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



6th February 2024 at 10.00 am

Members Present:

Councillors Amal Ali (Chair), Sarah Classick and Heather Mack

Officers in Attendance:

Lynne Harvey (Legal Services), Hannah Pring (Legal Services), Dakota Ferrara (Licensing Team) (Presenting Officer Items 10 and 12), Carl Knights (Licensing Team) (Policy Officer), Wayne Jones (Neighborhood Enforcement Team - NET) (Presenting Officer Items 8 and 9) 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

Apologies were received from Cllr Richard Eddy.

3. Declarations of Interest

Nothing was declared.

4. Minutes of Previous Meeting

The Minutes of the previous Meeting were not available.

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 to determine an application for a Private Vehicle Licence (Agenda Item No. 8)

The Licensee was in attendance, accompanied by his partner and legal representative.

The Neighbourhood Enforcement Team (NET) Officer introduced the report and summarised it for everyone.

The Licensee's legal representative put the case for the Licensee highlighting the following:

- The Committee has to decide on the balance of probabilities
- He has had a recent kidney transplant, which is not guaranteed to be successful
- He has been a taxi driver since 2017
- His work is the main source of income for his family
- There have been no complaints against him by members of the public
- References were supplied which reflect his good character
- He has transported thousands of passengers of all ages
- In May 2023 his vehicle was written off as result of an accident involving an uninsured driver and he has been unable to work since; the Police are still investigating the incident
- On 17th June 2023 there was an argument between the Licensee and his partner which escalated resulting in the Police being involved and the Licensee accepting a Caution having admitted what happened
- His partner provided a statement of support which was read out
- They have been together for a number of years
- She did not support the prosecution
- They have had community mediation
- He provides a good service for his customers
- This was an isolated incident and he has no history of any other incidents
- He was not working as a taxi driver at the time and he is not a danger to the public
- He had been pre-occupied with other things at the time
- He is working hard to improve his relationship with his partner



The Licensee's partner gave her version of the domestic argument highlighting the following:

- This was the first time an incident of this nature had occurred
- She had just had a baby
- The Licensee threatened to take the baby
- She became emotional
- It was an isolated domestic incident which was not violent
- She wants him to get his job back
- She would not be with the Licensee if he was a violent man

The Licensee confirmed his partner's version of events. He had only intended to take the baby outside the house. She was in the kitchen and he had grabbed her arm. They lived apart for 7 months following the incident.

The Licensee, his partner, legal representative and the NET 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.

Decision

- 1) No action be taken in respect of the Private Hire Driver (PHD)'s Licence held by the Licensee but he is instead issued with a warning as to his future conduct.
- 2) The Licensee's application for a Private Hire Vehicle (PHV) licence to be granted.

Reasons

The Committee were asked to consider whether any action be taken against the Private Hire Driver (PHD) licence following on from notification of a caution by the driver and to determine whether the application for a Private Hire Vehicle (PHV) licence should be granted.

The Committee were informed that on 25 August 2023, the Licensee notified the Licensing Office on a contact form that his previous Private Hire Vehicle had been written off in a hit and run road traffic accident that occurred on 20 May 2023, and that the Police were still investigating the matter. He also stated that he had received a caution from the Police in regard to an argument with his partner.

A DBS certificate has been provided and the details are as follows:

**Caution received on 5 July 2023, Police Force Avon and Somerset
Offence: Battery on 17 June 2023, Criminal Justice Act 1988 s39**

The Licensee asserts within their contact form that *'it was domestic, and I was not taken to court or convicted.'* The Committee heard from both the Licensee and his partner who has provided a statement detailing the events which led to the caution. The Licensee and his partner are both in agreement that they had not long had a baby and disagreed as to whether the Licensee should take the child out. The Licensee took the child from his partner, she in turn took the child back, the Licensee attempted to take the child back and grabbed his partner's arm. She contacted the Police as she was fearful he would take her child. They are both in



agreement that this was an isolated incident. The Licensee has undertaken two courses as a result of this incident, and they have had mediation.

Licensee Self Reporting

Licence holders are required to notify the Council in writing by close of business on the following working day of the happening of any of the following events:

1. Receiving a simple or conditional caution or being convicted of any criminal offence
2. Being arrested, interviewed, charged, reported for summons or receiving a postal requisition in connection with any motoring or criminal offence.
3. Receiving any out of court disposal including formal warnings, community resolutions, restorative justice education and awareness courses, community protection warnings and notices or fixed penalty notices.

The Licensee via his legal representative confirmed that he notified BCC at the point he did not notify BCC as per the reporting obligations however he did so once he was aware of the caution being issued. He confirmed that he was not actively working at the time given the incident in which his vehicle was written off. He had no access to a PHV.

As far as the offence itself was concerned Council policy which is consistent with National Standards states:

“Offences involving violence against the person/property

As hackney carriage and private hire drivers have close contact with the public, in general where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted, in general, until at least 10 years have elapsed since the completion of any sentence imposed.

This will include...

...Common Assault...

...This is not intended to be an exhaustive list...”

Notwithstanding the suggestion from the Licensee and his partner that this was an isolated domestic incident, the Committee were not entitled to go behind a conviction. The Council is entitled to expect high standards from those whom it licences.

The Committee took into account the Licensee’s previous unblemished record and character references including the statements of both the Licensee and his partner. The Committee was satisfied he had discharged the burden of proving that he should be treated as an exception to Council policy or the Statutory National Standards without undermining it or the reasons that underlie it. The Committee therefore decided that on this occasion, no action would be taken in respect of the Licensee’s Private Hire Driver’s Licence but he should be issued with a warning as to his future conduct. There is no objection to the granting of the Private Hire Vehicle Licence.

Resolved – that no action be taken in respect of the Private Hire Driver (PHD) Licence held by the Licensee but he is instead issued with a warning as to his future conduct and that the Licensee’s application for a Private Hire Vehicle (PHV) Licence to be granted.

9. To determine whether action should be taken against the holder of a Private Hire Driver Licence and a Private Hire vehicle Licence (Agenda Item No. 9)



The Licensee was in attendance accompanied by his legal representative.

PC Quinton was in attendance to help the Committee where needed.

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

The Licensee's legal representative put the case for the Licensee highlighting the following:

- He is very apologetic for breaching the rules
- The question is whether breaching the rules in question is serious enough to result in a loss of his livelihood
- He is a responsible person who is looking after his father, partner and baby
- His mind was distracted by IVF treatment
- The 2006 incident was not investigated and there are no further details; it could have been a mischievous complaint; it falls outside the timescales for being taken into consideration
- In relation to the Speeding Offence, he was only driving a few mph above the speed limit
- In relation to the vehicle registration plate being partially obscured, he remedied that at the time by moving his taxi plate into its correct position
- In relation to using his mobile phone whilst driving, he denied this and stated that the mobile phone was on his leg but he was not using it; the statement from the PCSO confirms that the phone was not illuminated; (It was noted that the CU80 relates to Breach of requirements as to control of a vehicle, mobile phone, etc. CU80 is therefore the correct code for the offence for which the Licensee was convicted. The Committee cannot go behind the conviction.)
- Although the Licensee has 6 points on his licence, he has a previously unblemished record
- He is a fit and proper person and has had no complaints in 20 years

The Licensee and his legal representative answered questions highlighting the following:

- The reason the Licensee's vehicle had moved across the road was because something had moved on the dashboard and he had reached across to catch it, taking his eyes off the road
- He did not have the phone in his hand
- As he pleaded guilty in court the PCSO statement was not challenged and had to be accepted
- He has taken the incident seriously; had he not taken it seriously he would not have pleaded guilty
- Something may have been happening in his life at the time of the incident
- Although the convictions are serious, they are not as serious as some convictions
- The Committee can use its discretion to make an exception to its policy

The Licensee, legal representative and the NET 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.

Decision



1. That the Private Hire Driver (“PHD”) Licence held by the Licensee be suspended for a period of three months on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely “any other reasonable cause”.
2. That no action be taken in respect of the Licensee’s Private Hire Vehicle (“PHV”) Licence

Reasons

The Committee were asked to consider whether action should be taken against the Licensee in respect of his PHD and PHV licences as a result of a recent motoring conviction.

The Licensee submitted a contact form on 6 November 2023 to the Licensing Office stating that he had received an “*Endorsement of 3 additional penalty points*” with a screen shot showing a CU80 offence, 3 points and £146 fine.

A search on his DVLA licence was carried out on 8 January 2024 revealed the following information:

Offences: 2

Points: 6

Date of Offence 11 October 2022

Date of Conviction Unknown

Offence SP30 – Exceeding statutory speed limit on a public road

Date of Offence 31 January 2023

Date of Conviction 26 September 2023

Offence CU80 -- Breach of requirements as to control of the vehicle, mobile telephone etc

The Licensee commented via email on 9 January 2024:

“..It was NOT for mobile phone use or any other device. They stated I didn’t have proper control of my vehicle and this was due to the road being narrow but we agreed to disagree and I pleaded guilty.

What I was pursuing with the court was that the cu80 charge refers to mobile phone according to DVLA but the court has confirmed that cu80 is a standard charge for not being in proper control, mobile phone, etc are examples of how a person may or may not be in proper control of the vehicle but that doesn’t mean that applies to my charge.

Therefore, i am not taking the matter further as everything should be clear from my charge sheet and court information....”

The Courts stated in an email to the Licensee that the code for the offence was a CU80 so the endorsement on his licence was correct.

However, the statement from the PCSO that was used in the criminal proceedings was at odds with the Licensee’s explanation as it stated as follows:

“.....As I was driving along, I noticed a vehicle beginning to slowly drift across the road. This particular part of the road is wide enough for two



vehicles to pass each other without having to give way to one another. I can identify this vehicle registration as, which is people carrier. I began to slow down but the vehicle was still drifting across the road, heading directly for my vehicle. I pressed my vehicle's horn for a short 2 second blast to get the driver's attention, where the driver's head shot up from looking down at his lap at something. The driver then steered the vehicle to the correct side of the road narrowly avoiding my own vehicle. As the vehicle passed me, I looked out of my closed driver's side window and down into his own closed driver's side window where I saw his mobile phone was in his right hand resting on his right leg. I do not believe the mobile phone was unlocked as the phone screen was dark...."

The Licensee was represented at the Committee hearing and continued to deny that he was holding his mobile phone whilst driving although his legal representative conceded that he had to accept the PCSO's statement as this evidence was not challenged during the criminal proceedings. The Committee was also aware that they could not "go behind" a conviction in the criminal courts and therefore the evidence of the PCSO was accepted in its' entirety.

The Committee were concerned that the Licensee had committed two motoring offences resulting in his licence being endorsed with 6 penalty points.

It was considered that the more recent offence resulting in a CU80 endorsement was serious in that the Licensee did not have his eyes on the road and lost control of his PHV which resulted in him almost colliding with another vehicle.

Although it was not clear whether the Licensee was actually "using" his mobile phone whilst driving in accordance with the relevant regulations, it was clear from the PCSO's evidence that he was holding it and looking down which resulted in him losing control of his vehicle. The Licensee also contended that the road was narrow which is why he had to drive onto the other side of the road but this was also inconsistent with the PCSO's evidence in which it was stated that the road was wide enough for two vehicles to pass each other without having to give way to one another.

The Committee was of the view that as the offence was akin to using a hand held device whilst driving, the Council's policy on offending behaviour applies whereby a period of 5 years "off the road" is the starting point.

Usually the Committee would be looking at a revocation in these circumstances but having taken into account the Licensee's previous history as a PHD, it was considered that a complete ban would be disproportionate. However, the Licensee's driving standards had fallen well below those the Council is entitled to expect from those whom it licences. The Committee was also unimpressed by the Licensee's attitude towards the PCSO when he was pulled over for the offence which gave the impression that he did not take his responsibilities as a driver seriously. It was therefore decided that there was "reasonable cause" to suspend the Licensee's PHD licence for a period of three months.

No action will be taken in respect of the Licensee's PHV licence.

Resolved - that the Private Hire Driver ("PHD") Licence held by the Licensee be suspended for a period of three months on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous



Provisions) Act 1976 namely “any other reasonable cause” and that no action be taken in respect of the Licensee’s Private Hire Vehicle (“PHV”) Licence.

10. Application for the Grant of a Private Hire Vehicle Licence seeking departure from BCC Policy (Agenda Item No. 10)

The Applicant was in attendance.

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

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

- He had submitted a complaint to BCC concerning the delays in issuing his Private Hire Driver Licence which in turn lead to delay in his vehicle passing its MOT and his Private Hire Vehicle Licence not being issued
- He has been a taxi driver since 2011 and did not know what was going on

The Licensing Officer explained that there had been a delay by the Applicant in providing the required documents for his Private Hire Driver Licence to be renewed. He had been sent a number of reminders concerning outstanding documents preventing BCC from issuing him with a Private Hire Driver Licence. In any event it would still have been possible for the MOT test to be carried out on his vehicle during this period. Applicants have 3 months to renew their Private Hire Vehicle Licence. After that time it becomes a new application.

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.

Decision

1. That the Applicant’s application for the grant of a Private Hire Vehicle (PHV) licence seeking departure from Council policy be granted.

Reasons

The Applicant’s PHV has been previously licensed as a PHV from 15th April 2015 to 14th September 2016 prior to being transferred into the Applicant’s name and licensed up to 15th April 2023. It is fitted with a diesel engine.

The Council’s Private Hire Vehicle Policy states:

“Vehicles will not generally be accepted for private hire licensing unless they comply with the following specification;

1. *Vehicles presented for licensing on the first occasion shall be petrol, petrol hybrid or an Ultra-Low Emission*



Vehicle (ULEV, excluding diesel ULEV vehicles) and less than three and a half years old from the date of registration or, in respect of vehicles that have been imported other than as new into the United Kingdom, less than three and a half years old from the date of manufacture (In the remainder of this policy reference to date of first registration with regard to vehicles which are imported should be construed as date of manufacture)...
...2. Any licence granted shall be renewed annually until the vehicle has reached eight years provided that the vehicle remains continuously licensed in that period. A vehicle will be deemed to have been continuously licensing notwithstanding a delay in renewal following expiry provided that;
a. Any late renewal is made within 3 months of expiry and,
b. An additional fee levied by the Council has been paid."

The Applicant failed to relicence the vehicle upon expiry in April 2023 until 8th November 2023. The Committee heard from the Applicant how he could not apply for the renewal of his PHV within the three month expiry window due to delays in issuing his PHD licence. This prevented the Applicant from obtaining a sufficient MOT of the vehicle.

The Committee heard that the Applicant applied for his PHD licence on 29th March 2023. Bristol City Council Licensing Team subsequently emailed the Applicant on 2nd April 2023, 4th May 2023 and 4th August 2023 advising the Applicant of documents outstanding preventing them from issuing a licence. The Committee agreed that this was sufficient communication and no delays had been caused unnecessarily by the Bristol City Council Licensing Team.

The Applicant acknowledged the emails in question however noted to the Committee that he is not always able to check emails. This was acknowledged however it was noted that on the complaint provided to the Committee, the Applicant had highlighted that email was his preferred method of contact.

The Committee agreed that in the individual circumstances of the Applicant's cases he could be granted a Private Hire Vehicle (PHV) licence with departure from Council policy. This licence has been granted for the period of six months with the condition that the Applicant presents the vehicle for a further MOT prior to licensing given the number of advisories detailed on the last few MOT provided. The Committee has issued a warning that while consideration has been provided to the difficulties the Applicant may have incurred with the administration process of applying for his PHV and PHD, it is his obligation under the policy to be on top of the application process and his email correspondence. He should seek assistance in future if needed to ensure his renewals are entered on time.

Resolved - that the Applicant's application for the grant of a Private Hire Vehicle (PHV) licence seeking departure from Council policy be granted.

11. Application for the Renewal of a Private Hire Driver Licence (Agenda Item No. 11)

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

12. Application for the Renewal of a Private Hire Driver Licence (Agenda Item No. 12)

The Licensee was in attendance, along with his wife.

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



The Licensee's wife apologised and stated that they did not know that there were still points on his licence when the form was completed. It was an error.

The Licensee added that he had misunderstood what was said by the insurers. He had an accident which went to court last week and the other party received points on their licence.

It was noted that the offence should have been declared at the time as well as at the time of renewal.

It was noted that the Licensee's PHD Licence was suspended by Committee for 3 months in 2020 for the failure to declare an offence.

The speeding offence occurred on a Sunday morning.

The Licensee, his wife 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.

Decision

That the Licensee's application for the renewal of his Private Hire Driver (PHD) Licence be refused on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause.

Reasons

The Licensee submitted an application to renew his PHD licence on 3 November 2023. His previous licence ran from 13 December 2021 to 10 December 2023. The Licensee has held a PHD licence since at least 3 November 2004.

The Licensee had a previous PHD licence suspended for a period of 3 months by the committee on 3 March 2020 for a failure to declare a major traffic offence (CD10). The Licensee was made aware on 3 March 2020 of his obligation to self-report as per the policy.

A search on DVLA records confirmed that the Licensee incurred 3 penalty points for an SP30 offence on 27th February 2022. The Licensee failed to notify Bristol City Council of this endorsement at the time it occurred and failed to declare this upon renewal of his licence.

The Committee heard apologies from the Licensee and his wife for failing to declare the points on renewal. The Licensee's wife explained that they had spoken with the insurance company when completing the renewal and were advised that there were no current penalty points on the licence and they relied upon this statement. They acknowledge that it is their obligation to check and they misunderstood. The Licensee confirmed that he understood the onus is on him to ensure that the information provided on the application form is accurate and complete before putting his signature to it.

The Committee brought to the Licensee's attention that the renewal form does not request details



surrounding penalty points in isolation but in respect of any offences being investigated, charged or summoned for.

The Committee enquired as to why the SP30 offence was not declared at the point at which the Licensee became aware of the offence as per the Policy requirements and his previous warning in March 2020 regarding his obligation to declare alongside a 3 month suspension. The Licensee and his wife confirmed they believed this was only required upon renewal however it was made plain to him in March 2020 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.

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.

The Committee considered that the question on the application form relating to convictions was straightforward and unambiguous. Given the Licensee's previous history of failing to disclose motoring convictions to the Council, his excuse to fail to disclose on this occasion was a poor one.

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

Resolved – that the Licensee's application for the renewal of his Private Hire Driver (PHD) Licence be refused on the ground contained in section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 namely any other reasonable cause.

The meeting ended at 2.45 pm.

Chair _____

