

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 13th July, 2023

Present:- Councillors Steve Hedges (Chair), Sarah Moore (in place of Lucy Hodge) and Toby Simon

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

9 EMERGENCY EVACUATION PROCEDURE

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

10 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor Lucy Hodge had sent her apologies to the Sub-Committee. Councillor Sarah Moore was present as her substitute for the duration of the meeting.

11 DECLARATIONS OF INTEREST

There were none.

12 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

13 MINUTES OF PREVIOUS MEETING: 29TH JUNE 2023

The Sub-Committee **RESOLVED** to approve the minutes for the meeting held on 29th June 2023 and they were duly signed by the Chairman.

14 LICENSING PROCEDURE

The driver that was present confirmed that he had received and understood the licensing procedure.

The Chairman referenced the procedure and stated that the driver would be given a fair amount of time to make a statement and give his evidence to the Sub-Committee.

15 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.

16 CONSIDERATION OF IMPACT OF MEDICAL DIAGNOSIS - 22/00342/TAXI

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He explained that they were being asked to determine the driver's fitness to be able to continue to hold a combined Hackney Carriage/Private Hire Driver's licence.

The driver addressed the Sub-Committee and informed them that he had already begun treatment for his condition and that he was due to have an appointment with a consultant in the following week.

He stated that losing weight could also help his condition and that he was hopeful that the consultant would recommend a weight loss programme for him to follow.

The Chairman, on behalf of the Sub-Committee, commended the driver for his part in this process and for the steps he has taken when contacting both the Licensing Department and the DVLA.

The driver said that he took pride in the work that he does and when fit he hopes to be able to carry on for as long as possible.

The Chairman asked if he had given all the evidence that he had wished to the Sub-Committee.

The driver replied that he had.

Decision and Reasons

Members have had to consider whether or not the licensee is fit and proper to continue to hold a combined Hackney Carriage/Private Hire Driver's Licence in light of the disclosure of a medical condition. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law, Council's Policy, conditions and the linked DVLA guidance.

At the Licensing Sub-Committee Meeting, Members considered a supplementary document which had been provided by the Licensee. That comprised a letter from the DVLA dated 6th July which related to the revocation of his DVLA licence and the circumstances in which he can re-apply.

Members reminded themselves that each case is considered on its own merits and regarding medical fitness the Licensee must meet the higher standard of medical fitness for Group 2 (Vocational) drivers.

Members heard that the Licensee had disclosed to the Licensing Authority that he has a diagnosis of obstructive sleep apnoea which has been classed as severe and

that he would need to stop driving with immediate effect. He had returned his driving licence and badges to the Licensing Department on 13th June 2023.

Members noted that it is a condition of the Licensee's Combined Hackney Carriage/Private Hire Driver's licence that where a licensee is rendered unfit to meet Group 2 Vocational Driver standards set by the DVLA their licence is revoked with immediate effect on public safety grounds.

Members further noted however that the DVLA process allows for suspension from driving and a reinstatement of a licence, providing the Licensee can demonstrate that the condition is controlled, sleepiness is improved, and he adheres to treatment.

Members gave credit to the Licensee for ceasing to drive voluntarily before the DVLA formally revoked his licence. They commend him for the way he has dealt with his condition and his responsibilities in dealing with the DVLA and Licensing Department and note his pride in his work as a taxi driver.

In all the circumstances Members find it reasonable and proportionate to follow the DVLA guidance and depart from the terms of the condition so that a suspension is imposed here instead of revocation as this is not a situation where the Licensee is permanently debarred from driving.

Accordingly, Members suspend the licence until the following requirements are met:

- (i) written confirmation from a suitably qualified health professional to the Licensing Department of the Council indicating that there is control of his condition, sleepiness has improved and treatment adherence; and
- (ii) that he meets the required medical standards for the DVLA Group 2 drivers.

Authority is delegated to the Licensing Officer to reinstate the licence subject to requirements (i) and (ii) being met. The duration of any future combined Hackney Carriage/Private Hire Driver's Licences will be restricted to 12 months and will be subject to a satisfactory annual report from a suitably qualified health professional, before relicensing is permitted.

The meeting ended at 10.43 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services