

# Licensing Sub-Committee

**Date: Thursday, 6th April, 2023**

**Time: 10.00am**

**Venue: Council Chamber - Guildhall, Bath**

**Councillors:** Rob Appleyard, Steve Hedges and  
Sally Davis

Chief Executive and other appropriate officers  
Press and Public

**A briefing session for Members will be held at  
9.30am.**



**Mark Durnford**

**Democratic Services**

Lewis House, Manvers Street, Bath, BA1 1JG

Telephone: 01225 394458

Web-site - <http://www.bathnes.gov.uk>

E-mail: [Democratic\\_Services@bathnes.gov.uk](mailto:Democratic_Services@bathnes.gov.uk)

## 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](http://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, 6th April, 2023**

**at 10.00am in the Council Chamber - Guildhall, Bath**

**A G E N D A**

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 5 on the previous page.

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.

(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 4.4 Appendix 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 MEETINGS: 9TH MARCH 2023 AND 23RD MARCH 2023  
(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. APPLICATION TO RENEW COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - CONSIDERATION OF FIT AND PROPER - 23/00105/TAXI (Pages 23 - 68)
9. CONSIDERATION OF FIT AND PROPER STATUS - 22/00614/TAXI (Pages 69 - 98)
10. CONSIDERATION OF 'FIT AND PROPER' STATUS - 21/02458/TAXI (Pages 99 - 138)

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

**BATH AND NORTH EAST SOMERSET COUNCIL**

**LICENSING SUB-COMMITTEE**

Thursday, 9th March, 2023, 10.00 am

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

**Officers in attendance:** Carrie-Ann Evans (Team Leader, Legal Services) and John Dowding (Lead Officer - Licensing)

**90 EMERGENCY EVACUATION PROCEDURE**

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

**91 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**92 DECLARATIONS OF INTEREST**

There were none.

**93 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

**94 MINUTES OF PREVIOUS MEETING: 1ST DECEMBER 2022 & 6TH DECEMBER 2022**

The Sub-Committee **RESOLVED** to approve the minutes for the meetings held on 1<sup>st</sup> December 2022 and 6<sup>th</sup> December 2022 and they were duly signed by the Chairman.

**95 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.

**96 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.

## 97 CONSIDERATION OF FIT AND PROPER - 1902844TAXI

The Lead 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.

Councillor Steve Hedges asked for confirmation that it is an illegal act to drive without an MOT.

The Lead Officer, Licensing replied that if a vehicle does not have an MOT it can only be driven to a scheduled MOT appointment in order for it to then pass the subsequent test.

The driver confirmed that the content of the report presented was correct and said that he was willing to accept any punishment that the Sub-Committee might impose on him.

The Chairman asked if he could explain the nature of the 110 mile journey referenced in the report.

The driver replied that this was for his own personal purpose.

The Team Leader, Legal Services asked the driver if he could explain why following the service on 11th May 2022 he did not seek to replace all four tyres having been informed that they only showed 2mm of tread (the legal limit for tyre tread is 1.6mm). She added that when the tyres were finally replaced on the 7th September 2022 a total of 2,701 miles had been travelled on these old tyres.

The driver replied that he had not fully checked the paperwork following the service. He said that he was not working as a taxi driver at this time and was only driving the vehicle for personal use.

He explained that he was then on holiday for a period of time and on his return was when the vehicle failed the MOT and repairs were then carried out.

The Chairman said that even if he was not carrying fare paying passengers at the time the vehicle was a potential danger to the public due to its condition.

The driver apologised and said that he had no intention to harm anyone. He added that there were ongoing family issues at this time.

The Lead Officer, Licensing commented that daily / weekly checks of the vehicle could have prevented it from becoming in such poor condition.

The driver apologised once again. He added that he recognised that it had been the wrong thing to do in lying to the Licensing team with regard to the 110 mile journey.

The Team Leader, Legal Services asked the driver if he could tell the Sub-Committee why he should remain considered as fit and proper to hold his licence.

The driver replied that these events had taught him a big lesson and that this would never happen again.

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 failures to comply with the conditions of his Private Hire Vehicle Licence relating to insurance and MOT certificates. 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 took full responsibility for what had happened and was there to take whatever punishment Members wanted to give him. He accepted on questioning that he had lied to the Lead Licensing Officer regarding the 110 miles driven after his vehicle failed its MOT. The Licensee explained that once his vehicle failed his MOT, he took it back and got the job done to get it fixed. The Licensee explained that he had no intention to harm anyone and he had some family and personal issues at the time.

Members noted that compliance with the conditions relating to MOT and insurance certificates is vital so that the Council can be assured that the safety of the public when travelling in a BANES licensed vehicle is not compromised. Indeed, compliance with all licence conditions is of the utmost importance. In this case there are administrative failures related to licensing conditions as well as serious safety issues related to the licensed vehicle.

Members noted that the Licensee had held his combined Hackney Carriage/Private Hire Driver's licence for 22 months and there had been no complaints from members of the public.

Whilst Members acknowledged that the Licensee may have had personal and family issues during the relevant period, this is no excuse for neglecting the upkeep and essential repairs of his vehicle in order to ensure the safety of the traveling public, and in this case the Licensee had:

- (1) Failed to comply with the conditions of his BANES licence related to insurance and MOT certificates;
- (2) Driven 2701 miles since all 4 tyres showed a tread of 2mm (the legal limit is 1.6mm) in May 2022 and had not had the tyres replaced until after his vehicle failed its MOT in September 2022;
- (3) When presented for MOT in September 2022 his vehicle had one tyre with ply or cords exposed and another with a cut in excess of the requirements deep enough to reach the ply or cords

(4) Drove his car 110 miles with 1 dangerous defect (do not drive until repaired) and 4 major defects following, his failed MOT; and

(5) Lied to Licensing regarding the 110 miles driven without a valid MOT.

With those reasons in mind, on balance, Members find that the licensee no longer fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence. Accordingly, they revoke his licence on notice.

## **98 CONSIDERATION OF FIT AND PROPER – 22/00324/TAXI**

The Lead 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 if there had been any actual gaps in the driver's insurance cover for his vehicle.

The Lead Officer, Licensing replied that the vehicle had always been appropriately insured and said that the driver had failed to provide documentation in the required time to the Licensing team.

Councillor Steve Hedges asked for confirmation that the driver had had only one previous complaint made against him.

The Lead Officer, Licensing replied that this was correct.

The driver addressed the Sub-Committee. He said that since having his licence in 2014 he had always been on time with his insurance and MOT and was very sorry for not following the process of informing the Licensing team within the correct timescales.

He also apologised for not informing them of his previous penalty points and was aware of the importance of doing so in the future.

He referred to the previous complaint made against him and stated that in his opinion he had not been aggressive and had not used any inappropriate language. He explained that when he arrived to pick up the family that it became apparent that his vehicle could not carry all the passengers, including the new-born baby.

He said that he had offered to take at least one adult and the baby home on one trip and return to collect the remaining members. He informed the Sub-Committee that the potential passengers were not happy with his offer.

The Chairman stated that the lack of compliance with the process was a concern as the safety of the public must be ensured. He asked if the driver had anything further to say regarding his case to the Sub-Committee.



The driver replied that all of his documentation was in place and that he now recognises the need to comply and send this information on time to the Licensing team.

### 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 comply with the conditions of his Private Hire Vehicle Licence relating to insurance and MOT certificates. 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 accepted that he had failed in his administrative responsibilities regarding his MOT and insurance licence conditions but indicated that he always had the insurance cover and valid MOT in place since he was first licenced in 2014. He was not trying to hide anything regarding his speeding conviction and noted that would have been disclosed on the DBS check in any event. He gave his account of the incident involving a customer complaint and explained to Members that he was firm in his dealings with them regarding safe numbers but did not accept any aggression.

The licensee told members that he was really sorry for his oversight in relation to his documentation, he promised that he would take extra care in the future and ensure that he would send everything on time.

Members noted that compliance with the conditions relating to MOT and insurance certificates, is vital so that the Council can be assured that the safety of the public when travelling in a BANES licensed vehicle is not compromised. Indeed, compliance with all licence conditions is of the utmost importance. Members noted that the licensee had held his licence with BANES for over 8 years and found that he was sincere in his apology and had learnt from this experience.

Members noted that this concerned a purely administrative failure to comply with the conditions of his licence and there had been no gap in insurance cover. With that in mind, on balance, members find that the applicant 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 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. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

## 99 CONSIDERATION OF FIT AND PROPER – 21/02440/TAXI

The Lead 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 driver, who was accompanied by his son, said that he acknowledged the dates relating to the MOT and insurance documentation, but believed they had been submitted in good time as his granddaughter had been helping him as he does struggle with some aspects of technology.

The Chairman asked if the required documentation had been received by the Licensing Team.

The Lead Officer, Licensing replied that it had not. He added that all email correspondence is retained and kept in their own separate sub-folders.

Councillor Karen Warrington said that although he was receiving some help to complete this process it is ultimately his responsibility to make sure that documents are sent in and on time.

The driver acknowledged that.

Councillor Steve Hedges asked how would he ensure that this does not happen again in the future.

The driver replied that he would ask his granddaughter to continue to help him. His son added that the second driver of the vehicle would also be asked to help in the process of supplying the documentation to the Licensing team.

The Chairman asked if it was possible to hand the documents to someone in person.

The Lead Officer, Licensing replied that yes there was a site in Bath where drivers could meet officers in person. He stated though that this was strictly by appointment only.

The Chairman asked if failing to report his speeding conviction to the Licensing team was an oversight.

The driver replied that it was.

The Chairman said that with there being a history of non-compliance the Sub-Committee would need to have confidence that things will change as the safety of the public is very important.

The driver's son replied and said that others, including family members will take more of an active role in the process to help his dad. He added that until the hearing today he had possibly not realised the severity of the situation.

The Chairman asked if there was anything further that they wished to say as part of their case.

The driver replied that there was not.

### 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 comply with the conditions of his Private Hire Vehicle Licence relating to insurance and MOT certificates. 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 who was supported by his son in making oral representations. He acknowledged that he was not good with technology and needed assistance with submitting his documentation online. He acknowledged that there had been an oversight when it came to declaring his speeding convictions. He assured members that where he is helped by someone else, he would check to ensure that his licence conditions were complied with and he accepted that ultimately it was his responsibility as licensee to ensure compliance.

Members noted that compliance with the conditions relating to MOT and insurance certificates, is vital so that the Council can be assured that the safety of the public when travelling in a BANES licensed vehicle is not compromised. Indeed, compliance with all licence conditions is of the utmost importance.

Members noted that the licensee had held his licence with BANES for at least 23 years and the Lead Licensing Officer indicated that he had always been a pleasant person to deal with.

In light of the above, on balance, members find that the Licensee is fit and proper proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence, but they issue a final warning to the licensee 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. This applies to all conditions but those pertinent to his appearance before the LSC today are that he must:
  - a. *“Produce to the Licensing Section a new insurance certificate or cover note within seven working days of the expiry of the current certificate or cover note.”*
  - b. *“Produce to the Licensing Team a new MOT certificate within seven working days of the expiry of the current certificate.”*
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. Even if a third party helps with his paperwork, in hard copy or using technology, it is his responsibility as licensee to ensure that he complies with his licensing obligations and conditions.
4. He can arrange by prior appointment to attend a meeting with licensing in person, in order to hand over hard copy documentation.
5. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

The meeting ended at 12.56 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

## **BATH AND NORTH EAST SOMERSET**

### **LICENSING SUB-COMMITTEE**

Thursday, 23rd March, 2023

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

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

#### **100 EMERGENCY EVACUATION PROCEDURE**

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

#### **101 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **102 DECLARATIONS OF INTEREST**

There were none.

#### **103 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

#### **104 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.

#### **105 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.

## 106 CONSIDERATION OF 'FIT AND PROPER' – 22/00550/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 to speak about recently passing a regulatory age related check up at his doctors and having an ongoing medical condition, but stated that this did not affect his driving at all.

The Public Protection Officer (Licensing) said that officers were aware of the medical condition and that that was a matter that was being pursued separately and was not part of the hearing today.

The Sub-Committee agreed to a ten minute break to the hearing to allow the Lead Officer, Licensing to explain the content of the report to the driver.

On resumption of the hearing the Lead Officer, Licensing addressed the Sub-Committee. He said that having gone through the report with the driver he had noticed that some information from a previous Sub-Committee meeting had not been included.

He explained that the driver had appeared before a previous Sub-Committee in in February 2010 before being granted his licence for the first time.

The Sub-Committee acknowledged the information that had been provided.

The Chairman asked the driver if he could explain why he had not supplied the Licensing team with the documentation they require in good time.

The driver replied that he was very sorry and promised that it would not happen again. He added that he understands properly now how serious the matter is.

Councillor Steve Hedges asked how he could be assured that incidents such as this would not happen again.

The driver replied that he has made notes of the information that is required of him and that he keeps these in his vehicle.

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 failures to comply with the conditions of his Private Hire Vehicle Licence relating to insurance and MOT certificates. 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 having spoken to the Lead Licensing Officer, he fully understood what was required of him now, he had written down his obligations and keeps that note in his vehicle and promised Members that this would not happen again. He apologised to Members for his conduct.

Members noted that compliance with the conditions relating to MOT and insurance certificates is vital so that the Council can be assured that the safety of the public when travelling in a BANES licensed vehicle is not compromised.

Indeed, compliance with all licence conditions is of the utmost importance. Members noted that this concerned a purely administrative failure to comply with the conditions of his licence and there not been a gap in insurance cover.

With 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 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. If he comes before the Licensing Sub-Committee again, against this background, there is a very strong risk of revocation of his licence.

## **107 CONSIDERATION OF 'FIT AND PROPER' - 22/00409/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 stated that he had held a licence for nearly 19 years and that during that time his vehicles had always been in a legal state. He said that he was not always the best with paperwork and apologised for the oversights that had occurred.

The Chairman commented that he would like to understand how there had possibly been any gap in his insurance cover.

The driver said that he had been assured that insurance was in place at all times and that possibly it had been due to a change in providers.

The Chairman asked if he could explain the adjustment to the policy that had been identified in the report.

The driver replied that this could have been when he asked for a named person to be removed from the policy as this was costing him extra money. He assured the Sub-Committee again that he would not have ever driven without insurance.

The Chairman stated that the failure to supply documents to the Licensing team had happened on a number of occasions and he asked if the driver could explain why.

The driver replied that in previous years his ex-wife had helped him with this aspect of the process.

The Lead Officer, Licensing addressed the Sub-Committee. He said that in his view there was a discrepancy in the insurance cover and advised the driver of the need to make sure his documentation is fully up to date at all times.

The Team Leader, Legal Services addressed the Sub-Committee. She explained that within the papers for the hearing they had received an email from the driver's insurance broker that states that he did always have insurance cover in place.

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 failures to comply with the conditions of his Private Hire Vehicle Licence relating to insurance certificates. 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 had been a taxi driver for 19 years, he explained that as far as he was concerned, he had always done what was required of him legally but acknowledged that he could do better with his administrative responsibilities.



He accepted that it was his responsibility to comply with the terms of his licences and understood the importance of these obligations. He assured Members that this would not happen again and apologised for what had happened.

Members noted that there was an e-mail from the Licensee's insurance broker that indicated there was always a policy of insurance in place however, Members also noted that this did not explain the gap of 38 days between insurance policies.

Members noted that compliance with the conditions relating to MOT and insurance certificates is vital so that the Council can be assured that the safety of the public when travelling in a BANES licensed vehicle is not compromised. Indeed, compliance with all licence conditions is of the utmost importance.

Members noted that the Licensee had held his combined Hackney Carriage/Private Hire Driver's licence for 19 years and had no complaints against him from Members of the public.

Members find the Licensee to be credible and that he held a genuine belief that there was continuity of insurance cover, given the explanation from the insurance broker. There was however a lack of clarity regarding the 38-day period between insurance policies.

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 ensure that he has continuity of insurance and MOT cover in respect of his vehicle(s).
2. He must comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public.
3. 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.
4. If he comes before the Licensing Sub-Committee again, against this background, there is a risk of revocation of his licence.

## **108 CONSIDERATION OF 'FIT AND PROPER' - 22/00254/TAXI**

The Chairman began the hearing by advising the driver that the Sub-Committee had been made aware of a further complaint that had been made against him since their agenda had been produced.

The Team Leader, Legal Services addressed the Sub-Committee. She explained that the Licensing team had been notified on 20<sup>th</sup> March of the additional complaint and that time was now required to gather evidence in writing from the individual concerned and the driver.

She said that she would be asking the Sub-Committee to consider deferral of the hearing to allow for any investigation to conclude as it might be relevant to the driver's fit and proper status.

She advised the Sub-Committee to seek the views of the driver in relation to the question of deferral. In the event that the Sub-Committee decides to defer, the target date for the matter to come back before the Sub-Committee would be 20th April.

The driver commented that he agreed that the hearing could be deferred.

Decision and Reasons

Members were due 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.

Members were made aware verbally that a new complaint had been received in relation to the Licensee via Uber on Monday of this week. In the light of this Members considered whether or not to defer the determination of this matter to allow for the outcome of that investigation to be reported to Licensing Sub-Committee as it may have a bearing on the Licensee's fit and proper status.

The Licensee was content for the matter to be deferred.

In those circumstances Members deferred this matter with a target date of 20<sup>th</sup> April 2023 for it to come back before the Licensing Sub-Committee.

The meeting ended at 11.52 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

### **Licensing Sub Committee Hackney Carriage (taxi) and Private Hire Driver Application 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 Applicant, representative and/or witness is asked to leave the room while the Committee consider the Disclosure and Barring Service report, references and statement.
4. The Applicant, representative and/or witness returns and presents the case to the Committee.
5. The Applicant may be questioned about the matter by the Committee.
6. The Applicant may call witnesses in support of their application and each witness may be asked questions.
7. The Chair will ask the Licensing Officers present whether they wish to comment. If an Officer makes comment they may be asked questions.
8. The Applicant will be invited to make a closing statement.
9. 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.
10. 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.
11. 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.

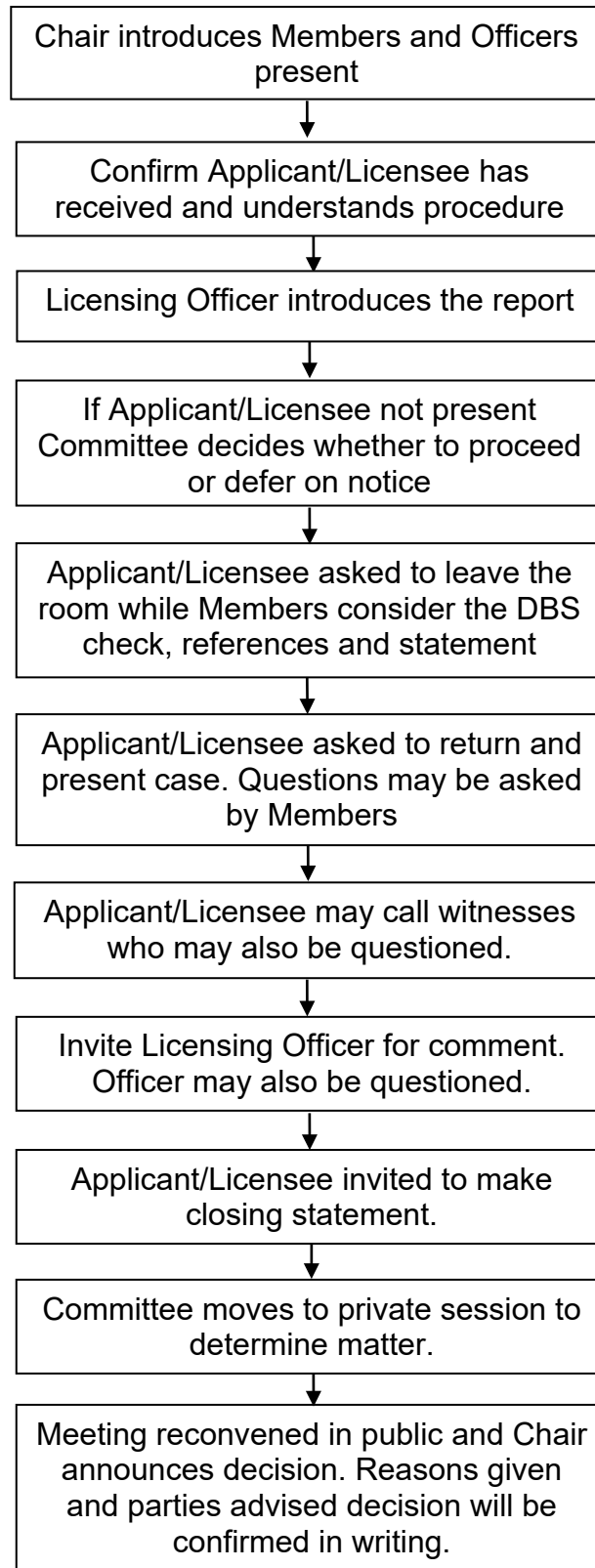
### **PLEASE NOTE:**

- 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 DRIVERS' LICENCE PROCEDURE**



This page is intentionally left blank

**Access to Information Arrangements**

**Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA-1246375

Meeting / Decision: Licensing Sub-Committee

Date: Thursday 6<sup>th</sup> April 2023

Author: John Dowding

**Exempt Report Title: Application to Renew Combined Hackney Carriage/Private Hire Drivers Licence -Consideration of Fit and Proper**

Exempt Appendix Title(s):  
**Exempt Annex A- Current Licence**  
**Exempt Annex B – Extracted Page From Application Form**  
**Exempt Annex C- DVLA Check**  
**Exempt Annex D- Extracted Page From Current Licensing Conditions**  
**Exempt Annex E- Email from Licensee Explaining Non-Disclosure Reason**  
**Exempt Annex F– Minutes & Resolution From Licensing Sub-Committee 25th May 2017**  
**Exempt Annex G- Policy on Hackney Carriage & Private Hire Licensing Standards for Drivers, Vehicles and Operators**

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.

Stating the exemption:

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.

Document is Restricted

This page is intentionally left blank

**Access to Information Arrangements**

**Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA-1233253

Meeting / Decision: Licensing Sub-Committee

Date: 6<sup>th</sup> April 2023

Author: Wayne Campbell

**Exempt Report Title:** Consideration of Fit and Proper status

**Exempt Appendix Title(s):**

Exempt Annex A- Current Licence.

Exempt Annex B- Email from Insurance Company.

Exempt Annex C – Section 9 Statement by Licensee.

Exempt Annex D – Licensing Officer’s Contemporaneous Notes.

Exempt Annex E – Current Policy On Hackney Carriage and Private Hire Licensing Standards for Drivers, Vehicles & Operators

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.

**Stating the exemption:**

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 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.

Document is Restricted

This page is intentionally left blank

### Access to Information Arrangements

#### Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-1211137
---

Meeting / Decision: Licensing Sub-Committee
---

Date: Thursday 6 <sup>th</sup> April 2023
---

Author: Wayne Campbell
------------------------

<b>Exempt Report Title: Consideration of 'Fit and Proper' status</b>
--

Exempt Appendix Title(s):
---------------------------

<b>Exempt Annex A- Current Licence.</b>
---

<b>Exempt Annex B – Email From Private Hire Operator (Complaint Details).</b>
---

<b>Exempt Annex C – Section 9 Statement.</b>
--

<b>Exempt Annex D – LADO Emails.</b>
--------------------------------------

<b>Exempt Annex E – Copy of Licensee's Safeguarding Certificate.</b>
--

<b>Exempt Annex F – Emails from Licensee.</b>
---

<b>Exempt Annex G – Email from Police Taxi Licensing Officer.</b>
---

<b>Exempt Annex H - Previous LSC Hearing Resolution.</b>
--

<b>Exempt Annex I - Previous Incident Recorded.</b>
---

<b>Exempt Annex J - Policy on Hackney Carriage &amp; Private Hire Licensing Standards for Drivers, Vehicles and Operators.</b>
--

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.

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

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

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 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.

Document is Restricted

This page is intentionally left blank