

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee A

18 December 2018 at 10.00 am



Members Present:- Councillor Richard Eddy (Chair), Councillor Christopher Davies, Councillor Sultan Khan, Councillor Estelle Tincknell and Councillor Mike Langley

Officers in attendance:- Ashley Clark – Legal Services, Abigail Holman – Licensing Section
Alison Wright – Neighbourhood Enforcement Team (part), Claudette Campbell – Democratic Services

1. Apologies and substitutions

There were none

2. Declarations of Interest

There were none.

3. Public Forum

Nothing was received.

4. Consideration of the Suspension of Committee Procedure Rules CMR10 and CMR11 Relating to the Moving of Motions and Rules of Debate for the Duration of the Meeting

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. To seek consideration of an application for the renewal of a HCD Licence – SA (Agenda item 6)

SA was in attendance accompanied by an Interpreter

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Licensing Officer introduced the report and summarised it for everyone.

Committee were reminded that the application was deferred from the 4th December agenda because an Interpreter could not be provided. The following was highlighted;

- That the applicant had failed to declare a CU80 penalty on his licence
- That he failed to attend occupational medical assessment on the 12th December; the medical assessment was required to consider the existing disabilities and weakness in his right hand; to assess the applicants ability to meet DVLA group 2 entitlement 'fitness to drive'
- Were reminded of two complaints on his record from 2016 & 2017

Members assisted the applicant through his Interpreter by putting questions for clarification:

- SA was asked for the reason why he failed to attend the medical assessment. He explained that because he was no longer working he had limited resources so unable to pay for the appointment. He further explained that he was also unwell and decided that when he was feeling better he would call to make a further appointment.
- SA was asked about his injury. He explained that he had fallen and that his Doctor had given him medication to apply to the area. That he had no evidence of his Doctor's medical consultation.
- SA when asked confirmed that he was in Pakistan from 24th September to 8th November. Further explaining that he was led to believe from Officers that his 'badge' would be issued whilst he was away. As a result of enquires made over the telephone on the 1st October when he was advised that the driving offence & medical condition combined, meant the badge would not be reissued.



- SA shared that as a disabled persons he believed he received better assistance from staff at his local petrol station than from Officers in the Licensing office. He expressed his concerns about the negative perception of him speaking loudly; that he had caused no damage to customers whilst driving and that the situation had damaged him. That his daughter filled out the renewal form and had completed the form incorrectly.
- SA was asked to give an explanation of the mobile incident. He explained that he was on his way to the mosque for Friday prayers, his wife had called 3 times and he believed that indicated a family emergency.
- SA affirmed that it was the first time in 25 years he had been given points on his licence.

The Licensing Officer, applicant and the Interpreter left the room while the Committee made its decision.

Decision

Members considered very carefully all of the written and verbal evidence presented to them.

They noted their Policy that where a conviction is within 6 months of the date of the application, it merit refusal. Noted that he alleged that his daughter completed the application and he did not view penalty points as a conviction. That there had been 2 different types of complaints against him over the last couple of years. They then considered the situation with regards DVLA group 2 medical fitness test and whether he was fit to drive. The medical assessment had not taken place and until a report was produced on his condition(s) the test cannot be answered.

Members next considered the applicants action in line with the 'fit & proper person' criteria and although admiring his commitment to working despite his disability, they viewed the use of a mobile phone whilst driving a serious offence.

Members were unanimous in their decision that the application should be refused; that the application should be invited to replay for his licensing after 3 months had elapse, this allowed for the 3 months that he had been off the road. The applicant must attend an occupational health assessment to satisfy that he met the group 2 DVLA medical fitness to drive test and the result of the examination must accompany his application for his licence.

Everyone returned to the room to hear the announcement of the decision.



Resolved – that the application for a Hackney Carriage Driver (HCD) Licence made by SA be refused as he has not convinced the Council that he is a fit and proper person to hold such a licence.

7. To seek consideration of a licensed Private Hired Driver (PHD) to be consider a fit and proper person to hold a licencing following on from PC Quinton’s report (AM)
(Agenda Item No. 7)

AM was in attendance.

PC P Quinton was in attendance as was Alison Wright Neighbourhood Enforcement Officer.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Chair invited PC Quinton to introduce the report and played the video footage from his body camera. Explaining that from experience he was able to determine from viewing how a vehicle was positioned and for how long and the conversation between customers and driver if a driver is plying for trade.

The following was highlighted:

- That the passengers had noticed the police car pursuing and asked AM to stop; that they had not booked the fare but approached AM asking him to take them to Easton for £10
- The passengers in their statement stated that they had insisted AM pull over when he failed to respond to the police pursuit.
- AM’s uncertainty about the name of the alleged person who booked the fare and his inability to evidence the job on his pda.
- The reasons were given as to why there was some doubt around the narrative provided by AM about the alleged origin of the booking; the story provided stated that it had been made by door staff or another representative from the club; the Officer had conversations with the door staff in an attempt to substantiate the narrative but was unable to do so.
- AM had not been violent or abusive in any of his encounters with police officers involved but on first approaching the vehicle because there was some doubt, as to why AM was reaching under his seat he was arrested for a short time and handcuffed.



AM then put his case highlighting the following:

- Expressed his distressed about being handcuffed after the police pursuit explaining that that he was reaching for his phone under the seat.
- Explaining that he noticed the police car flashing lights but was unable to pull over safely along the road because of parked vehicles and deemed it best to pull over in Fairfax street
- He provided a further explanation as to why the fare was booked using his mobile phone contending that the booking happened at 1.05am and that he was approached by the police officer sometime after.
- AM asserted that as a result of consulting with the licensing office had placed 2 identifying stickers on display in his vehicle therefore was compliant to policy.

The Licensing Officer, applicant and solicitor left the room while the Committee made its decision.

Decision

Members considered very carefully all of the written and verbal evidence presented to them.

They noted their Policy concerning 'plying for hire' and 'fit and proper person'; that if the circumstances surrounding the offence was consider so serious it was within their authority to suspend AM licence for up to 6 months and/or revoke.

Members expressed concern that he failed to stop when being pursued by the police, noting the statement made by the passengers regarding this. Considered the narrative provided by AM about the job could not be trusted because the report presented by the Officer clearly evidenced that AM's version of events could not be substantiated.

Members were concerned that his actions meant that whilst he had the passengers in the car he was driving without insurance. They noted the defects on the vehicle; his failure display his badges in the proper manner; historical issues unearthed relating to his licence.

Members were satisfied that AM had breached his licence by 'plying for hire' and following a vote on whether to suspend his licence for 6 months or revoke; they further considered the narrative around the allegation; AM version of events and the untruths shared; that if AM had been open and honest about the fare they could have taken this in mitigation; that



his actions deemed him not 'fit and proper person'; when put to the vote (3 for and 2 against) members agreed that AM's licence should be revoked.

Everyone returned to the room to hear the announcement of the decision.

Resolved – that the AM's Private Hire Driving License, badge number 3305, expiration date 08.08.2019 be revoked

8. To consider if a Licence Holder is a Fit and Proper Person following a Motoring Conviction – TJP (Agenda Item No. 9)

TJP was in attendance.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Licensing Officer introduced the report and summarised it for everyone.

- TJP PHD licence expired on the 25th August 2018 and he had made an application for renewal on the 30th July 2018.
- On that application, contrary to policy, TJP had failed to declare driving convictions.
- TJP had advised under separate cover of two SP30 penalties received that had occurred when he exceeded the limits imposed on the M32 variable speed limit section.
- TJP had no further incidents on his driving record.

TJP made the following presentation

- TJP apologised explaining that he had returned to driving and using the slip road on the M32 and was unaware of the change in the speed limit for that section of the motorway.
- That he had advised the licensing office by email of the convictions but had not declared it on the application form, and that was a misunderstanding.
- That he had been caught just over the 40mph limit by 6/7 mph on both occasions.

TJP left the room to enable committee to make its decision.

Decision



Members considered very carefully all of the written and verbal evidence presented to them.

Members noted the circumstances related to the penalty points; noted that TJP had informed the Licensing Office but failed to complete the form correctly; Members suggested that the question on the form be revised to aid understanding; members were reminded of policy that required an applicant to be without conviction for 6 months prior to making an application; consideration was given as to whether to suspend the licence or give a warning allowing the application to be granted.

When put to the vote; (4 for warning and 1 suspension) members agreed that a warning would be given and the application be granted.

All parties returned to the room for the decision.

9. To consider if a Licence Holder is a Fit and Proper Person following a Motoring Conviction – MMA (Agenda Item No. 8)

MMA was in attendance.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Licensing Officer introduced the report and summarised it for everyone.

- MMA had held a Private Hire Driver licence since 2003 and he had made an application for renewal.
- DVLA search revealed SP50 endorsement.
- MMA had declared the endorsement but due to Officer error the application had not be referred to committee for consideration.
- The endorsement period was from Feb 2015 to Feb 2019.

MMA made the following representation:

- That he was caught speeding when returning from London at 3am in the morning; there was a temporary speed limit imposed and he was caught doing 70mph.
- That he had pleaded guilty to the offence and informed licensing office in 2015.



MMA left the room to enable committee to make its decision.

Decision:

Members considered very carefully all of the written and verbal evidence presented to them.

Members noted that MMA had sought to inform a Licensing Office as required and considered legal advice. That this matter should have been brought before committee by Officers. Since that endorsement he has had no further endorsement on his licence. Members considered speeding a serious offence, that under different circumstances would require them to proceed as outlined in policy, in this instance the applicant had no intention to deceive and had acted as prescribed; on being put to the vote it was resolved (unanimous) that the application be issued with a warning and the application be granted.

MMA returned to the room for the decision.

10. To consideration of an application for the grant of a Hackney Carriage Driver – HZ (Agenda Item No. 10)

HZ was in attendance.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Licensing Officer introduced the report and summarised it for everyone.

- HZ had surrendered his licence on 20th March 2013. Application for new grant was refused by Committee on 13th November 2015.
- DBS enhanced certificate gave details of a conviction for ‘assault’ in November 2012; that records noted a number of historical complaints against him.
- HZ application included a request for exemption from taking the Gold Standard and Knowledge test.
- Officers were looking to Committee to refuse the application.

The following was noted from HZ presentation:



- HZ explained that as a driver he was in his right to refuse passengers he deemed to be rude, drunk and aggressive.
- That he was unaware of the 2013 complaint on his record, detailed in the report, until he attended the previous committee hearing.
- HZ advised that he respected the letter of the law and police; the incidents were 6 years ago and he now needed to work to support his family; that he worked as a lorry driver; apologised that he did not have adequate insurance at the time he was working.

HZ left the room to enable Committee to make a decision.

Members considered very carefully all of the written and verbal evidence presented to them.

Members noted policy; clarified what was considered good grounds for refusing to take a passenger; noted all the historical complaints set out in the report in order to consider whether HZ passed the 'fit & proper' test; Members were concerned that the nature of the complaints were related to 'assault' on passengers, resulting in conviction; that policy directed that applicants must be free from convictions for 5-10 years; that the nature of the historical incidents cast doubt on HZ character.

On being put to the vote members resolved (unanimously) to refuse the application; they had grave concern about public safety; the historical assaults on passengers meant that HZ failed the 'fit & proper' test and public safety was the committee's primary concern.

HZ returned to the room to hear the decision.

11. To consideration of an application for the grant of a Private Hire Driver Licence and exemption – MS (Agenda Item No. 11)

MS was in attendance.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Licensing Officer introduced the report and summarised it for everyone.

- The applicant sought exemption in his application from completing the fit and proper requirements, as outlined in the report.



- Members were reminded of the reasons for the 5 part assessment.
- Members noted that committee had departed from the requirement for Gold Standard Course and Knowledge test only after being presented with good reasons to do so but not the other aspects of the test.
- Officers recommended refusal of the application.

The following was noted from MS representation to committee:

- MS explained that he was due to retire from the Police force within the next 5 years. In anticipation he worked as a private hire Chauffeur, taking clients to Heathrow Airport, on his days off.
- MS had no intention to work as a private hire taxi driver as he was looking to do more exclusive and select work.
- MS confirmed that as a serving police officer he had been vetted to the highest level to allow him to work undercover.
- MS police medical had revealed nothing of interest. That he drove to the highest police professional standards required.
- That as he was intending to work outside Bristol, to and from Heathrow Airport, the Knowledge Test based on Bristol locality would not be of benefit to him.
- Members enquired about the vetting process and whether MS had any documents to prove his identity and training received in the course of his employment.
- MS produced his warrant card. The licensing officer inspected same to confirm his status as a serving police officer.
- MS did not have any documents with him to confirm the driver refresher course under taken in September 2018 and training to enable him to engage in car pursuits.

MS left the room to enable Committee to make a decision.

Members considered very carefully all of the written and verbal evidence presented to them.

Members considered their policy; sought clarity on whether there were any circumstances under which the requirement for a DBS check and DVLA check could be waived; MS had not produce any medical evidence; Members were reminded that the Gold Standard included training on how to manage the elderly and disabled person in addition to have to deal with general public; Members considered whether in his presentation he demonstrated that he had knowledge of dealing with the general public; Members then deliberated on the request to be exempt from the Knowledge test; MS did not produce a letter from the



company to confirm the type of work that he would be engaged in therefore considered whether is representation satisfied them.

Members accepted that MS would be engaged as an executive chauffeur and resolved (unanimously) that MS would be exempt from the requirement to sit the Gold Standard Course and knowledge test but MS would be required to submit to the Group 2 Medical, DBS and DVLA requirements.

MS returned to the room to hear the decision.

12. To consideration of an application for the grant of a Private Hire Driver Licence and exemption – AQ (Agenda Item No. 13)

AQ was in attendance.

The Chair explained the procedure that would be followed and everyone introduced themselves.

The Licensing Officer introduced the report and summarised it for everyone.

- AQ applied for the grant of a new PHD Licence asking for exemption from the knowledge test.
- Members were reminded of their policy requirements for all applications .

The following was noted from AQ's representation:

- AQ explained that he work from home as a Finance Manager and telephone bookings for his brother's chauffeur business.
- The business was concerned with transporting actors to and from production studios, usually in and around Cardiff and to various hotels in the wider region. They also provided a service to and from Heathrow Airport.
- AQ required a licence to work within the Bristol area to allow cross region working and to drive the cars with Bristol plates.
- AQ asked Committee to grant an exemption from the Knowledge test because of the executive work primarily in the wider greater region.

AQ left the room to enable Committee to make a decision.



Members considered very carefully all of the written and verbal evidence presented to them.

Members were provided with written evidence to evidence the executive work that would be undertaken; noted that AQ request for exemption was limited to the knowledge test because he would be driving in the wider region.

Members resolved (unanimous) to grant his application to include an exemption from the requirement to sit the Knowledge Test.

AQ returned to the room to hear the decision.

Meeting ended at 3.50 pm.

Chair

