

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 22nd August, 2024

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

Also in attendance: John Dowding (Lead Officer - Licensing), Wayne Campbell (Public Protection Officer (Licensing)), Holly Woodrow (Public Protection Officer (Licensing)) and Rebecca Jones (Deputy Team Leader - Legal Services)

40 EMERGENCY EVACUATION PROCEDURE

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

41 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

42 DECLARATIONS OF INTEREST

There were none.

43 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

44 MINUTES OF PREVIOUS MEETING: 25TH JULY 2024 & 1ST AUGUST 2024

The Sub-Committee **RESOLVED** to approve the minutes of the meetings held on 25th July 2024 and 1st August 2024.

45 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.

46 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.

47 CONSIDERATION OF FIT AND PROPER STATUS - 21/02443/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.

The licensee began by circulating to the members letters of support from drivers within his company and reviews that had been received from his customers.

He addressed the Sub-Committee and explained that he has had a difficult past few years personally which had led to the oversight of renewing his MOT. He acknowledged that this was his error and understood the need for all documents to be in place at the correct time.

He stated that he runs a successful business and employs a number of drivers on a full / part time basis.

He said that the vehicle in question had no advisories / concerns found during the MOT inspection.

He stated that he asks all of his drivers to inspect their vehicles on a regular basis.

He said that he runs his company in a professional manner, has received no complaints from members of the public and that a number of well-known companies use his business on a regular basis.

He explained that he had recently implemented the use of an app for all drivers to use that requires them to sign in every time they begin to work and carry out a number of vehicle checks before driving.

The Chair asked how many jobs were carried out by the vehicle in question whilst it was without an MOT for six weeks.

The licensee replied that within that period only three jobs had been carried out.

The licensee made a summing up statement to the Sub-Committee. He said that he has a good business in place and understands the seriousness of the situation that he has ended up in. He added that he has respect for the officers within the Licensing Department.

The licensee read aloud two statements from drivers within his company who both said that vehicle safety is always maintained to a high standard, the company was a professional organisation and it has high standards of customer service.

The Lead Officer (Licensing) stated that the licensee's Operator's Licence was not part of the Sub-Committee's determination at the meeting today.

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 and in the light of failures to comply with the license conditions relating to an MOT 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 considered the officers report and heard from officers and considered the written and oral submissions from the licensee. Officers stated that Mr Bowen has been compliant with provision of information.

The Licensee appreciated and understood why he was before the committee. He explained that he had himself alerted the Council to the fact that an MOT certificate had lapsed. He explained that this had been overlooked due to very difficult personal circumstances which led to the deletion of his calendar containing his reminders combined with not realising that the car had less than a twelve month MOT certificate from the date of purchase. He has now implemented a new online booking system which includes visible reminders and a backup calendar with all required reminders.

The break in the MOT certificate had been for the period 26 May to 10 July 2024, however the Licensee explained that the vehicle had only been used on the road for the very end of May and made three journeys in that time, as he had by chance chosen to use another vehicle during June and July. The Licensee had on 10 July provided the new MOT certificate with the vehicle passing with no advisories.

The Licensee explained the regime he requires from his drivers and that he follows himself to undertake regular vehicle checks. The Licensee stated he has built a very successful and respected business with a number of drivers reliant on him for their sole income. There have been no complaints from the public. The Licensee apologised to the committee and said he understood the gravity of the matter.

Members noted a previous failure to provide all the required information relating to relevant medical conditions due to not fully understanding the conditions of his licence and the detail in the medical reports.

Members noted that compliance with the conditions relating to MOT certificates is vital so that the Council can be assured that the safety of the public when travelling in a B&NES licensed vehicle is not compromised. Indeed, compliance with all licence conditions including timely provision of relevant medical information is of the utmost importance.

Members noted that the Licensee had held his licence with B&NES for approximately twelve 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 a fit and proper person to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence, but they issue a warning to the Licensee that:

1. He must familiarise himself with the conditions of his licence.
2. He must comply with the conditions on his licence as they are an important safeguard to ensure the safety of the travelling public.
3. He must ensure he knows the key dates for expiry of MOT certificates for his vehicles.
4. He must set up and maintain arrangements which will ensure that he complies with all the obligations of his licence.
5. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

48 CONSIDERATION OF FIT AND PROPER STATUS - 22/00029/TAXI

The Lead 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.

Councillor Toby Simon asked if all relevant medical information had now been supplied to the Licensing Department.

The Lead Officer (Licensing) confirmed that it had now been received.

The licensee addressed the Sub-Committee and stated that he had been under the impression that the vehicle he had purchased came with 12 months MOT cover and that he was also expecting to receive a renewal reminder from the company that he had purchased the vehicle from.

He explained that once he was aware of the need to have the vehicle inspected, he did so and there were no advisories or concerns in respect of the vehicle.

He acknowledged that this was his mistake, apologised and said that he hoped that it 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 licence relating to an MOT 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 considered the report from officers and written and oral submissions from the Licensee.

Members noted that when the Licensee applied on 23 May 2024 to renew his license, discrepancies in the continuity of MOT certificates were noted. The MOT had expired on 12 November 2023 and the new certificate supplied with his renewal application on 23 May 2024 showed a break in the MOT certificates of three months. During that time the vehicle had been driven constantly as a Hackney Carriage

vehicle, so putting fare paying passengers and other road users and pedestrians at potential risk for a considerable time. Members noted that the Licensee had failed to inform licensing officers of this breach of conditions.

Members noted that the Licensee has a history of breaches of the conditions of his license and of inappropriate communication with licensing officers.

The Licensee explained that he had thought the vehicle had been purchased with a twelve month MOT certificate, however that had not been the case. He had also been expecting to receive a reminder for the renewal of his MOT from the garage that had sold him the vehicle, but that did not happen. He had only noticed the MOT had lapsed when renewing his insurance and had then obtained a new MOT certificate without advisories.

Members noted the tone of the licensee's previous communication with licensing officers in 2022 and 2023 and the failure to provide timely medical information as required by his license conditions.

The Licensee apologised to the committee. He explained that it was an oversight due to believing the car had been purchased with a full twelve month MOT certificate and expecting the selling garage to remind him when the MOT was due as had happened before. He stated it was a mistake, he apologised and said that he hoped it never happens again.

Members noted that compliance with the conditions relating to MOT certificates, is vital so that the Council can be assured that the safety of the public when travelling in a B&NES licensed vehicle is not compromised. Indeed, compliance with all licence conditions is of the utmost importance.

Members noted that licensing officers are undertaking an important role to ensure compliance with licensing regulations and the safety of the public and are entitled to courtesy and co-operation from licensees.

Members noted that the Licensee had held his licence with B&NES for approximately sixteen years and found that there had been no complaints in relation to his conduct from members of the public. Members considered that the Licensee:

1. Must familiarise himself with the conditions of his licence.
2. Must comply with the conditions on his licence as they are an important safeguard to ensure the safety of the travelling public, other road users and pedestrians.
3. He must ensure he knows the key dates for the expiry of MOT and insurance certificates for his vehicles and he must set up and maintain arrangements which will ensure that he complies with all the obligations of his licence including MOT and insurance expiry dates.
4. He is suspended for a period of two weeks from the expiry of the twenty one day period to appeal this decision on the 14 September, if he has not appealed, until 4pm on the 27 September 2024 by which time he must satisfy licensing officers that he has implemented a robust reminder system for MOT and insurance expiry dates. If he fails to do so satisfy officers by 4pm on the

27 September the licensing officers must return the matter to Licensing Sub-Committee for further consideration

5. He is required to communicate appropriately with licensing officers.

49 CONSIDERATION OF FIT AND PROPER STATUS- 22/00283/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 said that he simply does the best that he can, has had no accidents and no complaints made against him.

He stated that the incident involving his wife has nothing to do with his role as a taxi driver, should not be considered and said that this is an ongoing matter with the Police.

The Chair asked if the licensee could explain why his wife had been driving a licensed vehicle.

The licensee replied that he was completely unaware that she had done so and was shocked to have found this out.

The Public Protection Officer (Licensing) stated that this information had been included in the report as the vehicle with that particular registration number that had been driven by his wife was licensed at the time of her speeding offence in July 2022.

The licensee replied that it was his view that this was mistake and that the plates of vehicles had changed in April 2022.

Councillor Toby Simon commented that the licensee currently had 9 points on his driving licence in relation to 3 active speeding convictions and that this was against the Council's Policy to be able to hold a combined Hackney Carriage/Private Hire Driver's licence.

Councillor Simon asked the licensee if he could explain why had not complied with the conditions of his licence to display his vehicle roof sign, personal ID badge and in-car identification whilst on a journey to Bristol Airport on 17th August 2023.

The licensee replied that the roof sign had been removed due to motorway use on the way to the airport and he had forgotten to replace it. He added that he had not realised that he was not wearing his personal ID badge and that the in-car identification was within the glove box of the vehicle. He apologised for this being the case.

Councillor Simon asked the licensee why he had not taken his vehicle for an MOT prior to it expiring.

The licensee replied that he had originally believed that the vehicle had been purchased with a 12-month MOT. He explained that the vehicle had actually only had 11 months and 1 weeks' worth of MOT when purchased. He said that once this had been realised he contacted his garage to arrange for an MOT to take place. He added that on inspection the vehicle the vehicle failed the MOT as one of the tyres was below the minimum tread limit, but that this could not be replaced on the day as the required tyre was not in stock.

He explained to the Sub-Committee that the vehicle was left at a garage around 400 yards away overnight, before the tyre was replaced the following day.

Councillor Simon asked the licensee to confirm that the vehicle had not been used for hire whilst without a valid MOT.

The licensee confirmed that it had not been used for hire during this period. He added that he now has a notification system in place for the expiry dates of his vehicles MOTs etc.

The Lead Officer (Licensing) commented that during the MOT inspection there was also an advisory notice to replace the front brake pads, but noted that this work was not carried out on the vehicle before it had left the garage.

The licensee acknowledged that this work was not carried out straight away, but has now been completed.

The Lead Officer (Licensing) stated that it is made very clear to all licensees who can use their vehicles every time they apply or renew their licence and that they are asked to sign that they agree to the conditions of the licence.

The licensee addressed the Sub-Committee to make a summing up statement. He said that he has not been the subject of any public complaints and has not had any accidents whilst driving. He added that he has had some history of administrative issues, but that he was of no harm to the public.

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 license relating to the MOT certificate, motoring offences. permitting an unlicensed person to drive his vehicle and the display of signage and wearing of official identity badge. 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 considered the report from licensing officers and the answers to questions from Members and the Licensee's written and oral submissions.

Members noted the Licensee has previously had penalty points imposed by licensing officers and appeared before this Sub-Committee and had his license suspended for approximately two months.

The matters for consideration by the Sub -Committee are:

- Four speeding convictions in less than four years for which he had been given penalty points

The following breaches of his license conditions following an inspection by police at Bristol airport:

- Failure to display his roof sign
- Failure to wear his personal identity badge
- Failure to display the appropriate signage inside the vehicle

Failure of an MOT for a defective tyre, which was not notified immediately to licensing officers.

Permitting an unlicensed person to drive his licensed vehicle on two occasions.

A further speeding offence in a vehicle licensed to the licensee.

A booking system which had not been compliant with license conditions.

The Sub-Committee considered the written correspondence and oral submissions from the Licensee. The Licensee told the Sub-Committee that:

- His wife had driven the car without his consent for a private not hire matter and he had not known she had driven the car, the matter is now with the police
- That he had not been the driver of the vehicle for the last speeding matter
- He currently has nine points on his license but three come off in September 2024
- His roof sign had been removed when he was travelling down a motorway and he had not replaced it before arriving at Bristol airport
- His personal identity badge must have fallen off when he was taking his sweater off
- He had no excuse for the other badge that should have been displayed inside the vehicle which was in the glove box
- When his vehicle failed the MOT he disagreed the tyre was in a dangerous condition and said it had been borderline
- He had an advisory on the MOT certificate for front brakes which he did address, although not immediately
- He is in great demand, people consider he provides a good service, he has had no accidents or complaints and is no harm to the public
- He has now implemented a compliant booking records system
- He now has an app to remind him about mileage etc for vehicle checks

Members noted the three speeding offences in three years resulting in nine points and another speeding offence for which he had been on a speed awareness course.

Members noted the breach of licence conditions identified by the police at Bristol airport.

Members noted the breach of licence conditions when his wife drove the licensed car without the requisite licence, but noted the Licensee's defence and did not take that matter into account.

Members noted that the Licensee denied that he was the driver of the vehicle for the latest speeding offence.

Members noted that the Licensee's booking records did not comply with the requirements of his licence conditions as maintained in 2023.

Members noted that the Licensee had not fully cooperated with licensing officers in provision of his booking records.

Members noted that the vehicle had failed an MOT in January 2024 for the failure of a tyre due to insufficient tread which was so serious he was advised not to drive until it had been replaced, that the Licensee did not report that to licensing officers, that the condition of front brakes had been advisory and he had not complied with a vehicle recall.

Members noted that the Licensee had held his licence with B&NES for approximately eleven years and found that there had been no complaints in relation to his conduct from members of the public.

Members noted that there have been a number of previous speeding offences, that the Licensee had previously had penalty points added to his licence and previously had his licence suspended for approximately two months in 2022 for breach of his licence conditions.

Members consider that the Licensee:

1. Failed to familiarise himself with the conditions of his licence.
2. Failed to comply with his license conditions at all times.
3. Failed to fully cooperate and answer promptly all questions raised by the licensing officers.

And

4. Having heard from the licensing officers and the Licensee and taking into consideration:

- a. that the Licensee has a history of speeding offences
- b. at times the Licensee has failed to declare to licensing officers his motoring convictions
- c. that the Licensee has accumulated four speeding offences in less than four years contrary to the Council's policy which is in place for the safety of the public
- d. this Sub-Committee has previously in 2022 suspended the Licensee for a period of approximately two months
- e. the Licensee failed to comply with the conditions of his license for the display of roof signs, personal identity badge and vehicle interior badge
- f. the Licensee drove a vehicle with a tyre that failed an MOT
- g. the Licensee did not respond to a vehicle recall

Members consider that the Licensee does not take seriously the requirement to comply with the license conditions

Members consider that the Licensee has not learnt his lesson from previous warnings, penalty points and suspension.

For these reasons Members consider on balance that the Licensee is not a fit and proper person to hold a license and revoke his Private Hire/Hackney Carriage License.

The meeting ended at 1.14 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services