

# Bristol City Council

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



25 January 2022 at 10.00 am

### **Members Present:-**

**Councillors:** Marley Bennett, Chris Davies, Richard Eddy and Jonathan Hucker

### **Officers in Attendance:-**

Lynne Harvey (Legal Advisor), Carl Knights (Licensing Policy Advisor), Oliver Harrison (Democratic Services Officer), Dakota Ferrara and Graham Lange

### **1 Welcome and Safety Information**

The Chair led introductions and issued the safety information.

### **2 Apologies for Absence**

Apologies were received from Councillor Amal Ali and Councillor Tessa Fitzjohn.

### **3 Declarations of Interest**

None received.

### **4 Minutes of the Previous Meeting**

The minutes of the previous meeting 14 December were not completed in time for this meeting, so will be approved at the next PSP-A meeting on 22 February.

### **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 ZO - APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE**

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

- ZO applied for a new licence 4 March 2021. He had previously held a licence which expired on 24 November 2020. He was first licensed in 2009.
- A DBS check has shown a conviction for battery in 2018. He did not notify the council of the offence at the time, nor was it declared on his application.
- ZO has been given two warning letters regarding his behaviour at the Citizen Service Point.
- BCC policy is that a conviction for a violent offence means a licence should not be granted until 10 years has elapsed.

The appellant gave the following evidence:

- At the time of the offence, ZO was recovering from an operation and was suffering from several medical conditions, including high blood pressure.
- The incident happened while ZO was fasting, adding to his blood pressure issues and making him stressed and angry.
- This was a one-off incident and ZO does not consider himself an aggressive person normally. This is his only offence over a 14-year career.

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

- ZO has no other complaints or convictions apart from the ones set out in the report.
- He has always worked as a driver, holding a taxi licence since 2009 and working as a delivery driver before this.
- In 2017 he had an operation that made it difficult to work. In 2018 he renewed his licence and this incident happened after the renewal. The Covid lockdown came into force afterwards, causing more disruption.
- He did not declare this offence on his application. He was unable to give an explanation to the committee for this.



- He has received warning letters due to his conduct at the Citizen Service Point in 2018. He said he was in pain due to his operation and dissatisfied with the poor service.
- He claimed to have not received the letters due to a change in address. His current address was confirmed in the committee. Officers reminded ZO that it is a condition of his licence to tell the council if his address changes.

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

### Decision

That the application for the grant of a PHD Licence made by ZO be refused on the ground contained in section 51 of the Local Government (Miscellaneous Provisions) Act 1976 in that the committee could not be satisfied he was a fit and proper person to hold such a licence.

### Reasons

The Applicant had failed to declare that he had been found guilty of an offence of battery in October 2018 on his application form. He was not able to provide any explanation for this omission. Any failure to notify the Council of proven offending conduct may, by itself, result in a review by the Council as to whether the licence holder is a fit and proper person.

Importantly, a failure by a licence holder to disclose any offending conduct that the Council is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

The policy starting point is that offences involving violence require a period of 10 years free of conviction. The Committee had heard nothing from the Applicant to satisfy them that he should be treated as an exception to Council policy without undermining it or the reasons that underlie it.

There was also an incident in January 2018 where he received two warning letters about his conduct towards Council staff at the customer service point. Although he denied receiving the letters, the conduct complained of was concerning.

The committee also noted that the applicant had changed address, on a number of occasions, as he put it, since 2018 and had failed to notify the Council of his change in circumstances as is required by the Conditions of PHD licence.

Taking into account all of the above factors the Committee could not be satisfied that the applicant was a fit and proper person to hold a PHD licence.

## **9 JM - APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE**



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

- JM applied for a new private hire driver's licence on 13 June 2021. He previously held a licence until 25 February 2021, when he was given a 6-month driving ban due to totting up of driving offences.
- He has multiple recent endorsements as per the report and 12 historical convictions. JM was issued a warning letter in 2019 for failing to report his offences.
- He has previously applied for a PHD licence, but this was deferred as he did not hold a valid driving licence.
- Under BCC policy, committee should consider whether multiple offences mean an individual is fit and proper to hold a PHD licence. Under the new policy guidance, an offence of using a phone while driving should result in no licence being granted for a 5-year period.

The appellant gave the following evidence:

- JM has been driving for 34 years and has not received any complaints from customers in that time.
- For the offence regarding using a phone while driving, he maintained this was an emergency as the call was related to his sister, who was in hospital at the time. The phone has a hands-free system, but this was not working. There was no customer in the car.
- JM believes that he has served his punishment following a 6-month driving ban. This has caused him and his family financial hardship due to being unable to work.

After questioning from the sub-committee, the following information was confirmed

- JM was reminded that in addition to the phone offence, there are a long list of offences on his record that could be considered an unfit pattern of behaviour. He was asked about his more recent offences of speeding and failing to comply with traffic lights but was unable to explain his behaviour.
- It was confirmed that the BCC policy is to not issue a licence for 5 years after the recording of an offence using a phone while driving. This policy came into effect in 2019 following new national statutory guidance. There has always been a policy that multiple offences are a cause for concern.

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

## Decision

That the application for the grant of a PHD Licence made by JM be refused on the ground contained in section 51 of the Local Government (Miscellaneous Provisions) Act 1976 in that the committee could not be satisfied he was a fit and proper person to hold such a licence.

After receiving the decision, JM became very aggressive towards the committee members and officers.

## Reasons



The Members noted with some concern that JM had a large number of driving convictions on his record and although a number of them were historic, there were four convictions in the last four years, including a conviction in May 2020 of using a hand-held device whilst driving. This had resulted in him being disqualified from driving under the totting up procedures.

The policy starting point of using a hand-held device whilst driving is a period of at least five years free of conviction before an application will be entertained. The policy also states that whilst a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence, an applicant 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.

The Committee had not heard anything from the applicant to satisfy them that he should be treated as an exception to Council policy without undermining it or the reasons that underlie it. The committee noted his personal circumstances during the pandemic, but these were not relevant, save to excuse the conduct of the driver. The Applicant provided a detailed explanation for committing the offence of using a mobile phone whilst driving, which the Members accepted was out of character, but due to the number of driving offences which were caught by Council policy, the Committee could not be satisfied that JM was a fit and proper person to hold a PHD licence. The Council is entitled to expect high standards from those whom it licences but unfortunately JM's driving standards, over a period of four years, had not demonstrated that he was a safe road user. The application was therefore refused.

## **1 AN - APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE AND PRIVATE HIRE 0 DRIVER LICENCE**

A representative from the Blue Taxi Association was present to assist the applicant. The applicant submitted additional documentation on the day of the committee, which was read and considered.

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

- AN applied for renewal of a Hackney Carriage Licence on 11 October 2021 and Private Hire Driver licence on November 2021. His current licence expired 25 January 2022. AN has held a licence since 2015.
- He previously appeared at PSP on 15 Nov 2016 due to convictions for criminal damage and common assault. There are no other offences or complaints on file.
- This case has been referred to committee due to a change in policy that violent offences should result in a refusal to grant a licence for a period of 10 years.

The appellant gave the following evidence:

- The titles of the criminal convictions in question make them sound much worse than the facts of the case.
- This was an incident from 2015, where AN was taking a haircut and was advised by the barber to park his vehicle in the car park of a neighbouring business.



- Another man parked behind AN, blocking his vehicle and refusing to move. AN touched the man's shoulder during the discussion about moving his vehicle. AN attempted to move his own car around the blocking vehicle, at which point the other man accused him of damaging his vehicle and racially abused AN.
- AN made a statement about the incident to the police as he feared for his safety. He then went on a three-week trip to Egypt to visit his mother and when he returned to the UK found he had been summoned to court.
- On taking legal advice, he was told that it would cost around £5k in legal fees to defend the case in court. He was not in a financial position to afford that and was also told that a defence would be difficult as he had already admitted touching the other man during the argument in the police statement.

After questioning from the sub-committee, the following information was confirmed

- It was confirmed that AN has no other offences or complaints on file. He has held a hackney licence since 2015 and private hire since 2019.
- In 2015 the PSP committee decided that this was an isolated incident and granted a licence. This has been referred to committee today due to the change in policy.
- AN has taken steps to prevent this kind of incident in future by installing cameras in his car to record evidence and does not make physical contact with others any more.

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

## Decision

That AN's applications for the renewal of his Hackney Carriage Driver (HCD) and Private Hire Driver (PHD) licence be granted in that he had satisfied the Committee he was a fit and proper person to hold both licences.

## Reasons

The convictions in question and the circumstances concerning the offending conduct were considered by committee on 15 November 2016 and AN satisfied the Council on that occasion that he should be treated as an exception to the previous Council policy which recommended a period of 5-8 years free of conviction. On that occasion the committee accepted there were strong mitigating circumstances, AN had pleaded Guilty, he had been racially abused and had not re-offended since the incident in question. He was also given a conditional discharge which demonstrates that the offending conduct was at the less serious end of the scale.

AN had an unblemished record as a HC and PHD and nothing had changed since the previous committee decision where AN had satisfied the Members that he should be treated as an exception to Council policy and was a fit and proper person to hold a licence. Given the background history to AN's case, he should



similarly be treated as an exception to the new policy. Both applications to renew his licences will therefore be granted.

## **1 IR - CONSIDER WHETHER AN EXISTING HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER IS 1 A FIT AND PROPER PERSON**

Clr Eddy left at this point of the meeting and Clr Bennett assumed the Chair. The appellant was supported by his brother.

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

- IR was first issued a licence in May 2005. His current licences expire on 18 March 2024.
- He attended PSP in 2012 due to an assault conviction and was suspended for one month. He has been referred to committee today due to a change in policy stating those convicted of violent offences should not be licensed for a period of 10 years.
- He has no previous complaints on file.

The appellant gave the following evidence:

- This was an isolated incident over 9 years ago involving an argument with another taxi driver about cutting the queue in a taxi rank. IR has an outstanding record apart from this incident. There are many references and letters of support in the paperwork.
- The policy at the time of the last PSP meeting was to not issue for a period of 5-years, but the decision was to suspend for just one month. He understands the policy has changed but it seems unfair to punish him again retroactively.

After questioning from the sub-committee, the following information was confirmed

- IR confirmed that he has avoided confrontation with other drivers since the incident and will continue to do so in future as he has too much to lose, now being a father to 3 children.
- He has never had any confrontations with customers and prides himself on his good customer service.
- He was recently a key witness in resolving a police investigation.

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

### Decision

That no action be taken in respect of the Hackney Carriage Driver (HCD) and Private Hire Driver (PHD) licences of IR and he was still considered to be a fit and proper person to hold both licences.

### Reasons



IR had received a caution on 4 April 2012 for the offence of assault occasioning ABH. This was caught by the previous Council policy on offending behaviour resulting in IR's licence being considered by committee in July 2012. On that occasion the committee determined to treat IR as an exception to Council policy and suspend him for a period of one month as opposed to revoking his licence. Under the previous policy he could have been "off the road" for ten years but the committee decided he was honest about the incident, gave a credible explanation he had been provoked, he had a previous good record and had provided impressive references.

Nothing had changed since the last committee and there had been no other concerns regarding IR's ability to satisfy the fit and proper person test. The caution was now almost 10 years old and the offending conduct was considered by the previous committee to be at the less serious end of the scale.

## **1 KS - APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE AND PRIVATE HIRE 2 DRIVER LICENCE**

An interpreter was present for this application.

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

- KS applied to renew his licenses on 17 August 2021, his previous licences expired on 14 September 2021. He has held a licence since 2004.
- He appeared at PSP in 2018 concerning an assault conviction.
- New national guidance and BCC policy means that we should not license someone with a violent offence conviction for a period of 10 years.

The appellant gave the following evidence:

- There is a historical offence in the papers regarding refusal to take a disabled person in his taxi. This was because the disabled person's carer refused to come in the taxi with her and KS thought it would be unsafe to carry them on their own. This case was dismissed. There is another about stopping on a crossing, which was caused by an unruly customer refusing to leave the vehicle.
- Regarding the charge of assaulting a police officer, this was a case of self-defence. During an argument with his wife, neighbours called the police. KS' wife has poor English skills and said that he had attacked her, which was factually inaccurate. KS was cooperating with the police but refused to be handcuffed, at which point the officer pepper sprayed him. He reacted by pushing the officer away to protect himself.
- A detailed record of the incident was presented at the previous PSP by his solicitor.
- As included in the papers, the judge said that KS did not punch the officer as accused but did push him which would still count as assault. He agreed to accept a 12-week suspended sentence.

After questioning from the sub-committee, the following information was confirmed

- The previous PSP decision was to exempt KS from the policy. There was a barrister present at that meeting so there was extensive discussion on the facts of the case.
- The wheelchair incident was in 2005 and was overturned on appeal.



- KS was advised to settle for the 12-week sentence by solicitors due to the difficulty of arguing a case against the police. KS regrets this as he now has a high-profile criminal conviction which has made his life more difficult.

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

Decision:

That KS's applications to renew his Hackney Carriage Driver (HCD) and Private Hire Driver (PHD) licence both be granted.

Reasons:

The matter of KS's conditional discharge for the offence of assault was considered by the Committee on 20 November 2018 when it was determined he could be treated as an exception to Council policy and was still a fit and proper person to be licensed.

Nothing had changed since the last committee hearing and there had been no other concerns since regarding KS's ability to satisfy the fit and proper person test. The conditional discharge reflects that the offending conduct was considered to be at the less serious end of the scale and would not debar KS from being a fit and proper person to hold a licence. He would therefore be similarly treated as an exception to the new policy.

## **1 QZ - APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER LICENCE**

**3**

Councillor Davies left at this point in the meeting.

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

- QZ applied for a Hackney Carriage Licence on 29 July 2021, his previous licence expired on 11 Feb 2021. He was out of the country between February and June.
- He appeared at PSP on 7 July 2020 due to an undeclared historical conviction and more recent housing offences.
- He was issued a temporary licence and was required to complete the knowledge test, gold standard and medical test.
- Committee is asked to reconsider his offences due to the change in BCC policy. Members do not need to consider the medical today, but officers would need that information before granting the licence.

The appellant gave the following evidence:



- That he completed his Gold Standard course in October of last year, but the training company has not yet issued his certificate. QZ presented an email to the committee stating his course was currently being marked.
- He undertook a medical examination on 29 July 2021 and sent the details to the council, however more information was required.
- He had difficulty managing his licence and applications due to travelling between the UK and Pakistan during Covid.
- QZ has held a licence since 2000 and has never had any offences or complaints relating to his taxi work.
- In 2016/17 QZ's brother added his name to some of his properties without his knowledge. There was an offence of not giving BCC necessary information on these properties, which was registered against me.
- He said that due to his offences being registered on CRB, BCC should know it is there. It is also a spent conviction.

After questioning from the sub-committee, the following information was confirmed

- It is a condition of the licence that drivers declare all offences to the council.
- That the medical is not part of the proceedings today, but officers had requested additional medical information beyond what QZ had already submitted.
- The committee is being asked to consider his offences and the request for exemption from the knowledge test. QZ has been a licenced taxi driver for over 20 years apart from a 6 to 12-month period, so views the test as unnecessary.

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

#### Decision

The convictions which relate to failing to complete forms and which have previously been considered by committee would not debar QZ from being granted a licence. There had been no complaints concerning QZ's conduct as a HCD since.

The application for the exemption from the Knowledge test is refused.

The application will be deferred pending QZ successfully completing the knowledge test, providing evidence of successful completion of the Gold Standard test and providing updated and incomplete medical evidence in order to satisfy the group 2 criteria.

#### Reasons

The convictions would not debar QZ from being granted a licence. However, there were several other issues that needed to be considered that might place a question mark over QZ's suitability to hold a licence.



The main purpose of the report was to consider whether QZ could be treated as an exception to Council policy by being granted an exemption from the knowledge test. The committee did not consider that QZ should be treated as an exception to Council policy and the knowledge test would need to be completed by QZ in order to satisfy that element of the fit and proper person test. This is consistent with the previous committee decision and ensures consistency and fairness throughout the trade.

It was also noted that QZ had not satisfied the Group 2 medical criteria. This was also crucial in order to satisfy the fit and proper person test.

He would also need to produce evidence of successful completion of the Gold Standard course.

Until all of this information is received, the Council is not in a position to determine the application.

Meeting ended at 3.00 pm

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

