

# Bristol City Council

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



17 December 2019 at 10.00 am

**Members Present:-** Councillors Tom Brook, Steve Jones, Ruth Pickersgill (Chair) and Estella Tincknell.

**Also in attendance:-** Abigail Holman (Senior Licensing Officer) for item 9, Corrina Haskins (Democratic Services), Lynne Harvey (Legal Advisor), Carl Knights (Senior Licensing Officer), Holly Woodrow (Senior Licensing Officer, observing) and Alison Wright (Neighbourhood Enforcement Team) for item 8.

### 1. Welcome and Safety Information

The Chair drew attention to the safety information.

### 2. Apologies for Absence

There were no apologies for absence.

### 3. Declarations of Interest

There were no declarations of interest.

### 4. Minutes of the Previous Meeting

**RESOLVED** – that the minutes of the meeting of 15<sup>th</sup> October 2019 be confirmed as a correct record and signed by the Chair.

### 5. Public Forum

There were no public forum statements.

### 6. 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.

## 7. Exclusion of 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.

## 8. To seek consideration of whether the driver is 'fit and proper' following on from an investigation by the Neighbourhood Enforcement Team: IA

The Driver was in attendance.

The Witness, CEO 2, was in attendance.

The Neighbourhood Enforcement Officer introduced the report and drew attention to the following:

- The Neighbourhood Enforcement Team (NET) had carried out an investigation following an allegation about the Driver by a Civil Enforcement Officer (CEO) in August 2019;
- The Driver held a Private Hire Driver's licence since 2014 and the current licence was due to expire in August 2020;
- On the 6 August 2019, an email was received by the NET from the Witness, CEO 2;
- The Witness alleged the Driver objected to being issued with a ticket; grabbed CEO 1; obstructed both CEOs and called them "terrorists";
- CEO 1 called the police and an audio recording of the call was available for the Committee to hear;
- CEO 1 was not able to attend the meeting to give a witness statement due to family circumstances;
- The NET had awaited the outcome of a police investigation before deciding on a course of action;
- The Licence Holder was bailed pending further inquiries and following these inquiries, no further action was taken by the police;
- The police had taken the view that it was not possible to prove beyond reasonable doubt that the assault had happened due to a lack of independent witnesses;
- The Committee was asked to make a decision as to whether the Driver was a fit and proper person, on the balance of probabilities, after considering the evidence of both parties.

The Committee listened to the audio recording of the CEO call to the police

The Witness, CEO 2, gave the following evidence:



- She had dropped off CEO 1 to check for cars parked illegally while she parked her car in a car park;
- She drove back to the scene on hearing shouting and she saw the driver grab CEO 1's arm and push him into the wall and grab his hand as he was trying to take photographs of the illegally parked taxi;
- She told CEO to stop taking photographs and get in her car;
- The Driver refused to move from the front of their car;
- Another driver intervened and advised him to let her move the car and park properly so she was not obstructing the road and at this point the Driver allowed her to move the vehicle and park safely.

In response to questions the Witness confirmed:

- She was CEO 1's Supervisor and was working alongside him on the day in question;
- CEO 1 had found the taxi parked on double yellow lines with passengers but no driver;
- She understood the passengers were the Driver's family and that the children had started crying when their mother had left the vehicle to find her husband;
- There was a 5 minute countdown before a ticket was issued after entering a vehicle's registration number. If a driver returned to their vehicle and could prove they had been loading/unloading the ticket could be cancelled, but once the 5 minute period had passed, a ticket would be issued and could not be overridden;
- The police had been called to the incident by the CEO Office, but by the time they had arrived the Driver had left the scene.

The Driver gave his evidence as follows:

- He questioned whether CEO 2 was an independent witness;
- On the day of the incident he acknowledged that he had parked illegally while he went to the butcher's shop;
- He had been intending to go the mosque to pray but the time had changed and he had gone to the shop instead;
- While he was speaking to the butcher, he heard his children screaming and he did not know what had happened;
- He saw CEO 1 standing in front of his car and he asked him why his family was upset and why he was issuing the ticket and the CEO told him to shut up;
- CEO 1 had refused to give him his identification details;
- He picked up his phone to take photographs and CEO 1 swiped his hand;
- There were no other witnesses at the time and then CEO 2 arrived on the scene;
- CEO 2 gave him her badge number and he told her he would ring the police;
- He rang the police but they would not attend the incident as no one was at risk of harm;
- He did stand in front of the CEO vehicle as he was concerned that he could not make a complaint if they left the scene. He did move away from the vehicle following the intervention of another driver;
- He showed the Committee a photograph of his children crying after the incident;



- His children were terrified and his daughter continued to be upset after the incident.

The Committee viewed a street scene map to clarify that there was a wall along the street as suggested by the Witnesses evidence.

In response to questions, the Driver confirmed:

- that he was aware that he had parked illegally and accepted that the CEO was acting reasonably in issuing a ticket, but he objected to the CEO not giving his identification details;
- he had called the CEOs “terrorists” and he apologised for using this word, but he felt that they had terrified his children;
- CEO 1 had ignored his wife when she asked him what he was doing and told her to “shut up”;
- He had otherwise been polite and said “excuse me” to the CEOs;
- He had been angry when the police officer called at his house and asked him to attend the station as he believed he was a victim and wanted to make a complaint against the CEO;
- He could not say if his wife had left the children alone in the car as suggested by the CEO as he had not been there at the time, when she found him in the shop the children were with her;

The Legal Advisor reminded Members that they would need to make findings on the balance of probabilities about whether an assault took place before making a decision on whether any action was required in accordance with Council Policy.

The Committee adjourned to consider whether to take any action as a result of the investigation and the Drive, Neighbourhood Enforcement Officer and Witnesses withdrew from the meeting. Everyone returned to hear the decision.

**RESOLVED** (*3 in favour and 1 against*) that the PHD license be suspended for a period of 6 months in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 - any other reasonable cause.

Reasons:

There was no question that the driver was parked illegally on double yellow lines or that the officers were correct in issuing the ticket and this was conceded by the Driver.

The CEO was trying to take a photograph, which the Committee understood was part of the ticket issuing process, and this appeared to have aggravated the Driver and caused the situation to escalate.

The Committee understood that the driver believed his children to be upset due to the behaviour of the CEO but there was no evidence that the officer upset his children.

On a balance of probabilities the Committee believed the version of events put forward by the two CEOs that the Driver did assault the CEO and deliberately stood in front of the officer’s vehicle to prevent them from moving away and such conduct amounts to a common assault under the Council’s policy on offending behaviour and as such, the Committee would usually consider revoking the licence.



The Committee also considered the objective comments from the police that there was an aggressive situation that was escalated by the Driver's actions and that on the whole, his conduct was rude and demeaning towards a female police officer.

However, the Committee accepted that there may be some mitigating circumstances in that the Driver misunderstood why his family had become upset. The Committee also took into account that there had been no previous complaints against the Driver.

The Committee considered the Driver's conduct had fallen well below the standards expected of those whom Bristol City Council licence and so some action needed to be taken on the licence. The Committee considered that a suspension for a period of 6 months would be an appropriate and proportionate response to enable the Driver to reflect upon his future behaviour. Had there been a revocation, the Driver would have been unlicensed for a period of 5 years.

### **9. Application for the grant of a Private Hire Driver (PHD) licence seeking departure from Council policy: KS**

The Applicant was not in attendance and it was agreed that the application be determined in his absence.

The Licensing Officer introduced the report and drew attention to the following:

- The Applicant was applying for a PHD Licence and seeking an exemption from taking the Knowledge Test which was a departure from Council Policy;
- He had previously held a Licence between February 2012 and February 2014;
- He had taken previously taken the Knowledge Test in 2012 where he scored 81%;
- On reapplying for his PHD Licence in 2017, he had requested an exemption from taking the Knowledge Test and this was refused by the Committee;
- The Committee was requested to refuse the application in accordance with Council Policy, but if minded to grant, this would be subject to the Applicant carrying out the following steps:
  - a. Gold Standard training;
  - b. Knowledge test (if exemption not granted)
  - c. an Immigration Right to Licence check;
  - d. a DVLA Mandate;
  - e. an enhanced Disclosure and Barring Service Check;
  - f. A group 2 standard medical;
  - g. The licence fees.

The Committee adjourned to consider the application and the Licensing Officer withdrew from the meeting. She returned to hear the decision.

**RESOLVED** – that the application be refused on the grounds that the Committee was not satisfied that the applicant should be treated as an exception to Council Policy and thereby could not be considered a fit and proper person to hold a PHD licence in accordance with section 51 of the Local Government (Miscellaneous Provisions) Act 1976.



Meeting ended at 11.46 am

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

