

Bristol City Council

Minutes of the Public Safety and Protection

Sub-Committee A

13 March 2019 at 10.00 am



Members Present:- Councillor Christopher Davies, Councillor Richard Eddy (Chair), Councillor Sultan Khan, Councillor Mike Langley and Councillor Fi Hance for (Estella Tincknell)

Also in attendance:- Corrina Haskins – Democratic Services, Wayne Jones – Neighbourhood Enforcement Officer, Carl Knights – Licensing Officer, Shreena Parmar – Legal Services and Councillor Olly Mead

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Estella Tincknell and Sultan Khan.

2. DECLARATION OF INTEREST

Councillor Sultan Khan confirmed that he had previously declared that the applicant had contacted him but, in accordance with the Member code of conduct, was confident that he did not have a conflict of interest and could make an impartial judgement.

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. TO SEEK CONSIDERATION OF AN APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER (PHD) LICENCE AMC (AGENDA ITEM 7)

The applicant, his legal representative and a witness were in attendance. Also in attendance were the Civic Enforcement Officer (CEO), Parking Services Manager and Police Community Support Officer (PCSO) who had attended the incident.

Cllr Eddy reported that the applicant's representative had requested that witnesses be excluded for part of the hearing, but that this had not been agreed as it was not the normal procedure of the Committee to exclude witnesses and there was no reason to do so in this case.

The Neighbourhood Enforcement Officer outlined the case as follows:

- This was an application for the renewal of a PHD Licence;
- The applicant had been issued with a temporary two month PHD Licence from 11 December 2018 - 10 February 2019 while waiting the results of a DBS check;
- During this period, on 9th January 2019, the Neighbourhood Enforcement Team received a telephone call from the Parking Services Manager to report an incident involving the applicant and a CEO in which it was alleged that the applicant acted in an aggressive way to a lone female;
- The CEO had issued the applicant with a parking ticket as his car was parked 50% on double yellow lines;
- The CEO alleged that she was intimidated by 2 men after issuing the ticket and on returning to her vehicle, the applicant stood in front of her car and refused to move;
- The CEO then activated the "Orbis" button on her radio as thought the situation could become volatile and she also dialled 999;
- The applicant also dialled 999 at the same time claiming that the CEO had driven into him;
- A PCSO attended the incident and interviewed the CEO and applicant (this was recorded on the body camera evidence);
- As a result of the incident, the applicant attended an interview with the neighbourhood enforcement team. During the interview he admitted parking on double yellow lines outside his house while using the bathroom and claimed to have been working for UBER on the day in question. He claimed that the CEO had stuck two fingers up at him and that he didn't raise his voice as he was naturally loud speaking.
- On contacting UBER, it was confirmed that the applicant had not been working for them on the day in question;
- The tracking device on the CEO's vehicle confirmed that the vehicle had not moved between 10.17am – 10.58am which suggested that she had not driven into him as alleged.



- The application had been adjourned from a meeting on 19th February pending the availability of Body Camera evidence and the recording of the 999 calls made to police by the CEO and applicant and this evidence was now available.

At this appoint in the proceedings, the Neighbourhood Enforcement Officer played the Body Camera Footage and recording of the 999 calls made by both the applicant and the CEO.

The Neighbourhood Enforcement Officer gave further details of the applicant's history:

- The applicant had held a PHD licence since at least 2004;
- In September 2017, the applicant received 3 penalty points for a minor offence, he did not notify the Licensing Office immediately in accordance with the conditions of his licence and the information came to light following checks made as part of the process to renew his licence;
- The results of the DBS check were outlined in the report;
- The applicant's previous history with the authority involved the following:
 - 15 January 2019 parked in disabled bay at Bristol Temple Meads;
 - 22 May 2019 failure to display plates;
 - June 2016 and June 2017- 2 reports of smoking and littering and non-payment of a fixed penalty fine resulting from the latter offence;
 - 26 April 2013: the Applicant received a PCN for being parked loading/unloading in a restricted street. He appealed the notice and was successful, but admitted being abusive towards the CEO during the incident.

In response to a question from Members, the Legal Advisor confirmed that the history of an applicant was relevant in considering whether there was a pattern of behaviour which could be taken into account in determining whether someone was a fit and proper person.

The CEO gave an account of the incident as follows:

- She was working in "Area 2" and spotted a van on parked on double yellow lines;
- She pulled over and parked legally in between 2 drives and logged the registration of the van;
- She then noticed the applicant's taxi which was parked 50% on double yellow lines and so she logged the vehicle, once logged there was a 5 minute countdown before a ticket was issued;
- She issued a ticket to the van and then stood by the taxi and after 5 minutes she issued a ticket to the applicant's taxi and then took photographs of the vehicle;
- While taking photographs, a neighbour of the applicant walked around the corner and started shouting at her;
- The neighbour knocked on the door of the applicant and he came out and also started shouting at her;
- She felt threatened by the 2 males shouting at her and lifted her hand to indicate that she was not going to engage in a conversation and returned to her vehicle;



- She noticed that the 2 males were pursuing her and so started walking faster and locked herself in her vehicle;
- The applicant then stood in front of her car and the neighbour stood outside her window filming her;
- She started the ignition but the applicant did not move and so she turned the engine off and called her supervisor who advised her to call 999;
- The neighbour did move away from the side of her car but the applicant remained in front of her car and so she was unable to drive away;
- She found the experience intimidating and traumatic and was just trying to do her job.

In response to questioning from the Committee the CEO confirmed:

- She had been working as a CEO for 3 years;
- She had been in other situations where she had been confronted with people who were not happy about being issued with a parking ticket, but she had never feared for her safety before and was usually able to reason with people;
- She found the neighbour aggressive from the start and didn't feel able to explain the situation to him;
- She denied moving the car, she had started the ignition but did not put her foot on the accelerator and switched the engine off when it became clear that the applicant would not move;
- She had put the sun visor down as she felt intimidated by the applicant glaring at her from the front windscreen;
- She had not raised two fingers to the applicant, she had put up her hand to indicate that she was not entering into a conversation;
- She could not remember if the applicant did swear, but he was aggressive;
- It was normal practice to put a parking ticket on the windscreen of a car.

In response to questioning from the applicants representative, the CEO confirmed:

- She knew the applicant's representative through her previous employment but neither party had a difficulty with this and no conflict was caused by this;
- She recalled the timings of the incident as follows:
 - 10.11 am attended the scene;
 - 10.13 am saw the applicant's vehicle;
 - 10.15 am logged the applicant's vehicle;
 - 10.22 am issued a parking ticket for the applicant's vehicle;
 - 10.23 am took photographs of the vehicle and at this time the applicant's neighbour appeared;
- She was not mistaken that the neighbour was abusive, he had shouted at her "that's my neighbour's fucking car, what are you doing?";
- She did not speak to the applicant as the 2 men were shouting at her;
- She confirmed that she did not put two fingers up at the applicant and that it would not be professional to do so;
- When she reached her vehicle she locked the doors and did not wind the windows down. She asked the applicant to move through the windscreen;



- The applicant was commenting about how she was parked and was trying to take photos and film her;
- She turned on the ignition but she denied that the vehicle moved and made contact with the applicant;
- She was uncertain who called the police first but understood that they were on the phone to the police at the same time;
- She was not interviewed by the police under caution for a criminal offence.

In response to a claim that the CEO was parked on a drop kerb, the Legal Adviser advised that this was not an issue for the consideration of this committee. The applicant's represented had been advised to be mindful that this was a panel of the council and not a court room and as such should be mindful as to his cross-examination style of questioning.

The PCSO who had attended the incident reported as follows:

- He was called to the incident and on arrival he could see the CEO's car with one man stood in front and another man by the side of the car;
- He turned on his body camera and got a precis of the complaint and then asked the applicant to return to his house so that he could speak to the two parties separately;
- He spoke to the CEO first and following the interview he told her she could leave thereby reducing the threat of harm or risk;
- He then spoke to the applicant and his neighbour and advised that standing in front of a car was potentially dangerous and that two angry men following a lone female could be seen to be intimidating. He gave the applicant advice on how to appeal the ticket and then left the scene. The officer explained the the PCNs the police issued advice that an officer will not engage in discussion as it could cause issues if it goes to court, and that the way to appeal it is by contacting the deals on the ticket.

In response to questioning the PCSO responded as follows:

- The case was not pursued as there was no offence committed, it was a dispute between 2 parties and at the time he felt the matter was dealt with appropriately;
- The 999 calls were logged at the same time but exact times could be confirmed if requested;
- His reaction to the incidence was to separate both parties and speak to them individually;
- He did not take a statement from the witness as he was not allowed to take witness statements in his role



- He could not clarify if he had given the details of the witness to the Licensing Office;
- He could not answer whether the police had found insufficient evidence to press criminal charges on either party as he was just the responding officer, and this decision would be taken elsewhere;
- He had no further involvement once leaving the scene of the incident.

The applicant gave an account of the event as follows:

- On the day in question he was working for Shirehampton Taxis and not UBER, he had said he was working for UBER on the day that he was interviewed because he had been working for UBER on the day of the interview, rather than the day of the incident;
- He was probably logged off at the time of the incident;
- He went to his house to use the toilet and his neighbour knocked on his door to tell him that a CEO was issuing him with a parking ticket;
- He estimated that he had been in his house 3-4 minutes;
- He wanted to talk to the CEO to ask how she could give him a parking ticket if she was parked by a dropped kerb;
- He claimed that the CEO had tried to run him down and so he called the police;
- The police asked for the CEO's details and that's why he was looking at her through the windscreen;
- He did not shout, but he did have a loud voice. He had said "excuse me please" because he wanted to talk to her about the parking ticket and her parking on the dropped kerb and that is why he followed her back to her vehicle;
- He estimated that his car had been parked no longer than 5 before getting a ticket;
- He stood in front of her car, about 2 feet away, because he was trying to take a photo of her car;
- The vehicle moved closer and hit his thigh but he was not injured;
- He did not hear his neighbour shout and swear at the CEO;
- He had not been able to take a photograph and the recording by his neighbour had not worked either;
- Nothing had happened after reporting the incident to the police.

Following questioning from members, the applicant confirmed:

- He did not consider that 2 men approaching a lone female could be considered to be threatening as he did not consider his behaviour to be aggressive;
- He did not seek any medical attention following the CEO driving into him as he was not injured and did not want to make a song and dance of it. He did not take any photographs of the bruising;
- He had continued to stand in front of the CEO's vehicle until the police arrived because he wanted the police to see where she was parked;



- He had pursued the CEO because he wanted her to cancel the ticket, he did not immediately read the information on the back of the ticket about how to appeal against the issuing of the ticket;
- He said he could provide evidence that he was working for Shirehampton Taxis on the day of the incident;
- He believed that the CEO and walked back to her car at a fast pace and locked herself in because she had not followed the procedure for issuing a parking ticket and wanted to do it after.

The applicant's neighbour gave the following account of the incident:

- He came out of his house and saw the CEO, he tried to talk to her and then knocked on the door of his neighbour, the applicant;
- The applicant asked him to record what was happening, but the recording didn't work;
- He denied shouting, it wasn't his car or his family and so he had no reason to be angry, the applicant was his neighbour.

In response to questioning the witness confirmed:

- He had known the applicant as a neighbour for approximately 6 years but didn't know his name. They would say hi when they saw each other;
- He lived on the opposite side of the road to the applicant and the car was parked on his side of the road;
- He denied raising his voice or swearing;
- He did see the applicant standing in front of the CEO's car and he did see it moving, but he did not see it hit the applicant
- The police or licensing officer did not take a statement from him

The Licensing Officer asked the applicant to explain what he had meant during the 999 call when he said the CEO was "pushing me about". He confirmed that this was in relation to the car moving.

The Parking Manager was asked to respond to questions and confirmed:

- that the tracking device was sensitive and had recorded that the vehicle had not moved during the incident;
- there was an inconsistency in the timing of the tracker when compared with the timing of the CEO's device but these devices were not linked with each other. The hand held device was linked with the central computing system and could not be altered and the tracker was linked with fleet services;
- He had made an error to say that the ignition wasn't turned on as the CEO had confirmed that it was;
- He understood from the data that the vehicle had not moved and could not respond to the suggestion that it had moved 3.2 metres.



In summing up, the applicant's representative drew attention to the following:

- In relation to the applicant not informing the Licensing Office that he had received a minor traffic offence, the applicant claimed that he had sent an email;
- In response to claims that he was smoking and littering, the applicant denied smoking as both incidents had occurred during Ramadan when he was not permitted to smoke;
- The applicant questioned the date of failure to display plates as this had happened on 30 March 2017 and not 22 May 2018;
- The applicant had concerns about the Neighbourhood Enforcement Officer's investigation and claimed that he had been told with "will pay for it" following a non-payment of fine;
- The applicant had dropped off a passenger at Temple Meads and had not parked in a disabled bay;
- When he had won his appeal against a PCN, the judge had found him a credible and consistent witness. He had admitted telling the CEO in that case to "f off"
- The applicant confirmed that he would behave differently if he was issued with a parking ticket again:
- It was disappointing that the account of the witness was not considered by the police or Licensing Office as he was an eyewitness to the incident, even though he was the applicant's neighbour;
- He asked the Committee to be led by the evidence alone in making a decision.

At this point in the proceedings all parties left while the Committee determined the application and subsequently returned to hear the decision.

RESOLVED - that the application be **REFUSED** for the renewal of a private hire driver (PHD) licence in accordance with Section 61 1 (b) of the Local Government (Miscellaneous Provisions) Act 1976, "any other reasonable cause" for the following reasons:

- There were concerns about the applicant's account of the events of his dispute with the CEO on the incident dated 9th January 2019;
- There was a conflict of two accounts, both of which had been supported by witnesses. A decision had been made on the current matter before the Committee, and they found the CEO to be a credible officer who was working on duty. Consideration was given to the previous conduct and offending by the applicant which gave cause for concern about a pattern of behaviour. Therefore, the Committee could not be satisfied that the applicant was a fit and proper person to hold a licence.

The meeting ended at 13.06

