his job as a Hackney Carriage Driver to pay his son's university fees and was unable to carry out any other work.

In response to Councillors' questions, the following was noted:

- AG would receive a suspension between 12 and 18 months. In accordance with Council policy, the total punishment was likely to be at least 5 years off the road
- An emergency was classified as a 999 call or an urgent incoming call which did not apply in this case. It was noted that the phone call was a standard medical check up from the hospital to AG concerning his kidney which had recently been removed
- The panel were unable to take into account any financial hardship that AG might face

In response to a question from the Licensing Adviser, AG indicated that he might have used a mobile phone whilst driving on other occasions before the recent policy change.

The Sub-Committee then asked all parties to withdraw to allow them to consider this decision.

Upon their return, Councillor Poultney advised them of their decision as follows

**RESOLVED (unanimously) – that the Sub-Committee determined to revoke Mr Gill's Hackney Carriage Driver Licence (HCDL) on the ground contained in 61(1)(b) of the Local Government Miscellaneous Provisions Act 1976, namely, any other reasonable cause, because the Sub-Committee could no longer be satisfied that he is a fit and proper person to hold such a licence.**

**The Sub-Committee applied the Council's own policy on using a hand-held device, whilst driving (which implements the Department for Transport's Statutory Taxi & Private Hire Vehicle Standards) which states:**

**Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.**

**Although the matter is yet to be heard at a criminal court later this month, in applying the above the Sub-Committee is satisfied that offending behaviour is proved to the satisfaction of the Council on the balance of probabilities and it did not consider there to be any justification for departing from the policy.**

**Whilst the offence of using a hand-held device whilst driving alone gives cause to revoke the HCDL, there are also speeding endorsements that were declared on renewal but Mr Gill did not inform the Council at the time of the offences as he is required to do so by the conditions on his licence. The Sub-Committee accepts that a single occurrence of a minor traffic offence may not necessitate the revocation of licenses providing that it considers that a licensee remains a fit and proper person to retain a HCDL and consideration is given to the nature of the offence and the penalty. The speeding**



endorsements, the hand-held device offence, failing to notify the council of convictions at the time, along with a previous history give Members cause for concern that he has shown a pattern of offending behaviour and in making its decision public safety and protection is a paramount consideration.

The personal and financial circumstances of the applicant are not a relevant consideration in arriving at this decision.

The Sub-Committee determined to take no action on the Hackney Carriage Vehicle Licence on this occasion however as Mr Gill's HCDL is revoked he cannot drive this vehicle as a hackney carriage.

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

The Sub-Committee considered an application for the renewal of a Private Hire Driver Licence seeking departure from Bristol City Council policy.

The applicant (KM) and Dakota Ferrara, Senior Licensing Officer, attended for this item.

Dakota Ferrara presented the report and made the following points:

- KM's licence had expired on 31<sup>st</sup> October 2021
- During 9 initial inspections carried out since the last grant of the licence on 30th March 2015, 7 of these had failed
- KM was requesting that his Private Hire Driver Licence was extended. Officers recommended that this was refused

Upon being questioned, KM made the following points:

- During the period of the COVID pandemic and in particular during 4 months when I was suffering from COVID, he was unable to work and had suffered financial hardship. In addition, he had to continue to pay insurance and other costs
- Therefore, due to a lack of savings, he was unable to upgrade his vehicle from a diesel vehicle to a petrol or petrol hybrid vehicle as required under the Council's new policy
- If the licence was temporarily extended by 6 months, this would enable him to obtain the savings to do this
- Since the vehicle has aged less during lockdown



The Sub-Committee noted the vehicle has carried out approximately 220,000 miles which was equivalent to other vehicles of its age.

KM and Dakota Ferrara were asked to leave while the Sub-Committee made its deliberations.

Upon their return, the following decision was announced.

**RESOLVED (unanimously) – that the Sub-Committee determined to refuse the application to renew the Private Hire Vehicle Licence seeking 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. The Sub-Committee is not 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 does not conform with Council policy in two respects; its age (now over 10 years old) and it is fitted with a diesel engine. The Sub-Committee has heard no evidence to satisfy it that the vehicle should be treated as an exception from the policy without undermining it or the reasons that underlie the policy. The Sub-Committee is also concerned with the mileage and the MOT failures with major defects over the last 5 years and as such it cannot justify departure from policy.

The personal (including financial) circumstances of the applicant are an irrelevant consideration in determining this application.

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

The Sub-Committee considered an application seeking departure from Council policy in respect of a Private Hire Driver (PHD) Licence.

The applicant (WA) and Graham Lange, Licensing Officer were in attendance for this item.

Graham Lange presented the report and made the following comments:

- WA had applied for a licence on 10<sup>th</sup> May 2021 requesting an exemption from the Private Hire Driver knowledge test
- Council policy since July 2021 required that the test was passed to enable a PHD licence holder to demonstrate a sufficient level of communication skills
- If WA was granted an exemption, he would still be required to pass the gold standard and other knowledge tests

WA stated the following:



- I have held a Private Hire Driver Licence with South Gloucestershire Council for 4 years
- I get my work through a chauffeur hire company and I am usually hired for a whole day to drive delegates around particular locations.
- Due to the pandemic, work has been significantly reduced.
- The company I work for has decided to get Bristol City Council plates as work is increasingly focused in this area. This significantly limits the amount of work I can now do since I can only drive certain cars
- Due to the chauffeur work I carry out, I will never need to know the locations of many street names, hospitals and schools as I pick clients up and drop them off from specific locations.
- I have passed the gold standard and other knowledge tests. The Private Hire Knowledge Test is the only test I haven't yet taken

The Licensing Adviser confirmed that, if the licence was granted, it could be done so with a condition stating that it could only be used for chauffeur type activity.

The Sub-Committee then asked WA and Graham Lange to withdraw from the meeting and made its deliberations.

Upon their return, the following decision was announced.

**RESOLVED (unanimously) that the application for a Private Hire Driver Licence is granted with an exemption from knowledge test due to the nature of the work which the Sub-Committee is satisfied provides justification to depart from policy. Condition to only work for the specified operator.**

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

Councillor Guy Poultney left the meeting at this point and was replaced by Councillor Jonathon Hucker.

The Committee considered an application for a Private Hire Driver (PHD) licence seeking a departure from Bristol City Council policy.

Dakota Ferrara attended for this agenda item, together with the applicant (FA), her husband MA and a friend accompanying them.

Dakota Ferrara introduced this report and made the following comments:

- The applicant had first registered this vehicle which was fitted with a diesel engine on 29<sup>th</sup> July 2020 and had applied for a licence on 20<sup>th</sup> September 2021
- Since the Council's new policy from July 2021 required that all vehicles were fitted with either a petrol or petrol hybrid engine, the Sub-Committee was recommended to refuse this application



The friend of FA and MA made the following points, supported by MA as required:

- MA had contacted Licensing and had asked what information was required to obtain a PHD licence. At this point, it had not been made clear that their vehicle would need to be converted
- MA needed to use a 6 seater care to enable him to take children on school runs as part of his job.
- On the basis of the information given to him by Licensing and since a 6 seater vehicle was required, MA borrowed some money to purchase a 6 seater vehicle.
- Since Licensing had advised that financial hardship was not something that could be taken into account, MA had changed ownership to his wife so she could provide the necessary finance
- A lot of money had already been spent on this care which had now been off road for 2 months
- MA referred to a particular e-mail which had not clarified that they would require a petrol/petrol hybrid. It had only required submission of my wife's name and the requisite fee
- Due to his financial circumstance, MA was unable to afford any further car
- MA was aware of other PHD vehicles which were 7 or 8 seater and which were diesel vehicles

Dakota Ferrara made the following comments:

- Some exceptions to policy had been made in respect of 7/8 seater vehicles since these were all diesel powered but none for 6 seater vehicles which were more common and cheaper
- Whilst confirmation that a specific vehicle complied with policy could never be made until an application was submitted, an e-mail in August 2021 had explained the policy clearly.

The Sub-Committee asked Dakota Ferrara, together with FA, MA and their friend, to withdraw from the meeting to enable them to deliberate on this application.

Upon their return, the following decision was announced:

**RESOLVED (unanimously) – that The Sub-Committee determined to refuse the application for the grant of a Private Hire Vehicle Licence seeking departure from council policy on as the Sub-Committee is not 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 Council's latest policy (July 2021) and the policy prior to that (April 2018 onwards) in relation to the Private Hire Vehicle specification clearly states the position with regards to engine type: Vehicles will not generally be accepted for private hire licensing unless they comply with the following specification; 1. Vehicles presented for licensing on the first occasion shall be petrol, petrol hybrid or an Ultra-Low Emission Vehicle (ULEV, excluding diesel ULEV vehicles)...and this information and along with the links to the website and policy was emailed to the applicant's representative in August 2021.**

**It appears to the Sub-Committee that the applicant made a calculated risk in purchasing the vehicle, despite having been advised of the policy, which was within her remit to do so however**



**the reliance on other vehicles being licenced isn't considered as justification to depart from the Council's policy without undermining it or the reasons that underlie it.**

**The applicant has failed to put forward sufficient reasons to convince the Sub-Committee that there are exceptional reasons to depart from policy.**

**The personal and financial circumstances of the applicant are not a relevant consideration in determining this application.**

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

The Committee considered an application for the grant of a Private Hire Driver (PHD) licence seeking a departure from Council policy.

Dakota Ferrara, Senior Licensing Officer, attended for this application together with AA (applicant) and two representatives from Allen Hall Solicitors.

Dakota Ferrara introduced this report and made the following points:

- AA had made an application for the renewal of his licence on 17<sup>th</sup> September 2021 which was due to expire on 21<sup>st</sup> September 2021
- Following a complaint received by the Neighbourhood Enforcement Team on 20<sup>th</sup> September 2021, the following previous police investigations were noted – investigation of an allegation of rape made on 4<sup>th</sup> January 2017 and two separate offences on 5<sup>th</sup> and 10<sup>th</sup> February 2021 concerning failure to identify the driver of a vehicle and exceeding the statutory speed limit on a public road
- On making the application, AA had signed to confirm that he was not being investigated for any offence by the Police
- Officers recommended that the application should be refused

The representative from Allen Hall Solicitors made the following points:

- AA had never been arrested for any offence. He had attended a voluntary interview following an allegation of rape which had been made maliciously against him.
- AA has 24 years' experience as a taxi driver including 7 years as a Private Hire Driver
- During the incident in question in 2017, AA had consensual sexual intercourse with a passenger
- A female passenger sat in the front of the vehicle despite being requested not to and had made sexually suggestive remarks to him



- AA has since realised how inappropriate his behaviour was and has made a lot of changes to his private life and to how he conducts himself and as a driver
- AA now does not generally work at night time to avoid such situations. His work now involves much more home to school transport work dropping off children at school, some of whom have autism
- There have been no further incidents like this since 2017. This was a momentary lapse in judgement
- AA provided a number of character references from his sister explaining that he is a kind and dedicated father and from his employer explaining that he is competent and professional
- AA has indicated that he will obtain CCTV for his vehicle and will shortly be attending a safeguarding course for taxi drivers
- He didn't disclose his voluntary attendance at the police's request concerning the rape allegation as he was subject of a malicious accusation. The detective advised him that the matter was resolved and that all the information about the incident on the system would be removed. As it could be interpreted that he had been arrested, he was reluctant to disclose this. He now understands that full disclosure would be required of him in future.
- In relation to the speeding offences, AA had paid the full amount. He was not working at the time of the offences and the offences were not very severe (27 mph in a 20 mph zone and 47 mph in a 40 mph zone) and no other vehicle was at risk
- AA now also understands that any offence must be declared the following working day as opposed to when it goes to court and will ensure that he adheres to this requirement in future. He has now disclosed all the required information to the Police and courts

In response to questions from the Sub-Committee, AA's representatives and AA made the following points:

- AA did not realise it was his obligation to reveal the rape allegation since he had attended in a voluntary capacity and assisted the Police. In addition, it was subsequently deemed to be a malicious allegation and did not realise that it needed to be disclosed
- AA was not generally carrying out night time work. However, he acknowledged the recent incident reported at Tokyo World music festival which took place at night time
- AA had pleaded guilty to the speeding offences straight away and had put the confirmation form in the post. However, he had not received any acknowledgement
- The incident with a female passenger had been consensual as indicated by the Police which was set out in the paperwork
- AA confirmed that he had received the gold standard training
- AA stated that he had not expected and was shocked that a female passenger had made sexual advances towards him. He was worried about the impact on his wife and family. If this ever happened again, he would ask them to leave the vehicle and/or call the Police as he did not want ever again to be in that situation

The Sub-Committee then asked Dakota Ferrara, AA and his two legal representatives to leave the room while they made their deliberations.



Upon their return, the Sub-Committee announced the decision as follows:

**RESOLVED (unanimously) – that TO BE COMPLETED BY SHREENE PARMAR**

### **1. Date of Next Meeting**

It was noted that the next meeting was scheduled to be held at 10am on Tuesday 18<sup>th</sup> January 2022.

Meeting ended at 5.20 pm

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

