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Bristol City Council Minutes of the Public Safety and Protection Sub- Committee B



16 November 2021 at 10.00 am

Members Present:-

Councillors: Guy Poultney (Chair – Agenda Items 1 to 10), Jonathan Hucker (Chair – Agenda Items 11 to 13), Katja Hornchen, and Barry Parsons

Officers in Attendance:-

Wayne Jones, Carl Knights (Licensing Policy Adviser – Agenda items 1 to 10, 12, 13) , Dakota Ferrara (Licensing Policy Adviser – Agenda item 11 Only), Graham Lange, Shreena Parmar (Legal Adviser), Jeremy Livitt (Clerk)

1. Welcome and Safety Information

Councillor Guy Poultney welcomed everyone to the meeting and 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 held on 21st September 2021

RESOLVED – that the minutes of the above meeting are confirmed as a correct record and signed by the Chair.

5. Public Forum

There were no Public Forum items.



6. Suspension of Committee Procedure Rules CMR10 and CMR11 Relating to the Moving of Motions and Rules of Debate

RESOLVED – that Committee procedure rules CMR10 and CMR11 be suspended relating to the moving of motions and rules of debate.

7. Exclusion of the Press and Public

RESOLVED – that the press and public be excluded from the following items of business to allow consideration of items containing exempt information under Paragraph 1 of Part 1 of Schedule 12(A) of the Local Government Act 1972.

8. AG - Report to determine whether action should be taken against the holder of a Hackney Carriage Driver licence and Hackney Carriage Vehicle licence.

The Sub-Committee considered a report to determine whether action should be taken against the holder of a hackney carriage driver licence and hackney carriage vehicle licence.

Wayne Jones (Neighbourhood Enforcement Team) and PC Quinton were in attendance, as well as AG and his representative.

Wayne Jones presented this report and made the following comments:

- AG's current licence was due to expire on 14th July 2022
- Following an incident on 4th June 2021, PC Quinton had notified the Neighbourhood Enforcement Team on 27th August 2021 that AG had been observed using a hand held device while driving his vehicle.. It was noted that this case would shortly be heard in court. AG had not notified licensing authorities of this incident as required
- It was also noted that there were several other endorsements on his licence between 2017 and 2019 relating to exceeding the statutory speed limit including exceeding the speed limit on the motorway
- In addition, between 2000 and 2020, there have been a number of allegations against AG including a caution for failing to use a taximeter to record a journey and a failure to show a true fare on a taximeter, as well as allegations of using a mobile phone whilst driving, speeding, driving unprofessionally, overcharging and incorrectly displaying plates.
- Officers believed that AG was not a fit and proper person to hold a licence and that therefore his licence should be revoked

PC Quinton advised the Sub-Committee that there were further allegations of AG driving whilst using a mobile phone.

AG had stated that the reason for the call was due to a phone call that he had received from the hospital however, it was not an emergency. AG's Representative stated that AG requested leniency from the Sub-Committee on the grounds that he needed to retain his job as a Hackney Carriage Driver to pay his son's university fees and was unable to carry out any other work.



In response to Councillors' questions, the following was noted:

- An emergency was classified as a 999 call or an urgent incoming call which did not apply in this case. It was noted that the phone call was a standard medical checkup from the hospital to AG concerning his kidney which had been removed
- The Sub-Committee was unable to take into account AG's personal and financial circumstances

In response to a question from the Licensing Policy Adviser, AG indicated that he might have used a mobilephone whilst driving on other occasions before the recent policy change.

The Sub-Committee then asked all parties to withdraw to allow them to consider their decision.

Upon their return, Councillor Poultney advised them of their decision as follows

RESOLVED (unanimously) – that the Sub-Committee determined to revoke AG's Hackney Carriage Driver Licence (HCDL) on the ground contained in 61(1)(b) of the Local Government Miscellaneous Provisions Act 1976, namely, any other reasonable cause, because the Sub-Committee could no longer be satisfied that he is a fit and proper person to hold such a licence.

The Sub-Committee applied the Council's own policy on using a hand-held device, whilst driving (which implements the Department for Transport's Statutory Taxi & Private Hire Vehicle Standards) which states:

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Although the matter is yet to be heard at a criminal court later this month, in applying the above the Sub-Committee is satisfied that offending behaviour is proved to the satisfaction of the Council on the balance of probabilities and it did not consider there to be any justification for departing from the policy.

Whilst the offence of using a hand-held device whilst driving alone gives cause to revoke the HCDL, there are also speeding endorsements that were declared on renewal but AG did not inform the Council at the time of the offences as he is required to do so by the conditions on his licence. The Sub-Committee accepts that a single occurrence of a minor traffic offence may not necessitate the revocation of licenses providing that it considers that a licensee remains a fit and proper person to retain a HCDL and consideration is given to the nature of the offence and the penalty. The speeding endorsements, the hand-held device offence, failing to notify the council of convictions at the time, along with a previous history give Members cause for concern that he has shown a pattern of offending behaviour and in making its decision public safety and protection is a paramount consideration.

The personal and financial circumstances of the applicant are not a relevant consideration in arriving at this decision.

The Sub-Committee determined to take no action on the Hackney Carriage Vehicle Licence on this occasion however as Mr Gill's HCDL is revoked he may no longer drive his vehicle at any point.



9. KM - Application for the renewal of a Private Hire Vehicle licence seeking departure from Bristol City Council policy

The Sub-Committee considered an application for the renewal of a Private Hire Driver Licence seeking departure from Bristol City Council's Hackney Carriage and Private Hire Licensing Policy 2021-2026.

The applicant (KM) and Dakota Ferrara, Senior Licensing Officer, attended for this item.

Dakota Ferrara presented the report and made the following points:

- KM's licence had expired on 31st October 2021
- During 9 initial inspections carried out since the last grant of the licence on 30th March 2015, 7 of these had failed
- KM was requesting that his Private Hire Vehicle Licence was renewed. Officers recommended that this was refused

Upon being questioned, KM made the following points:

- During the period of the COVID pandemic and in particular during 4 months when he was suffering from COVID, he was unable to work and had suffered financial hardship. In addition, he had to continue to pay insurance and other costs
- Therefore, due to a lack of savings, he was unable to upgrade his vehicle from a diesel vehicle to a petrol or petrol hybrid vehicle as required under the Council's new policy
- If the licence was temporarily extended by 6 months, this would enable him to obtain the savings to do this
- The vehicle has aged less during lockdown due to less use

The Sub-Committee noted the vehicle has carried out approximately 220,000 miles

KM and Dakota Ferrara were asked to leave while the Sub-Committee made its deliberations.

Upon their return, the following decision was announced.

RESOLVED (unanimously) – that the Sub-Committee determined to refuse the application to renew the Private Hire Vehicle Licence seeking departure from council policy on the grounds contained in section 60(1)(a) and 60(1)(c) of the Local Government Miscellaneous Provisions Act 1976) namely that the vehicle is unfit for use as a private hire vehicle and any other reasonable cause. The Sub-Committee is not satisfied that the vehicle is suitable in type, size and design for use as a private hire vehicle in accordance with section 48 of the Act.

The vehicle does not conform with Council policy in two respects; its age (now over 10 years old) and it is fitted with a diesel engine. The Sub-Committee has heard no evidence to satisfy it that the vehicle should be treated as an exception from the policy without undermining it or the reasons that underlie the policy. The Sub-Committee is also concerned with the mileage and the MOT failures with major defects over the last 5 years and as such it cannot justify departure from policy.

The personal (including financial) circumstances of the applicant are an irrelevant consideration in determining this application.



10. WA - Application for the grant of a Private Hire Driver licence

The Sub-Committee considered an application seeking departure from Council policy in respect of a Private Hire Driver (PHD) Licence.

The applicant (WA) and Graham Lange, Licensing Officer were in attendance for this item.

Graham Lange presented the report and made the following comments:

- WA had applied for a licence on 10th May 2021 requesting an exemption from the Private Hire Driver knowledge test
- Council policy since July 2021 required that the test was passed to enable a PHD licence holder to demonstrate a sufficient level of communication skills
- If WA was granted an exemption, he would still be required to pass the gold standard and other knowledge tests

WA stated the following:

- WA held a Private Hire Driver Licence with South Gloucestershire Council for 4 years
- He obtained his work through a chauffeur hire company and he is usually hired for a whole day to drive delegates around particular locations.
- Due to the pandemic, work has been significantly reduced.
- The company he work for has decided to get Bristol City Council plates as work is increasingly focused in this area. This significantly limits the amount of work he can now do since he can only drive certain cars
- Due to the chauffeur work he carries out, he will never need to know the locations of many street names, hospitals and schools as he picks clients up and drop them off from specific locations.
- He has passed the gold standard and other knowledge tests. The Private Hire Knowledge Test is the only test he hasn't yet taken

The Licensing Adviser confirmed that, if the licence was granted, it could be done so with a condition stating that it could only be used for chauffeur type activity.

The Sub-Committee then asked WA and Graham Lange to withdraw from the meeting and made its deliberations.

Upon their return, the following decision was announced.

RESOLVED (unanimously) that the application for a Private Hire Driver Licence is granted with an exemption from knowledge test due to the nature of the work which the Sub-Committee is satisfied provides justification to depart from policy. Condition to only work for the specified operator.

11. FA - Application for the Grant of a Private Hire Vehicle licence seeking departure from Bristol City Council policy

Councillor Guy Poultney left the meeting at this point and Councillor Jonathan Hucker who chaired the rest of the PSP Sub-Committee hearings.



The Sub-Committee considered an application for a Private Hire Vehicle (PHV) licence seeking a departure from Bristol City Council policy.

Dakota Ferrara attended for this agenda item, together with the applicant (FA), her husband MA and a friend accompanying them.

Dakota Ferrara introduced this report and made the following comments:

- The vehicle was registered on 29 July 2020 and was fitted with a diesel engine. The application for a licence was submitted on 20th September 2021
- Since the Council's policy from 1 April 2018 required that all vehicles were fitted with either a petrol or petrol hybrid engine, the Sub-Committee was recommended to refuse this application

The friend of FA and MA made the following points, supported by MA as required:

- MA had contacted Licensing and had asked what information was required to obtain a PHV licence.
- MA needed to use a 6 seater car to enable him to take children on school runs as part of his job.
- On the basis of the information given to him by Licensing and since a 6 seater vehicle was required, MA borrowed some money to purchase a 6 seater vehicle.
- A lot of money had already been spent on this car which had now been off road for 2 months
- MA referred to a particular e-mail which had not clarified that they would require a petrol/petrol hybrid. It had only required submission of the wife's name and the requisite fee
- Due to his financial circumstance, MA was unable to afford any further car
- MA was aware of other PHVs which were 7 or 8 seater and which were diesel vehicles

Dakota Ferrara made the following comments:

- Some exceptions to policy had been made in respect of 7/8 seater vehicles since these were all diesel powered but none for 6 seater vehicles which were more common and cheaper
- Whilst confirmation that a specific vehicle complies with policy could not be given until an application was submitted and determined, an e-mail in August 2021 had explained the policy clearly.

The Sub-Committee asked Dakota Ferrara, together with FA, MA and their friend, to withdraw from the meeting to enable them to deliberate on this application.

Upon their return, the following decision was announced:

RESOLVED (unanimously) – that the Sub-Committee determined to refuse the application for the grant of a Private Hire Vehicle Licence seeking departure from council policy on as the Sub-Committee is not satisfied that the vehicle is suitable in type, size and design for use as a private hire vehicle in accordance with section 48 of the Act.

The Council's latest policy (July 2021) and the policy prior to that (April 2018 onwards) in relation to the Private Hire Vehicle specification clearly states the position with regards to engine type: *Vehicles will not generally be accepted for private hire licensing unless they comply with the following specification; 1. Vehicles presented for licensing on the first occasion shall be*



petrol, petrol hybrid or an Ultra-Low Emission Vehicle (ULEV, excluding diesel ULEV vehicles).... This information and along with the links to the website and policy was emailed to the applicant's representative in August 2021.

It appears to the Sub-Committee that the applicant made a calculated risk in purchasing the vehicle, despite having been advised of the policy, which was within her remit to do so however the reliance on other vehicles being licenced isn't considered as justification to depart from the Council's policy without undermining it or the reasons that underlie it. The applicant has failed to put forward sufficient reasons to convince the Sub-Committee that there are exceptional reasons to depart from policy.

The personal and financial circumstances of the applicant are not a relevant consideration in determining this application.

12. AA - Application for the grant of a Private Hire Driver licence

The Sub-Committee considered an application for the grant of a Private Hire Driver (PHD) licence seeking a departure from Council policy.

Dakota Ferrara, Senior Licensing Officer, attended for this application together with AA (applicant) and two representatives from Allen Hoole Solicitors.

Dakota Ferrara introduced this report and made the following points:

- AA had made an application for the renewal of his licence on 17th September 2021 which was due to expire on 21st September 2021
- Following a complaint received by the Neighbourhood Enforcement Team on 20th September 2021, the following previous police investigations were noted – investigation of an allegation of rape made on 4th January 2017 and two separate offences on 5th and 10th February 2021 concerning failure to identify the driver of a vehicle and exceeding the statutory speed limit on a public road
- On making the application, AA had signed to confirm that he was not being investigated for any offence by the Police
- Officers recommended that the application should be refused

The representative from Allen Hoole Solicitors made the following

points in summing up:

- AA had not been arrested for any offence. He had attended a voluntary interview following an allegation of rape which had been made maliciously against him.
- AA has 24 years' experience as a taxi driver including 7 years as a Private Hire Driver
- During the incident in question in 2017, AA had consensual sexual intercourse with a passenger
- A female passenger sat in the front of the vehicle despite being requested not to and had made sexually suggestive remarks to him



- AA has since realised how inappropriate his behaviour was and has made a lot of changes to his private life and to how he conducts himself and as a driver
- AA now does not generally work at night time to avoid such situations. His work now involves much more home to school transport work dropping off children at school, some of whom have autism
- There have been no further incidents like this since 2017. This was a momentary lapse in judgement
- AA provided a character reference from his sister explaining that he is a kind and dedicated father and from his employer explaining that he is competent and professional
- AA has indicated that he will install CCTV for his vehicle and will shortly be attending a safeguarding course for taxi drivers
- He didn't disclose his voluntary attendance at the Police station concerning the rape allegation as he states he was the victim of a malicious accusation. The detective advised him that the matter was resolved and that all the information about the incident on the system would be removed. Having read the wording of the licence conditions he concedes that he should have disclosed it but states that the condition could be interpreted as being arrest then interview and there was confusion with what the Police told him. He now understands that full disclosure would be required of him in future.
- In relation to the speeding offences, AA had paid the full amount. He was not working at the time of the offences and the offences were not very severe (27 mph in a 20 mph zone and 47 mph in a 40 mph zone) and no other vehicle was at risk
- AA now also understands that any offence must be declared the following working day as opposed to when it goes to court and will ensure that he adheres to this requirement in future. He has now disclosed all the required information to the Police and courts

In response to questions from the Sub-Committee, AA's representatives and AA made the following points:

- AA did not realise it was his obligation to reveal the rape allegation since he had attended in a voluntary capacity and assisted the Police. In addition, it was subsequently deemed to be a malicious allegation and did not realise that it needed to be disclosed
- AA was not generally carrying out night time work. However, he acknowledged the recent incident reported at Tokyo World music festival which took place at night time
- AA had pleaded guilty to the speeding offences straight away and had put the confirmation form in the post. However, he had not received any acknowledgement
- The incident with a female passenger had been consensual as indicated by the Police which was set out in the paperwork
- AA confirmed that he had received the gold standard training
- AA stated that he was shocked that a female passenger had made sexual advances towards him. He was worried about the impact on his wife and family. If this ever happened again, he would ask them to leave the vehicle and/or call the Police as he did not want ever again to be in that situation

The Sub-Committee then asked Dakota Ferrara, AA and his two legal representatives to leave the room while they made their deliberations.



Upon their return, the Sub-Committee announced the decision as follows:

RESOLVED (unanimously) – that

1. The Sub-Committee determined to refuse the application to renew the applicant's Private Hire Driver Licence (PHDL) on the grounds contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely, any other reasonable cause, as it is not satisfied that the applicant is a fit and proper person to hold such a licence.
2. The Sub-Committee heard that the Neighbourhood Enforcement Team received information regarding a complaint to Ola and as a result of their investigation became aware of other matters relating to the applicant that was not known to the Licensing team or Neighbourhood Enforcement Team previously.
3. Firstly, the Sub-Committee considered the complaint to Ola and heard that Ola did not substantiate the complaint, took no further action in relation to the applicant and the customer was refunded. The Sub-Committee attached little weight to this complaint alone, although it had concerns regarding the appropriateness of the conversation that the applicant said took place which could make passengers feel uncomfortable.
4. Secondly, the Sub-Committee considered the outstanding road traffic offences from two separate occasions. The first occasion, consisting of a speeding offence and a failing to give the identity of a driver, was heard at Bath Magistrates' Court on 9th November 2021 however the outcome is not yet known. The second occasion, consisting of a speeding offence and a failing to give the identity of a driver, is due to be heard at Bath Magistrates' Court on 30th November 2021.
5. The Sub-Committee heard the applicant's account of the road traffic offences, including that he had paid in full but it was still being taken to court, and it is concerned that at the suggestion that the offences could be justified as they were not "*severe offences*", *he was not working or transporting passengers at the time so he was not putting anyone in danger as no one else was in the vehicle*. The Sub-Committee's paramount consideration is public safety and protection and speeding puts not only those in the vehicle in danger but any other road user including pedestrians and cyclists.
6. The Sub-Committee heard from the presenting officer that the applicant was required by condition 20 of his Private Hire Driver Licence to notify the Council in writing the next working day of certain events. The Sub-Committee heard that the applicant thought he didn't need to disclose as he had not yet received an endorsement to his DVLA licence however, it also heard that he had paid a fine which appears to be a Fixed Penalty Notice for the offence and therefore he was required to notify in writing of that, as per the wording of the condition and therefore still failed to comply with the condition. The Sub-Committee expects all licensed drivers to be fully aware of all licence conditions irrespective of the length of time a licence has been held. The applicant was a licensed driver for over 20 years and as such has no excuse not to have an in-depth knowledge of all the conditions on



the licences that he has held during that time. If the applicant had been in any doubt over the wording of any licence condition he had ample time to clarify the condition(s) with the Council.

7. The applicant on his renewal application ticked the declaration *“I confirm that I’m not being investigated for any offence by the police, other authority or other agency”*. The Sub-Committee considers it likely that the applicant at the time of the application would have known about the court proceedings and therefore falsely ticked this box, which can amount to an offence. Whilst the outcome for the road traffic offences is currently unknown, the Council can apply its own policy of the relevance of criminal behaviour not only where there are convictions, cautions and endorsable fixed penalties, but also where offending behaviour is proved to the satisfaction of the Council on the balance of probabilities.
8. The policy on motor convictions states that *“applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally. Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence. Consideration will be given to the nature of the offence and the penalty including points and fines”*.
9. The Sub-Committee considered that speeding on two separate occasions within a short period of time, and failing to disclose at the time or at renewal, gave cause to question whether the applicant is a fit and proper person to hold a PHDL.
10. The Sub-Committee considered what was initially an allegation of rape in 2017 and after being investigated by the police was concluded to be consensual sex, with no further action taken for the criminal investigation. However, the circumstances that resulted in that investigation cannot be ignored. The Sub-Committee heard that the applicant engaged in sexual intercourse with a female passenger, who was picked up at a taxi rank, in his hackney carriage vehicle. The applicant attended a voluntary interview with the police and as per the condition of his Hackney Carriage Vehicle Licence that he held at the time, he ought to have notified the council of this the following working day. The Sub-Committee heard of his confusion over the wording and his stress of being investigated however considers that it was a clear condition of the licence.
11. The Sub-Committee does not consider that a fit and proper person would engage in any sexual activity with a passenger. The applicant’s conduct falls far short of the standard expected from licensed drivers, is an abuse of his position, and brings his professionalism and integrity into great disrepute. The Sub-Committee heard from the applicant that the passenger started flirting with him and he couldn’t control himself. Whilst the conduct appeared to be consensual from the police report and allegedly initiated by the passenger, the Sub-Committee considers it entirely improper under any circumstance for the applicant to have engaged in such conduct with a passenger in a licensed vehicle. Had the Council been aware of this at the time, the matter would have been brought before the Sub-Committee for consideration; the fact that that didn’t happen at the time does not alleviate the need to question whether he is currently a fit and proper person. The Sub-



Committee heard that the applicant has since reflected on his actions however it cannot accept that such behaviour occurred without consideration of whether he is a fit and proper person.

12. The Sub-Committee heard that it has been nearly five years since the incident, which the applicant describes as a momentary lapse in judgment, however this newly discovered information along with the road traffic offences and the most recent complaint to Ola causes such concern that the Sub-Committee is not satisfied that that the applicant is a fit and proper person to hold a licence. The behaviour demonstrated places passengers safety at risk and failing to notify the Council following the interview in 2017 resulted in the matter not being considered and therefore the policy was not triggered at the time.
13. In considering whether the applicant is a fit and proper person, the Sub-Committee is aware that it is not defined in the legislation but there is a wealth of case law to understand the term and that the Council's policy summarises factors which are relevant to the test as follows:

The overriding consideration is the safety of the public.

The Council should ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse, assault or otherwise mistreat passengers. Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may be especially vulnerable people; the widespread use of hackney carriage and private hire vehicles by Council departments and voluntary agencies working with children and adults with special needs is indicative of the trust those bodies place in drivers. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver."

14. Taking this into account, as well as other matters, there is no doubt in the Sub-Committees determination that it not satisfied that the applicant a fit and proper person to hold a Private Hire Driver Licence.

13. Date of Next Meeting

It was noted that the next meeting was scheduled to be held at 10am on Tuesday 18th January 2022.

The meeting ended at 5.20 pm

CHAIR _____

