

Licensing Sub-Committee

Date: Thursday, 11th January, 2024

Time: 10.00am

Venue: Brunswick Room - 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, 11th January, 2024

at 10.00am in the Brunswick Room - 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: 14TH DECEMBER 2023 (Pages 5 - 10)

6. LICENSING PROCEDURE (Pages 11 - 14)

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 FIT AND PROPER - 22/00413/TAXI (Pages 15 - 48)

9. CONSIDERATION OF FIT AND PROPER - 21/02372/TAXI (Pages 49 - 80)

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, 14th December, 2023, 10.00 am

Councillors: Steve Hedges (Chair), Toby Simon and Onkar Saini

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

68 EMERGENCY EVACUATION PROCEDURE

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

69 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

70 DECLARATIONS OF INTEREST

There were none.

71 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

72 MINUTES OF PREVIOUS MEETING: 16TH NOVEMBER 2023 & 30TH NOVEMBER 2023

The Sub-Committee **RESOLVED** to approve the minutes of the meetings held on 16th November 2023 and 30th November 2023.

73 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.

74 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.

**75 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:
23/01519/TAXI**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine whether an application for a combined Hackney Carriage/Private Hire Driver's licence could be granted.

He explained that the applicant had a number of previous convictions and asked the Sub-Committee to read the contents of his Disclosure and Barring Service certificate and his written statement.

The applicant left the meeting room while the Members read the documents they had been given.

On his return the applicant was asked by the Chair to address them on why he felt that he should be granted a licence and he responded to questions from the Sub-Committee.

Councillor Toby Simon asked if he could inform them of his current relationship with alcohol.

The applicant replied that he had never been a big drinker and that it had not really been part of his agenda growing up. He added that he didn't drink that much at all now, maybe once a month whilst at home with his girlfriend.

Councillor Onkar Saini asked if he had considered how he would deal with any difficult customers.

The applicant replied that he did not intend to do that much driving late at night and would not seek to aggravate any situation, should it occur. He added that if a customer refused to pay their fare, he would likely let them leave and then consider what action should be taken.

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

The applicant replied that he had.

Decision & Reasons

Members have had to consider an application for a combined Hackney Carriage/Private Hire Driver's licence where convictions have been disclosed on the applicant's Disclosure and Barring Service certificate. 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 had read the applicant's written statement and considered the contents of the Disclosure and Barring Service certificate.

The applicant addressed Members in oral representations when he indicated that he is a polite, trustworthy and hardworking person who likes to achieve. He explained that he had put 6 months into trying to obtain his taxi licence and that it is important to him.

The applicant indicated that the offending behaviour started when he was 20 years old, and he is 34 years old now. On questioning he informed Members that he drinks alcohol very little, and this is normally whilst at home. The applicant asked Members to give him the licence on the basis that he has proved for a sustained amount of time that he is a balanced and fitting person for such a licence both career wise and personally.

Members noted that the applicant had been conviction free for an amount of time that was acceptable in policy terms. They were satisfied based on the evidence before them that alcohol misuse is not an issue for the applicant and that the applicant had matured since the offending behaviour 9 or more years ago.

On balance, members find that the applicant is fit and proper to hold the combined Hackney Carriage/Private Hire Driver's Licence.

Authority is delegated to the Licensing Section to grant the licence subject to satisfactory completion of the licensing process.

76 CONSIDERATION OF 'FIT AND PROPER' STATUS - 22/00544/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.

He informed the Sub-Committee that the licensee would not be attending the hearing and handed out copies of email correspondence from him.

The Members agreed unanimously to proceed with the hearing in the absence of the licensee.

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 a speeding offence, permitting an unlicensed driver to drive his licensed vehicle and dishonesty in his dealings 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 determination of this matter had been deferred from the meeting on 30th November, as the Licensing Section had 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.

Members decided in the interests of all concerned to defer the meeting to today so that the licensee could appear before the Sub-Committee to give his account in

person. In making that decision, Members issued a warning that if he failed to attend on the next occasion, the matter could proceed in his absence. That warning was included in the papers sent to the licensee.

The licensee has failed to attend the hearing today and notified the licensing section by e-mail at 22:17 hours on 13th December that he would not be attending. In that e-mail the licensee indicated "*it is better to take the decision in his absence*". Having issued a warning to the licensee that the matter could proceed in his absence on the next occasion, and in the light of the licensee's invitation for Members to do so, they have determined it is in the public interest to deal with the matter today.

On 8th August 2023 the licensee provided a written statement to the Licensing Department regarding speeding offences carried out in his licensed vehicle.

In that statement he admitted that it was his father driving the vehicle on 30th August 2022 when it was caught speeding; that his father was not a licensed private hire driver at that time, and that he had informed the police his father was the driver. In relation to the speeding offence on 31st December 2022 he denied committing the offence and said he was abroad at the time.

He denied receiving the letter from the police and said he had no knowledge of it. He said that he did know that the person who had been nominated as the driver could not have been, because she was at work at the time of the offence. He denied any knowledge at all of this speeding offence. He said he was unaware that only licensed private hire drivers could drive his vehicle and said that until that day, he was unaware that his father had driven his licensed vehicle to the licensing office on 27th October 2022. The licensee denied any knowledge of who was driving the vehicle on 21st and 29th June when it was caught speeding by a community speed watch operation.

On 11th August 2023 the licensee contacted the Licensing Department by e-mail to say that it was him who was driving the vehicle on 31st December 2022. He said he was driving his vehicle to a friend's house before being driven to the airport by that friend.

The licensee attended the licensing office on 15th August 2023 to make a further statement. When giving that statement he admitted that he had lied again as he was driving to Gatwick airport on 31st December 2022 and not to his friend's house. The licensee explained in his statement that the reason he lied was because he panicked as he was unsure why his girlfriend had been nominated originally as the driver for the speeding offence on 31st December 2022.

He explained that he had requested a new form from the police so that he can inform them of who was driving at the time of the offence. He admitted he lied when he said he did not know his father had driven one of his private hire vehicles to the licensing office on 27th October 2022. He explained that he did know as he had to collect his father on that day. He apologised for not telling the truth on 8th August when he made his first statement and on 11th August when he sent an e-mail to the licensing section.

Members noted that the licensee had held his licence with BANES for just over 4 years and found that there had been no complaints against him from members of the public.

On balance, however, Members find that the applicant is no longer fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence for the following reasons:

- (1) He committed a speeding offence on 31st December 2022 when he was caught travelling at 61mph in a 50mph speed limit.
- (2) He had permitted his father to drive his licensed private hire vehicle on at least the 30th of August 2022 when his father was caught speeding, and on the 27th of October 2022 when his father drove the vehicle to a knowledge test at the licensing office. It is a criminal offence to drive a private hire vehicle without a private hire licence.
- (3) He had lied to the Licensing Section on 8th and 11th August 2023. This factor weighs heavily in the balance, as part of being fit and proper is being honest and reliable, and the licensee has shown through his conduct that he is not trustworthy.

Whilst the speeding and permitting his father to drive a licensed vehicle when he was not a licensed driver would not on their own have led to a revocation, the failure to be honest and open with the licensing office means that Members no longer regard the licensee as a fit and proper person.

Authority is delegated to the licensing section to issue a revocation on notice under section 61(2A) Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 11.36 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.

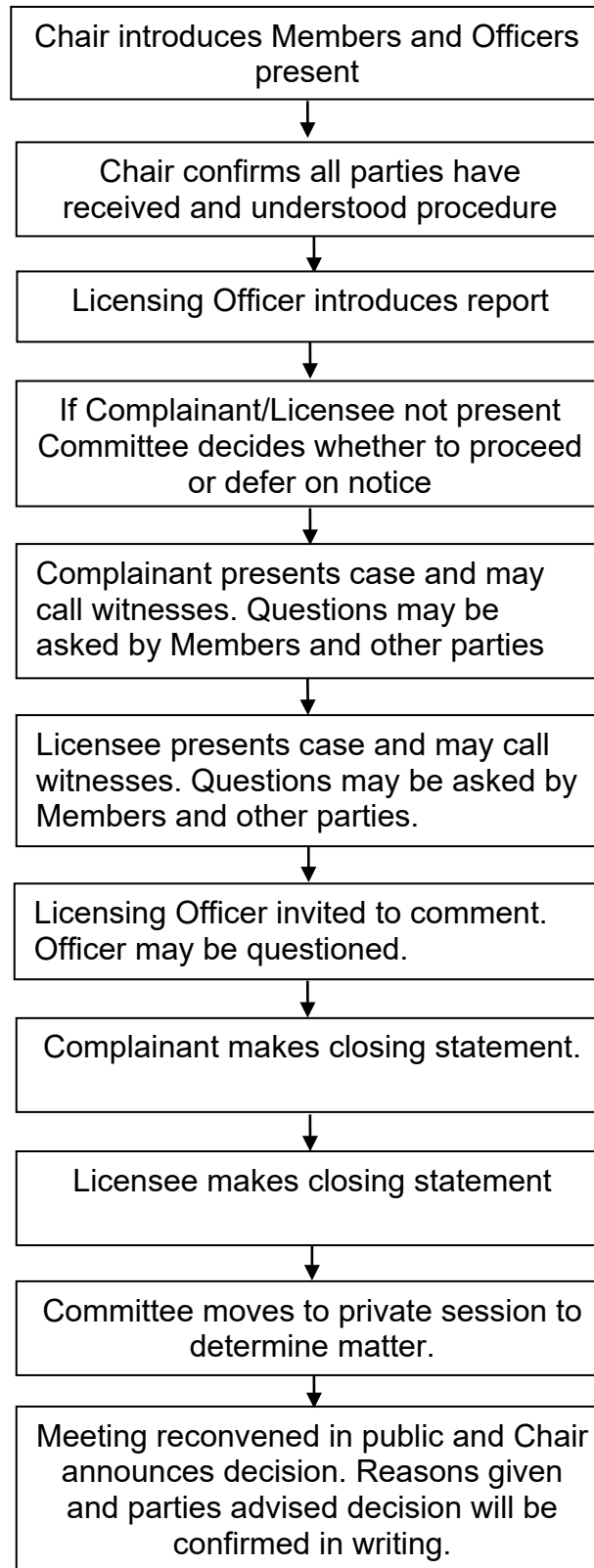
PLEASE NOTE:

- 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-1638189
Meeting / Decision: Licensing Sub-Committee
Date: Thursday 11 th January 2024
Author: Holly Woodrow
<p>Exempt Report Title: Consideration of Fit and Proper</p> <p>Exempt Appendix Title(s):</p> <p>Exempt Annex A - Current Licence. Exempt Annex B - Failure To Produce Insurance Warnings. Exempt Annex C - Failure to Produce MOT Warnings. Exempt Annex D – Failure to Disclose Motoring Offence Warning. Exempt Annex E – Failure to Report Accident Warning. Exempt Annex F - Policy on Hackney Carriage & Private Hire Licensing Standards for Drivers, Vehicles and Operators.</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.

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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Access to Information Arrangements

Exclusion of access by the public to Council meetings

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Meeting / Decision: Licensing Sub-Committee
Date: Thursday 11th January 2024
Author: Holly Woodrow
<p>Exempt Report Title: Consideration of Fit and Proper</p> <p>Exempt Appendix Title(s):</p> <p>Exempt Annex A - Current Licence. Exempt Annex B - Failure To Produce Insurance Warnings. Exempt Annex C - Failure to Produce MOT Warnings. Exempt Annex D – Correspondence Regarding Manner Of Driving Exempt Annex E – Correspondence Regarding Alleged Collision Exempt Annex F - Policy on Hackney Carriage & Private Hire Licensing Standards for Drivers, Vehicles and Operators.</p>

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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
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