

# Licensing Sub-Committee

**Date: Thursday, 10th August, 2023**

**Time: 10.00am**

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

**Councillors:** Steve Hedges, Toby Simon and Michael Auton

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](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, 10th August, 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 MEETING: 13TH JULY 2023 (Pages 5 - 8)

6. LICENSING PROCEDURE (Pages 9 - 12)

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 FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:  
23/00675/TAXI (Pages 13 - 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, 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 29<sup>th</sup> 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**

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### 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.

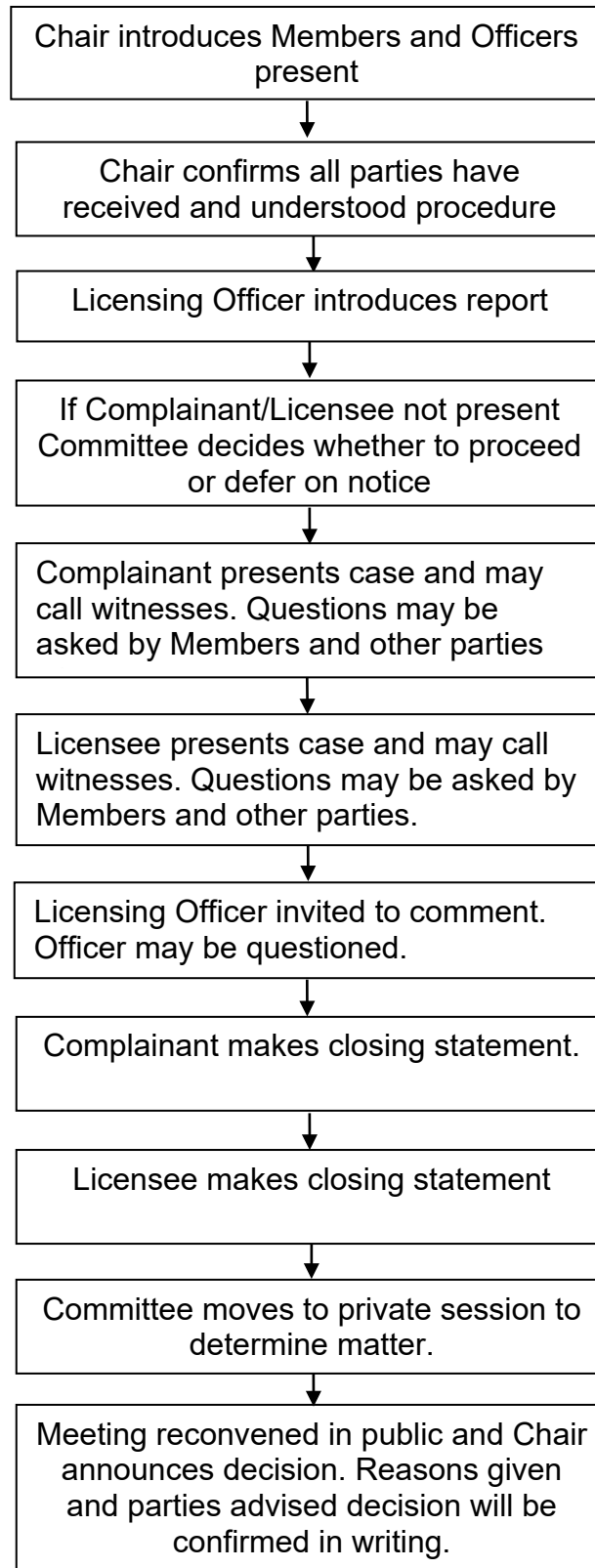
### **PLEASE NOTE:**

- 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

Information Compliance Ref: LGA-1447013

Meeting / Decision: Licensing Sub-Committee

Date: Thursday 10th August 2023

Author: Wayne Campbell

**Exempt Report Title:** Application For Hackney Carriage/Private Hire Driver's Licence:

Exempt Appendices:

**Exempt Annex A- Application Form.**

**Exempt Annex B - DVLA Assessing Fitness to Drive requirements.**

**Exempt Annex C – D4 Medical Form.**

**Exempt Annex D – Consultant's Medical Correspondence.**

**Exempt Annex E – Extracts from Medical Practitioner's Reports.**

**Exempt Annex F – Minutes and Resolution from previous Licensing Sub Committee.**

**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.

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