

# Bristol City Council

## Minutes of the Public Safety and Protection

### Sub-Committee B

20 November 2018 at 10.00 am



**Members Present:-** Councillor Carole Johnson, Councillor Steve Jones and Councillor Ruth Pickersgill (Chair)

**Also in attendance:-** Ashley Clark – Legal Services, Shreena Parmer – Legal Services, Carl Knights – Licensing Section (items 6-9 and 12-14), Alison Wright – Licensing Enforcement Officer (for item 10), Andy Lyle – Licensing Enforcement Officer (for item 10), Wayne Jones – Licensing Enforcement Officer (for item 11) and Corrina Haskins – Democratic Services

#### 1. Apologies

Apologies for absence were received from Councillor Fi Hance.

#### 2. Declaration of Interest

There were no declarations of interest.

#### 3. Public Forum

There was no public forum.

#### 4. 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.

#### 5. 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.

#### 6. Application for the Renewal of a Hackney Carriage Driver's Licence - SS



The Committee considered an application for the renewal of a Hackney Carriage Driver's Licence.

The applicant, SS, was in attendance.

The Licensing Officer outlined the background to the case and recommendation to refuse the application:

- SS had held a licence since 1999 which had expired in October 2018 and when applying for the new licence declared a sixth month "totting up" driving ban ending on 20 September 2018;
- SS had two previous speeding offences and had committed a further three speeding offences on the same stretch of the M32 within less than two weeks which had resulted in the ban;
- SS should have notified the Licensing team about the speeding offences at the time of the incidents in accordance with the conditions of the licence;
- In accordance with the Council Policy, a licence should not be given until twelve months after the ban and therefore the recommendation was to refuse the application;

The Applicant made the following case:

- He was not aware that he had to inform the Licencing team about the speeding offences at the time of the incidents, and if he had known that he would have done so as he had declared them when making an application to renew his licence;
- He had received three speeding tickets over the course of a few days as he was not aware that the particular stretch of road had a reduced speed limit, had he known he had committed the first offence earlier, he would have been alerted to the change and would not have committed the following two offences.

The Licensing Officer and Applicant withdrew from the meeting to allow the Committee to discuss the case and returned to hear the decision.

**RESOLVED** that the application for a renewal of a Hackney Carriage Drivers Licence by SS be approved for the following reasons:

- The Committee were mindful that SS was unlikely to have committed the two further speeding offences on the same stretch of road if he had received earlier notification of the first offence;
- The Council Policy was not explicit in relation to "totting up" offences and whether the twelve month period in which an application could not be made for a renewal of a licence should be from date of conviction. The Committee was minded to reduce this period from twelve months to six months, and in view of the fact that the six month period had expired in September 2018, SS should be granted a renewal of his licence.

## 7. Application for a Grant of a Hackney Carriage Driver's Licence and consideration of the conduct of a Private Hire Driver - OE



The Committee considered an application for the a Grant for a Hackney Carriage Driver's Licence and the conduct of a Private Hire Driver.

The applicant, OE, was in attendance at the meeting with his solicitor and other representatives.

The Licensing Officer outlined the background to the case as follows:

- OE's previous licence had expired and on applying for a late renewal (grant) of the licence he failed to declare three endorsements. Although two of the convictions were outside the six month period, the latest endorsement took place in July 2018;
- OE had been the subject of three complaints:
  - He had been unable to take a fare involving a disabled child as the seatbelt in his vehicle was not working;
  - He had been accused of using a phone whilst driving, although he has stated that this was a hands free set;
  - He had failed to engage his meter which had escalated into a dispute with a customer resulting in the customer making an emergency call to the police.

The Committee heard an audio recording of the emergency call whereby the applicant was accused of refusing to let the passengers out of the taxi.

The Committee offered OE and his representatives an opportunity to adjourn the meeting to consider the audio recording, but they agreed to continue with the proceedings.

OE's solicitor presented the case for granting the licence:

- the application had come before the Committee because of OE's failure to declare the three endorsements on his driving licence, but it was not clear that he had to declare the first two as they were outside the six month limit;
- OE had been a taxi driver for twenty years and had assumed that any endorsements would already be on his record;
- OE accepted he should have declared the endorsements, but this was omitted in error. At the time of filling out the form he was distracted by personal circumstances as his mother was gravely ill;
- In relation to the complaints, the first two were treated by the Council without sanction. He acknowledged that the third was the most serious and OE had admitted that he did not engage the meter, but he had offered the customer a discount. The situation had escalated following a dispute over the fare and OE offered to repeat the journey again engaging the meter. OE had accepted that this was not the right way to deal with a dispute and had sought advice from his union on how to deal with a similar situation in the future.

In response to questioning from the Committee it was noted that:

- a warning letter had been sent to OE following the most recent complaint, but the Neighbourhood Enforcement Team were unable to find a copy of the letter;



- it was appropriate for the Committee to look at the entire history of a driver when considering if they were a fit and proper person to hold a licence.

The Licensing Officer, applicant and his representatives withdrew from the meeting to allow the Committee to discuss the case and returned to hear the decision.

## **RESOLVED**

- (1) that the application by OE to grant a Hackney Carriage Driver's Licence be refused on the grounds of:
  - a. the following breaches of Hackney Carriage Byelaws:
    - i. Not keeping his vehicle in an appropriate condition as evidenced by tyre and seatbelt defects;
    - ii. Failure to engage the taximeter;
  - b. the breach of licensing conditions by failing to notify the Licensing Office of a speeding endorsement in July 2018;
  - c. keeping passengers in the vehicle against their will was a "reasonable cause" to not grant a licence in accordance with Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.
- (2) that OE's private hire driver's licence be suspended for a six month period on the grounds that keeping passengers in the vehicle against their will was a "reasonable cause" to suspend a licence in accordance with Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

### **8. Application for the Renewal of a Private Hire Driver's Licence - AMH**

The Committee considered an application for the renewal of a Private Hire Driver's Licence.

The applicant, AMH, was in attendance with representatives and an interpreter.

The Licensing Officer outlined the background to the case and the recommendation to refuse the renewal of the application:

- the applicant had made an online application to renew his licence and had made a false statement by failing to declare he had received eight penalty points for a driving conviction.
- The applicant had breached the conditions of his licence by failing to declare the incident at the time of the accident.

AMH made the following case for renewing his application:

- At the time of the accident on 5 February 2015, he had his application ready to submit which he did so on 23 February. The court hearing was not until November 2015 and so at the time of submitting the application he did not have points on his licence.



- He had submitted his previous application in 2015 by hand and at that time, he was still suffering injuries relating to his accident and was not advised by the Licensing Section that he should declare the accident;
- When looking to renew his licence he applied for a DBS check and this was issued without conviction and therefore he did not consider that he had to report anything in his application. He misunderstood the term “any spent convictions must be declared”
- He was a Community Leader and would not have knowingly breached the conditions of his licence or failed to make a declaration.

In response to questioning, the following points were clarified:

- AMH confirmed that his accident had involved a collision with a lorry during difficult road and weather conditions;
- The Licensing Office confirmed that, when dealing with the application in person, an officer may not have associated AMH’s injuries with a driving conviction and therefore would not necessarily advised him of his requirement to declare the incident.

The Licensing Officer, Applicant and his representatives withdrew from the meeting to allow the Committee to discuss the case and returned to the meeting to hear the decision.

#### **RESOLVED**

- (1) that the application to renew a Private Hire Driver’s Licence by AMH be approved for the following reason:

That although there had been a breach in licensing conditions and a failure to disclose information, the Committee accepted that this had not been intentional and that AMH is considered to be a fit and proper person to hold a private hire licence.

- (2) That AMH be warned to take care to read the conditions of his licence and in submitting further applications.

#### **9. Application for the Renewal of a Private Hire Driver's Licence - ZL**

The Committee considered an application for the renewal of a Private Hire Driver’s Licence. It was noted that the applicant had submitted additional evidence in support of his character.

The Licensing Officer reported that the applicant had failed to declare three driving endorsements in making his application to renew his licence.

ZL confirmed that he had nothing to add to his written submission circulated with the papers.

In response to questioning, the applicant confirmed that he had appealed against the decision to add six points to his licence and this was reduced to three points on appeal as he did not believe that he was driving without due care and attention. He confirmed that he had not declared the incident to the Licensing Team as he did not think he needed to do so.



The Licensing Officer and Applicant withdrew from the meeting to allow the Committee to discuss the case and returned to hear the decision.

## **RESOLVED**

- (1) that the application for a renewal of a Hackney Carriage Drivers Licence by ZL be approved for the following reason:  
Although the conditions of the licence had been breached, the Committee agreed that it was not an intentional act and that ZL was a fit and proper person to hold a licence.
- (2) that ZL be warned to take care in reading the conditions of the licence and submitting further applications.

### **10. To consider if a Hackney Carriage Driver is a fit and proper person to hold such a Licence - HA**

The Committee considered whether HA was 'fit and proper' following an investigation by the Neighbourhood Enforcement Team, as a result of the driver allegedly refusing or neglecting to take a wheelchair passenger without reasonable cause.

HA was present along with his solicitor and representatives. The complainant was also in attendance.

The Licence Enforcement Officers circulated an additional statement by PC Quinton and reported that:

- investigations had been made following a complaint by another taxi driver that HA had neglected to take a wheelchair passenger and showed the committee dashcam footage from the complainant;
- HA had been interviewed by the Enforcement Team but the recording of the meeting was inaudible;
- HA had claimed that he had a smaller taxi and the passenger may have preferred a larger vehicle;
- The passenger had been invited to attend the Committee to give evidence but was unable to attend.

The Complainant confirmed that he had brought the complaint as he had regularly witnessed drivers neglecting to take wheelchair users.

HA's Solicitor presented the case as follows:

- HA did not refuse or neglect to take the wheelchair passenger, but asked her if she would prefer to use a bigger taxi as he did not have room in the back for the other passenger and luggage;
- HA did not accept the passenger's statement that he approached her, and instead he had approached the complainant;
- HA accepted that he should not have said that his boot was full as this was not true;



- HA had been a driver for fourteen years with no previous complaints and submitted a number of character references which were circulated to the committee.

Following questions, it was confirmed:

- HA was not aware that his vehicle was capable of fitting a wheelchair user and an additional passenger in the back;
- HA had received training on carrying wheelchair users, but this had been in his previous vehicle;
- HA had carried wheelchair users in his current vehicle.

The Licensing Enforcement Officers, Applicant and his representatives and Complainant withdrew from the meeting to allow the Committee to discuss the case and returned to hear the decision.

## **RESOLVED**

- (1) that HA had breached Section 53 of the Local Government Act (Miscellaneous Provisions) 1976 by neglecting to take a fare, but due to the fact that the six month timescale had elapsed for a suspension of licence, no further action be taken;
- (2) that HA be warned that his behaviour in neglecting to take a disabled passenger was not acceptable and he be advised to undertake a refresher course in how to use his vehicle for disabled passengers.

## **11. Report following a Police Investigation - SA**

The Committee considered if any action should be taken relation to the Private Hire Vehicle Licence of Toyota Avensis, Registration Number NU12 ECA.

The owner of the vehicle, SA, was not present at the meeting.

WJ summarised the case and asked the Committee to determine whether any action should be taken following police investigations into SA using the vehicle as a private hire vehicle while not having a licence to operate as a private hire driver. He reported:

- The PSP Committee had agreed not to renew SA's driver's licence in 2015;
- The Police Officer had reported three occasions where SA had been witnessed driving the licensed vehicle.

In response to questioning, WJ confirmed:

- The vehicle currently had a Private Hire Vehicle Licence but SA, the owner of the vehicle, did not have a licence to drive a private hire vehicle;
- SA had asked for the case to be deferred from a previous meeting but had not responded to a request to attend this meeting although a letter had been hand delivered to him advising him of the date.

WJ withdrew from the meeting to allow the Committee to discuss the case.



In considering the evidence, the Public Safety and Protection Committee:

**RESOLVED** that the Private Hire Vehicle Licence for the Toyota Avensis Registration Number NU12 ECA be revoked in accordance with the Section 60 of the Local Government (Miscellaneous Provisions) Act 1976, on the grounds that the owner, SA, who is not a licensed driver, has on at least three occasions driven the licensed vehicle in contravention of Section 46 of the Local Government (Miscellaneous Provisions) Act 1976.

**12. To consider if a Hackney Carriage Driver is a fit and proper person to hold such a Licence - SG**

This application was deferred to a future meeting.

**13. Application for the Renewal of a Private Hire Driver's Licence - AH**

This application was deferred to a future meeting.

**14. Applications for the Grant of a Hackney Carriage and Private Hire Driver's Licences - KS**

The Committee considered an application for the grant of a Hackney Carriage and Private Hire Driver's Licences.

The applicant, KS, and his solicitor were present.

The Licensing Officer reported that:

- The application was for a grant application as the previous licence had expired;
- The applicant had a conviction for assaulting a police officer and, at the time of the offence, had not notified the Licensing Office which was a breach of the licence conditions.

KS's solicitor made the following case:

- KS was given a twelve week conditional discharge as the result of the incident and did not think he had to declare this;
- The incident was a domestic dispute where both KS and his wife had called the police and on arrival the police constable had tried to handcuff KS which was not an appropriate course of action. KS had tried to push the handcuffs away and this led to the charge of assaulting an officer;
- The reaction of the police had seemed disproportionate to the incident and KS had been sprayed with CS gas;
- KS had been advised at court to plead guilty to pushing the officer which he accepted to avoid a more serious charge;
- KS accepted that he had not contacted the Licensing Section but he was taken ill as a result of the incident and had travelled abroad to recover;





- KS had now recovered and wanted to continue working as a Hackney Carriage/Private Hire driver.

In response to questioning it was confirmed that KS had not declared the incident at the time, but had declared it later when making an application to renew his licence.

The Licensing Officer, KS and his solicitor withdrew from the meeting to allow the Committee to discuss the case and returned to hear the decision.

**RESOLVED** that, having taken into account the particulars of the case and considering KS to be a fit and proper person, a departure be made from the Council Policy requiring five years pass before an application can be granted following an assault on a police officer and KS be granted a Hackney Carriage and Private Hire Driver's Licences.

The meeting ended at 4.40pm

