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



14th November 2023 at 11.00 am

### Members Present:

Councillors Fi Hance (Chair), Jonathan Hucker, Brenda Massey and Guy Poultney

### Officers in Attendance:

Lynne Harvey (Legal Services), Carl Knights (Licensing Team) (Policy Officer), Dakota Ferrara (Licensing Team) (Presenting Officer), Alison Wright (Neighborhood Enforcement Team - NET) (Presenting Officer) and Norman Cornthwaite (Democratic Services)

### Also in attendance:

P C Patrick Quinton (Bristol and South Gloucestershire Taxi Compliance 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

Nothing was declared.

## 4. Minutes of Previous Meeting

**Resolved – that the Minutes of the Meeting held on 19<sup>th</sup> September 2023 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 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. To determine whether action should be taken against the holder of a Private Hire Driver Licence and a Private Vehicle Licence**

It was noted that a request had been received from the Licensee to defer consideration of this item until the next Meeting of the Committee.

## **9. To determine whether action should be taken against the holder of a Hackney Carriage Driver Licence**

The Licensee was in attendance, accompanied by his solicitor and a colleague.

P C Quinton was also in attendance.

The NET Officer introduced the report and summarised it for everyone. She clarified that the Licensee was the driver but that he was not the proprietor of the vehicle.

The following points were clarified:

- In July 2023 a warning letter was sent
- The sequence of events and dates were explained
- The statutory guidelines allow all allegations to be taken into account with more weight given to confirmed offences
- Although there was a two year gap between the driving without due care and attention offence and BCC being advised of the outcome, the complainant was happy that the Police had dealt with it resulting in the Licensee completing a driver education course on 10<sup>th</sup> June 2021
- P C Quinton commented that the Police receive hundreds of uploads on their website every week relating to road traffic allegations and there is sometimes not enough evidence to take any action; when appropriate, letters are sent to the proprietors of vehicles

The solicitor representing the Licensee put his case highlighting the following:

- He has been in this country since 1969
- He did a number of different jobs before becoming a taxi driver



- The driving without due care and attention resulted in him taking a driver education course and he understands the issue of sharing the roads with cyclists
- On 22<sup>nd</sup> November 2022 he was caught doing 36 mph in a 30 mph zone, although he thought he was in a 40 mph zone
- He was not aware of the 2021 alleged offence relating to a red light when he applied for the renewal of his licence in December 2021 as he had not received notification of it
- There are several allegations relating to the Licensee smoking in the vehicle, but it is a vehicle also used by other drivers; the letters were sent to the proprietor of the vehicle and there is no record of him having received them
- The letter dated 9<sup>th</sup> December 2015 was also sent to the proprietor and there is no evidence relating to this alleged offence
- The letter dated 24<sup>th</sup> December 2019 was also sent to the proprietor
- Character references were read out on behalf of the Licensee
- He has been a Hackney Carriage Driver for 20 years
- He has accepted responsibility for a few minor offences committed over a number of years
- There have been no other complaints about him

The following answers were provided by the licensee and his solicitor:

- The video taken by the cyclist's head cam showed the cyclist on the road and the Licensee passing very close to him; the Police considered the driving education course to have been suitable punishment for the Licensee taking into account the nature of the incident
- The Licensee accepted that he had not exercised due care when he had executed the manoeuvre
- He had not declared the red light offence committed on 22<sup>nd</sup> October 2021 when he applied for the renewal of his licence on 17<sup>th</sup> December 2021 as he had not received the letter notifying him of the offence
- Letters were sent to the proprietor and the Licensee did not receive them
- BCC would not have known who was driving the vehicle on any given occasion
- There is no legal obligation on the proprietor to disclose the driver; it was noted that the proprietor of a vehicle is only required to provide the name of the driver if a criminal offence has taken place
- The Licensee was a driver who was insured to drive the vehicle
- The fines were all paid
- The Licensee stated that he does not smoke
- He accepted one of the fines relating to the smoking offences but does not recall any of the other ones; someone else may have been driving the vehicle
- He claimed that he went through red light on when it was on amber
- He has no information on the alleged complaints made against him
- The letters were sent to the proprietor and not passed to the licensee; the proprietor is aware of the requirement disclose the name of the driver in relation criminal offences
- He was unfortunate that a number of incidents happened over a short period time; no other issues in 20 years of driving

The Licensee, his solicitor, colleague and the NET Officer left the room whilst the Committee made its decision and later returned to hear the decision announced.

## Decision and reasons



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

The Members noted their Policy.

The Committee were asked to consider whether action should be taken in respect of the Licensee's HCD licence concerning several motoring offences, an alleged failure to disclose a driving endorsement and other matters set out in the report.

The Committee took into account all the information contained within the report in addition to the verbal representations from the officer presenting it, PC Quinton, the Licensee and his legal representative.

The Committee accepted the Licensee's account that there was no evidence to prove he was the driver of the vehicle in respect of all matters listed in the report. The proprietor of the vehicle was the Licensee's brother, and it could have been the brother or another licensed driver who committed the transgressions on some of these occasions. Since there was little chance of finding out, the Committee decided to disregard all matters other than those proven against the Licensee and one other incident admitted by the Licensee whereby he had been caught smoking in his HC vehicle, in respect of which he had accepted a fixed penalty notice.

The Committee also believed the Licensee's explanation that there had been no deliberate failure to disclose the red light offence committed on 22 October 2021 on his renewal application form dated 19 December 2021. Due to the timings of the Notice of Intended prosecution being sent to him, he would not have been aware of this offence at the time when he completed his renewal application and signed the declaration. This was confirmed by the Police.

This therefore left three traffic offences to consider. The offence of the Licensee smoking in his Hackney Carriage Vehicle was relatively old and therefore less weight was attached to this.

The first traffic offence occurred in March 2021 where a complaint was received regarding an incident of driving without due care and attention. The Committee observed the incident via Headcam footage taken by a cyclist whereby the Licensee carried out a dangerously close overtake. The Licensee accepted that he had not exercised the care that he should have done during the overtake and was apologetic for it. PC Quinton confirmed that the Licensee had successfully completed a driver education course for the offence of driving without due care and attention.

The second traffic violation occurred on 22 October 2021 for jumping a red light resulting in a financial penalty of £100 and the Licensee's licence being endorsed with 3 penalty points.

The third offence occurred in November 2022 whereby the Licensee had been caught speeding resulting in a financial penalty of £100 and his licence being endorsed with 3 penalty points.

The Council's policy on motoring convictions, which is consistent with the National Standards, states as follows:

***“...Motoring convictions***

*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..."*

Although the Committee appreciated that the first offence occurred over two years ago and the last offence was almost a year old, this was the first time they had been brought to the attention of the Committee. The Committee took a dim view of the accumulation of offences over a period of 20 months and considered that the driving standards of the Licensee, on three occasions, had fallen below the standards the Council is entitled to expect from those whom it licences. In these circumstances, the Committee would usually consider there to be reasonable cause to revoke the licence. However, given the Licensee's previous good record of 20 years driving with the Council and that he had not previously come to the attention of the Committee, it was unanimously decided that a suspension of one month would be a proportionate response.

Decision

That the Hackney Carriage Driver (HCD) Licence held by the Licensee be suspended for a period of one month on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, namely "any other reasonable cause."

It was therefore

**Resolved (unanimously) – that the Hackney Carriage Driver (HCD) Licence held by the Licensee be suspended for a period of one month on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, namely "any other reasonable cause."**

## **10. Application for the Grant of a Private Hire Driver Licence**

The Applicant was in attendance, accompanied by his solicitor.

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

The solicitor put the case for the Applicant and answered questions highlighting the following:

- He is a fit and proper person as he has been a taxi driver from 2004 until 2022
- There were no issues until 2019 when he was given a warning for using a hand held 'phone
- He has 7 points on his licence; he did not declare either of the speeding offences to BCC
- The details of his previous appearances before the Committee are contained in the papers; he is persistent in wanting to be granted a taxi licence
- His English is not good and his wife has to help him with forms; he accepts that the responsibility



for completing the forms accurately and truthfully is his

- He was not able to complete the Gold Standard Course as his wife and child were ill with Covid; when he was able to complete it the course it was no longer being offered
- He hopes to be granted a licence and wants to complete the course when it is available
- There have been no complaints from the public about his service
- He has tried to rectify the situation concerning the non-declaration of his offences to BCC
- He 'phoned the Licensing Team and spoke to female member of staff concerning the non-declaration of his offences to BCC; he was advised to email BCC, which he did on 9<sup>th</sup> and 13<sup>th</sup> September 2022
- The Committee has the discretion to grant him a licence

It was noted that the Gold Standard Course or anything similar is not available at present.

The Applicant, his solicitor and the Licensing Officer left the room whilst the Committee made its decision and returned later to hear the decision.

### **Decision and reasons**

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

The Members of the Committee were asked to consider an application for the grant of a PHD Licence submitted by the Applicant on 2 June 2023.

The Applicant had previously held a PHD licence with the council from at least 2004 until 3 September 2022. His application to renew that licence was refused by members of this committee on 25 October 2022. A further application for the grant of a PHD licence was similarly refused by the committee on 21 March 2023.

This was because the Applicant had declared that he had no motoring convictions on his renewal application in August 2022 which was an untrue statement because a search of his DVLA licence revealed the following two offences:

#### **Points: 7**

**Date of Offence** 29 June 2021

**Date of Conviction** 23 March 2022

**Offence** SP30 – Exceeding statutory speed limit on a public road

**Date of Offence** 4 August 2021

**Date of Conviction** 30 March 2022

**Offence** SP30 – Exceeding statutory speed limit on a public road

He also failed to declare them in breach of the conditions on his PHD Licence.

There was also an earlier offence of driving whilst holding a hand-held device which the Applicant had failed to disclose to the Council.

It was submitted by the Applicant's legal representative that the Applicant had been licensed with the Council for the best part of 18 years and had provided an excellent service. Prior to his appearance before



the Committee in 2019 there were no points and no complaints. Since then, the points for using hand-held device had expired and fell outside the policy.

The Applicant was genuinely remorseful for failing to declare his driving endorsements but had relied upon his wife to complete the paperwork for him as he is unable to read or write in English.

On this occasion the Committee considered that the Applicant had learned from his mistakes and had served a sufficient period of time "off the road". Given he had incurred no further driving endorsements since his appearance before Committee in October 2022 and had showed remorse, the Committee were now satisfied that he was a fit and proper person to be granted a PHD licence. However, the Committee issued the applicant with robust advice that he needed to better acquaint himself with the conditions attached to his licence and it was his responsibility to ensure any paperwork is accurately completed, even if he does seek assistance from his wife.

Decision

That the application for the grant of a Private Hire Driver (PHD) Licence be approved.

It was therefore

**Resolved (unanimously) – that the application by the Applicant for a Private Hire Driver Licence be approved.**

### **11. To determine whether action should be taken against a Private Hire Driver Licence and to determine an application for the Renewal of a Hackney Carriage Driver Licence**

The Applicant was in attendance accompanied by a colleague.

The Licensing Officer introduced the report and summarised it for everyone. It was confirmed that in relation to the offence on 10<sup>th</sup> August 2022 the Licensee had attended a Speed Awareness Course.

The Applicant put his case highlighting the following:

- He had misunderstood the question on the form; he thought the question related to serious offences and he considered his offences to be not serious
- He also misunderstood the meaning of being investigated
- He accepted that he had made a mistake and apologised
- He needs his licence to work as otherwise he will be in great financial difficulties
- He requested that his application for his licence be granted

It was noted that in 2021 he had failed to declare his 2020 offence.

The Applicant answered questions highlighting the following:

- He explained the circumstances of his two speeding offences
- He was not aware of the requirement to declare offences to BCC; (his colleague added that a lot of drivers are not aware of this requirement but are learning about it); his colleague added that his wife has been very ill





- He has only one vehicle; (his colleague added that a lot of Hackney Carriage Drivers have a Private Hire Driver Licence as well so that if their Hackney Carriage Vehicle breaks down they can hire a Private Hire Vehicle and continue to work)
- He works for UBER as a Private Hire Driver

The Applicant, his colleague and the Licensing Officer left the room whilst the Committee made its decision and returned later to hear the decision.

### **Decision and reasons**

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

The Members noted their Policy.

On the Applicant's application to renew his PHD Licence he had declared a speeding offence that was committed on 10/08/22 but had not disclosed this in a prompt fashion in accordance with the conditions attached to his PHD licence. His DVLA licence also revealed a SP30 endorsement from 2020 which the Council was aware of, but this endorsement was not declared at the appropriate time either. The Applicant had been issued with a warning letter and advice in August 2021 for failing to declare convictions and driving endorsements, so arguably should have known better.

On his application for a HCD licence the Applicant declared he had no new motoring convictions since his last licence was issued.

A DVLA licence search was carried out on 2 October 2023 which revealed the following information:

**Offences:** 2

**Points:** 6

**Date of Offence** 5 November 2020

**Offence** SP30 – Exceeding statutory speed limit on a public road

Aware of this one – he failed to declare on a previous renewal and received a warning letter about this

**Date of Offence** 7 July 2023

**Offence** SP30 – Exceeding statutory speed limit on a public road

Did not declare this.

The Applicant represented that he had misunderstood the forms and apologised for his omission. There had been no complaints against him as a licensee and he was rated 4.95 by customers as an UBER driver. He explained that it had taken four months for the more recent points to appear on his licence, hence the mistake.

The Committee were concerned about the two driving endorsements, but they were relatively minor, and it was not considered proportionate to deprive the Applicant of his livelihood. It was accepted that the wording on the newer forms is different and there might have been some confusion. The Applicant's explanation that he had not acted dishonestly in filling out the forms was therefore accepted.

The Committee were therefore satisfied that the Applicant was still a fit and proper person to retain both licences, but he was issued with a clear warning and advice to take greater care in completing his paperwork





in the future. Should there be any further failures to declare matters that must be brought to the attention of the Council, then the Committee may not be so lenient next time.

Decision

1. That no action be taken in respect of RH's Private Hire Driver (PHD) Licence
2. That RH's application for the renewal of his Hackney Carriage Driver (HCD) be granted

It was therefore

**Resolved (unanimously) – that no action be taken in respect of the Applicant's Private Hire Driver (PHD) Licence and that the Applicant's application for the Renewal of his Hackney Carriage Driver (HCD) be granted.**

## **12. Application for the Grant of a Private Hire Driver Licence seeking departure from Bristol City Council Policy – KE**

The Applicant was in attendance.

The Licensing Officer introduced the report and summarised it for everyone. KE is requesting exemption from having to complete the Knowledge Test and the Gold Standard.

The Applicant put his case and answered questions highlighting the following:

- He has worked in Bristol a lot and knows the area very well, particularly the postcodes; he worked for the Court Service which took him around the BS areas every day
- The cost of the Knowledge Test is not important to him, he just feels that he does not require it as he is familiar with locations, etc.; he also noted that most people now used modern technology for navigating – Sat Navs

It was noted that the Gold Standard is not available at present. It was also noted that the Knowledge Test includes elements of road safety as well as geographical locations.

The Applicant and the Licensing Officer left the room whilst the Committee made its decision and returned later to hear the decision.

### **Decision and reasons**

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

The Members noted their Policy.

The Committee was asked to consider an application for the grant of a Private Hire Driver (PHD) licence made by the Applicant seeking departure from Council policy.

The Applicant had applied for the grant of a PHD licence on 6 July 2023 and had requested an exemption from the Council's private hire knowledge test and Gold Standard.

KE had not been licensed by Council before but submitted an impressive background whereby he used to



work in enforcement for the Court service. He had worked in Bristol a lot and was very good with post codes. He also referred to modern technology where drivers have Sat Navs for journeys. However, after discussing the knowledge test with the Licensing office he now realised that there was a lot more to it than simply recognising addresses and land-marks.

The Policy Advisor confirmed that the Knowledge test also covered policy, conditions, equality issues and matters of public safety.

Having considered all the circumstances of the individual case the Committee could not be satisfied that KE should be treated as exception to Council policy. This was not a refusal of the Applicant's application. The application is still pending and so long as he passed the knowledge test and satisfied all other elements of the fit and proper person test, authority would be delegated to officers to grant him a licence.

#### Decision

That the application to be treated as an exception to Council policy by not taking the knowledge test be rejected but that authority be delegated to officers to grant the Private Hire Driver (PHD) Licence subject to the Applicant passing the knowledge test and all other elements of the fit and proper person test.

It was therefore

**Resolved (unanimously) – that the application to be treated as an exception to Council policy by not taking the knowledge test be rejected but that authority be delegated to officers to grant the Private Hire Driver (PHD) Licence subject to the Applicant passing the knowledge test and all other elements of the fit and proper person test.**

The meeting ended at 3.00 pm.

Chair \_\_\_\_\_

