

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



21 March 2023 at 11.30 am

Members Present:-

Councillors: Christine Townsend (Chair), Jonathan Hucker, Brenda Massey and Guy Poultney

Officers in Attendance:- Carl Knights (Licensing Policy Adviser for Minute Number 8 and Presenting Officer for Minute Numbers 9 and 10), Dakota Ferrara (Licensing Policy Adviser for Minute Numbers 9 and 10, Presenting Officer for Minute Number 8), Lynne Harvey (Legal Adviser), Jeremy Livitt (Clerk)

1. Welcome and Safety Information

The Chair 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 Tuesday 24th January 2023

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. SG - Report of an Application For the Grant of a Private Hire Vehicle Licence Seeking Exemption From Council Policy In Respect of Measurement, Tinted Windows and Displaying Licence (containing exempt information under paragraph 1)

This report was heard as an urgent item. The Chair agreed that it should be considered as an urgent item for the following reason:

“The applicant has purchased the vehicle and is currently paying finance on a vehicle which cannot be used until such a time the committee has made a decision. They are also unlikely to proceed with another application until this one has been determined. We received an initial application in January, and the application has been delayed in being put before PSP Sub-Committee for a number of reasons.

Whilst the agenda is public the application will be heard in closed session, and as such it is not considered that any members of the public will be disadvantaged as they are unable to comment. However, it is considered that the applicant is likely to be disadvantaged if this application is delayed further.”

The applicant’s husband was in attendance, together with Dakota Ferrara acting as the Presenting Officer for the meeting.

The Sub-Committee inspected the vehicle prior to the hearing.

Dakota Ferrara set out the key aspects of the application within the report. The Sub-Committee noted that the applicant was seeking an exemption from Council policy in respect of measurement, tinted windows and displaying licence. It was noted that the relevant information had been received yesterday. However, whilst it was a requirement that a vehicle be used 75% for executive work in order to qualify for this type of licence, the evidence suggested it would only be used 70% of the time.

In response to members’ questions, she made the following points:

- It had been clarified that the application only related to the back seats not to front seats



- The application had been made by SA since she signed the finance declaration. However, the vehicle was used by SA's husband for work purposes. Sub-committee members would need to be satisfied that this licence was properly constituted
- The vehicle meets the minimum requirements for 4 seats. However, in order to fulfil the work required, it should be a luxury brand. This should be a factor for the Sub-Committee as to whether or not it meets the criteria for a luxury vehicle

SA's husband made the following points:

- The vehicle provided more than 70% light. It was a normal vehicle and should comply with Bristol City Council's requirements
- It had taken a month for the Licensing Team to respond to his concerns. Despite a request for an update, this had not been provided
- He operated long distance in many of the jobs he received and required it for airport runs which took all day. He anticipated that this work would be with one client all day since this provided greater security of work and therefore piece of mind.
- He had not carried out this type of work before but would be working with companies such as Bristol Chauffeur Cars and Merclux
- It was a requirement of Bristol City Council that licence plates were displayed unless the vehicle could be categorised as luxury. Unless it could be designated in this category, this would create problems with the companies that employed him since they did not like it being displayed for this type of work
- Depending on the nature of the work, journeys could be long or short distance subject to the requirements of each particular job
- Most of the work would be carried out for the companies indicated with occasional work for other companies if requested (i.e. Veezu)
- If he worked locally, he would display his plates since the customer would not like it otherwise.
- A new tyre had been fitted to the vehicle following the recent MOT

The Sub-Committee noted that it was not an offence to stop displaying plates whilst carrying out business work. However, whilst it was currently possible to take plates on and off the vehicle subject to the type of work being carried out, this would shortly no longer be possible as they would be permanently fixed.

Following deliberations, the Sub-Committee made the following decision:

RESOLVED (unanimously) : that in accordance with the provisions of section 48 of the Local Government (Miscellaneous Provisions) Act 1976 the application for the grant of a Private Hire Vehicle (PHV) licence seeking exemption from Council Policy in respect of the requirement to display vehicle identification plates be refused as the vehicle was not suitable in type, size, design and comfort for use as a private hire vehicle for executive purposes. However, authority would be delegated to officers to grant the licence for ordinary private hire work for four passengers and the



tinted windows could be retained subject to a satisfactory basic disclosure check being received from the Applicant.

Reasons

The committee inspected the vehicle prior to commencement of the hearing. It was noted that the vehicle had failed the cosmetic inspection due to the internal dimensions. There was a transition tunnel in the middle of the seats which further restricted the space within the vehicle and one councillor commented that when she sat inside the vehicle, the leg space was very limited. The vehicle did not therefore comply with Council policy regarding the criteria for executive purposes.

Although the driver, who was the Applicant's husband, represented that he intended to undertake 75% of executive style work for two different companies, he also conceded that he might also wish to carry out ordinary private hire work if he needed the additional income. In those circumstances he would be expected to put the plates back onto the vehicle.

Upon checking the websites for the companies that were referred to during the hearing, the vehicle in question did not appear to be one that would normally be accepted for executive work.

It was therefore decided that the Applicant had not satisfied the Committee that an exception to Council policy could be made regarding the exemption to display plates without undermining it or the reasons that underlie it.

However, the Committee considered that the vehicle would be suitable to be licensed for ordinary private hire work and that an exemption could be made regarding the tinted windows due to recommendations contained within government guidance and the possibility of the policy being changed in this regard.

It was therefore decided that authority be delegated to officers to grant the licence for ordinary private hire work which would be subject to the usual conditions pertaining to such a licence and subject to a satisfactory basic disclosure being received from the Applicant.

9. MHH - Report of an Application for The Renewal of a Hackney Carriage Driver Licence (containing exempt information under Paragraph 1)

MHH was in attendance together with a representative of the Bristol Blue Licensed Taxi Association.

Carl Knights presented the report and made the following points:

- MHH had applied for a fresh licence in December 2022 and his existing licence had expired in January 2023. He had been licenced since at least 2004
- MHH had a past history of drug and alcohol use with the last recorded use being in 2020 but the last Class C drug use having taken place in 2014
- Following a mental health assessment in 2013, the licence has been renewed in 2018



- Following a low speed collision, MHH had been arrested of being under the influence of drink or drugs but no action had been taken by the Police or by the Licensing Team and he had been confirmed fit in 2018. There was nothing on file concerning what action had been taken at that point
- Following clarification with his GP, a triage nurse at the Mental Health Partnership had indicated that she was satisfied concerning the mental health of MHH and was not aware that there was continued use of khat.
- Following a urine drug screening test, the results had been negative although the active ingredients of khat had not been tested for
- Whilst there was no mechanism to condition a Hackney Carriage Driver Licence, HCD licence holders were required to notify of any change in medical circumstances for renewal
- Drivers were required to meet the Group 2 fitness levels to be able to drive
- The psychiatric reports seemed satisfactory. Whilst Group 2 drug use doesn't mention khat or amphetamine, the policy on drug use applied and applicants underwent a drug test to confirm whether or not there had been any drug use within the last ten years. MHH indicated that he has last used khat in 2020

MHH's Taxi Representative and MHH made the following points:

- MHH had worked for Bristol City Council for 20 years
- When the licence had last been approved in 2022, this issue had not been raised at the time
- Another employer had employed MHH and had indicated that he was a very confident driver who he trusted to drive
- MHH needed to drive to support his family
- MHH confirmed that he had not used khat since 2020 when it had become illegal
- In 2018, MHH had a bump with another car and a subsequent fight between him and another driver which the Police had not charged. It did not seem correct that he was requested to attend after the renewal. Since it was a requirement to attend the Safeguarding course, the renewal of the badge was proof that MHH attended it
- MHH was not carrying a passenger at the time of 2018 incident
- With the exception of khat, MHH had not used any other type of drug (including alcohol) in his life

The Sub-Committee was requested to take into account the testimony of his former employer, his 23 year driving record and his latest medical assessment.

In response to members' questions, Carl Knights made the following points:

- At the time of the licence renewal of 2020. The Licensing Team had not been aware of MHH; use of khat
- In his report, the medical examiner had indicated that previous use was due to khat but that he had not seen any evidence of use since 2014. In this case, a registered GP had carried out the medical assessment as required by the licence



In response to members' questions., MHH made the following points:

- He was aware that if a test revealed the use of drugs, this could be passed to the Licensing Authority
- He chewed green leaves when taking khat
- He could not confirm why he had ticked "no" in the box seeking clarification of any medical condition despite the history of khat use but believed he may have simply missed it
- He was diabetic and took metformin

Following deliberations, the Sub-Committee made the following decision:

RESOLVED (unanimously) – that the application to renew the HCD licence of MHH be granted but that he be issued with a strong written warning regarding the truthful disclosure of information on future application forms.

Reasons

The committee accepted MHH's explanation that he had not used Khat since 2020 and that the medical information confirmed he was medically fit to drive. However, if there are any further instances whereby evidence is received by the Council of drug use by MHH, then this would be viewed very seriously indeed. The committee also decided that on a balance of probabilities MHH may have misunderstood the question on the application form but that he should be issued with a written warning regarding the full and truthful disclosure of relevant information on future application forms. Should there be any further non-disclosure of relevant information, then the committee would not take such a lenient view.

The committee also took into account MHH's relatively good record as a licensee over the course of 23 years and that his employer was keen to welcome him back as he is a very competent driver who transports vulnerable members of the community.

10. HAK - Report of an Application for the Renewal of a Hackney Carriage Driver Licence (containing exempt information under Paragraph 1)

HAK and his wife were in attendance for this item.

Carl Knights, Senior Licensing Officer, introduced this report and made the following points:

- HAK had submitted an application on 25th October 2022 for a new Hackney Carriage Driver licence following its expiry in September 2022. The applicant had previously held a licence for most of the period since February 2004
- The reason for the refusal is the same as provided following his previous unsuccessful appeal



- In August 2022 HAK had declared that he had received no endorsements. However, following a check with the DVLA, it was confirmed that he had received a total of 7 points following offences from 2021 and which he should have declared
- The Gold Standard had not been carried out and was no longer applicable. However, there appeared to have been no attempts to meet this standard before its expiry. This standard had been introduced for those drivers who had been operating a long time and had not taken any tests
- In the event that the Sub-Committee was minded to approve the application, all required checks would need to be made

HAK and her wife made the following points:

- HAK apologised for carrying out two offences within five weeks
- HAK had been punished for 7 weeks for her offence and was finding it very hard to make a living
- He had been a driver for a long time
- HAK had not declared the offences on the application form as she misunderstood her husband whose English was not very good
- Two follow-up e-mails had been sent and verbal confirmation had been received from the Licensing team that this would be satisfactory

In response to members' questions, HAK's wife stated that neither she nor her husband had any recollection of the second speeding incident after the Police pulled us over and asked for our identification. This had never happened before.

Although HAK had asked to appeal this decision, the points had been sent to us. HAK's wife confirmed that no speed awareness driving course had been offered. The Sub-Committee noted that she had driven the vehicle and reminded them that a licensed vehicle could only be driven by a licensed driver and that this must be avoided in future.

Following deliberations, the Sub-Committee made the following decision:

RESOLVED (unanimously) – that HAK's application for the grant of a PHD licence 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 that he was a fit and proper person to hold a PHD licence.

Reasons

It was noted that the committee had refused an application on 25 October 2022 and that HAK had submitted a new application within a matter of 5 days thereafter.

On the last occasion the committee had expressed concern at HAK's failure to disclose driving endorsements on his application form despite HAK having received a warning by the Committee



back in 2018 in relation to a failure to declare convictions among other matters. In 2018 he had been given the benefit of the doubt by the committee and was granted a licence but it was made plain to him on that occasion that it was his responsibility to ensure that he discloses all relevant information to the licensing authority in accordance with the conditions attached to his licence and Council policy.

His wife again represented that she had completed the forms, but it was noted on the last occasion that she confirmed she had read the questions to her husband to ensure he understood them. The committee considered the questions on the application form to be straightforward and it would be difficult to make a mistake and HAK had been reminded that the onus was on him to ensure that the information provided on the application form is accurate and complete before putting his signature to it.

With regard to licensee self-reporting the Council's guidelines on the relevance of criminal behaviour state that Licence holders are required to notify the Council in writing by close of business on the following working day of the happening of various events including being convicted of any criminal offence, receiving a postal requisition in connection with any motoring or criminal offence or endorsements.

Any failure to notify the Council of the happening of any of the above events may 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 relevant events that the Council is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder.

CU80 Endorsement – this no longer appeared on HAK's DVLA licence and in accordance with the National Standards and Council policy the offence of using a hand-held device whilst driving recommends that a period of five years should normally elapse since the conviction. In HAK's case the five-year period elapsed on 20 February 2023 so he was just outside the policy in regard to that offence.

SP30 Endorsements

The Committee noted that two speeding convictions that had been committed quite close together and were unimpressed that HAK could not remember one of them. The policy acknowledges that although it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence, 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.

It also transpired during the course of the hearing that HAK's wife had been driving the PHV when it was licensed whilst she was not licensed as a PHD which is an offence. Although HAK and his wife commented they were not aware of this, the committee issued advice in this



respect. The concern with this is that any unlawful use of the vehicle might result in the insurance being invalidated which poses a risk to the public.

Consequently, having taken into account all of the circumstances of this application, the committee could not be satisfied that HAK was a fit and proper person to hold a PHD Licence.

The meeting ended at 3.45 pm

CHAIR _____

