

Licensing Sub-Committee

Date: Thursday, 24th August, 2023

Time: 10.00am

Venue: Council Chamber - Guildhall, Bath

Councillors: Steve Hedges, Toby Simon and
Ann Morgan

Chief Executive and other appropriate officers
Press and Public

A briefing session for Members will be held at 9.30am



Mark Durnford

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NOTES:

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

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

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

3. **Recording at Meetings:-**

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

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

4. **Public Speaking at Meetings**

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

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

Further details of the scheme can be found at:

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

5. **Emergency Evacuation Procedure**

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

6. **Supplementary information for meetings**

Additional information and Protocols and procedures relating to meetings

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

Licensing Sub-Committee - Thursday, 24th 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: 10TH AUGUST 2023 (Pages 5 - 8)

6. LICENSING PROCEDURE (Pages 9 - 16)

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

7. EXCLUSION OF THE PUBLIC

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

“the Sub-Committee having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, **RESOLVES** that the public shall be excluded from the meeting for the following item(s) of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

8. CONSIDERATION OF IMPACT OF MEDICAL DIAGNOSIS - 22/00365/TAX (Pages 17 - 60)

9. APPLICATION FOR A PERSONAL LICENCE (Pages 61 - 94)

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, 10th August, 2023

Present:- Councillors Steve Hedges (Chair), Toby Simon and Michael Auton

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

17 EMERGENCY EVACUATION PROCEDURE

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

18 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

19 DECLARATIONS OF INTEREST

There were none.

20 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

21 MINUTES OF PREVIOUS MEETING: 13TH JULY 2023

The Sub-Committee **RESOLVED** to approve the minutes for the meeting held on 13th July 2023 and they were duly signed by the Chair.

22 LICENSING PROCEDURE

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

The Chair 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.

23 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.

**24 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:
23/00675/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 granted to hold a combined Hackney Carriage/Private Hire Driver's licence.

The members of the Sub-Committee had no questions for the officer at this stage.

The driver addressed the Sub-Committee and explained that when he had previously held a licence he had received no complaints about his conduct from any members of the public.

He stated that he understood his illness and that he was receiving support for it from his doctor and consultant. He added that he was taking medication to manage his condition.

Councillor Toby Simon asked the driver if he anticipated working late at night as he had done when he had previously held a licence.

The driver replied that he did not intend to work late at night and would begin by working just a few hours in the day and then occasionally working until 10.00pm / 11.00pm.

The Lead Officer (Licensing) asked how he would respond when inevitably business at the ranks begins to pick up in the later part of the evening.

The driver replied that his health absolutely comes first and that he would not continue to work into the early hours of the morning.

The Team Leader, Legal Services noted that he had previously decided to stop taking his medication and asked if it was likely that he would do that again.

The driver replied that he greatly understands the need to keep taking his medication and that he would not stop taking it. He added that he had also stopped smoking and had begun going to the gym to help improve his health.

The Chair asked if he had any form of support network in place outside of the professionals that help and advise him.

The driver replied that he meets with a care co-ordinator once a month and has family support, especially from an older sister.

The Chair 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 determine an application for a combined Hackney Carriage/Private Hire Driver's Licence with regard to the applicant's medical condition. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy, they also took full account of the report by the officer, the medical evidence submitted and oral representations from the applicant.

The applicant indicated that he used to be a driver in the past and had no problems with his passengers and no complaints. He acknowledged his illness but indicated that this was being managed with medication and the support of his doctors. He confirmed to Members that he has a wider support network which includes his care co-ordinator and is very close with his family, especially his older sister.

The applicant recognised the importance of his medication and had learnt his lesson from when he had stopped taking it back in 2014. He explained to Members that he loves driving and wants to be a positive member of the community and get back to work. On questioning he indicated that his health is more important than earning money and he would not do the night-time hours that he used to do.

He anticipates working mainly off the rank for a few hours in the day, and possibly 10 -11pm in the evening and then he would go home.

Members had regard to the reports from the applicant's consultant psychiatrist dated 15/09/22 and 12/05/23; the latter dealt in particular with the applicant's fitness from a DVLA Group 2 Vocational Driver's perspective.

Members noted from the consultant psychiatrist's reports before them that:

- the applicant had an established diagnosis of Schizoaffective Disorder which is of a relapsing remitting nature and that he had responded to treatment with antipsychotic medication which he continues to take in a low dose.
- The applicant does not appear to be over sedated, although he has periodically reported concerns about occasionally sleeping too much in the day.
- Broadly the applicant has been stable for the last 5 years and there have not been any significant relapses in his mental health.
- At the height of the first Covid lockdown there were concerns about the decline in his mental health, where he presented as agitated and frustrated, and was vulnerable after being assaulted. He engaged with treatment changes and his mental health settled quickly.
- The applicant is relatively frequently in contact with the team with quickly changed views about his medication, concerns about isolation and loneliness or other queries.
- The consultant comprehends that previously, more lucrative late-night shifts were understandably more appealing to work for the applicant, which led to a disruption of sleep, and this would be the consultant's main concern about the impact of future taxi work on the applicant's well-being.

- The applicant would meet the criteria to hold a Group 2 Vocational Driver’s Licence and on some level expresses insight into the role poor sleep and his work patterns previously had on his mental health.

In all the circumstances, on balance and having particular regard to the consultant psychiatrist’s view that the applicant meets Group 2 requirements, Members find the applicant to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver’s Licence. However, given the concerns noted by the psychiatrist as recorded above, Members consider it reasonably necessary to impose an additional condition of the licence pursuant to section 51(2) Local Government (Miscellaneous Provisions) Act 1976, as follows:

The applicant shall provide to the Licensing Department a report in writing from a specialist psychiatrist in relation to his current mental health and the prognosis:

- (i) by the end of February 2024; and
- (ii) annually thereafter for as long as he remains licenced with BANES to hold a Combined Hackney Carriage/Private Hire Driver’s Licence.

Authority is delegated to the licensing officer to dispense with or vary this condition on renewal of the licence if satisfied that it is no longer reasonably necessary.

Authority is delegated to the licencing officer to issue the licence subject to the applicant completing all steps required by the licencing process.

The meeting ended at 11.32 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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

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

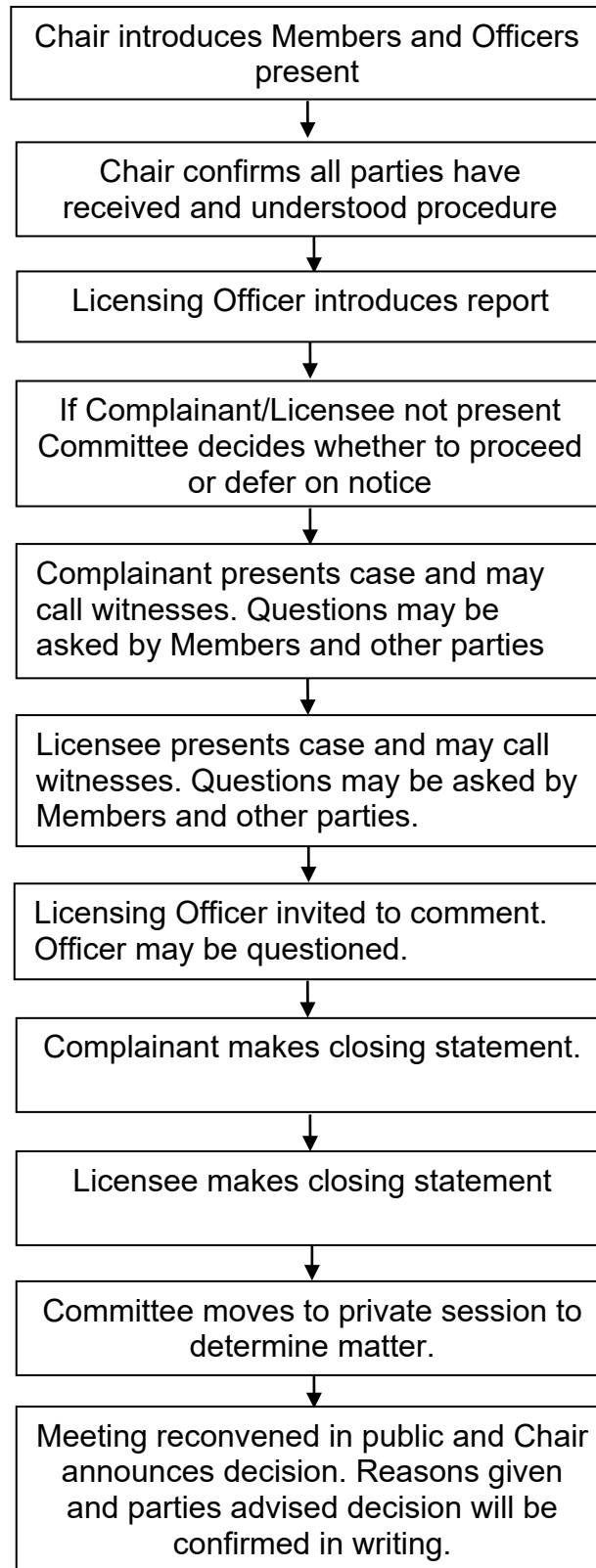
PLEASE NOTE:

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

N.B.

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

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



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**LICENSING SUB-COMMITTEE
LICENSING ACT 2003
PROCEDURE FOR HEARING AN APPLICATION FOR A NEW PREMISES
LICENCE OR FOR A VARIATION OF A PREMISES LICENCE**

*The Chair will allow the parties an equal maximum period of time in which to make representations that will not normally exceed **twenty minutes**. Where more than one party makes relevant representations this time will be split between the parties and where several parties make similar representations it is suggested one representative is appointed to avoid duplication.*

The term “party” or “parties” will mean anyone to whom notice of this meeting has been given.

1. The Chair will introduce Members of the Sub-Committee, the Officers present and explain the procedure to be followed.
2. The Licensing Officer will outline the nature of the matter to be considered by the Sub-Committee.
3. (i) The Applicant/Licence Holder , or representative, addresses the Sub-Committee who may be asked relevant questions by the other parties and Members.
(ii) witnesses may be called in support of the application who may be asked relevant questions by the other parties and Members.
4. (i) Any party making relevant representations, or representative, will address the Sub-Committee who may be asked relevant questions by the Applicant, other parties and Members.
(ii) witnesses may be called in support of such representations who may be asked relevant questions by the Applicant, other parties and Members.
5. Responsible Authorities making representation will address the Committee and may be asked relevant questions by the Applicant, other parties and Members.
6. The other parties will be invited in turn to summarise their representations.

Responsible Authorities will be invited to summarise their representations

The Applicant/ Licence Holder will be invited to summarise the application.

8. *The Chair will invite the Sub-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 room by all other persons.*

Whilst in deliberation the Sub-Committee will be accompanied by Legal and Democratic Service Officers for the purpose of assisting them in drafting their reasoning for the decision.

The Sub-Committee will reconvene the meeting and the Chair will announce the Sub-Committee’s decision with reasons and advise that the decision will be

released in writing within the statutory time limits or advise that the decision will be released in writing with reasons within the statutory time limit, in this instance, 5 working days.

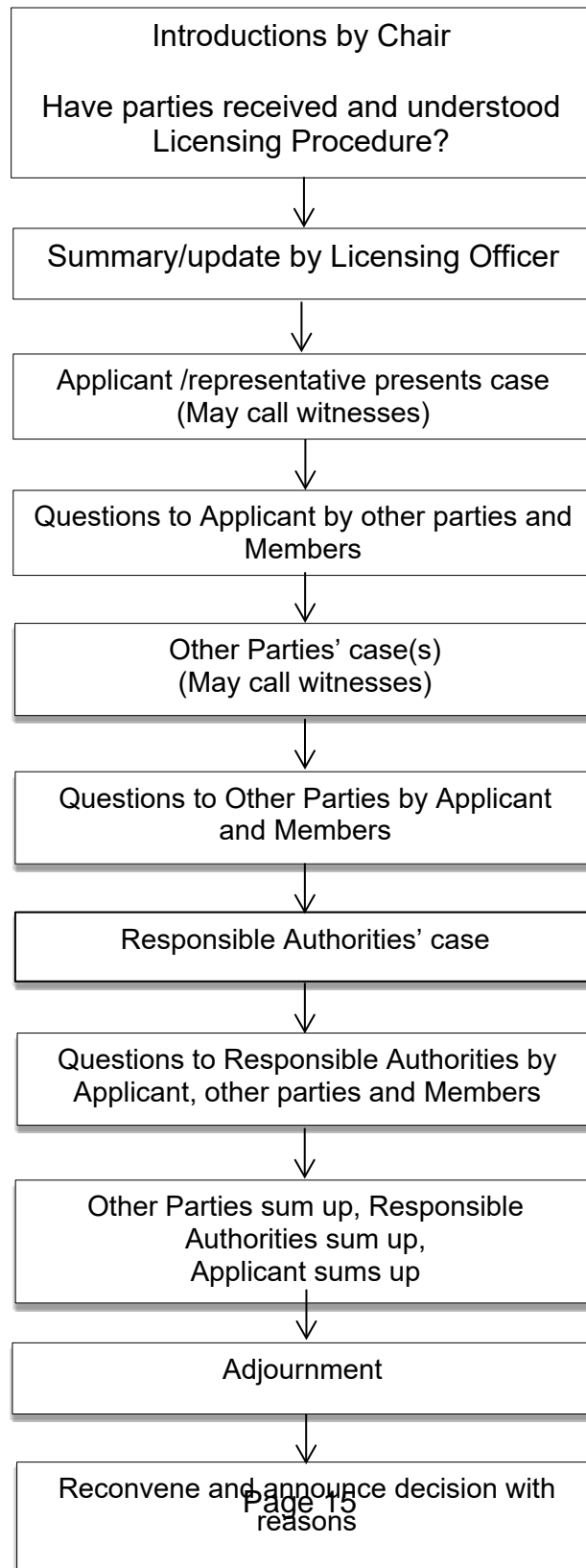
PLEASE NOTE:

- Where the Sub-Committee considers it necessary to do so, it may vary this procedure.
- In circumstances where a party fails to attend the Sub-Committee will consider whether to proceed in absence. 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 Sub-Committee take into account any additional late documentary or other information produced by an existing party in support of their application/representation. This will be at the discretion of the Chair and with the agreement of all the other parties. No new representations will be allowed at the hearing.
- The hearing will take the form of a discussion and parties will be able to ask questions as set out above. However, formal cross examination will be discouraged.
- The Authority will disregard any information or representation given by a party which is not relevant to the Application and the Licensing Act 2003.
- Where there is more than one party making relevant representations the time allocated will be split between those parties.
- Where several parties are making the same or similar representations it is suggested that one representative is appointed to avoid duplication and make efficient use of the allocated time.
- Where an objection is made by an association or residents group, a duly authorised person – as notified to the Licensing Authority – may speak on behalf of that association or 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.

**LICENSING SUB-COMMITTEE
LICENSING ACT 2003
PROCEDURE FOR NEW APPLICATIONS AND VARIATIONS**

*The parties will be allowed an equal maximum period of time not normally exceeding **twenty minutes**. Where more than one party make representations the time should be split equally between them. Where several parties make similar representations one representative should be appointed avoiding duplication and making the best use of the available time*



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Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-1473385

Meeting / Decision: Licensing Sub-Committee

Date: Thursday 24th August 2023

Author: John Dowding

Exempt Report Title: Consideration of Impact of Medical Diagnosis
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Exempt Appendix Title:

Exempt Annex A- Current Licence & Attached Conditions

Exempt Annex B - DVLA Assessing Fitness to Drive Criteria.
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Exempt Annex C- Relevant Extracted Pages From Licensees Medical (D4).

Exempt Annex D – Further Information From Licensees GP.

Exempt Annex E – Detailed DVLA Qualifying Criteria For Licensing.

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"> 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. Further, as any medical information is likely to constitute sensitive personal data in terms of the DPA, this information cannot be disclosed by the Council without the explicit consent of the individual concerned.

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 medical condition 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, and that the report be discussed in exempt session.

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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Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-1477449
Meeting / Decision: Licensing Sub-Committee
Date: Thursday 24 th August 2023
Author: Geoff Cannon
Exempt Report Title: Application for a Personal Licence
Exempt Appendices:
Exempt Annex A - Application for a Personal Licence
Exempt Annex B - Notice of Objection

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.

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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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