

# Licensing Sub-Committee

**Date: Thursday, 14th December, 2023**

**Time: 10.00am**

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

**Councillors:** Steve Hedges, Toby Simon and Onkar Saini

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, 14th December, 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: 16TH NOVEMBER 2023 & 30TH NOVEMBER 2023 (Pages 5 - 16)

6. LICENSING PROCEDURE (Pages 17 - 24)

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:  
23/01519/TAXI (Pages 25 - 48)
  
9. CONSIDERATION OF 'FIT AND PROPER' STATUS - 22/00544/TAXI (Pages 49 - 96)

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, 16th November, 2023, 10.00 am

**Councillors:** Steve Hedges (Chair), Toby Simon and Ann Morgan

**Officers in attendance:** Carrie-Ann Evans (Team Leader) (Barrister), Legal Services), Wayne Campbell (Public Protection Officer (Licensing)), Holly Woodrow (Public Protection Officer (Licensing)), Geoff Cannon (Public Protection Officer) (Licensing)) and Marie Todd (Senior Democratic Services Officer)

**48 EMERGENCY EVACUATION PROCEDURE**

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

**49 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**50 DECLARATIONS OF INTEREST**

There were none.

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

There was no urgent business.

**52 MINUTES OF PREVIOUS MEETING: 19TH OCTOBER 2023**

The Sub-Committee **RESOLVED** to approve the minutes of the meeting held on 19<sup>th</sup> October 2023.

**53 LICENSING PROCEDURE**

The Chair made reference to the procedure and stated that all parties would be given a fair amount of time to make their statements and give their evidence to the Sub-Committee,

The licensees, applicants and other parties that were present confirmed that they had received and understood the licensing procedure.

**54 EXCLUSION OF THE PUBLIC**

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.

## **55 CONSIDERATION OF FIT AND PROPER STATUS - 22/00070/TAXI**

The driver confirmed that he had read the papers for the meeting which had been sent to him. A printed copy of the agenda papers was provided for the driver, and he was then given time to read through these with the aid of an interpreter. He then confirmed that he understood the licensing procedure and was happy to go ahead with the hearing.

The Public Protection Officer (Licensing) presented the report to the Sub-Committee. He explained that they were being asked to determine the driver's fitness to continue to hold a combined hackney carriage/private hire driver's licence.

The driver addressed the Sub-Committee and referred to the littering offence that he had been accused of. He stated that the time of the CCTV of the incident was not consistent with the time stated on the letter sent to him by the Council. The Licensing Officer confirmed that the fine for the littering offence had been paid in full.

The driver stated that he is a good taxi driver and has received no complaints in relation to his work. He stated that he had previously worked for a school in Italy. He explained that he had been concerned by the behaviour of the child he was transporting as she had pulled the escort's hair and kicked her, she had also kicked the chair and punched the windows. He felt that it would be unsafe to drive while this behaviour continued which is why he made the comments to the child as set out in the report. No concern was expressed by the escort or the parent at the time.

He then spoke about the incident where he had been issued penalty points for waiting at a taxi rank and stated that this had been a mistake and had been unintentional.

When stopped by the Civil Enforcement Officer regarding a littering offence the driver stated that he had been angry at the time and had apologised for his behaviour. This had been a mistake and he did not feel that it was a serious criminal offence.

Cllr Steve Hedges asked whether the driver felt it was acceptable to raise his voice to a child and to say what he had said. The driver stated that he had been trying to calm the child down and to assist her escort. He noted that there was also a language barrier which could have added to the confusion. He had concerns about being able to drive safely due to the behaviour of the child.

The Public Protection Officer (Licensing) noted that the driver's behaviour had caused the escort to make a complaint and report him. He also referred to the safeguarding course which the driver had subsequently attended.

The driver stated that he had not understood everything on the safeguarding course due the language barriers. He did not remember much about the course.

Cllr Toby Simon asked the driver what type of work he was doing now. The driver explained that he is working as a private hire and hackney carriage taxi driver but is not carrying out school runs.

The Chair stated that in his role the driver is employed to take people from A to B and that it is not his role to discipline passengers. He asked whether it would have been better to have pulled over and waited for the child to calm down. The driver stated that, on reflection, it would have been better to do this. However, he had acted as he believed was right at the time and stated that his intentions had been good.

The driver summed up by stating that he is a very good taxi driver but sometimes makes mistakes. He is generally patient with people, loves his job, enjoys helping people and wants to continue as a taxi driver.

### Decisions 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 following a complaint regarding his conduct on a home to school journey. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and Council's Policy.

Members reminded themselves that each case is considered on its own merits.

The licensee was assisted at Committee by an interpreter.

Members had read the written accounts and representations made by the licensee contained in the agenda reports pack and they heard from him and his interpreter in oral representations. They had also had regard to the totality of the reports pack.

The licensee informed Members that he had been doing school runs for 5 years. In relation to the incident concerning the child on 05.07.23 the licensee said that a teacher had been chasing the child around the school yard for 10 to 15 minutes as the child did not want to go home. He accepted opening his car window at this point and saying to the child "*...if you don't get into the car now, I am going*". He accepted raising his voice because the child was far away but said he did not yell. The licensee said the child ignored him and carried on doing what she was doing. The licensee accepted that he stopped the car on the way home, because the child was agitated and started to kick the doors and windows, which was too stressful for him to drive, and he was concerned for the safety of his passengers. Once he stopped the car, he went to the passenger door next to the child, opened it and said to her "*Please stop, if you don't stop you stay here in the middle of the forest with the wolves.*" After which the child had cried then for 10 or 20 seconds.

The Licensee accepted that about 4 or 5 months before that, the child had been even more agitated in his vehicle, he had stopped his vehicle and opened the passenger door where the same child was seated and said: "*if you don't stop you stay here, and I don't take you home.*" He could not recall if he mentioned wolves on that occasion. The licensee's account in writing was that the school escort had commended him on his actions on that occasion and said that the child's mother had endorsed his action as well. The licensee acknowledged that the child and School Escort were upset by the July incident. The licensee's explanation for his conduct was to try and calm an unsafe situation in his car that was putting other passengers

at risk. The licensee said he understands that it is not normal to raise his voice to a child, but the child had repeatedly been asked to stop and did not.

The licensee indicated to Members that he has a diploma for dealing with vulnerable people and handed up a copy of his Operatore Socio Sanitario which seems to be equivalent to a Health and Social Care Assistant qualification.

The licensee acknowledged that he had attended the Safeguarding Training but did not recall much about the course.

In relation to the littering incident on 28.02.23 the licensee accepted that it was him in the CCTV footage at the layby where the offence took place but said that there was a discrepancy between the time on the footage and the time on the fixed penalty notice. Licensing had identified that the fixed penalty notice had been paid.

In relation to the incident in 17.07.23 where the licensee was observed at the Orange Grove taxi rank not wearing his BANES licensing ID badge, the licensee indicated that part of the lanyard was broken which is why he was not wearing it.

Members noted from Annex E of the report that there was an account from Special Educational Needs Co-ordinator (SENCO) who was present with the School Escort and child at school on 05.07.23. She reported to Passenger Transport for BANES that the child was visibly scared to get into the taxi as the Licensee was shouting out of his car window at her which had caused the child to run uncontrollably across the school site. The SENCO also recorded that the child had commented several times at home and school that she feels the taxi driver is not kind to her. The SENCO went on to express the view that that afternoon the licensee had talked to the child in a very aggressive tone which was extremely unhelpful in encouraging the child into the taxi given her significant attachment and trauma difficulties.

The Co-Head of the school indicated in correspondence at Annex E of the report pack that the child has special education needs and an Education Health and Care Plan. She has complex emotional needs that lead to frequent, unpredictable and persistent challenging behaviours, often impulsive in nature and with no apparent triggers. She is unable to identify her emotions or regulate herself.

Members had regard to the fact that the licensee has had no complaints from members of the public in the seven years that he has been licensed. The licensee described his conduct as a mistake but said he is a good taxi driver.

Members bear in mind the fact that the licensee appeared before Committee on 10.03.22 when his licence was suspended for 3 months due to:

- 5 speeding convictions since the issue of the applicant's first licence in 2016;
- failure to follow the requirements of the licence to report motoring convictions despite the previous warning, and
- the misinformation supplied by the licensee to a Civil Enforcement Officer.
- The licensee was also warned by committee on that occasion that any further breach of licence conditions could have a different outcome.

Having regard to the licensee's previous appearance before the Committee and resulting suspension as well as:



- (1) His behaviour during the incident on 05.07.23 which demonstrates he does not have the appropriate judgement of how to deal with children he is responsible for transporting,
- (2) the littering incident on 28.02.23
- (3) the incident on 15.07.23 where he failed to display his ID badge, and
- (4) The fact that he does not appear to have the insight into what conduct is required of him as a BANES licensed driver

Members are no longer satisfied that he is fit and proper to hold a combined hackney carriage/private hire driver's licence and consequently his licence is revoked.

## **56 CONSIDERATION OF FIT AND PROPER STATUS - 21/02421/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 confirmed that he had provided the blood test and medical information which they requested at the last meeting. He confirmed that he hardly drinks any alcohol at the present time.

### 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 a Conditional Caution from the police obtained during the currency of his licence. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and Council's Policy.

The Licensee appeared before the Licensing Sub Committee on 07.09.23 when there was a decision to defer the hearing to a later date. This was so that the licensee could liaise with his GP to provide a view in relation to whether or not the licensee continues to meet the Group 2 DVLA driving standards, and this could include the licensee obtaining a Carbohydrate Deficient Transferrin (CDT) test.

Members reminded themselves that each case is to be considered on its own merits.

Members heard from the licensee who indicated that he had done what Members had asked of him since the last hearing.

Members had regard to the fact that the licensee has had no complaints from members of the public in the eight years that he had been licensed, they also noted that he complied with the conditions of his licence in that he reported his arrest the day after the incident. Conversely, they noted that he received a caution from licensing in March 2019 for driving a Private Hire vehicle whilst not holding a valid Hackney Carriage/Private Hire Driver's licence. Members noted however that the licensee was on his way to the licensing office to renew his licence when he committed the offence.

Members note that the Policy provides any new applicant is expected to have been caution free during the previous two years and that a serious view will be taken of any convictions occurring whilst the person holds a current licence. For the purposes of the Policy 'conviction' is taken to include a caution. Members can depart from the

Policy where there are cogent reasons for doing so. In relation to the caution administered by Licensing in 2019, whilst he had committed an offence this was done out of ignorance, and that offending behaviour alone does not call into question his fit and proper status. In relation to the incident on 11.01.23, they find that to be an out of character isolated incident. Having considered the results of the CDT DVLA approved blood test, Members note that his current levels as of 20.09.23 show that they fall within the category of those who consume little or no alcohol. In respect of his D4 Medical Examination Report they note that no history of drug or alcohol misuse or dependence is noted. There is a history of liver disease, but it is not linked in the report to current alcohol misuse. In the light of this evidence, Members were satisfied on the balance of probabilities that the Licensee is fit and proper to continue to hold his Combined Hackney Carriage/Private Hire Driver's licence. They do however issue a warning as to his future conduct in view of the police Conditional Caution.

## **57 RETURN TO OPEN SESSION**

At this point the Sub-Committee returned to open session.

## **58 APPLICATION FOR A VARIATION OF A PREMISES LICENCE FOR: RAINCHECK, 7 EDGAR BUILDINGS, BATH, BA1 2EE**

The Sub-Committee confirmed that they had received copies of the additional information circulated by the Licensing Consultant. They were also provided with paper copies of the documents at the meeting.

The Public Protection Officer (Licensing) presented the report to the Sub-Committee. He stated that they were being asked to determine an application for a variation of a Premises Licence for Raincheck, 7 Edgar Buildings, Bath, BA1 2EE. He confirmed that no comments had been received from the responsible authorities. Two relevant representations had been received, one from a local resident and one from the Chair of the Circus Area Residents' Association. He also explained that the premises is located within the B&NES Cumulative Impact Policy which is relevant to the application.

Cllr Toby Simon asked whether any complaints had been received regarding this premises. The Public Protection Officer confirmed that no complaints had been received in the last two years.

Terrill Wolyn, Licensing Consultant, presented the case for the applicant and explained that Raincheck is a high-end premises with professional people as its clientele. She pointed out that there have been no concerns or complaints received since the licence was granted.

She explained that the issues raised by the objectors were not relevant to the licensing objectives. She stated that there is no evidence that groups of revellers in the proximity had left a licensed premises.

She stated that there is no evidence that Raincheck creates a serious disturbance. There is also no evidence to suggest that family life for residents would be detrimentally affected as the clientele and circumstances would be the same on Monday to Wednesday as on Thursday to Saturday. No issues have been raised

regarding the clientele with regard to noise, public nuisance or crime and disorder. This is a testament to the way that the premises is managed. The current conditions under which the premises operate are appropriate.

Ms Wolyn also explained that the general principles of the Licensing Act must apply and that a variation must be granted if there are no relevant objections.

In response to a question from Cllr Toby Simons it was confirmed that Raincheck is a cocktail bar and not a food establishment. The applicant also explained that on weekdays they operate a table service for around 30 to 50 people with no large groups. It was also noted that there are generally no hen or stag parties mid-week and that these groups would have to pre-book and door staff would then be provided.

Cllr Steve Hedges asked whether there was music at the premises. The applicant stated that there is relaxed music which is not too loud and that there is no dance floor. Notices are provided asking people to respect neighbours. Ms Wolyn explained that there is a wind down period to ensure that people do not all leave the premises at the same time.

Ms Wolyn summed up by stating that this is a stylish and well-run establishment which is part of Bath's vibrant and diverse night-time economy.

### Decision and Reasons

Members have determined an application for a variation to the Premises Licence at Raincheck, 7 Edgar Buildings, Bath, BA1 2EE. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998 and case law.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives on the information before them. Members reminded themselves that each application must be considered on its own merits.

Members noted that the premises falls within the Cumulative Impact Assessment Area which means that the Cumulative Impact Policy is engaged. In those circumstances there is a rebuttable presumption that applications for variations relating to "on trade" (sale of alcohol for consumption on the premises) situated within the Area will be refused if relevant representations are received unless the applicant can demonstrate that the operation of the premises will not add to the cumulative impact already being experienced.

Members had regard to 2 lots of additional information provided on behalf of the applicant and circulated to the objectors in advance of the hearing, comprising: section 5A Licensing Act 2003, a summary of the Thwaites case, an extract from the BANES website with links to the BANES Statement of Licensing Policy and Appendices, excerpts from the Banes Licensing policy and Statutory Guidance and e-mail confirmation from BANES' Licensing department that there is no record of any complaints against the premises for the two years prior to the current application.

Terrill Wolyn, agent for the applicant addressed members and talked them through what was applied for in terms of regulated activities. To amplify, she explained that the premises is a stylish, welcoming, well-run establishment which has already been operating during the late-night hours requested during the latter part of the week. Ms Wolyn noted that there were no representations from the police or Environmental Protection or any of the other responsible authorities in relation to public nuisance or crime and disorder, and they are the experts in this area. Ms Wolyn also indicated that there were no complaints to licensing in relation to the premises since it opened in 2021. Ms Wolyn made the observation that within the objections there is no evidence provided which links to the premises. In submissions Ms Wolyn addressed members on the cumulative impact policy.

Members had regard to the written objections from Mr Baldwin, Chair of the Circus Area Residents Association and Mr Merriweather who is a resident. Those objectors expressed concerns that the proposed variation would undermine the licensing objectives of prevention of crime and disorder and prevention of public nuisance. They were concerned about the impact of another late-night venue in this area which they felt was already saturated with late night premises. They were also concerned about noise and disruption and the stress and potential mental health impact on families living in the area.

In determining this application Members were careful to take account of the relevant written and oral representations both for and against the application and balanced their competing interests. Members disregarded irrelevant issues including the necessity, or not, of the proposal.

Members noted that there had been no representations from Responsible Authorities.

Members were satisfied on the evidence they had heard and read that the application would not add to the cumulative impact already being experienced. Authority is therefore delegated to the licensing officer to issue the licence as applied for.

The meeting ended at 2.35 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

## **BATH AND NORTH EAST SOMERSET COUNCIL**

### **LICENSING SUB-COMMITTEE**

Thursday, 30th November, 2023, 10.00 am

**Councillors:** Steve Hedges (Chair), Toby Simon and Ann Morgan

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

#### **59 EMERGENCY EVACUATION PROCEDURE**

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

#### **60 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **61 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

#### **63 LICENSING PROCEDURE**

The Chair referenced the procedure that would be followed during the course of the meeting.

Those that were present confirmed that they had received and understood the licensing procedure.

#### **64 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.

## 65 CONSIDERATION OF FIT AND PROPER - 22/00175/TAXI

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

The licensee addressed the Sub-Committee and stated that he has a lack of computer knowledge and needs to ask his daughter to help him.

The Chair advised him that for matters as important as this he should consider asking if he can be supplied with a paper copy so that he can complete the required process.

### Decision & 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 he struggles with technology and relies upon his daughter for assistance. He explained that she has her own life, so he has to wait for her help. The licensee accepted that he was totally guilty of what had been alleged.

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 13 years and found that there had been no complaints in relation to his conduct from members of the public.

On balance, members find that the licensee is fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence, but they issue a final warning to the licensee 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 seek assistance in using technology, if required, in order to comply with the conditions of his licence.
3. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

## 66 CONSIDERATION OF FIT AND PROPER - 22/00399/TAXI

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

The licensee addressed the Sub-Committee and stated that she had forgotten to supply the appropriate paperwork due to having recently changed her vehicle to be able to comply with the Clean Air Zone (CAZ).

She added that she has recognised that her clerical work for her job needs to improve and said that she has put steps in place to be more organised. She said that she has compiled a list of things that need to be completed, made a spreadsheet to track these tasks and set reminders on her phone.

### Decision & Reasons

Members have had to consider whether or not the licensee is a fit and proper person to continue to hold her combined Hackney Carriage/Private Hire Driver's licence in the light of failures to comply with the conditions of her 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 it was entirely her fault and that she had so much going on changing her vehicle that this was an oversight. She accepted that did not explain her previous non-compliance, including her failure to notify Licensing of a speeding fixed penalty notice, and this was down to her not being very good with clerical stuff. She indicated that she had put a lot of steps in place to ensure that this mistake does not happen again.

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 received a written warning from Licensing in December 2020 for failing to disclose a speeding conviction from 2016. Members noted that the licensee had held her licence with BANES for over 10 years and found that she had never had complaints in relation to her conduct from members of the public.

On balance, members find that the licensee is fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence, but they issue a final warning to the licensee that:

1. She must comply with the conditions on her licences as they are an important safeguard to ensure the safety of the travelling public.

2. She must set up arrangements which will ensure that she complies with all the obligations of her licences.
3. If she comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of her licence.

**67 CONSIDERATION OF 'FIT AND PROPER' STATUS - 22/00544/TAXI**

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 in the light of an undisclosed speeding conviction and his conduct with the licensing section. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

The licensing section received an e-mail from the licensee at 08:05am on the morning of the hearing indicating that he would not be attending due to his health. He explained that he had been experiencing panic attacks for the last month. He noted that he had attended all of the meetings with the Licensing team and apologised for the trouble. He said he would wait to see which decision would be taken.

Members noted from the Hackney Carriage and Private Hire Driver's hearing procedure that where a party fails to attend, the Committee will consider whether to proceed in absence or defer to the next meeting. Having considered this, Members have decided that it is in the interests of all concerned to defer the meeting to 14th December 2023, or such subsequent meeting as is appropriate in the discretion of the Licensing team. The deferral is so that the licensee can appear before Committee to give his account in person. If the licensee fails to attend on the next occasion, the Committee may proceed in his absence.

The meeting ended at 11.13 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.

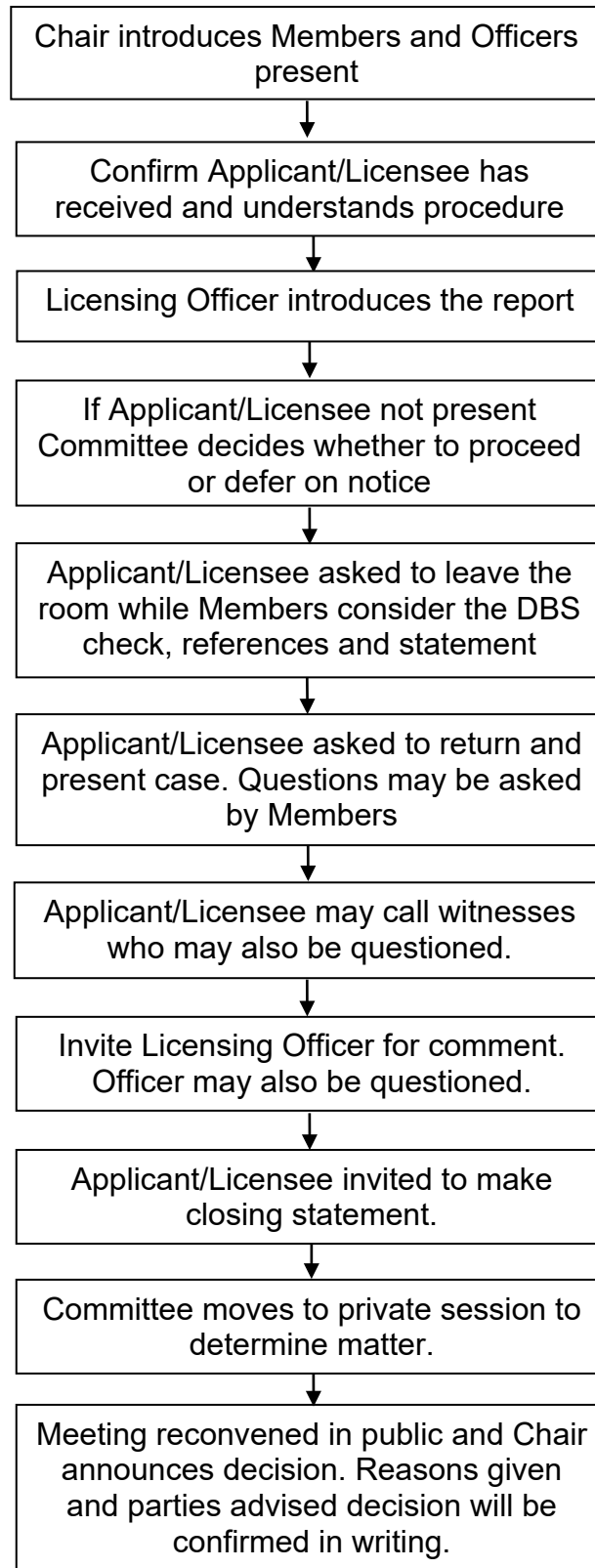
### **PLEASE NOTE:**

- 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**



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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.

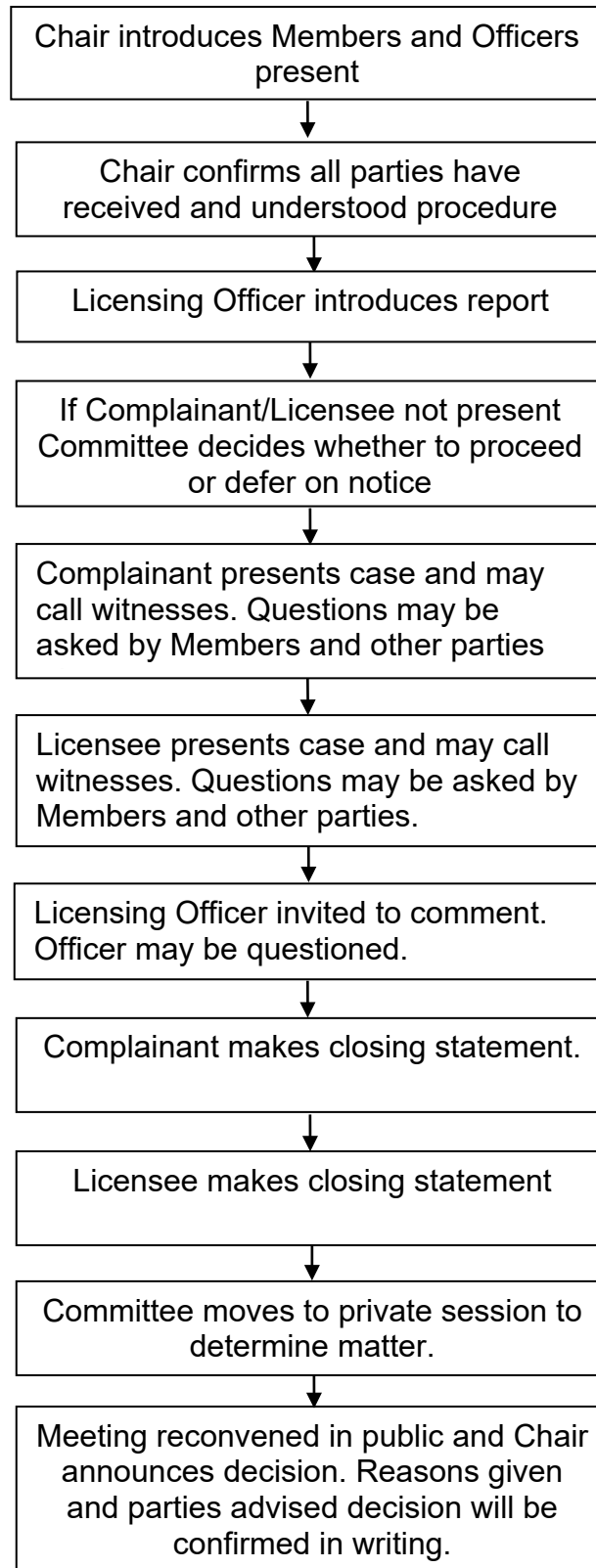
### **PLEASE NOTE:**

- 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-1613854  |
| Meeting / Decision: Licensing Sub-Committee  |
| Date: Thursday 14 <sup>th</sup> December 2023  |
| Author: Holly Woodrow  |
| <p><b>Exempt Report Title:</b> Application For Hackney Carriage/Private Hire Driver's Licence</p> <p>Exempt Appendices:</p> <p><b>Exempt Annex A- Application Form</b></p> <p><b>Exempt Annex B - Policy on Hackney Carriage &amp; Private Hire Licensing Standards for Drivers, Vehicles and Operators.</b></p> |

The report and appendices contain 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. Further, as any information revealed by the Disclosure and Barring Service (DBS) check 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 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.

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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-1600825

Meeting / Decision: Licensing Sub-Committee

Date: Thursday 14<sup>th</sup> December 2023

Author: Wayne Campbell

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

Exempt Appendix Title(s):

**Exempt Annex A- Current Combined Hackney Carriage/Private Hire Drivers Licence and Conditions.**

**Exempt Annex B – Copy of Email.**

**Exempt Annex C –Contemporaneous Notes.**

**Exempt Annex D – Section 9 Statement.**

**Exempt Annex E – Copy of Email.**

**Exempt Annex F – Section 9 Statement.**

**Exempt Annex G – Policy on Hackney Carriage & Private Hire Licensing Standards for Drivers, Vehicles and Operators.**

The report and appendices contain 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 and its appendices:

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 and appendices 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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