

Licensing Sub-Committee

Date: Thursday, 25th July, 2024

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, 25th July, 2024

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: 11TH JULY 2024 (Pages 5 - 8)

6. LICENSING PROCEDURE (Pages 9 - 12)

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

7. EXCLUSION OF THE PUBLIC

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

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

8. CONSIDERATION OF FIT AND PROPER STATUS - 22/00342/TAXI (Pages 13 - 92)

9. CONSIDERATION OF 'FIT AND PROPER' STATUS - 22/00891/TAXI (Pages 93 - 136)

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, 11th July, 2024

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

Also in attendance: Carrie-Ann Evans (Team Leader, Legal Services), John Dowding (Lead Officer - Licensing) and Holly Woodrow (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: 27TH JUNE 2024

The Sub-Committee **RESOLVED** to approve the minutes of the meeting held on 27th June 2024.

22 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.

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 CONSIDERATION OF FIT AND PROPER - 21/02399/TAXI

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. She 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. There was an update to the report to confirm that the licensee was first licensed from 11th December 2009.

The licensee was asked by the Chair to address them on the matters raised within the report and why he felt that he remained fit and proper to hold his licence.

The licensee handed out a prepared written statement in which he stated that he accepted responsibility for failing to produce the correct documentation within the set time periods and that he was sorry for this.

Councillor Toby Simon referred to an incident from 2015 and asked the licensee if he had learned from this.

The licensee replied that he had learnt from it and stated that no further incidents regarding his conduct had been received since.

The Chair stated the importance of having all the required paperwork in place and the need to abide by the conditions of his licence. He asked the licensee why he had not met the previous deadlines and how would he be able to guarantee that these conditions were met in the future.

The licensee replied that the second warning had been received during the Covid pandemic while he had been in Pakistan and that the third warning was received while he was going through some personal difficulties. He added that he had now put the relevant dates into his Google apps and had set-up reminders for them.

The Lead Officer (Licensing) addressed the Sub-Committee and informed them that the second warning had been given to the licensee in May 2019 before the pandemic had begun. He added that this written warning had been handed to the licensee in person and that a verbal warning was also given.

The licensee made a summing up statement to the Sub-Committee in which he apologised once more and assured them that this would not happen again.

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 Hackney Carriage 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.

The Licensee was supported at the Sub-Committee by a personal representative and an interpreter. The Licensee handed up a written statement in support that he had prepared for the Sub-Committee. In that statement the Licensee admitted that everything he had been accused of was correct and he was very sorry for what he had done. He did not want to offer any excuses for his wrongdoing as he did not want to insult the committee. He accepted any action that the Sub-Committee would take against him.

He understood the importance of providing documents to licensing in order to protect members of the public and that he had been warned in the past. In explanation for his recent failure to provide his MOT and insurance certificates he informed members that he had been going through personal difficulties, but he had now put measures in place, including reminders on his Google Apps, so that he does not forget to submit his documents again. Crucially, the Licensee indicated that at no point was he uninsured or driving without an MOT. He indicated that he enjoys his job and would never do anything intentionally to stop him doing it.

On questioning by Members, the Licensee indicated that he had learned lessons following the complaint in 2015.

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 at no point was the Licensee driving without insurance or an MOT and that he had put measures in place to ensure that he did not breach the conditions of his licence in future.

On balance, Members find that the Licensee is a fit and proper person 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 set up and maintain arrangements which will ensure that he complies with all the obligations of his licences.
3. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

The meeting ended at 10.49 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.

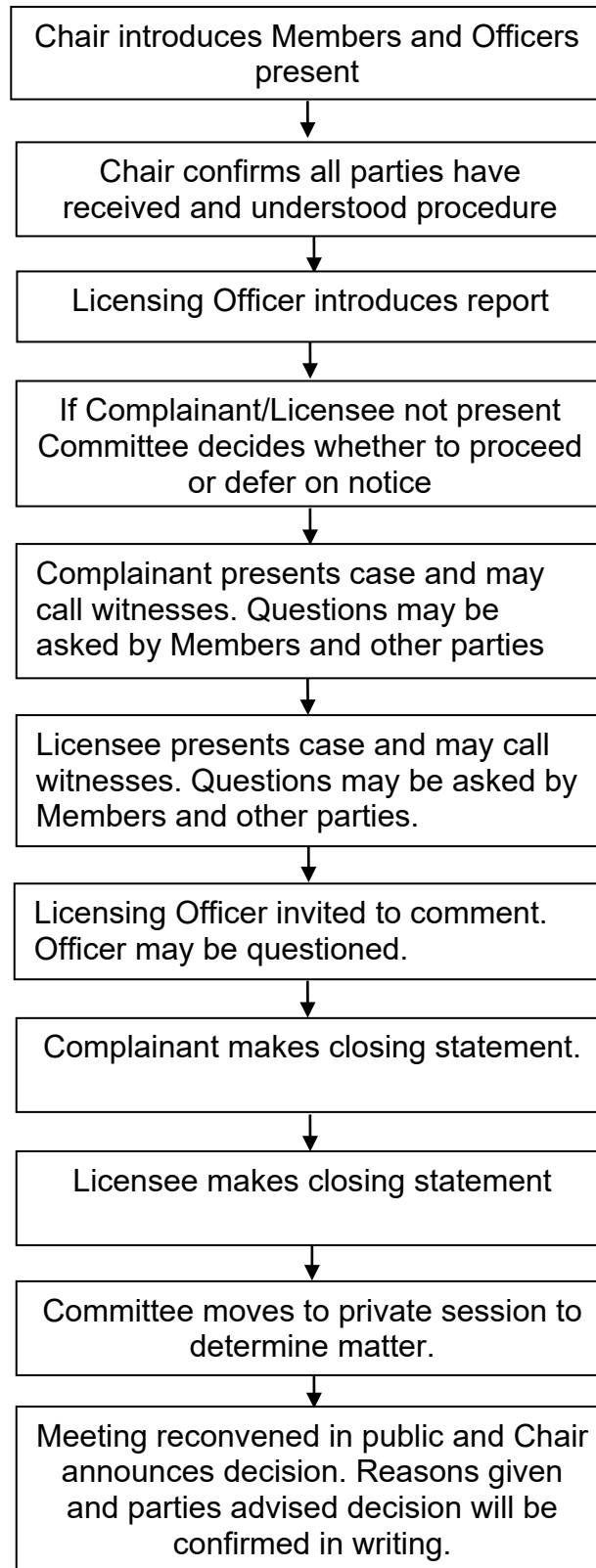
PLEASE NOTE:

- 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-1893497
Meeting / Decision: Licensing Sub-Committee
Date: Thursday 25th July 2024
Author: Wayne Campbell
<p>Exempt Report Title: Consideration of Fit and Proper status</p> <p>Exempt Appendix Title(s): Exempt Annex A- Current Licence and Conditions. Exempt Annex B – Correspondence Relating to Complaint (January 2024). Exempt Annex C – Witness Account of Initial Complaint Incident (January 2024). Exempt Annex D – Minutes and Resolution of Previous LSC (2010). Exempt Annex E – Correspondence Relating to Previous Complaint (September 2013). Exempt Annex F – Correspondence Relating to Previous Complaint (February 2014). Exempt Annex G – Correspondence Relating to Previous Complaint (December 2018). Exempt Annex H – Correspondence Relating to Previous Complaint (July 2019). Exempt Annex I– Correspondence Relating to Previous Complaint (December 2021). Exempt Annex J – Correspondence Relating to a Previous Complaint (April 2023). Exempt Annex K – Minutes and Resolution of Previous LSC (2023). Exempt Annex L - 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.

<p>Stating the exemption:</p> <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 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 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.

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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-1911471
Meeting / Decision: Licensing Sub-Committee
Date: Thursday 11 th July 2024
Author: John Dowding
<p>Exempt Report Title: Consideration of ‘Fit and Proper’ status</p> <p>Exempt Appendix Title(s): Exempt Annex A- Current Combined Hackney Carriage/Private Hire Drivers Licence. Exempt Annex B – Minutes & Resolution of LSC 8th September 2022. Exempt Annex C- Initial Complaint Correspondence. Exempt Annex D – Emails to Complainant. Exempt Annex E – Correspondence with Licensee Regarding Allegation. Exempt Annex F – Disclosure From Avon & Somerset Police. Exempt Annex G – Consideration Document. Exempt Annex H – Policy on Hackney Carriage & Private Hire Licensing. Standards for Drivers, Vehicles and Operators. Exempt Annex I – Section 61 (2B) Notice of Immediate Suspension.</p>

The report and appendices 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.

<p>Stating the exemption:</p> <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 information revealed by the Disclosure and Barring Service (DBS) 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.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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