

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 6th April, 2023

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

Also in attendance: Carrie-Ann Evans (Team Leader, Legal Services) and Wayne Campbell (Public Protection Officer (Licensing))

109 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

110 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

111 DECLARATIONS OF INTEREST

There were none.

112 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

113 MINUTES OF PREVIOUS MEETINGS: 9TH MARCH 2023 AND 23RD MARCH 2023

The Sub-Committee **RESOLVED** to approve the minutes for the meetings held on 9th March 2023 and 23rd March 2023 and they were duly signed by the Chairman.

114 LICENSING PROCEDURE

The Chairman referenced the procedure for each of the applications before the Sub-Committee and stated that all parties would be given an equal opportunity to make their representations and give evidence.

115 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.

It was **RESOLVED** that the public be excluded from the meeting for the following items 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.

116 APPLICATION TO RENEW COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - CONSIDERATION OF FIT AND PROPER - 23/00105/TAXI

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He explained that they were being asked to determine whether a driver remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence.

He outlined the key points from the report.

The Chairman asked the driver to address them on why he believed he should remain considered as fit and proper to hold his licence and specifically, first of all, why he had not informed the Licensing department when he had received the penalty points for speeding.

The driver replied that at the time he was honestly not aware that he had to inform Licensing and that he had reported it to his insurance company only.

The driver added that he has had no complaints made against him from passengers and that he now understood fully the need to report any further issues to the Licensing department.

Councillor Sally Davis asked if he had re-read the conditions of his licence since being informed that he had to attend the Sub-Committee.

The driver replied that he had.

The Chairman asked the driver if he felt he had given the Sub-Committee as much information as he could regarding his case.

The driver replied that he had and apologised once more.

Decision and Reasons

Members have had to consider whether or not the Licensee is a fit and proper person to continue to hold his combined Hackney Carriage/Private Hire Driver's licence in the light of failures to disclose motoring convictions whilst licensed.

In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

Members heard from the Licensee in oral representations who indicated that he was not aware that he had to report these convictions to licensing. On questioning he indicated that he was aware now, he understood what was required of him and he apologised to Members for his failure to comply with the terms of his licence.

Members noted the Licensee had been licensed with BANES since 2017 and there had been no complaints against him made by members of the public.

On balance, Members find that the Licensee is fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence, but they issue a final warning to the Licensee in the strongest possible terms that:

1. He must comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public.
2. He must take care to ensure that he completes his documentation related to his BANES licences with care and accuracy, if in doubt he should seek assistance from licensing.
3. It is his responsibility, nobody else's, to ensure compliance with the terms of his licences.
4. He must take care to travel within the road speed limits as the safety of the travelling public is of the utmost importance.
5. If he comes before the Licensing Sub-Committee again, against this background, there is a very strong risk of revocation of his licence.

117 CONSIDERATION OF FIT AND PROPER STATUS - 22/00614/TAXI

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He explained that they were being asked to determine whether a driver remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence.

He outlined the key points from the report.

The Chairman asked the driver to address them on why he believed he should remain considered as fit and proper to hold his licence.

The driver began by apologising to all concerned for making such a huge mistake and said that the last six months had been very tough for him and his family. He explained that in the Summer of 2022 his father had been unwell and that he had had to visit him in Pakistan. He added that while he was away he had been contacted to inform him that his home had been burgled and that this had added to the ongoing stress he was feeling.

He stated that he was truly sorry and regrets the lies he had told. He apologised for letting the Licensing team and his family down by his actions.

The Chairman acknowledged the written statements that had been received from the driver and his partner. He asked if the driver's partner, who was present, would like to address the Sub-Committee.

She confirmed that it had recently been a stressful time for the whole family due to her father-in-law being unwell. She said that her husband has a clean driving record with no convictions and is a very caring person who helps many people in the local area.

The Chairman asked the driver if he felt he had given the Sub-Committee as much information as he could regarding his case.

The driver replied that he had.

Decision and Reasons

Members have had to consider whether or not the Licensee is a fit and proper person to continue to hold his combined Hackney Carriage/Private Hire Driver's licence in the light of dishonesty concerning his vehicle insurance. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

Members had received and considered two lots of additional information on behalf of the Licensee. The first was an e-mail dated 10th March 2023 which had been provided by his partner, the second was an e-mail dated 14th March 2023 and was from the Licensee himself. The Licensee indicated that he had been in the taxi trade for more than 5 years without complaint or any indecent behaviour displayed at any time. He described himself as honest, law abiding, aware of his duties and responsibilities, conviction free and committed with work and in his personal life. In the period before the incident in question the Licensee's father was severely ill, there had been a burglary at the Licensee's home whilst he was overseas, and the Licensee was suffering greatly with stress. He admitted his mistake and described his fear and embarrassment at the situation he had put himself in. In his written and oral representations, the Licensee indicated that he was truly sorry and regretful for what he had done, he acknowledged the seriousness of it and assured Members repeatedly that it would never happen again if they gave him a second chance.

Members heard from the Licensee's partner in oral representations who indicated that she had observed the Licensee's guilt over what he had done. She explained that they are both responsible citizens who value everything from this country and want to give back. She described the Licensee as a caring, very empathetic person who genuinely likes helping people.

Members noted that the Licensee had held his combined Hackney Carriage/Private Hire Driver's licence with BANES since 2022, although he had been in the taxi trade in another local authority area for more than 5 years, there were no complaints against him from Members of the public.

Members noted that it is imperative that the Licensee is honest to the Licensing section and that he can be trusted. It is also vitally important that he is honest in his dealings with his insurance company as a valid policy of insurance plays a crucial role in ensuring the safety of the travelling public. This was a serious incident and Members take a very dim view of the Licensee's conduct in that regard.

Members found the written and oral representations made by the Licensee and his partner, to be compelling, persuasive and genuine. Members found this was an isolated and out of character occurrence involving an error of judgment which the Licensee initially found difficult to correct. Furthermore, this was in a period when the Licensee was under significant pressure in his personal life.

Members find that the Licensee truly understands the gravity of his actions and that this will not happen again. They noted the financial implications of his dishonesty which are no doubt a monthly reminder to him of his misconduct.

With all of that in mind and whilst it was finely balanced, on balance, Members find that the Licensee is fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence, but they issue a warning in the strongest possible terms to the Licensee that:

1. He must be honest in the way he conducts himself in relation to his licensing affairs.
2. If he comes before the Licensing Sub-Committee again, against this background, there is a serious risk of revocation of his licence.

118 CONSIDERATION OF 'FIT AND PROPER' STATUS - 21/02458/TAXI

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He explained that they were being asked to determine whether a driver remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence.

He outlined the key points from the report.

The Chairman asked the driver to address them on why he believed he should remain considered as fit and proper to hold his licence.

The driver, in response to the safeguarding concern, explained that he was helping a disabled man that he knew to get to a doctor's appointment. He acknowledged that he should not have done this while a child was in his vehicle on their way to school.

He added that during the journey he had been speaking to the man in Bengali as he did not speak any English. He said that he had not used any abusive or bad language in front of the child at any time.

Councillor Steve Hedges asked if the use of another language could sound like swearing to a child or cause them concern.

The driver replied that when talking in Bengali he does talk faster and admitted that it could sound a little aggressive if you did not know what was being said.

The Chairman asked why he had been reluctant to indicate who was driving his vehicle when a speeding penalty had been incurred.

The driver explained that this incident occurred in his private vehicle, not his licenced one and that his son, who had been driving the vehicle, had not informed him of it until a letter relating to a court appearance had arrived. He added that his son had previously tried to reply to initial correspondence to attend a speed awareness course without success.

The Chairman asked if he had been allowed to return to taking passengers as part of Home to School transport work.

The driver replied that he had.

The Chairman asked the driver if he felt he had given the Sub-Committee as much information as he could regarding his case.

The driver replied that he had and said he was truly sorry for what had happened regarding the matters that had been raised.

Decision and Reasons

Members have had to consider whether or not the Licensee is a fit and proper person to continue to hold his combined Hackney Carriage/Private Hire Driver's licence in the light of a complaint concerning a home to school contract journey as well as the circumstances resulting in 6 penalty points having been imposed on his DVLA licence. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

Members heard from the Licensee in written and oral representations who indicated that he had undertaken the Blue Lamp Trust Safeguarding Course in October 2021 and he learnt from that course, amongst other things, to be aware of the safety of children who travel in licensed vehicles. He admitted that he had a disabled adult male friend in the front passenger seat of his licensed vehicle whilst a child was seated in the back passenger seat, for a home to school journey. The adult male was not fare-paying, he was just helping him to get to the doctor's surgery on time for an appointment. He denied using inappropriate language in front of the child during that, or any journey. He explained that when he is speaking his first language it is fast paced and could sound aggressive to a child. He acknowledged his mistake in allowing the adult male to travel in the vehicle, apologised for this which he said had never happened before and would not happen again.

In relation to the 6 penalty points on his DVLA licence he explained that he received these points for failing to notify who the driver of his vehicle was, in relation to a speeding offence, within the required period. The Licensee indicated that it was his son driving his personal vehicle rather than his BANES licensed vehicle and his son had concealed the first two letters from him, as he was trying to deal with things himself. His son made him aware once he had received the summons to attend court. The Licensee had tried to explain this to the court, but he had received 6 penalty points and a fine; he had arranged for his son to pay the fine. He notified Licensing of this motoring conviction within the 7-day period prescribed by licensing condition.

Members had considered the correspondence from the Local Authority Designated Officer (LADO) for BANES who had indicated that the LADO threshold had not been crossed as there had not been clear harm to a child and that they would be closing the matter. They did indicate however that it was totally inappropriate for the driver to have acted in this way.

Members noted that the Licensee had been licensed since 2012 and whilst there were previous matters on his record for failing to notify the licensing team of motoring convictions, he had understood and complied with those obligations now.

Members find the Licensee's account to be credible and whilst his motives may have been altruistic in conveying the disabled male to his doctor's appointment, he now understood why this must not happen again. Members noted that he had been allowed to resume home to school contract work in January of this year. In relation to the circumstances leading to his latest motoring conviction, they believe that his son concealed correspondence from him and it was in fact his son that was driving in relation to the speeding offence.

With all of that in mind, on balance, Members find that the Licensee is fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence, but they issue a warning to the Licensee that:

1. He must adhere to his safeguarding responsibilities and must not permit any other passengers into his BANES licensed vehicle when fulfilling home to school contracts unless permitted to do so by the contract or the Passenger Transport Team.
2. He must continue to comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public.
3. If he comes before the Licensing Sub-Committee again, against this background, there is a risk of revocation of his licence.

The meeting ended at 12.48 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services