

Licensing Sub-Committee

Date: Thursday, 2nd December, 2021

Time: 10.00 am

Venue: Kaposvar Room - Guildhall, Bath

Councillors: Rob Appleyard, Steve Hedges and
Karen Warrington

Chief Executive and other appropriate officers
Press and Public

A briefing session for Members will be held at 9.30am



Mark Durnford

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NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

3. **Recording at Meetings:-**

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control. Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

The Council will broadcast the images and sounds live via the internet www.bathnes.gov.uk/webcast. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

4. **Public Speaking at Meetings**

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group.

Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.

Further details of the scheme can be found at:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

5. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are signposted. Arrangements are in place for the safe evacuation of disabled people.

6. **Supplementary information for meetings**

Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

Licensing Sub-Committee - Thursday, 2nd December, 2021

at 10.00 am in the Kaposvar Room - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

3. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* an **other interest**,
(as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

5. MINUTES OF PREVIOUS MEETING: 23RD SEPTEMBER 2021 & 7TH OCTOBER 2021 (Pages 5 - 18)

6. LICENSING PROCEDURE (Pages 19 - 22)

The Chair will, if required, explain the licensing procedure.

7. EXCLUSION OF THE PUBLIC

The Sub-Committee is asked to consider passing the following resolution:

“the Sub-Committee having been 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, **RESOLVES** that the public shall 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.

8. CONSIDERATION OF FIT AND PROPER – 19/01260/TAXI (Pages 23 - 50)

The Committee Administrator for this meeting is Mark Durnford who can be contacted on 01225 394458.

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

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BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 7th October, 2021

Present:- Councillors Rob Appleyard (Chair), Steve Hedges and Sally Davis

Also in attendance: John Dowding (Lead Officer - Licensing), Wayne Campbell (Public Protection Officer (Licensing)) and Rebecca Jones (Deputy Team Leader - Legal Services)

54 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

55 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

56 DECLARATIONS OF INTEREST

There were none.

57 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

58 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.

59 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.

60 CONSIDERATION OF SUITABILITY TO BE LICENSED AS A PRIVATE HIRE OPERATOR – 16/03320/PHOP

The Public Protection 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 Private Hire Operator's licence issued by this authority.

He stated that on 19th November 2020, Licensing received an email from a solicitor acting on behalf of a complainant who was a licensed B&NES Private Hire vehicle proprietor. The email stated that the complainant had worked as a taxi driver on behalf of a licensed taxi operator, between February 2017 and May 2018 and that the complainant had not been paid during the period from March 2017 to May 2018.

He said that the complainant had filed a claim at the County Court Online against the licensee for the non-payment, which totalled £8405.00 and that on the 5th August 2020, the complainant was successful in that claim and awarded £8405 plus £410 costs, totalling £8815.00.

He added that on 11th January 2021, the complainant sent Licensing an email containing 16 attachments of unpaid invoices relating to work carried out on behalf of the licensee.

He explained that on 4th February 2021, the licensee informed Licensing in writing, of his version of events regarding the unpaid invoices.

He said that on 5th August 2021, the complainant sent Licensing a statement confirming that he had not been paid for work carried out on behalf of the licensee that he had been awarded the total invoiced amount plus costs at a County Court Online.

The complainant's solicitor addressed the Sub-Committee and stated that the case is clear. The licensee has not paid invoices that have been issued to him and that a County Court Judgement has ruled that he should pay the total in full, plus costs. He added that he felt that the licensee should also have his licence revoked.

A representative on behalf of the licensee addressed the Sub-Committee. He said that he carries out a school run on behalf of the licensee and provides him with a detailed invoice every month which is paid promptly by cheque.

He stated that he felt that the invoices supplied by the complainant were not very detailed and contained dates within school holidays. He added that the licensee has applied to have the County Court Judgement set aside.

The licensee addressed the Sub-Committee. He said that on receipt of invoices he would look to pay drivers by cheque the same day. He added that on occasions where drivers forget to provide invoices he has paid them and asked for them to be provided in due course.

The Chairman asked how he had received the invoices from the complainant.

The licensee replied that he had not received any invoices until after the County Court Judgement had been given. He said that he had no knowledge of the proceedings prior to the judgement.

The Chairman asked why he had not chased the complainant for the invoices.

The licensee replied that he had. He added that he had paid the complainant by cash and believed that he was trying to claim again by submitting the invoices and requesting a lump sum.

Councillor Sally Davis commented that in her opinion the invoices from the complainant did not contain any school holiday periods.

The Lead Officer – Licensing asked the licensee if the journeys carried out by the complainant had been confirmed by the Home to School Transport department.

The licensee replied that they had.

Referring to previous incidents mentioned within the report the licensee stated that he believed that the investigation in 2016 had only started because he had uncovered that friends of the Lead Officer - Licensing were running an unlicensed private hire business. The licensee provided no evidence of this claim.

Decision and Reasons

Members have had to consider whether a Licensee remained a fit and proper person to hold a Private Hire Operators License. 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 is irrelevant and with public protection being the paramount importance the whole of a person's character is relevant.

The License holder stated:

He did not know what was happening before the County Court judgement was received.

The complainant had done work for him and was paid by cheque every month until in May 2017 he demanded I paid him in cash as he was desperate to pay some bills and could not wait for a cheque to clear. This is not a method of payment I would normally use but I have helped many hackney carriage drivers out over the years when they have needed cash for various reasons as long as we have had invoices to show where the money had gone it is not a problem. All hackney carriage drivers are required to provide an invoice each month, but they regularly forget and I often get them later or at the end of my financial year when I realise which ones are missing.

The complainant did not produce any invoices between May 2017 and July 2018 despite regular requests. I then stopped the complainant from doing any more work for me as I could not continue in this way, paying cash and not having any invoices. I am not sure of the date but in about October / November 2019 I received a recorded delivery with all of the outstanding invoices. I had not had any contact with the complainant during this time at all and still have not had any contact with him to this day.

The same invoices were then sent to my accountants at a later date and while I felt this was a bit odd I did not think anything of it, in fact quite the opposite. I expected the complainant to call me and ask if he could do work for me again as he had now produced the outstanding invoices. There was no letter or any demands enclosed with the invoices. I did not receive any further communications until the County Court judgement letter arrived at my accountant's address. Why he sent it to the accountants address I am not sure, but the company is registered at that address with Companies' House.

The complainant started doing work for my company in September 2016 and was paid every month. Invoices were produced monthly every month up until May 2017 when he started getting paid in cash. Unfortunately, I did not suspect anything during this time and did not realise what he was up to. Ask yourself a few questions: If you are being paid monthly could you afford to stop being paid for a 15 month period? Would you continue working if you were not getting paid? How could you afford to keep your vehicle on the road during this period? The complainant to my understanding owns five taxis, but he is not VAT registered, how come? I have learnt a lot about this man after making enquiries, he is not a trustworthy man, always seeking to be paid in cash, pays very little tax, goes back to Poland twice a year with all the money, and I believe he has already had charges brought against him in the past for fraud.

I tried to contact the complainant many times without success, if invoices are produced, I pay the same or next day. I did not receive any invoices and or messages from the complainant. I did not receive any court papers until I received the County Court judgment. I intend to apply to set the judgment aside. The invoices when they were sent after the court judgment did not have sufficient detail and there were some days he was charging for some days in the school holidays. I cannot pay if not enough detail. I still paid him cash.

Bath and North East Somerset Council Licensing Sub-Committee decision:
To Revoke the License Holder's Private Operators License

In determining this matter Members noted 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 been slow and reluctant to respond to proper requests for information from the Council's licensing team, only responding after several requests and the threat of a possible prosecution. He also deflected requests for information and was aggressive to

licensing officers when attending Council offices. When information and records were produced, several breaches of licensing law and conditions were revealed and the Licensee was given a final warning.

Further inaccurate information was provided by the License holder in the course of the investigation by Council officers of the current complaint, that is, regarding his working with Abbey Taxis.

The Members noted the complaint was for a lengthy period of over a year of unpaid hire fees amounting to the substantial sum of over £8,405. The complainant produced proof of posting of his invoices and text messages chasing for payment for which judgment has been obtained, no defence having been filed and which judgment remains unpaid.

Members acknowledged the Licensee's representations regarding the complaint, refuting the claim and judgment in the County Court and that he did not accept any of his reported conduct. Members found that the Licensee's explanations were not believable. Members noted several contradictions from the License holder in his submissions e.g. both saying he paid the complainant in cash and also saying that he did not pay him because the invoices did not set out sufficient detail and included charges for school holiday periods.

Members noted all invoices were for term times and appeared detailed. Members noted that the License holder stated he had not received the invoices or text messages chasing him for payment from the complainant, although the complainant provided proof of posting to the License holder and copies of his text messages. The License holder also stated he did not receive the claim form from Northampton County Court only the subsequent judgement.

Members noted that as the work was for regular runs for school transport, it would have been easy to check with B&NES School Transport if the work had been undertaken by the complainant.

Members noted that the License holder stated he intended to apply to set aside the judgment obtained by the complainant.

Members take a dim view of such conduct which deprives a person of payment for their work when the license holder has themselves been paid and consider such action serious. This was a lengthy breach of over a year of his Private Hire Operators License.

In all the circumstances Members found the License holder is not fit to operate a Private Hire Operators License and has undermined the public trust in the system. Members asked themselves the following question: Would they feel confident, as a driver, of payment when taking referrals from the license operator? In all the circumstances, and on the balance of probabilities, Members answered that question, No. Members do not consider a period of suspension would serve any purpose given the facts, the License holder has had opportunity to make payment when the invoices were received and after the judgment, but has failed to do so. Therefore there is no evidence to suggest the License holder is fit and proper. The license is therefore revoked.

The meeting ended at 11.30 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

Licensing Sub Committee Hackney Carriage and Private Hire Drivers Complaint Hearing Procedure

1. The Chair will introduce Members of the Committee, introduce the Officers present, explain the procedure to be followed and ensure those present have received and understood that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Committee.
3. The Complainant presents their case, may call witnesses and may be questioned by the Committee and other parties. Where a written complaint has been made the complaint will be read by the Committee. The procedure will be repeated should there be more than one complainant.
4. The Licensee presents their case, may call witnesses and may be questioned by the Committee and other parties.
5. The Chair will ask the Licensing Officers present whether they wish to comment. An Officer making comment may be asked questions.
6. The Complainant is invited to make a closing statement
7. The Licensee is invited to make a closing statement.
8. The Chair will invite the Committee to move into private session to enable the Members to deliberate in private. The Committee will reconvene publicly if clarification of evidence is required and/or legal advice is required. The Committee may retire to a private room, or alternatively require vacation of the meeting room by all other persons.
9. Whilst in deliberation the Committee will be accompanied by Legal and Democratic Services Officers for the purpose of assisting them in drafting their reasoning for the decision.
10. The Committee will reconvene the meeting and the Chair will announce the Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.

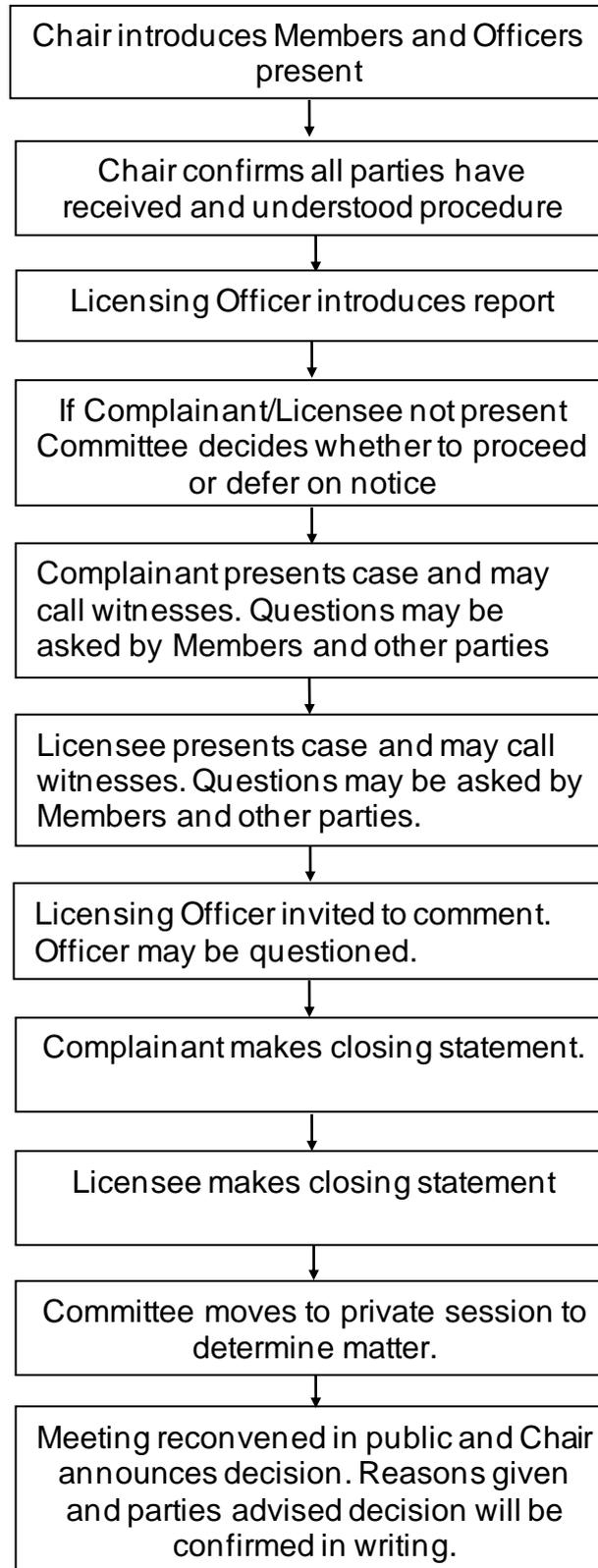
PLEASE NOTE:

- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in a party's absence on the next occasion. In deciding whether to proceed all notices, communications and representations will be considered.
- Only in **exceptional circumstances** will the Committee take account of additional late documentary or other information and will be at the discretion of the Chair and on notice to all the other parties. No new representations will be allowed at the hearing.
- The Committee will disregard all information or representations considered irrelevant.
- The hearing will take the form of a discussion. The Committee will allow parties to the proceedings to ask questions. Formal cross examination will be discouraged and, should they be necessary, supplementary questions allowed for clarification purposes only.
- Parties will have an equal amount of time to present their cases. Whilst time limits are at the Chair's discretion, in the interests of cost and efficiency, presentations will not normally exceed **twenty minutes** to include summarising the case. Time limits will not include the time taken for questions.

N.B.

1. Where there is more than one party making relevant representations the time allocated will be split between those parties.
 2. Where several parties are making the same or similar representations it is suggested that one representative is appointed to avoid duplication and to make the most efficient use of the allocated time.
 3. Where an objection is made by an association or local residents group, a duly authorised person – as notified to the Licensing authority – may speak on behalf of that association or local residents group.
- The Chair may request that persons behaving in a disruptive manner should leave the hearing and their return refused, or allowed subject to conditions. An excluded person is however, entitled to submit the information they would have been entitled to present had they not been excluded.
 - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion. On occasion however, it may be necessary to exclude members of the press and public pursuant to the Local Government Act 1972 Schedule 12 (a). In those circumstances reasons for such decisions will be given.
 - If a person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing so that reasonable adjustments may be made.

**LICENSING SUB-COMMITTEE
HACKNEY CARRIAGE (TAXI) AND
PRIVATE HIRE VEHICLES COMPLAINT PROCEDURE**



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Access to Information Arrangements

Exclusion of access by the public to Council meetings

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| Information Compliance Ref: LGA 1438/21 |
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| Meeting / Decision: Licensing Sub-Committee |
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|-------------------------------------|
| Date: 2 nd December 2021 |
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| Author: Wayne Campbell |
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| Exempt Report Title: Consideration of Fit and Proper |
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|---------------------------|
| Exempt Appendix Title(s): |
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| Exempt Annex A- Current Licence |
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| Exempt Annex B – Minutes and Resolution of LSC 7th October 2021 |
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| Exempt Annex C – Previous Non Compliance Issue |
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| Exempt Annex D – Minutes and Resolution of LSC 23rd January 2020 |
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The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

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| Stating the exemption: |
|------------------------|

- | |
|---|
| <ol style="list-style-type: none"> 1. Information relating to any individual 2. Information which is likely to reveal the identity of an individual 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information) |
|---|

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report and appendices be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

PUBLIC INTEREST TEST

If the Sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local

Government Act 1972. The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 2018 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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