

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee A



16 February 2021 at 10.00 am

Members Present:-

Councillors: Ruth Pickersgill (Chair), Steve Jones, Estella Tincknell and Lucy Whittle

Officers in Attendance:-

Lynne Harvey (Legal Advisor), Carl Knights (Licensing Policy Advisor), Abigail Holman (Licensing Officer) and Alison Wright (Neighbourhood Enforcement Officer)

1. Welcome and Safety Information

The Chair welcomed everyone to the meeting and drew attention to the Meeting procedure.

1. Apologies for Absence

No apologies received.

1. Declarations of Interest

None received.

1. Minutes of the Previous Meeting

Resolved – that the Minutes of the previous PSP Sub A Meeting held on 15th December 2020 be agreed as a correct record.

1. Public Forum

Nothing was received.



1. 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.

1. Exclusion of Press and Public

Resolved - that under Section 11A(4) of the Local Government Act 1972 the press and 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.

1. ZZ - REPORT TO DETERMINE WHETHER ACTION SHOULD BE TAKEN AGAINST THE HOLDER OF A PRIVATE HIRE DRIVER LICENCE

ZZ was in attendance.

PC Quinton (PCQ) from Avon and Somerset Constabulary was in attendance.

The Neighbourhood Enforcement Team (NET) Officer introduced the report and summarised it for everyone.

Everyone also viewed the body cam video footage of ZZ being stopped and questioned by PCQ on 5th January 2021.

PCQ confirmed his evidence as presented in the report. He also advised everyone that although the prosecution file for the defective tyres offences has been submitted, a court date has not yet been set.

ZZ then put his case highlighting the following:

- He accepted that he had made mistakes and apologised to the Members of the Committee for his actions; he had meant no disrespect to them
- He stated that there were a number of mitigating circumstances relating to his action including Covid 19, he has health issues, is in arrears with his mortgage, Council Tax and Income Tax payments
- He has worked as a taxi driver since 1996; he has 3 children to support and cannot do any other job due to his health issues
- He acknowledged his previous offences
- He has a brother who is in the BRI and is blind; he has to look after him
- He hires the vehicle from another company and is responsible for the wear and tear on the vehicle; the last time he looked at the tyres they looked fine



The Chair advised ZZ that the overriding responsibility of the Committee is public safety and the Members have to decide whether or not he (ZZ) is a fit and proper person to hold a Private Hire Driver Licence.

PCQ confirmed that the agreement that ZZ has with the hire company requires him to be responsible for the inspection and replacement as necessary of the tyres on the vehicle.

In response to questions ZZ stated that this had been the first time had illegally plied for hire and that he normally inspected the vehicle 2 to 3 times per week but had forgotten prior to the occasion he was found to have defective tyres on the vehicle.

ZZ, the Neighbourhood Enforcement Officer and the Avon and Somerset Constabulary Taxi Compliance Officer left the room whilst the Committee made its decision.

Decision

The Committee considered very carefully all of the written, video and verbal evidence that it had received.

Following a debate the Committee decided that the Private Hire Driver's Licence of ZZ be suspended for a period of 6 months on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely "any other reasonable cause".

Reasons for Decision

There were a number of issues for the Committee to consider whereby the standards of ZZ had fallen far below those that the Council is entitled to expect from those whom it licences. Whilst the Committee had sympathy for ZZ concerning his financial difficulties, the safety of the public does not require any consideration of the personal circumstances of the driver, which are irrelevant save in rare cases to explain or excuse some conduct of the driver.

On 19 November 2020 ZZ had been stopped by PC Quinton when it was noted that his private hire vehicle had two bald tyres. The matter had been referred to the CPS for prosecution proceedings to be commenced but a court date was still awaited. Although the role of the committee is not to try to "second guess" the outcome of the criminal proceedings, their regulatory function of protecting the public did not mean that the Committee had to await the outcome of the criminal matter before action could be taken in respect of ZZ's licence. The Committee considered this to be the most serious of the issues before them and it did not matter that ZZ was not working at the time because notwithstanding this, the public would still be placed at risk.

ZZ had also been pulled over by PC Quinton on 5 January 2021 whereby it was discovered that ZZ had unlawfully plied for hire by picking up passengers and taking a fare from them when they had not pre-



booked the journey. ZZ initially lied to PC Quinton by claiming the two passengers were friends of his but upon further questioning it was obvious that ZZ did not know who they were. ZZ then admitted the offence after being cautioned for it. The Committee takes a dim view when licensed private hire driver's ply for hire because not only does it deprive properly licensed hackney carriage drivers' of their lawful trade, but it also places the public at risk because the driver will not be insured in respect of that particular use of the vehicle. On this occasion it was also noted that ZZ was not wearing his private hire badges nor displaying plates on his vehicle, which are breaches of conditions on his licence.

Although ZZ was very apologetic in respect of his conduct, the Committee did not consider that there were exceptional reasons to depart from Council policy and as such there was reasonable cause to sanction his licence. The offences regarding the defective tyres are treated as hybrid offences under the Council's policy on offending behaviour and the offence of having no insurance is treated as a major traffic offence. The Committee is also entitled to take into account the number, type and frequency of such offences and generally a minimum period of 6 months suspension will be imposed. In addition to this, the offence of plying for hire would normally result in a period of 6 months suspension under the Council's policy. The Committee's starting point was therefore a minimum period of 6 months suspension.

Given the seriousness of the offences and the fact that ZZ's licence had been revoked previously, albeit a long time ago, the Committee considered that he should therefore have been fully aware of the consequences of committing further offences. It was therefore resolved to suspend ZZ's private hire driver's licence for a period of 6 months.

Everyone returned to the room to hear the decision announced.

Resolved - that the Private Hire Driver's Licence of ZZ be suspended for a period of 6 months on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely "any other reasonable cause".

1. GS - REPORT OF AN APPLICATION FOR THE GRANT OF A PRIVATE HIRE VEHICLE LICENCE SEEKING EXEMPTION FROM COUNCIL POLICY

GS was in attendance accompanied by his wife.

Councillor Afzal Shah accompanied them.

The Senior Licencing Officer introduced the report and summarised it for everyone. He confirmed that the Council had decided that in 2018 vehicles of this type would no longer be licensed due to the constrained internal dimensions of the vehicle. It is made clear on the BCC website that vehicles of this particular make and model will not be licensed.

GS and his wife put their case and answered questions highlighting the following:



- They did not know that the Council would not license the vehicle
- They bought it on finance and are now so financially stretched they cannot afford to buy food for their children
- She works part time for NHS 111 but at the moment he is the only financial provider for the family at the moment
- They bought the vehicle in December (2020) but did not know that it did not comply with the Council's Policy on licensing private hire vehicles; they confirmed that they had not checked on the Council website prior to purchasing the vehicle

The Senior Licensing Officer explained that whilst the vehicle fails the particular test concerning the distance between the rear of the front seat and the backrest of the rear seat by 15mm, the overall internal dimensions of the vehicle are not considered large enough to make it comfortable for 4 adults.

Councillor Shah explained that although GS lives in the Lawrence Hill Ward, neither of the Councillors for Ward were available, so he had agreed to speak on their behalf for GS. He has seen the vehicle and is aware that BCC has previously licensed this model. He asked that the Committee uses its discretion. He acknowledged that GS had made a mistake and had not checked the Policy on the website. He noted that English is second language for GS and asked that the Committee be mindful of the current situation. He is not aware of any problems with this vehicle.

In response to a question, the Senior Licensing Officer advised that whilst the website does not provide a list of the vehicles which can be licensed, it does however list this vehicle as one that will not be licensed.

GS, his wife, Cllr Shah and the Senior Licensing Officer left the room whilst the Committee made its decision.

Decision

The Committee considered very carefully all of the written, video and verbal evidence that it had received.

Following a debate the Committee decided that a private hire vehicle licence be granted in respect of vehicle registration RA18 UOV in accordance with section 48 of the Local Government (Miscellaneous Provisions) Act 1976

Reasons for Decision

The Committee noted that the vehicle had undergone an inspection at Fleet Services on 23 December 2020 and although it passed the mechanical and cosmetic check, it had failed on the measurements of the rear seats. The Council's policy on Private Hire Vehicle Specification with covers internal dimensions states:



7. All vehicles should have a minimum of 4 doors, be right hand drive and must be so constructed so that the doors open sufficiently wide as to allow easy access and egress from the vehicle. No discomfort or inconvenience should be caused to passengers. In order to ensure this the vehicle should comply with the following dimensions:...

... b. The measurement between the rear of the front seats and the backrest of the rear seat should be a minimum of 750mm (approximately 30 inches).”

The measurement between the rear of the front seat and the backrest of the rear seat in GS’s vehicle was 735mm. Although the Committee noted that this was a very small deviation, the policy contains “minimum” requirements and therefore the vehicle did not comply with Council policy. It was also noted that the Council had previously licensed the Toyota Auris, but in 2018 officers had inspected the vehicle and confirmed the measurements did not meet the Council’s Private Hire Vehicle Policy in that the vehicle was too small to comfortably accommodate four passengers due to the internal dimensions. It was therefore decided that the Toyota Auris was no longer suitable to be licensed for private hire work, which was published on the Council’s website.

This was the first occasion on which an application had been made to licence this particular vehicle. GS and his wife had purchased it on finance in December 2020 but prior to doing so, had not checked whether it was suitable to be licensed for private hire work and had therefore made a mistake. GS who was accompanied by his wife and a Ward Member pleaded exceptional hardship, that they were tied in with finance on the vehicle and could not afford to purchase another one. The Committee had a great deal of sympathy for the Applicant and his family, but could not take personal circumstances into account in deciding whether or not to allow a departure from Council policy. However, it was acknowledged that we are currently living in exceptional times with the economy and businesses, including the taxi trade being on their knees. In the light of the current COVID situation and the fact that the failure to comply with policy was more of an issue of comfort, rather than safety, the Committee decided that there were compelling reasons to justify a departure from Council policy on this occasion and in respect of this particular application only, but this was no way intended to set a precedent that any future applications in respect of the Toyota Auris would be approved.

Everyone returned to the room to hear the decision announced.

Resolved - that a private hire vehicle licence be granted in respect of vehicle registration RA18 UOV in accordance with section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

Meeting ended at 11.50 am

CHAIR _____



