

# Bristol City Council

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



14<sup>th</sup> December 2021 at 10.30 am

### **Members Present:**

**Councillors:** Amal Ali (Chair), Marley Bennett, Richard Eddy and Tessa Fitzjohn;

### **Officers in Attendance:**

Lynne Harvey – Legal Services, Abigail Holman – Licensing Section (Policy Advisor), Dakota Ferrara – Licensing Section (Presenting Officer Agenda Items 10 and 12), Carl Knights – Licensing Section (Presenting Officer Agenda Items 8), Graham Lange – Licensing Section (Policy Advisor), Norman Cornthwaite – Democratic Services, Alison Wright – Neighbourhood Enforcement Team (Presenting Officer Agenda Items 13 and 14),

### **Also in attendance:**

P C Patrick Quinton (Agenda Items 13 and 14)

## **1 Welcome and Safety Information**

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

## **2 Apologies for Absence**

Apologies were received from Councillor Davies.

## **3 Declarations of Interest**

None received.



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

**Resolved – that the Minutes of the Previous Meetings be agreed as a correct record.**

#### **5. Public Forum**

Nothing was 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 Application for the Grant of a Private Hire Vehicle Licence seeking departure from BCC Policy – ML (Agenda Item No.8)**

The Legal Advisor noted that the Licence had expired and that the application can only be granted in exceptional circumstances. The application should be treated as a new application.

ML was in attendance accompanied by a representative.

The Licensing Officer introduced the report and summarised it for everyone.

The Legal Advisor confirmed that the application could be treated as a renewal if only a short period of time had elapsed since the licence expired. In this case it was more than 10 months so the application has to be treated as a new application and the vehicle does not conform with the BCC Policy.

ML's representative put his case highlighting the following:

- He asked that the Members use their discretion and make an exception to their Policy in this case
- The pandemic and the consequent lockdowns were exceptional circumstances



- ML had been unable to meet the payments on his car and had had to refinance it; this had caused him enormous stress and anxiety
- He has been on Universal Credit
- The BCC Policy has changed during the time he has been off the road; (it was clarified that in fact the Policy relating to diesel vehicles was changed in 2018)
- He has been monitoring the amount of work available and it did not appear viable to apply for the vehicle licence until September/October
- Members were requested to use their discretion and issue a licence for 6 months; this would enable ML time to obtain finance on a compliant vehicle
- He had not been aware of the 3 month period allowed for licence renewals

In answer to questions ML stated the following:

- He had not been in a financial position to apply for the vehicle licence until September/October
- He had paid for vehicle to pass its MOT
- He needs this vehicle licensed so that he can work and finance the purchase of a compliant vehicle in the future

The Policy Advisor reminded everyone that the motoring conviction was not relevant to the application for a vehicle licence.

The Licensing Officer, ML and his representative left the room whilst the Committee made its decision.

### **Decision**

To refuse to grant the application to grant the PHV licence on the ground contained in section **48(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976** in that the Council could not be satisfied (a) that the vehicle was—  
(i) suitable in type, size and design for use as a private hire vehicle;

In that it failed to conform to Council policy in two respects.

### **Reasons**

The Committee was not satisfied that there are exceptional grounds to treat the application as a renewal. The Council's policy allows a very generous period of grace of 3 months following expiry of a licence where an application to renew will be accepted. In this particular case a period of 10 months had expired before the application to renew had been made. In accordance with relevant case law any renewal of more than a few days following expiry of a licence should not be treated as a renewal save in exceptional circumstances.

As the committee were considering this as a fresh application the vehicle does not conform with Council policy in two respects, namely the age and the fact the vehicle is fitted with a diesel engine. The



Committee acknowledge that COVID has resulted in exceptional times but all licensees have been in the same position and therefore the pandemic was not an exceptional circumstance to enable this particular application to be treated as an exception to Council policy. The application to renew and/or grant the licence is therefore refused.

The Applicant's vehicle is fitted with a diesel engine. The Private Hire Vehicle Specification Policy requires new vehicles to be petrol, petrol hybrid or ULEV. Exemptions are on occasion granted to executive vehicles or vehicles that carry 8 passengers as a result of these vehicles often only being supplied with diesel engines. One of the aims behind the move away from diesel PHVs was to improve the air quality in the city and the Members were mindful of the imminent introduction of the clean air zone. Diesel vehicles emit significantly more Nitrogen Oxides (NOx) than petrol vehicles. The vehicle was also significantly older than 3 ½ years.

The Committee had sympathy in regard to the Applicant's personal circumstances but unfortunately this was an irrelevant consideration when considering the suitability of the vehicle or whether the application should be treated as an exception to Council policy.

Everyone returned to the room to hear the decision announced.

**Resolved – (unanimously) that the application for the Renewal and/or Grant of a Private Hire Vehicle Licence made by ML be refused.**

#### **8 Application for the Grant of a Private Hire Vehicle Licence seeking departure from BCC Policy – NA (Agenda Item No. 9)**

NA was not in attendance.

**Resolved – (unanimously) that consideration of this application be deferred until a future Meeting of the Committee.**



## 9 Application for the Renewal of a Hackney Carriage Driver's Licence – MH (Agenda Item No. 10)

MH was in attendance.

The Licensing Officer introduced the report and summarised it for everyone. She also clarified that he had been convicted of speeding offences 2014 (SP50) and 2016 (SP8), receiving 3 penalty points on his licence for each offence.

MH put his case and answered questions highlighting the following:

- He had initially forgotten the offence in January but had subsequently included it on his second application
- He had committed speeding offences on St Andrews Road and the M32; on both occasions he was only travelling slightly above the speed limit

The Licensing Officer and MH left the room whilst the Committee made its decision.

### Decision

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

### Decision

That the application to renew the HCD licence of MH be granted on the ground contained in section 59 of the Local Government (Miscellaneous Provisions) Act 1976 in that the Committee was satisfied that he was a fit and proper person to hold such a licence. But that the Applicant would be issued with a warning as to his future driving standards and the requirement to promptly notify the Council of any convictions during the period of his licence.

### Reasons

The Committee noted that the Applicant had recently been convicted of two speeding offences. The first one he had failed to disclose but the members accepted that this was an innocent omission for which he had apologised and he had disclosed the second conviction, albeit not as promptly as he should have done.

Although speeding is regarded as minor traffic offence, the Members take such driving contraventions very seriously. These two convictions would not debar the applicant from being granted a licence on this occasion but it was decided that a warning as to his future driving standards should be given in addition to reminding him of the requirement to promptly notify the Council of any convictions during the period of his licence.



Everyone returned to the room to hear the decision.

**Resolved – (unanimously) that the application to renew the HCD licence of MH be granted on the ground contained in section 59 of the Local Government (Miscellaneous Provisions) Act 1976 in that the Committee were satisfied that he was a fit and proper person to hold such a licence. But that the Applicant would be issued with a warning as to his future driving standards and the requirement to promptly notify the Council of any convictions during the period of his licence.**

**1 Application for the Renewal of a Hackney Carriage Driver’s Licence and a Private Hire  
0 Driver’s Licence – KS (Agenda Item No. 11)**

KS was not in attendance.

**Resolved – (unanimously) that consideration of this application be deferred until a future Meeting of the Committee.**

**11 Application for the Grant of a Private Hire Driver’s Licence – MMD (Agenda Item No. 12)**

MMD was in attendance accompanied by an interpreter. Cllr Hibaq Jama was also in attendance.

The Licensing Officer introduced the report and summarised it for everyone. In response to a question, she confirmed that the offences had not been declared by MMD.

MMD put his case and answered questions highlighting the following:

- He acknowledged the previous decisions made by the Committee
- He was not aware of the offences at the time
- He came to Bristol in 2005 and worked in the community with Somali organisations including with children who have left school
- He has not taken Khat since it was made illegal
- He has done everything he was asked to do in 2019 including the Gold Standard, the Knowledge Test and the DBS check; (it was noted however that he had not completed the Gold standard Course and that he needed to provide a satisfactory updated DBS certificate)

Cllr Jama made a statement in support of MMD requesting that the Committee grant him a licence.

The Licensing Officer, MMD, his interpreter and Cllr Jama left the room whilst the Committee made its decision.

**Decision**



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

The Committee decided that MMD's convictions would not be a debar to him holding a PHD licence but before a licence can be issued to him, he would need to satisfy all other elements of the fit and proper person test by successfully completing the Gold Standard Course and provide a satisfactory updated DBS certificate and signing up to the DBS update service.

#### Reasons

MMD had previously appeared before committee in 2019 where it was decided that his convictions would not debar him from being granted a licence and he could be treated as an exception to Council policy but a licence would only be issued to him if he successfully completed the knowledge test and the Gold Standard test. Information was received that he had completed the knowledge test but not the Gold Standard test. He had satisfied the members on that occasion that he could be treated as an exception to Council policy because he was very remorseful about the convictions, the drugs were class C (Khat) and he was not aware that the drug was illegal at the time. The drug became illegal in the UK in 2014. The offence was committed in Dublin.

The reason the matter had been brought back before committee was due to a change in Council & National policy whereby drug related offences (intent to supply) recommended a period of 10 years free of conviction before a licence should be granted.

Having heard from MMD today the Members were still satisfied that his convictions should not debar him from holding a licence subject to him passing all other outstanding elements of the fit and proper person test. He remained remorseful about the offences, the committee believed that he was not aware he was committing an offence at the time and he had undertaken some valuable work in the community.

Everyone returned to the room to hear the decision.

**Resolved – (unanimously) that the application by MMD for a Private Hire Driver's licence be granted, but before a licence can be issued to him, he will need to satisfy all other elements of the fit and proper person test by successfully completing the Gold Standard Course and by providing a satisfactory updated DBS certificate and signing up to the DBS update service.**

#### **12 To determine whether action should be taken against the holder of a Private Hire Driver's Licence and a Private Hire Vehicle Licence – SS (Agenda Item No. 13)**

SS was in attendance with his wife.

The Neighbourhood Enforcement Officer introduced the report and summarised it for everyone.

P C Quinton made a witness statement confirming his written statement appended to the report.



SS put his case and answered questions highlighting the following:

- This was the first time he had committed such an offence; Uber had cancelled his job and he was looking for another one
- The speeding offence related to doing 27mph in a 20 mph zone; he had not reported the offence as his wife had forgotten to send an e-mail during the pandemic

The Neighbourhood Enforcement Officer, SS and his wife left the room while the Committee its decision.

### **Decision**

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

The Committee decided to suspend SS's licence for a period of one month.

The starting point under the Council's policy would normally be to suspend the licence for a period of 6 months. The Council take a very dim view of plying 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 due to the lack of proper insurance.

However, the Committee accepted that this offence was out of character, SS made full admissions at the scene and was very remorseful. In the individual circumstances of the case, the Committee is prepared to make a slight departure from policy and impose a much shorter period of suspension of one month to reflect that SS's conduct had fallen below the high standards the Council is entitled to expect from those whom it licences.

Also – it is ultimately his responsibility (not his wife's) to ensure that he ensures that all necessary documentation is properly completed.

**Resolved – (unanimously) that SS's PHD licence be suspended for a period of one month on the ground contained in section 61(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause.**

Councillor Ali left the Meeting and Councillor Bennett took the Chair.

**13. To determine whether action should be taken against the holder of a Hackney Carriage Driver, a Hackney Carriage Vehicle and Private Hire Driver's Licence – SA (Agenda Item No. 14)**

SA was in attendance with his legal representative.





The complainant was in attendance accompanied by her mother.

The Neighbourhood Enforcement Officer introduced the report and summarised it for everyone.

The complainant confirmed her written statement.

The complainant's mother confirmed her written statement and that she was very anxious for her daughter. She had told her daughter to get out of the taxi and she would pick her up.

P C Quinton confirmed that his evidence is contained the report. PC Quinton added he had known SA for a long time. There had been occasions when he'd asked him to move on. On all occasions SA says he respects PC Quinton – but slightly fractious – he asks questions such as: why are you doing this? Why are you targeting me? That sort of thing. He had not brought previous incidents before committee as there had only been minor infringements – no pattern of serious behaviour before that.

In response to questions from SA's solicitor the complainant provided the following answers:

- She confirmed that SA had pulled away before she had been given time to sit down properly or put the seatbelt on
  - Referring to her description of him as a "Weirdo" and "Chatting shite" in texts to her mother, she confirmed that SA had been on his 'phone to someone for duration of the journey and also exhibited other abnormal behaviour - shouting out of his car window (asking if anyone was going to Weston Super Mare). There was a lack of client care
  - She considered that SA had driven at inappropriate speeds during the journey but was unable to state how fast he was going
  - On the short video viewed by the Committee, she was laughing as she was in shock at SA's behaviour. She had lived on her road for a very long time. It was a respectable area and she was embarrassed to be called a "fucking bitch" three times. She was worried the neighbours would think she was rolling up drunk.
- A. It had not been her first instinct to record the journey; she had been travelling for 9 hours and had 2 bags of luggage with her. It was difficult to use the phone – she was in such shock but was desperately trying to get the video to work by pressing buttons but was tired

Councillor Eddy thanked the complainant and her mother, and stated that he was surprised that none of the previous complaints against SA had been brought to Committee. SA's representative thanked Councillor Eddy for bringing up the previous complaints and invited the committee to attach no weight to them.

In response to a question concerning the incident on 28<sup>th</sup> February 2021, P C Quinton stated that he considered the issue of an Official Written Warning to SA to have been the appropriate action.

SA's solicitor noted that there had been 6 other incidents involving SA but that none had been deemed worthy of bringing before the Committee; he outlined the incidents and the actions – if any – taken.



- 16<sup>th</sup> June 2012 – unsubstantiated allegation; no other complaints about incorrect change
- 9<sup>th</sup> July 2013 – no evidence supporting the allegation
- 22<sup>nd</sup> October 2013 – no evidence or record of investigation
- 9<sup>th</sup> November 2016 – no investigation was made or statements taken
- 2<sup>nd</sup> July 2018 – not investigated further
- 28<sup>th</sup> February 2021 – SA given Official Written Warning

The Legal Advisor stated that the National Guidance enabled the Members to consider all intelligence held in respect of SA – even complaints which are not proceeded with.

SA's solicitor put his case highlighting the following:

- He stated that there had been inconsistencies in the complainant's version of events during the journey to Weston Super Mare
- SA denied trying to pick up other passengers
- SA is very Covid conscious and would not have wanted a lot of people in his taxi
- SA denied speeding; it was Halloween and there would have been a considerable Police presence
- SA denied making rude comments
- The complainant could have recorded the journey on her 'phone
- SA was only expected to take her to the train station, but instead had taken her home
- There had been no confrontation outside the taxi
- SA denied stating that he would lose his licence if he exceeded the mileage to the destination shown on the token
- SA did not know why the complainant was videoing
- SA denied that he was rude and condescending towards her
- SA denied that he used abusive and threatening conduct towards her by getting out of his taxi, following her along the road and using offensive language towards her in an attempt to intimidate her

SA answered questions providing the following information:

- He had explained the route to the complainant
- She had given him her home address at Temple Meads
- He got out of the vehicle at the end of the journey because he did not understand why she was videoing

The complainant stated that there had been two men ahead of her in taxi queue at Temple Meads; SA spoke to them but they were only going somewhere in Bristol; SA did not agree to take her home until they were leaving the A370 at Hewish; she had not thought to video straight away, only when events unfolded; she would not have pursued the complaint if it was not true. She was a trainee solicitor and therefore why would she put her career at risk by making this up.



P C Quinton advised that the Transit type vehicle that SA was driving is subject to a lower speed limit of 60 mph rather than 70 mph.

SA's solicitor summed up his case; SA is a fit and proper person.

The Neighbourhood Enforcement Officer, SA, his solicitor, the complainant and her mother left the room while the Committee its decision.

## Decision

The Committee considered very carefully all the written and verbal evidence, as well as a short video that it had received.

## Decision

That both the Hackney Carriage and Private Hire Driver Licences of SA be revoked on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 ("the Act"), namely any other reasonable cause, and that in the interests of public safety the revocations have immediate effect in accordance with section 61(2B) of the Act.

## Reasons

The Committee reached findings of fact on the complaint on a balance of probabilities. The two versions of events between SA and the complainant were so different that one of these individuals was not telling the truth.

There were several elements to the complaint and the Committee reached the following findings:

- The Committee believed the complainant's version of events that SA proceeded to drive away before she had the chance to sit down and properly and safely secure herself in his taxi.
- The Committee also believed the complainant's version of events that SA drove around Temple Meads to look for another fare without the consent of the passenger
- The Committee were unable to reach any conclusions as to whether SA was speeding but believed the complainant's version of events that SA was rude and condescending towards her. Although the Committee could not substantiate what speed the vehicle was travelling at, it did not go unnoticed that SA believed the speed limit on the road in question to be 70mph when PC Quinton confirmed that it was in fact 60mph for SA's vehicle
- The Committee believed the Complainant's version of events that SA demonstrated a lack of care towards her by not ensuring she was safely dropped off right outside her home
- The Committee believed the complainant's version of events that SA used abusive and threatening conduct towards her by getting out of his taxi, following her along the road and using offensive



language towards her in an attempt to intimidate her. This behaviour from a taxi driver towards a lone female passenger during the hours of darkness could not be much worse.

The Committee also took into account the National Guidance which enabled the Members to consider all intelligence held in respect of SA – even complaints which are not proceeded with. It was appreciated that a number of the historic complaints resulted in no further action, but the number of complaints against one individual was a cause for concern.

The Members further noted the report from PC Quinton in which he commented that SA could be challenging to deal with.

The complaint against SA was upheld, which on its own was serious enough for there to be “reasonable cause” to revoke both his Hackney Carriage and Private Hire Driver Licences. The conduct of Mr Aslam had fallen well below the high standards the Council is entitled to expect from those whom it licences.

The Committee also determined that due to the seriousness of the complaint, in particular the threatening and abusive behaviour towards a lone female passenger during the hours of darkness, the interests of public safety merited the licences being revoked with immediate effect in accordance with section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

Everyone returned to the room to hear the decision.

**Resolved – (unanimously) that the interests of public safety merited the licences being revoked with immediate effect in accordance with section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.**

Meeting ended at 4.45 pm

Chair \_\_\_\_\_

