

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee A



26 October 2021 at 10.00 am

Members Present:-

Councillors: Amal Ali (Chair), Chris Davies and Richard Eddy

Officers in Attendance:-

Abigail Holman (Licensing Policy Advisor), Shreena Parmar (Legal Advisor), Oliver Harrison (Democratic Services Officer) and Dakota Ferrara

1 Welcome and Safety Information

The Chair welcomed everyone to the meeting and issued the safety information.

2 Apologies for Absence

As this was an ad-hoc meeting of the committee, no apologies for absence were required.

3 Declarations of Interest

CLlr Eddy declared an interest as he knows the Counsel for applicant "RB", but this would not prejudice the hearing.

4 Minutes of the Previous Meeting

As this was an ad-hoc meeting, there has not been enough time to finalise the minutes from the previous meeting on the 19th October. Those minutes will be submitted to the next meeting on 14th December.

5 Public Forum

None received.



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 PB - APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE DRIVER LICENCE

The applicant and counsel were present.

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

- This is an application for the renewal of a Hackney Carriage Driver (HCD) licence. PB applied on 21 September, the previous license expired on the 14 October. PB has been licensed since at least July 2006 and has no complaints on file.
- PB previously appeared at committee after a conviction of assault in Spain, where his application was granted.
- Policy was changed on 27 July 2021 to incorporate new national standards. This policy states that for convictions of violence against the person, a licence should not be granted until 10 years has elapsed.
- The committee has received translated versions of the court documents.

The appellant gave the following evidence:

- The applicant and counsel view the Spanish court conviction as unsound. The translated documentation shows doubts about procedure and judgement. The process timelines on British and Spanish courts are largely the same, but PB was tried within 3 days of the offence.
- PB gave a first-hand account of the incident. They took a taxi in Spain on a route they were familiar with including the expected charge. The driver tried to charge PB double the usual price. PB's wife refused to pay, at which point the driver swore at her and spat in her face. They both got out of the vehicle and she pushed him with her walking stick. PB stepped in between the two to separate them. At no point did PB punch him as the charge says.
- PB and his wife attended the police station voluntarily day after the event. They were then taken to court and were told they would have a translator and lawyer. There was no lawyer supplied and the translator was very poor quality and did not inform us what was going on in the hearing. PB told the translator he intended to appeal but could not do this due to time constraints.



- The committee paperwork states an offense of actual bodily harm. The translated court documents say the offence was common assault. That is a big difference in severity. This would be a minor magistrate issue in England and Wales. PB has visited Spain repeatedly since this incident, so it seems the Spanish government do not consider this a serious conviction.
- PB has been a driver for over 20 years and there are no complaints against him. PB knows that his career will wind down due to his age, but he wants to be able to make that decision on his own terms.
- This hearing is pulling up an incident from a long time ago. We understand why the committee must hear this due to the change in national policy, but the licensing authority can and should exercise its discretion in this case.
- PB has been out of work for two weeks, is the sole provider for the household and his wife is disabled.

After questioning from the committee, the following information was confirmed

- Cllrs Eddy and Davies were on the committee when the appellant last appeared. They had doubts about the certainty of the foreign conviction but would approach this hearing with an open mind. They understood that the committee should not 'go behind' a court conviction and this hearing was in relation to the new national standards policy.
- It was noted that the committee had a translated transcript from the Spanish court, which they did not have last time.
- PB said that he was forced to accept liability in order to leave Spain.
- PB has an otherwise clean record with no previous complaints.
- Is not clear from the text whether this would be considered common assault or actual bodily harm due to differences in language and law. The injuries described in the text are not bad enough for ABH in this country. However, this is still a conviction of violence so falls in the remit of the new national policy.
- The injuries described in the Spanish court paperwork is bruising over the body, but BP was convicted of punching the face when there is no record of facial injuries.

The applicant was given the opportunity to sum up, then parties left the room while the committee deliberated.

DECISION

Members have determined to grant the application to renew PB's Hackney Carriage Driver's Licence as it considers that there are exceptional circumstances to depart from the Council's recently updated policy. Although the sub-committee is unable to go behind a conviction it considers that it is an isolated incident with mitigating circumstances including procedural matters at the Spanish Court. It does not consider PB to present a risk to public safety and consider that he is a fit and proper person to hold a licence. It acknowledges that other than this conviction he has a clean record prior to this and also since this conviction.



9 RB - APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE

The applicant and Counsel were present.

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

- On 16 August 2021 RB applied to renew his Private Hire Driver's licence. The previous licence expired on 12 September 2021.
- A DVLA search revealed two speeding offences in 2019. RB did not declare these endorsements in the required 24-hour period.
- The new national policy which came into force in July states that although a single minor offence is not usually a barrier to grant a licence, multiple offences need to be considered.
- Committee is asked to determine the appropriate action in this case.

The appellant gave the following evidence:

- RB was travelling to and from the mosque and got caught by a speed camera travelling at around 27/28mph in a 20mph limit area.
- This was a difficult time as RB's father had just died in Algeria.
- RB was not carrying passengers at the time of the offence. The committee was supplied with a printout of the booking system proving this.
- There have been no other endorsements on his record since 2006. Online reviews show that he is a top-rated driver for the region.
- He admits that he did not report the offence immediately. He was informed by another driver this was necessary around six months after the offence. As soon as RB was made aware of the policy, he reported himself.
- RB is the sole earner for his wife and 3 children and has been out of work for 6 weeks.

After questioning from the committee, the following information was confirmed

- The two speeding offences were incurred on the same day travelling to and from mosque.
- The recent death of his father had caused RB a lapse in concentration and is a mitigating factor.
- The offences were 2 ½ years ago and isolated. RB has an otherwise clean record over 16 years.
- Although RB was late reporting the offences, he did self-report and was not 'caught out' by enforcement action.
- The new national policy requires the licensing authority to reconsider applicants. Counsel requested that licensing reports make this clearer to the applicant that the new policy is the trigger for these hearings.

The applicant was given the opportunity to sum up, then parties left the room while the committee deliberated.

DECISION



Members determined to grant the application. Having heard the circumstances on the day, including that the applicant wasn't working, the death of his father two months prior and his otherwise unblemished record, Members considered this to be an isolated incident which justifies departure from the new policy. Members considered the applicant to be a fit and proper person but take this opportunity to remind him of the requirement and importance of reporting any convictions.

1 EY - APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE

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The applicant was present.

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

- On 13 September 2021 EY applied to renew his Private Hire Driver's licence. The previous licence expired on 23 September 2021.
- A DVLA search revealed two speeding offences from 2018 and 2020. Both offences were declared late by EY. A further search showed two more speeding offences from 2015 and 2016.
- EY has held a license since 2004. A previous PSP has refused renewal.
- The new national policy is to not grant a license in cases with multiple minor offences. The committee is asked to determine this case.

The appellant gave the following evidence:

- EY admitted and apologised for the offences and the delay in reporting them. He cannot remember the exact circumstances but was sure he was not carrying a passenger at the time.
- He said that he enjoys a good reputation and does most work via Uber, where he has a good rating and customer reviews.
- He has been a licensed taxi driver since 1988, so he believes this is a low number of offences for a 32-year period.
- EY said he reported one offence in time and got a receipt email from the council but could not find it for the committee. A delay in reporting the other offence was caused because EY leases his car. The notification went to the vehicle owner, but he did not inform EY until months later.
- He has not been able to work since 23 September, which is causing hardship for him and his family.

After questioning from the committee, the following information was confirmed

- There are no further offences registered on the paper file.
- The two more recent speeding offences have caused the referral to committee under the new national standards. Even if the offences were declared on time, EY would still have been referred to the committee.
- EY was unable to confirm his speed or location for these offences. Speeding offence penalties run from 3 to 9 points based on severity. These are both 3-point endorsements, so relatively minor.



The applicant was given the opportunity to sum up, then parties left the room while the committee deliberated.

DECISION

Members have determined to grant this application with a warning as to the offending behaviour of speeding. Members considered the circumstances for the current endorsements as well his is previous history and whilst the sub-committee had concerns that there could be a pattern of offending behaviour, it considers that the applicant has already had a period of time unlicensed pending the outcome of this application and consider that a warning will address the concerns.

1 SA - APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE DRIVER LICENCE

1

The applicant was present with a friend.

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

- SA applied for renewal in September 2021. The DBS check revealed a conviction for ABH in 2012. PSP committee suspended his licence for a month in July 2012.
- Under the new national policy, a conviction for a violent offence means an individual should not be licensed until a period of 10 years has elapsed. The committee will have to reconsider whether SA is fit and proper to hold a licence under this new policy.

The appellant gave the following evidence:

- SA has not been involved in any other offences since the case in 2010/12. He now has a family with three children and views himself as a good role model. He is active in the community, including working as a football coach. This was an isolated incident from a long time ago. He was provoked in that incident but reacted very badly.
- SA was surprised by the referral to committee and believed that it was regarding an error on the application form rather than the previous conviction.

After questioning from the committee, the following information was confirmed

- SA started driving from June 2004 according to electronic records. There are no other offences or complaints registered against him.
- The new national standards state not to license individuals with a conviction for a violent offence until 10 years has elapsed. Therefore, the committee must reconsider the case.
- The committee said that it would be interested in how SA's character had changed since the offence. SA said that should he find himself in an altercation he would do everything he could to escape as he does not want to be in a violent situation again and has too much to lose.
- The large time difference between arrest and conviction was attributed to a backlog in the court system as the case was heard in Crown Court.



The applicant was given the opportunity to sum up, then parties left the room while the committee deliberated.

DECISION

The sub-committee is convinced that this was an isolated incident in 2010. It is aware that it cannot go behind a conviction and the latest policy states at least 10 years to elapse following the completion of any sentence. The sub-committee considers the sentence imposed in the Crown Court to be at the lower end of the sentencing options available which reflects his previous good character and mitigating circumstances. The offence was over 10 years ago and there has been no further offending behaviour since and the sub-committee does not consider SA to present as a risk to public safety and protection. It is satisfied that he is remorseful and has since reflected on his actions, and that he is a fit and proper person to hold a licence.

1 WH - APPLICATION FOR THE RENEWAL OF A PRIVATE HIRE DRIVER LICENCE

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CLlr Davies had to withdraw from the committee due to ill health so was not present for this case. The applicant was present with his wife.

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

- WH applied to renew his licence on 6 September 2021. His previous license expired 11 September 2021.
- A search on DVLA records showed two speeding offences (SP30) in September 2020 and July 2021. WH did not declare these convictions on his application.
- The policy is that while a single minor offence is not a barrier to grant a licence, multiple offences will need consideration.
- There is also a complaint registered against WH in 2021, but officers determined this was a false allegation.

The appellant gave the following evidence:

- WH said that he called the council to declare the September 2020 offence, but spoke to a member of the citizen advice team rather than licensing. The officer said that he would pass this on to the licensing team but failed to do so.
- WH acknowledged that he should have notified the licensing team directly in writing.
- WH declared his convictions in the covering email on his application but filled out the form itself incorrectly.
- He said that he has been licensed since 2010, enjoys his work and intends to continue. These are the only offences on his record. He is struggling financially as he is unable to work and support his family. He expressed remorse and said that he is now more careful and aware of his speed.

After questioning from the committee, the following information was confirmed:

- That WH has no previous offences.



- In both cases, he was speeding within a 20mph limit area. In one instance he was being tailgated and felt intimidated into speeding.
- The notification to declare offences within 24 hours is in the licensing conditions.
- It was confirmed that WH did declare the offences in his covering email but not on the form itself.

The applicant was given the opportunity to sum up, then parties left the room while the committee deliberated.

DECISION

Members consider the applicant to be a fit and proper person and grant this application. No weight was given to the complaint but if any further evidence comes to light then the matter may be brought back before a PSP sub-committee. In relation to the speeding convictions, the Members do not consider the applicant to be a risk to public safety and protection and are satisfied that they are isolated incidents on his otherwise clean record. Members take this opportunity to remind the applicant of the requirement and importance of reporting any convictions.

Meeting ended at 2.30 pm

CHAIR _____

