

Bristol City Council

Minutes of the Public Safety and Protection Sub-Committee A



22 August 2023 at 10.00 am

Members Present:-

Councillors: Sarah Classick (Chair), Heather Mack and Brenda Massey (substitute for Richard Eddy)

Officers in Attendance:-

Lynne Harvey (Legal Advisor) and Dakota Ferrara (Presenting Officer and Licensing Policy Adviser),
Jeremy Livitt (Clerk)

15 Election of Chair for the Meeting

In the absence of the Councillor Amal Ali, the Sub-Committee elected Councillor Sarah Classick to act as chair for the meeting.

16 Welcome and Safety Information

The Chair welcomed all parties to the meeting and explained the evacuation procedure in the event of an emergency.

17 Apologies for Absence

Apologies for absence were received from Councillor Marley Bennett, Councillor Amal Ali and Councillor Richard Eddy (Councillor Brenda Massey substituting).

18 Declarations of Interest

There were no Declarations of Interest.

19 Minutes of the Previous Meeting held on 27th June 2023

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



20 Public Forum

There was no Public Forum.

21 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.

22 Exclusion of Press and Public (containing exempt information under Paragraph 1)

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.

23 RS - Report of an Application for the Renewal of a Private Hire Driver Licence

RS was in attendance for this item.

The Sub-Committee considered an application for the renewal of a Private Hire Driver Licence.

Dakota Ferrara, the Presenting Officer, advised that RS had confirmed on 7th December 2022 that he had received 6 points to his driving licence as a result of a failure to supply driver details. Since this exceeded the policy of no more than three points to allow renewal of a licence, the application had been refused. It was further noted that RS had held his licence since 2020 and had received no other prior endorsements.

RS made the following points:

- He had received a notification of the offence and had posted the reply first class
- He had received a reminder a couple of months later indicating that his response had not been received and sent a further reply
- At the court hearing, it felt as if they had already decided not to take into account the points he raised and to proceed to award him the points
- He had not appealed as he had been unable to afford to do so. However, he was subsequently advised that he might have been successful if he had done so
- RS advised that he worked 12 hours a day as a taxi driver and also helped his grandparents (for example taking them to hospital). He was grateful for the flexibility that the job gave him
- He confirmed that the offence took place in Whitehall and gave some brief details concerning it



- He stated that he loved the job and that many members of his family had also been taxi drivers. He also was financially dependent on the job
- He would make sure that such an incident never happened again

The Panel reminded RS to ensure that in future any important post should be sent via recorded delivery.

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

RESOLVED (unanimously) - that the application by RS to renew his Private Hire Driver's Licence be granted.

Reasons

The Committee had regard to the Council's Policy concerning motoring convictions which states:

"Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. 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. However, 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..."

The Committee also had regard to RS's previous unblemished record as a PHD and accepted his explanation that this was an isolated incident for which he had expressed remorse. On this occasion the Committee were satisfied that RS was a fit and proper person to hold a PHD licence.

24 SM - Application for the Grant of a PHD Licence Seeking Departure from BCC Policy

SM was in attendance for this item.

The Sub-Committee was requesting an application for the grant of a Private Hire Driver Licence seeking departure from Bristol City Council policy.

Dakota Ferrara, Presenting Officer, pointed out that following a vehicle test, the rear side windows had been assessed as having tints allowing light of 29.7% and 28.7% which was less than the required rear view tints allowing 65% light.



The Panel noted that there would shortly be a review of the existing policy concerning light levels in rear windows.

SM made the following points:

- He had been looking for a car since January 2023 and needed a people carrier to take his whole family
- He needed a vehicle that used diesel not petrol but had found that it was difficult to get one with normal windows since almost all of them had tints as a factory fitting
- He had contacted a dealer who had indicated that the vehicle he had selected should pass any test since it was a minor tint and not that dark
- Whilst he had investigated replacing it, the estimate to do so would be between £1500 and £1700 depending on the type of vehicle selected. The local supplier at Avonmouth had indicated that they might struggle to supply a vehicle with the required level of rear window light
- He has also sought advice from PC Quinton who had indicated that, as long as the tints were supplied by the factory and not additional, it should meet the required standard
- He acknowledged that there was a difference between a vehicle for private use as opposed to one that was for personal use

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

RESOLVED (unanimously): that the application by SM for the grant of a Private Hire Vehicle (PHV) Licence be allowed.

Reasons for Decision

The Members considered very carefully the evidence presented to them by SM and the efforts he had gone to in order to source a vehicle without tints, but this had proved almost impossible. He had also received advice from various professionals that the tints would be acceptable, but he understood that other local authorities might have different policies to Bristol. Having regard to the current policy concerning tints being consulted upon and not knowing the outcome of that consultation, the Members considered that on this occasion SM's application could be treated favourably as he had exercised all reasonable endeavours to obtain a vehicle that was policy compliant but had been unsuccessful. He had also obtained quotes from different dealers to have the windows replaced but this would be prohibitively expensive for him. The grant on this occasion was subject to a rider that if the policy concerning tints remains in place, then SM will be expected to replace the windows prior to the renewal of the PHV licence.

25 RH - Application for the Grant of a Private Hire Vehicle Licence Seeking Departure from Bristol City Council Policy

RH and a Taxi Drivers Representative were in attendance for this item.



The Sub-Committee considered an application for the grant of a Private Hire Vehicle Licence seeking departure from Bristol City Council policy.

Dakota Ferrara, Presenting Officer, advised the Sub-Committee that RH's vehicle had a reading of 38% light for rear side windows and therefore did not pass the required test of 65% light.

RH made the following points:

- He could not currently afford to change tints. If the policy is changed, he will operate under that policy. He understood that there were 7 or 8 cars on the road and which were currently
- He had bought the vehicle based on what he had originally been advised and had not known that there was a difference in requirements between the front and rear of the vehicle
- He was currently renting a vehicle from a friend and had estimated that it would cost no less than £1600 to purchase one that complied. Otherwise, he would have to sell his existing vehicle

The Sub-Committee reminded RH that it made decisions based on each individual case. Any cases that failed to comply with policy would automatically need to be considered by a Sub-Committee. They also reiterated arrangements for the forthcoming consultation on this issue and advised that RH should engage fully with it.

The Sub-Committee did, however, acknowledge that since the last policy review on this issue, it was becoming increasingly difficult to find non-tinted vehicles that complied with Bristol City Council policy.

Following deliberations, the Sub-Committee:

RESOLVED (unanimously) – that the application by RH for the grant of a Private Hire Vehicle (PHV) Licence be allowed.

Reasons for Decision

The Members considered very carefully the evidence presented to them by RH and the efforts he had made to source a vehicle without tints, but this had proved almost impossible. He was also misled by the vendor of the vehicle that the rear windows would transmit the same amount of light as the front ones. Had he realised this he would not have purchased the vehicle. Having regard to the current policy concerning tints being consulted upon and not knowing the outcome of that consultation, the Members considered that on this occasion RH's application could be treated favourably as he had exercised all reasonable endeavours to obtain a vehicle that was policy compliant but had been unsuccessful. He had also obtained quotes from different dealers to have the windows replaced but this would be prohibitively expensive for him. The grant on this occasion was subject to a rider that if the policy concerning tints remains in place, then RH will be expected to replace the windows prior to the renewal of the PHV licence.



26 JM - Application for the Grant of a Hackney Carriage Driver Licence

JM was in attendance for this meeting, together with his legal representative and three people acting as witnesses for the applicant.

The Sub-Committee considered an application for the grant of Hackney Carriage Driver Licence

Dakota Ferrara, Presenting Officer, stated that there had been a significant history for this applicant as detailed in the report and involving numerous appearances at Sub-Committee meetings.

The legal representative made the following points:

- JM had faced difficulty with prejudice and corrective bias as a taxi driver
- The Sub-Committee's attention was drawn to Paragraphs 5.1, 5.3 and 5.4 of the National Taxi Policy to remind the Sub-Committee of their role in exercising Licensing functions in this area and the law and principles which applied
- Members were reminded of the need to avoid bias and the appearance of bias
- The applicant also had a right to earn a living
- Since 2019, there had only been one incident to be considered involving an unsecured wheelchair. JM stated that this wheelchair had been left unsecured at the request of the passengers for a short journey but acknowledged that it had been overturned and an injury has been sustained as a result. The fact that the daughter of the passenger was a police officer had also exacerbated the complaint
- Following a finding of negligence, JM had undertaken a number of equality and disability courses to indicate that he understood what was required of him to be a Hackney Carriage Driver and believed he was now a fit and proper person to do so. This perseverance demonstrated that he was eager to pursue this career
- The Sub-Committee's attention was drawn to a number of references that had been included in the paperwork demonstrating his care for disabled people in his charge, including the largest mosque in Bristol for which he had provided many years of support and assistance
- Members' attention was also drawn to the legislation of the Policing and Crime Act 2017 and the definition of a "fit and proper" person which should not result in a permanent bar as a result of a single incident
- Any refusal of this application needed to be proportionate and taken into account that his behaviour had not been wilful, criminal or intended

Following responses by the applicant to members' questions, the Sub-Committee noted the following

- JM acknowledged his mistake in not securing the wheelchair and that this seemed a common sense thing to do. He assured members that it would not reoccur
- In relation to the incident involving the mobile phone, the Solicitor pointed out that the police had not charged £300 or given a fixed penalty notice as they would have done if they felt there was



sufficient evidence to do so. JM had been using Bluetooth and the passenger had been taking a picture of him

- The incident involving the barrier had not resulted in any criminal damage

The witnesses were invited to speak and made the following comments:

- Manager of a Large Care Service - In incidents such as the wheelchair, it would be the responsibility of the service to ensure that a person was adequately trained before any formal action was taken against them
- JM had been helping take disabled passengers to and from the mosque for 10 years without any complaints
- JM had been a reformed man since 2015. He was now a responsible family man and, as demonstrated during COVID, went to extreme lengths to help people by providing them with food and medicine. He was currently financially struggling and, since this was the only employment that he was trained for, needed to be granted a Hackney Carriage Driver Licence to be able to continue to live with dignity. He has demonstrated his willingness to change by the number of additional courses he had taken since the incident involving the wheelchair.

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

RESOLVED : (unanimously) –

We must first address the opening comments whereby it was suggested that the report was biased against you. In accordance with paragraph 4.29 of the National Standards licensing authorities are encouraged to have a robust system for recording complaints and patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.

We have also taken into account the efforts you have made to learn from your mistakes by undertaking various courses.

Your HCD licence was revoked by a differently constituted committee in September 2019 following a very serious incident whereby you had failed to secure an elderly passenger's wheelchair in your HC vehicle resulting in the wheelchair toppling over and the passenger having to be taken to the BRI as he had sustained an injury to his head. We echo the words of the Magistrates' Court following your unsuccessful appeal in November 2021 that:

"The incident causing injury to the wheelchair user was significant. We do not discount evidence of witnesses who say other fares were carried safely but this one incident shows that there is not a safe service for everyone.



We appreciate your willingness to learn from mistakes but these should not have been made in the first place”.

What is also striking about this incident is that you continue to contend that you were pressured by the passengers not to secure the wheelchair, a version of events that was not upheld by the Magistrates’ Court following your unsuccessful appeal in January 2020. This inability to accept the findings of the Magistrates’ Court and to take accountability for the incident is very concerning.

This particular incident, on its own, is sufficient to refuse your application but the history of previous complaints against you, the two cautions for solicitation and various revocations of your licence gave rise to a greater cause for concern and demonstrate a pattern of inappropriate behaviour over a period of time.

We cannot therefore be satisfied that you are a fit and proper person to hold a HCD licence and your application is refused.

27 Date of Next Meeting

The Sub-Committee noted that the next meeting was scheduled to be held at 10am on Tuesday 17th October 2023 in the Beira Room, City Hall, College Green, Bristol.

The meeting ended at 2.50 pm

CHAIR _____

