

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee A



18 February 2020 at 10.00 am

Members Present:-

Councillors: Tom Brook, Ruth Pickersgill (Chair) and Estella Tincknell

Officers in Attendance:-

Sarah Flowers, Cark Knights, Lynne Harvey, Alison Wright, Oliver Harrison

1. Welcome and Safety Information

The Chair welcomed everyone to the meeting and drew attention to the safety information.

2. Apologies for Absence

Apologies for absence were received from Councillor Steve Jones.

Councillor Fi Hance substitutes.

3. Declarations of Interest

There were no declarations of interest.

4. Public Forum

There were no public forum statements.

5. Minutes of the Previous Meeting

RESOLVED – that the minutes of the meeting of 17 December 2019 be confirmed as a correct record and signed by the Chair.



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: MA

RESOLVED – that this matter be deferred until the next PSP meeting on 3 March 2020 as the appellant is currently sick and overseas.

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

The Driver and his partner, who represented him were in attendance.

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

- The Neighbourhood Enforcement Team (NET) confirmed that the Committee should (1) consider the application for grant of a PHO license and (2) whether the driver is fit and proper to hold his current licenses following a NET investigation.
- Alleged incident in the Customer Service Point in Temple Street on 20 December 2019. Driver attended GSP and behaved in threatening manner. This was witnessed by the CSP team leader who intervened with security.
- On 2 January 2020 NET was informed by police that an unlicensed driver was driving the driver's vehicle at Bristol Airport. The tyres on this vehicle were below the legal limit. The unlicensed driver was witnessed smoking in the vehicle.
- Driver was interviewed in licensing office on 30 January regarding CSP conduct and incident at Bristol Airport.
- Driver was initially calm at interview, but soon grew angry including outbursts of shouting and banging table. Driver said he was frustrated with the amount of time it took to get renewal and exemption.



- Driver was angry with licensing officer, whom he has accused of being racist but later admitted that no racist comments were made. Driver has said he was generally a loud character with expressive body language.
- With regard to Bristol Airport, driver said his neighbour had used the car to collect family member and was not on a job. Driver thought any person could drive private hire vehicle in a personal capacity, but this is against regulations. Driver is responsible for proper management of tyres on vehicle.

Committee was shown CCTV of the CSP incident. This footage did not have sound.

The driver and his partner made the following representations:

- MG's partner complained that he was interviewed alone. She was led to believe that she would be able to attend the interview with her partner. However, this was not possible as the interview only permits a solicitor representative.
- The accusation of racism against a Licensing Officer was based on a perceived personal bias against the driver.
- Driver had applied for a renewal on 27 November. This should take 7 days online or 10 days by post. However it took until 10 December to get a reply from licencing requesting additional information. There were numerous delays due to absences of licensing staff, including requests for information that had already been given.
- Prior to entering the CSP, the driver had been waiting for 4 hours as licensing officers had told him they would be able to issue his license on that day. This was not the case and the driver had work booked in over Christmas that he would now not be able to carry out. This explains his frustration in the CCTV images.
- In regards to the Bristol Airport incident, driver allowed a friend to borrow the car to pick someone up from the airport. We were not aware it was an offence to use a private hire vehicle in personal capacity. The friend borrowing the car was not a taxi driver, so would not know to check tires and not smoke.
- The advocate emphasised the driver's previous good conduct, having no complaints registered against him over a 20 year career. The company is small but highly rated, winning 3 awards for small business chauffeur. Loss of license would mean the company folding, which would have dire effects on the family.

Following questions from the committee, the following information was confirmed:

- That offending behaviour (i.e. convictions) are key in determining whether an individual is 'Fit and Proper', but conduct that is proven to the satisfaction of the Council would be viewed in the same way as a conviction and could amount to "reasonable cause" take action on a licence. All 3 incidents in this case: unlicensed driver using the vehicle, unsafe tyres and public order in the CSP could give rise to offences and the matters regarding the bald tyres and the unlicensed driver were still under investigation by the police.
- Although the driver claims to have examined tyres 5 weeks before the Bristol Airport incident, they were measured at 0.4mm and 0.1mm, significantly below the 1.6mm limit.



- The driver was informed that his license would be ready to collect from the CSP on the day of the incident. However, this was not the case and the driver waited 4 hours to collect a license that was not ready. Licensing officers have apologised for this.
- Licensing Officers confirmed that an application for a license was made in 27 November, however the application for exemption from display plates was not made until 10 December. These licenses cannot be issued separately.
- Driver contacted the CSP during the airport incident and was told by customer service staff that they did not know whether a non-licensed driver could drive a PHV and they would tell police to stand down. They did not have the authority to do this.
- It states on license condition 3 that “the vehicle at all times must be driven by licensed driver.”
- Following the driver’s perception of bias from an individual licensing officer, it was confirmed that applications are distributed randomly between a pool of 8 licensing officers and no individual officer is allocated to the application for the entirety of the process.

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

RESOLVED that the PHD license be suspended for a period of 2 months in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 – any other reasonable cause.

REASONS FOR DECISION

There were three allegations that the Committee needed to look at separately: -

1. Allegation of aggressive behaviour towards officers at Temple Street Customer Service Point. This is akin to an offence under section 5 of the Public Order Act 1986 of using threatening, abusive or insulting words or behaviour in the sight or hearing of a person likely to be caused harassment, alarm or distress. It does not have to be shown that the person was actually caused Harassment, alarm or distress for the offence to be established.

The council officer says in her statement that she felt threatened by the driver’s conduct. The CCTV shown to committee did not have sound. A security officer has given a statement in support to corroborate the driver being loud and aggressive.

The committee does not have any evidence that one of the licensing officers has a personal grudge against the driver or that he is racist.

The committee considered that the driver’s conduct fell below the standards the Council is entitled to expect of those whom it licences. But the committee understood why he became frustrated with the delays, albeit it was his responsibility to ensure that he supplied the correct documentation with his applications. It is not an acceptable state of affairs to make a Council officer feel uncomfortable although the committee accepted that was probably not his intention.



2. Allegation of being a licensed operator operating a PHV whilst the driver was not licensed under section 51. This is akin to an offence under section 46 of the Local Government (Miscellaneous Provisions) Act 1976. The vehicle was a licensed PHV which was being driven by an unlicensed driver. Even though the vehicle might have been in use for private use, the offence applies to any driving of PHV in a controlled district irrespective of its use. When the exemption certificate was issued to the driver it made plain the vehicle should only be driven by licensed driver.

The Committee accepted the explanation that the driver was unaware that the vehicle could not be used by an unlicensed driver for private use. But it is incumbent upon the driver to be aware of the rules and laws that govern the trade.

The fact that the vehicle was being used by an unlicensed driver could have resulted in the insurance being invalidated. This is considered to be a serious matter.

3. Tyres significantly below the legal limit of 1.6 mm. This is akin to an offence under Road Vehicles (Construction and Use) Regulations 1986 – Regulation 27 and section 40 RTA 1972. This is considered to be a serious issue that placed the public at risk. The Police are still dealing with this matter.

Collectively, these three issues all give rise to concern.

The Committee therefore concluded that there was reasonable cause to take action in respect of the Private Hire Driver's Licence.

Usually with the offences in question, the Committee would consider a period of 6 months' suspension in accordance with Council policy. But the committee has taken into account the lack of complaints against the driver over a long period of time and accordingly reduced the period of suspension to 2 months.

On this occasion, the committee did not take any action in respect of the Operator's licence, which is held by the company, or on the vehicle licences.

10 To seek consideration of an application for the grant of a Private Hire Driver (PHD)

Licence: KU

The Applicant was in attendance.

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

- On application for a Private Hire Driver License, a DVLA check established that the Applicant had three convictions from 2017/18. This includes driving without due care and attention (CD10) and two speeding offences.
- CD10 is considered a major offense and the committee is requested to refuse this application.
- If there are two major offenses within a 5 year period this would recommend a 5 year suspension.



- Although the other offences were minor, there is a pattern of offending behaviour that stretches back to 1993.
- There is an expectation that applicants should have 12 months of clean conduct on record before granting a license.

The driver gave evidence as follows:

- The driver supplied a collection of good character references to the committee.
- He understands that public safety is the highest consideration for the committee when considering license applications and acknowledges the offences that have caused his license to be suspended.
- He acknowledged that it has been a long time since he took his driving test and his skills may have deteriorated. He has enrolled on an advanced driver skills course beginning in March to improve his ability and the service he can give the public.
- Following suspension, he has been unable to work for 6 months. He is a carer for his elderly mother. As a taxi driver he can work around her needs.
- His suspension is causing significant financial hardship and he is in danger of losing the family home. The stress is causing health problems.

Following questions from Committee, the following was established:

- That the driver's licence was not suspended, but was not renewed because of driving convictions.
- The October 2018 conviction was a collision with a cyclist while pulling out of a junction.
- There is a pattern of speeding offences since the 1990s. The driver admitted that the full history looks bad, but that he is determined to be more careful now and not bow to pressure to work quickly. He cannot afford to lose his license and is pursuing an advanced driving skills course.

RESOLVED -

The Committee noted that the Applicant had been convicted of an offence of driving without due care and attention involving a collision with a cyclist that occurred in October 2018. The Conviction was dated around May 2019. This is classed as a major traffic offence under the Council's policy on offending behaviour.

It was also noted that there were a number of speeding offences over a period of time which demonstrated a pattern of offending behaviour giving rise to more of a cause for concern.

Under the Council's policy a period of at least 6 months free from conviction is usually recommended before an application will be entertained in respect of an offence of driving without due care and attention.

The Applicant was therefore outside of the policy when looking at the most recent conviction in isolation. But, the pattern of poor driving standards over a period of time was a concern.



However, the Committee were impressed that the Applicant had provided proof that he had enrolled on an advanced driving course that he was due to start in March 2020. In the circumstances, it was determined that he could be granted a licence for a period of one year subject to an additional condition that by the time he applies to renew his licence, he will have successfully completed the advanced driving course and provided proof to the Licensing office of this.

Applicant is not exempt from taking the Gold Standard course.

Should there be any further driving endorsements prior to being granted the license, the matter will be brought back to PSP committee for consideration.

11 To seek consideration of an application for the grant of a Private Hire Vehicle (PHV) licence seeking exemption from Council Policy: SA

RESOLVED – that this matter be deferred to the next PSP meeting on 3 March 2020.

Meeting ended at 3.00pm

CHAIR _____

