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



22nd March 2022 at 10.00

Members Present:

Councillors: Guy Poultney (Chair), Katja Hornchen, Jonathan Hucker and Barry Parson

Officers in Attendance:

Shreena Parmar (Legal Advisor), Carl Knights (Licensing Policy Advisor), Dakota Ferrara (Licensing Section, Presenting Officer Agenda Items Nos. 8, 9, 10, 11 and 12), Steve Eysers (Neighbourhood Enforcement Team, Presenting Officer Agenda Item No. 13), Martyn Nicklin (Trading Standards Officer, Agenda Item No. 13) and Norman Cornthwaite (Democratic Services Officer)

1. Welcome and Safety Information

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

2. Apologies for Absence

None were received.

3. Declarations of Interest

There were none.

4. Minutes of the Previous Meeting held on Tuesday 18th January 2022.

RESOLVED – that the Minutes of the above meeting be 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 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. Application for the grant of a Private Hire Vehicle Licence seeking departure from BCC Policy (6038)

And

9. Application for the grant of a Private Hire Vehicle Licence seeking departure from BCC Policy (6037)

Items 8 and 9 were considered at the same time as it was the same Applicant for both applications

The Applicant was in attendance.

The Licensing Officer introduced both reports and summarised them for everyone.

The Applicant put his case highlighting the following:

- Both vehicles had previously been licensed and expired during the covid pandemic; the type of executive work was wedding, special events and airport transfers all of which were limited due to the pandemic therefore the amount of executive work had decreased
- He had submitted renewal applications in August 2021 but the applications were not considered until November when all the paperwork was available; due to the age of the vehicles they had to be treated as new applications; there was an unreasonable delay in dealing with the applications. He had been paying to insure the vehicle since November 2021 and chased the progress of the applications
- The vehicles have diesel engines and are used for executive work; both vehicles use AdBlue

The Licensing Policy advisor confirmed that although the applications had been received in November 2021, they had not been presented to Committee until this Meeting. This could be considered an unreasonable delay. He confirmed that AdBlue is a liquid used to reduce the nitrous oxide emissions from diesel engines BCC have allowed some diesel engine cars to be used for executive work as they are more efficient over longer distances.

It was noted that there is a period of 3 months after expiry of a licence to apply to renew licences and thereafter any such application is treated as a new application rather than a renewal. It was also noted that had the vehicles been continuously licensed these applications would not have been brought before Sub-Committee

The Applicant stated that he had chased the Licensing Team on a number of occasions since he submitted the application in November 2021.

It was noted that the vehicles could remain licensed until 12 years from the date they first licensed.

The Applicant and Licensing Officer left the room whilst the Sub Committee made its decision and later



returned to hear the decision announced.

Decision and reasons

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

The Sub-Committee determined to depart from Council Policy on Private Hire Vehicles and grant the application with the exemption to display plates also granted. The vehicle licence was not renewed within the time frame permitted so is now regarded as a new application which falls foul of the vehicle policy as it is over 3.5 years from first registration. Notwithstanding that, the Sub-Committee considered that there is justification to depart from the policy due to the good condition of the vehicle, the vehicle being less than 10 years old, the pandemic which disrupted the flow of chauffeur work and that it is an executive vehicle. It took note that the vehicle has a diesel engine and the policy provides that *“Exceptions to the requirement that vehicles will be petrol may be granted by the Licensing Manager in respect of executive vehicles.”*

Resolved (unanimously) – that the Sub-Committee determined to depart from Council Policy on vehicles and grant the applications with the exemption to display plates also granted.

10. Application for the renewal of a Hackney Carriage Driver Licence and if action is required against the holder of a Private Hire Driver Licence – MMO

MMO was in attendance accompanied by NI and an interpreter.

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

NI put the case for MMO highlighting the following:

- It was noted that public safety is the Committee’s priority
- He drew attention to testimonials about MMO and feedback from UBER noting the positive words about MMO in all of them
- He would be happy for MMO to drive his family and friends; he is an asset to the City
- He pointed out that the driving offences were committed 4.5 years apart
- MMO has held a licence for 11 years and committed no other offences
- The latest offence in December 2020 attracted 6 points; the options were between 3 and 9 points
- MMO accepts that he has made mistakes
- The previous points were spent after 4 years
- MMO has a good driving record; at a previous PSP Committee Meeting he was allowed to retain his licence
- There were mitigating circumstances – it was dark, foggy and icy; visibility was reduced
- He drew attention to the diagram of the scene of the accident and the photo of the damage to the car
- He was not arrested at the scene and was not reported for the offence until 6 months after the incident
- A Police car had been in the area at the time
- MMO had been crossing the road, not turning right
- MMO pleaded guilty



- He felt that if any of the circumstances of the incident had been different, the outcome may have been different
- MMO was travelling at low speed
- The Committee should take into account the mitigating circumstances; it was unintentional
- MMO is normally a very careful driver; the offences do not show a pattern of behavior
- He requested that Committee make an exception to the Policy and grant the HCD licence renewal, and maintain the PHD licence

It was noted that MMO advised BCC the day after his conviction.

MMO, NI, the interpreter and Licensing Officer left the room whilst the Sub Committee made its decision and later returned to hear the decision announced.

Decision and reasons

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

The Sub-Committee determined to renew the Hackney Carriage Driver licence and to place a warning on his record that MMO should be very careful when driving (and no action other than the warning in respect of his Private Hire Driver licence). Although the Sub-Committee cannot go behind a conviction, it accepts that the latest offence and previous offence were 4.5 years apart and isolated incidents and considers MMO to remain a fit and proper person to retain a licence. It is noted, however, that should further road traffic offences occur in future a later Sub-Committee may take a different course of action.

Resolved (unanimously) – that the application for the Hackney Carriage Driver licence to be renewed be granted and to place a warning on his record that MMO should be very careful when driving (and no action other than the warning in respect of his Private Hire Driver licence).

11. Application for the renewal of a Private Hire Driver Licence seeking departure from BCC Policy – SS

SS was in attendance accompanied by a colleague.

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

SS put his case highlighting the following:

- The vehicle passed its MOT in December 2021 and he applied for a renewal of the licence online on 3rd December 2021; the vehicle was 9 years and 9 months old.
- He did not get a response to the application and was told that there was a glitch in the system and the application could not be found
- Due to the glitch in the system, it took 6 weeks for the renewal application to come through; he could not work over the Christmas and New Year period as a result he is requesting a 6 month extension to the licence to allow him to make up for the time he was unable to work over the festive period so that he can earn and buy a new car (as he is aware of the age limit)

The Licensing Officer confirmed that the application made by SS could not be found initially. He was advised of this by e-mail. Once the application had been processed the licence was issued up to 10



years on 2nd January 2022. It was confirmed that there had been a glitch in the system.

SS, his colleague and the Licensing Officer left the room whilst the Sub Committee made its decision and later returned to hear the decision announced.

Decision and reasons

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

The Sub-Committee determined to extend SS's Private Hire Vehicle licence for 90 days as it considered that departure from the Council's Policy on Private Hire Vehicles, in particular the age of a vehicle, was justified due to a technical issue with the Council's online application service meaning that the application submitted was not received until several weeks later. The Sub-Committee heard that due to the error and the delay in his licence being renewed, SS lost out on the opportunity to work over the Christmas and New Year period which is a busy and profitable time of year. The Sub-Committee, whilst noting the age of this vehicle and any subsequent renewals needing to come back before the PSP Sub-Committee, encourages SS to make renewal applications in advance of expiry in future. The Sub-Committee heard that SS's intention is to continue working (in this vehicle) in order to purchase a new vehicle.

Resolved (unanimously) – that SS's Private Hire Vehicle licence be extended for 90 days as it considered that departure from the Council's Policy on Private Hire Vehicles, in particular the age of a vehicle, was justified due to a technical issue with the Council's online application service meaning that the application submitted was not received until several weeks later.

12. Application for the renewal of a Private Hire Driver Licence seeking departure from BCC Policy – NM

A request to defer consideration of this item was received from the applicant.

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

13. Urgent Item – To determine whether action should be taken against the holder of a Hackney Carriage Driver Licence and to determine any action required on the Hackney Carriage Vehicle Licence – AD

The Chair agreed that in view of the seriousness of the allegations made against AD this item should be considered as a matter of urgency.

AD was in attendance.

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

Members of the Sub Committee watched a video of the witness's Achieving Best Evidence (ABE) interview relating to the incident that took place in Leicester on 11th January 2022. A summary of the interview is attached to the report at Appendix L.

The Senior Neighbourhood Enforcement Officer confirmed that they had contacted ADT Taxis and that the journey had been assigned to AD. AD stated that the passenger had become agitated and asked to



leave the vehicle. He had let her out of the vehicle as soon as it was safe to do so. The Senior Neighbourhood Enforcement Officer also provided the background to the case and summarised the Police involvement.

AD stated that he had no questions relating to this incident.

Members of the Sub Committee watched a video of the incident that took place at Temple Meads station on 31st October 2021. A copy of the witness statement is attached to the report at Appendix E.

The Senior Neighbourhood Enforcement Officer stated that AD will be interviewed in relation to this incident.

AD stated that he had no questions relating to this incident.

AD read out a prepared statement. A copy of the statement is attached to these Minutes as an Exempt Appendix.

AD then left the Meeting abruptly and apparently attempted to surrender his licence by returning his Hackney Carriage Driver badge without the licence itself.

The Members of the Sub Committee decided that the hearing should continue in the absence of AD. They noted that he had heard the evidence and had given his version of events prior to leaving the Meeting.

The Senior Neighbourhood Enforcement Officer stated that he was unable to answer whether or not the route taken by AD on 11th January 2022 was a normal route. He advised the operator had provided answers to the questions of him. (Appendix D to the report.) He also advised that the complainant had tried to report the matter to the Police the same day as the incident. She was visibly upset on the video. AD does not appear to be a fit and proper person. He had been working out of area.

The Senior Neighbourhood Enforcement Officer and Neighbourhood Enforcement witness left the room whilst the Sub Committee made its decision and later returned to hear the decision announced.

Decision and reasons

The Sub-Committee has made a determination on the matters before it, notwithstanding that AD apparently attempted to surrender his licence by returning his Hackney Carriage Driver badge without the licence itself and left the hearing before it had concluded. It had an important decision to make and it was prudent to continue with the case; the Sub-Committee was satisfied that AD had heard the evidence and gave his account before he left the hearing. The Sub-Committee has determined to revoke AD's Hackney Carriage Driver's Licence with immediate effect.

The Sub-Committee made a finding on fact, on the balance of probabilities, that the complaint in early 2022 was made out; the Members of the Sub-Committee watched her video interview and found her to be a credible witness who was able to recall and articulate what had happened in a consistent way. The Sub-Committee attached considerable weight to the complainant's account and found AD to be verbally abusive, aggressive and threatening to the complainant. The Sub-Committee found that this incident alone gave cause to question whether AD is a fit and proper person to hold a licence.



The Sub-Committee also considered the incident from October 2021 at Bristol Temple Meads station and viewed the bodycam footage. The Sub-Committee saw on that footage that AD was verbally abusive, aggressive and threatening towards the taxi marshal.

The Sub-Committee is no longer satisfied that AD is a fit and proper person to hold a Hackney Carriage Driver's Licence. He has presented himself as completely unprofessional. In taking the meaning of a fit and proper person, it goes to the core of the safety of the public and the Sub-Committee has considered the meaning of fit and proper person as established by case law and places emphasis on the key parts 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 January 2021 incident on its own was sufficient for the Sub-Committee to reach their finding. However, it also looked at the previous case history of AD during his time as a licensed driver with the Council, in particular three incidents in 2018, and had grave concerns about the pattern of misconduct and behavior over a period of time.

AD's conduct falls far short of what is expected from licensed drivers and consideration must be given to the safety and protection of those the public who engage taxi services. The Sub-Committee finds a clear connection between the recent incidents and the safety of the public which is such that immediate revocation of the Hackney Carriage Driver's licence is just and proportionate.

The application to renew the Hackney Carriage Vehicle licence was refused as AD is the only person insured to drive the vehicle. Furthermore, his conduct and demeanor in the vehicle on recent occasions questions his integrity and suitability to hold such a licence thereby demonstrating reasonable cause to refuse to renew the licence.

Resolved (unanimously) – that the Hackney Carriage Driver Licence held by AD be revoked under s61(1)(b) & 2B of the 1976 Act with immediate effect and that the application for the renewal of the Hackney Carriage Vehicle Licence made by AD be refused under s60(1)(c) 1976 Act as he is no longer a fit and proper person.

14. Date of Next Meeting

The next meeting is scheduled for 10.00 am on Tuesday 17th May 2022.

The meeting ended at 4.30 pm.

Chair _____

