

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 23rd September, 2021

Present:- Councillors Rob Appleyard (Chair), Steve Hedges and Karen Warrington

Also in attendance: John Dowding (Lead Officer - Licensing) and Shaine Lewis (Team Leader, Legal Services)

46 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

47 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

48 DECLARATIONS OF INTEREST

There were none.

49 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

50 MINUTES OF PREVIOUS MEETINGS: 12TH AUGUST 2021 & 19TH AUGUST 2021

These were approved as a correct record and signed by the Chairman.

51 LICENSING PROCEDURE

The Chairman explained the procedure to be followed for the meeting and all parties stated they had read, heard and understood the procedure.

52 EXCLUSION OF THE PUBLIC

The members of the Sub-Committee agreed that they were satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972. They **RESOLVED** that the public should be excluded from the meeting for the following item(s) of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

53 CONSIDERATION OF FIT AND PROPER - 18/04065/TAXI

The Lead Officer - Licensing presented the report to the Sub-Committee. He explained that the report invited the Members to consider whether the Licensee concerned remains fit and proper to hold a combined Hackney Carriage/Private Hire Driver's licence following a recent complaint alleging refusal of fares and homophobic comments.

The Sub-Committee is also asked to consider a history of complaints received regarding the Licensee since first licensed by the Bath & North East Somerset Council and the former Bath City Council.

The Lead Officer – Licensing said that on the 4th October 2020 Licensing Services received a complaint alleging refusal of fares and intimidating behaviour, including homophobic comments. He added that due to the nature of the allegations the matter was passed to the Police to advise on whether a threshold of criminal behaviour had been crossed.

He explained that advice was received from the Police that there were potential offences, and the complainant was subsequently advised that due to the nature of the allegations the Police would be the primary investigating body and the Council would review the outcome of a Police investigation.

He stated that the complainant contacted the British Transport Police (BTP) who investigated the matter and interviewed the Licensee under Caution. The BTP concluded that the matter would be referred to the Crown Prosecution Service for them to decide future actions, and duly informed the complainant of this course of action.

The complainant then informed the BTP that he no longer wanted them to investigate the matter. The BTP informed Licensing Services, and the decision was taken to refer the matter to the Licensing Sub-Committee due to the serious nature of the original allegations and the intended course of action of the BTP after reviewing the evidence.

The Lead Officer – Licensing informed the Sub-Committee that there have been 23 previous complaints recorded on the Licensees file.

The Sub-Committee then agreed to listen to two audio clips between the Licensee and one of the complainants from October 2020 at Bath Spa Station taxi rank.

One of the complainants addressed the Sub-Committee to confirm that his statement given at the time of the incident was a true record.

The other complainant addressed the Sub-Committee. He said that he meant no ill towards the Licensee but felt that he needed to report the accusations. He added that following the incident he had felt depressed.

The Licensee addressed the Sub-Committee. He said that he drives a noisy cab and has to speak up to make sure passengers can hear him and that some may see this as aggressive or rude.

He explained that the cab has nine grab handles within it and that the characteristics of the cab mean that it can rock and roll a bit when cornering. He added that he has a clean driving licence, has never been in trouble with the Police and has not suffered any damage to his vehicle.

He said that when people make complaints they lie to make their case stronger.

He stated that he was qualified and educated to hold his position and was not as bad as he was being portrayed.

He said that one of the complainants was the least liked person on the rank and that he felt provoked by him during the recordings that were made. He added that he believed that anybody else at the time would have slapped him, but he did not.

He stated that he has the right to not allow passengers in his cab if they are drunk or not behaving in a way that he feels is right. He added that this should send a message to them that they need to behave to get a fare.

He said that he believed that the complainants had made it their New Year's resolution to make sure that he lost his job.

He said that he was not homophobic and believed that people should live and let live within a mixed society and he did not mean to be degrading. He added that he felt that he was being stitched up with the production of the historical evidence against him.

Councillor Steve Hedges commented that during the course of 25 years over 20 complaints had been made against him and asked him to explain how he felt that it was a stitch up.

The Licensee said that he was willing to discuss all of the complaints.

Councillor Karen Warrington asked if he was able to explain why there was the number of complaints that had been made against him.

The Licensee replied that he felt that his deep voice can be viewed as rude or aggressive. He said that it was not true that children travelling in his cab would be flying across the seats.

He recounted one fare that was from Bath Spa Station to the Hilton Hotel, Walcot Street, Bath. He said that a family had reluctantly got in his cab and they travelled up Manvers Street from the station. He stated that at the time there were a number of potholes on the road and that he would drive around them. He explained that he turned right at the Pig & Fiddle before arriving at the hotel. He said that at no point in the journey did he hear anyone fall over.

The Chairman asked if passengers had fallen in his cab before.

The Licensee said that he would know if this happens because the floor of the cab makes a certain sound if someone were to trip, fall or if a heavy bag is put on the floor.

The Chairman said that in his experience the grab handles within the cab would normally be used to help passengers in or out of the vehicle not to hold onto during the journey. He asked if there was signage in the cab to advise passengers to sit back in their seats and if a microphone system was in place to speak to passengers whilst travelling.

The Licensee replied that there was a microphone system within the cab but that it was not so good when the vehicle was moving at over 40mph or when the windows are open. He added that he had been accepting payment for fares via a card machine since February 2021.

The Team Leader, Legal Services asked what happened on the Hilton fare when you were asked to slow down.

The Licensee replied that he did slow down and advised the passengers to use the grab handles. He added that they should have also used the seatbelts. He stated that he never overcharges his passengers.

The Lead Officer – Licensing asked the Licensee to confirm that he had admitted being guilty of one of the historical incidents that had been documented within the report.

The Licensee replied that he had, but that was just so that the matter would be put to bed.

A representative on behalf of the Licensee said that the complainants should report any concerns to the Lead Officer – Licensing rather than attempting to play detective.

The Lead Officer – Licensing replied that he had been approached by the complainants on many occasions with concerns over the Licensees conduct.

The Chairman asked how significant was it that on a number of occasions the Licensee had been accused of refusing fares due to a lack of card machine for payment within his vehicle.

The Lead Officer – Licensing replied that it was seen as an unwritten rule that if you didn't accept card payments you passed the fare onto the next driver in the rank. He said instead of this the Licensee is accused of asking passengers to get cash to continue the fare with him.

The Licensee queried the accusation of bullying and said that he was being portrayed as an uncontrollable thug. He added that he has a good relationship with most other taxi drivers and some have been to his home.

He said that his vehicle is always in a good condition and always passes any checks. He said that he was not an aggressive person and would walk away from trouble.

He stated that he believed that the complainants had worked together on their statements against him and that he knew things about one of them that would crucify them.

He said that the Lead Officer – Licensing needed to ask the complainants to leave him alone and that he believed he was fit and proper to carry out his role as a driver.

The Chairman asked if all parties agreed that they had been giving the chance to give their views to the Sub-Committee.

All parties agreed that they had.

The Licensee thanked the Chairman for being fair during the meeting.

Decision and Reasons

Members have had to consider whether a Licensee remained fit and proper to hold a combined Hackney Carriage/Private Hire Driver's licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members reminded themselves that each case is taken on its merit, any economic impact of the decision was irrelevant and with public protection being the paramount importance the whole of a person's character is relevant.

The applicant stated bad workers blames his tools. I drive an old London cab and it is very noisy and can be unstable. As for dangerous driving people interpret the cab rocking from side to side as bad driving. For example, a family came to me and I accepted the fare at the station. I don't drive in a straight line up Manvers Street at the time to avoid all the potholes so I am weaving. Part way along the journey the dad said can you slow down but I did not hear any kids falling off the seat. I said you need to sit in the corner, slowed down and told them to hold on to the handles. All these points about aggression is not meant like. My cab is very noisy so I raise my voice to be heard and some people interpret my loud voice as aggression.

People lie when they complain to give substance to the complaint. I have not been taken to court I've not had a caution from the police and yet it seems that licensing are programmed to believe the complainant. I have a double life and have security clearance, been vetted and work with defence agencies. The latest complainant has no friends on the rank and I have been set up by the recordings. Anyone but me would have slapped him but I did not. With regards to the fare refusal if I feel that if customers are not behaving as they come out of the pub then I can refuse and let another driver take the fare but they don't like it.

I have worked with all the Licensing Officers over the years and have had good relationships with them all. It is true that Licensing do not like me and it is other drivers' ambition to get me off the rank and have presented hearsay in support of their new year's resolution to do this.

I do everything to avoid trouble and walk away. I do not cause trouble and my grasp of swearwords in the English language is pretty impressive. If I had wanted to insult the other drivers I would have called him something more specific.

I do not overcharge and that is something I pride myself on. I do not believe that the historic complaints should be here and any admission of guilt made at the time would have been to put the matter to bed.

I do a good job and I don't behave like they portray me. I am fit and proper and these accusations are very hurtful and humiliating.

In determining this matter Members note that licences come with responsibilities and there are risks if unsuitable people are licenced. In terms of risks these include putting passengers, other licensees and the public at risk of harm and in terms of responsibility licensees must ensure public confidence in the licensing regime is not undermined.

Members noted that since the licence was granted the licensee has received a formal caution from the Licensing Authority and despite this there has been a continuing history of poor behaviour. The majority of this behaviour may be characterised as anger management issues. For example, there are numerous allegations of rude behaviour, over charging, refusal of fares, verbal abuse, aggressive behaviour, assault and dangerous, inconsiderate driving. Many of these incidents occurred at or near the busy taxi rank at Bath Spa railway station and involve members of the taxi trade and the public alike.

The latest reported incident is an allegation that the licensee used intimidating behaviour with homophobic content. Members find this particularly distasteful.

Whilst acknowledging the licensee's representations, his information in support and that he did not accept any of the reported conduct Members found there were striking similarities and a pattern of behaviour that the licensee must take responsibility for.

Members take an extremely dim view of such conduct which has included two alleged physical assaults and behaviour that will only serve to have a negative impact on public confidence in the licensing regime. In all the circumstances Members found the catalogue of complaints reported spoke for itself and was a sad indictment on a career as a licenced driver in excess of 25 years.

Members are also surprised and disappointed that the system appears to have enabled the licensee to be given numerous final warnings without being brought before them. In any event and whilst noting there have been periods where the licensee had not been the subject of complaint Members ultimately asked themselves the following question.

Would they, their friends, family or loved ones feel safe and secure alone in a licensed vehicle driven by this licensee? In all the circumstances, and on the balance of probabilities, Members answer that question no.

Members, however, do not consider a period of suspension would serve any purpose given the reported history and that the licensee did not present any evidence to suggest he was fit and proper. The license is therefore revoked.

The meeting ended at 12.35 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services