

## **BATH AND NORTH EAST SOMERSET**

### **LICENSING SUB-COMMITTEE**

Thursday, 3rd October, 2024

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

**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)

#### **58 EMERGENCY EVACUATION PROCEDURE**

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

#### **59 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **60 DECLARATIONS OF INTEREST**

The Chair, Councillor Steve Hedges declared an other interest in respect of agenda item 8 as he said that he knew the witness who was due to give a character reference for that licensee. He made it clear that this in no way would affect his judgement in this matter.

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

There was none.

#### **62 MINUTES OF PREVIOUS MEETING: 22ND AUGUST 2024 AND 5TH SEPTEMBER 2024**

The Sub-Committee **RESOLVED** to approve the minutes of the meetings held on 22<sup>nd</sup> August 2024 and 5<sup>th</sup> September 2024 and they were duly signed by the Chair.

#### **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 STATUS - 22/00256/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 motorcyclist involved in the road traffic incident with the Licensee on the 13 December 2023 was present and confirmed that he stands by the statement provided by him regarding the incident.

The Deputy Team Leader asked the motorcyclist if he had now received the Licensee's insurance details.

The motorcyclist replied that he had, but said this had only happened since he had made his complaint to the Council.

The Licensee's representative asked the motorcyclist if he was aware that the Licensee had given his insurance details to the motorcyclist's insurance company.

The motorcyclist replied that he was not aware of this.

The Licensee's representative referred to Annex J and asked the Licensee to give his account of the incident to the Sub-Committee.

The Licensee said that he simply asked the lady to repeat her destination as she spoke quietly and he has protective screens fitted within his vehicle. He stated that he had never seen her before this incident.

The Licensee's representative referred to Annex I and asked the Licensee to give his account of the incident to the Sub-Committee.

The Licensee said that the couple in question were visibly tired and angry and that he was only trying to help them by saying their destination was not far to walk.

Councillor Toby Simon stated that it was not his role to give a view on whether customers should be asking to travel what he perceives to be a short distance.

The Licensee said that he did not refuse the fare and was just offering his opinion.

The Chair commented that if the Licensee could see the customers were tired and it was raining, why suggest that they walk. He said that he should accept the fare, no matter how short the journey.

The Licensee said that the couple misinterpreted his comments and that he has taken customers on many short journeys.

The Licensee's representative referred to Annex E and asked the Licensee to give his account of the incident to the Sub-Committee.

The Licensee said that he was travelling back home after taking a customer to the Royal Marsden Hospital in Sutton. He explained that whilst driving he had seen a motorcyclist, signalled and overtook him safely. He added that around half a mile later there was another motorcyclist, and again he signalled and overtook him safely.

He stated that two to three minutes later he heard a noise from behind his vehicle before a motorcyclist punched the mirror of his vehicle before losing balance.

He said that he asked the motorcyclist if he was ok or needed any help. He also asked the motorcyclist why he punched his mirror.

The Licensee says that the motorcyclist said that he had been disrespected by being overtaken.

The Licensee said that he helped the motorcyclist up from the ground, picked up his bike and some of the parts that had fallen off his bike during the incident. He added that he had given his card, with contact details on, to the motorcyclist and said after the motorcyclist had driven off he reported the incident to the Police as a matter of road rage.

The Licensee informed the Sub-Committee that in the following days / weeks he had been hassled by the mother of the motorcyclist to provide his insurance details.

The Licensee's representative asked when had the Licensee provided his insurance details to the insurer of the motorcyclist.

The Licensee replied that he had done this within a few days of the incident. He added that he had evidence from his insurance company at the time that no contact has been made with them regarding this incident.

Councillor Toby Simon commented to the Licensee that the motorcyclist has stated that the licensee's vehicle was indicating right to turn into Entry Hill at the time of the incident. He asked if this was correct or had the Licensee continued along the Bradford Road towards Pennyquick.

The Licensee replied that he did not drive down Entry Hill as he lives near Chew Magna and remained on the Bradford Road.

Councillor Simon asked the Licensee if he was aware of any injury to the motorcyclist at the time of the incident.

The Licensee replied that the motorcyclist had said that he was not injured, but he had offered to call an ambulance. He added that he thought that the motorcyclist might have had a grazed arm.

Councillor Simon asked the Licensee how he had been able to contact the motorcyclist's insurance company.

The Licensee replied that he had been given this information by the motorcyclist's mother.

Councillor Simon asked the Licensee if he had contacted his insurance company at the time of the incident.

The Licensee replied that he had not.

Councillor Simon asked the Licensee if his vehicle was stationary at the time of the incident.

The Licensee replied that it was not. He said that the motorcyclist came alongside his vehicle and punched the mirror.

The Chair commented that the Licensee has a legal obligation to provide his contact / insurance details when involved in a road traffic incident.

The Licensee replied that the Police did not advise him to do so and that he did not want to reward thuggery.

Councillor Simon asked if the Licensee had any further documentary evidence for the Sub-Committee to consider.

The Licensee's representative said that they wished to submit a letter from his insurance company at the time of the incident to show that no contact has been made with them to date regarding the incident by the motorcyclist.

The Deputy Team Leader explained that the letter states that contact has been made though by a third-party solicitor. She suggested at this point that the Sub-Committee review the Police call logs.

The Public Protection Officer (Licensing) stated that the Police had logged the incident as a Road Traffic Collision and that there was no mention of road rage, pursuit or of any damage to the Licensee's vehicle.

The Licensee said that his call to the Police was cut short by them.

The Licensee's representative referred to Annex B and asked the Licensee to give his account of the incident to the Sub-Committee.

The Licensee said that after having attended a funeral that day he was driving near the train station and saw a long queue of people and thought he would help out.

He said that the lady customer had tried to talk about the funeral and there had been a misunderstanding. He added that he had not intended to upset her. He explained that he had not told her to walk, but said 'It's not very far'. He said that he always takes the fares requested of him.

The Licensee's representative referred to Annex C and asked the Licensee to give his account of the incident to the Sub-Committee.

The Licensee said that he drove the three passengers to their destination and received a £2 tip and said that he was therefore surprised to have this complaint made against him.

The Licensee's representative asked him if he had told the passengers they should walk to their destination.

The Licensee replied that he had not. He added that he had now learned his lesson about making these types of comments to potential customers.

The Licensee's representative stated that they have five further written references in support of the licensee to submit to the Sub-Committee and that one person was in attendance to offer a personal character reference.

The member of the public stated that she was a regular customer of the Licensee and had known him for many years. She described him as helpful and co-operative when in his role as a taxi driver.

The Chair asked the Licensee to make a summing up statement.

The Licensee said that he has held his licence since 2008 and has many clients. He added that he has an exceptionally good character, was courteous and carries out charity work, including driving people on Christmas day.

He stated that most of his clients were of a high profile and that, in the main, he has no issues from members of the public about his service. He added that he might make some mistakes and apologises for any offence that he has caused.

The Chair commented that at his previous appearance before the Sub-Committee in 2015 he was warned that his licence could be revoked and asked was his current behaviour likely to continue.

The Licensee replied that he would like the Sub-Committee to look at the references provided and said that he was a good person who helps a lot of people.

The Lead Officer (Licensing) commented that the Licensee seems to encounter a number of irritable or bad tempered customers in comparison to many other drivers and said that the number of complaints against him was way above the level of the majority of his colleagues.

The Licensee said that he could not speak on behalf of others, but these were his observations.

The Licensee's representative said that the Licensee had addressed and explained the misunderstandings that had been brought before the Sub-Committee. She added that the Licensee has learnt not to say that 'It's a short journey' to future customers.

She reaffirmed that the Licensee had not left the scene of the incident with the motorcyclist and had given his insurance details to the insurer of the motorcyclist.

She stated that they have submitted a number of references to show that the Licensee remains a fit and proper person and said that he should be allowed to continue in his role as a taxi driver.

The Deputy Team Leader stated that he had failed to report the incident with the motorcyclist to the Licensing department.

The Licensee's representative replied that this had not been done because it was the Licensee's view that this had not been a collision between two vehicles. She added that he was now aware of reporting any such incident in the future.

### **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 license conditions by his conduct to customers in being rude, unhelpful, aggressive and discouraging potential hirers and following a road traffic incident on 13 December 2023 failing to inform licensing and failing to provide his insurance details for several months to the motorcyclist involved in the incident. 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, including the additional papers from the police call logs, heard from officers, and considered the written complaints from members of the public. Members considered the written and oral submissions from the licensee, including, eight written and one oral character references in his support as a helpful and considerate taxi driver. The Members also heard submissions from his representative.

Members considered the facts:

- First licensed on 29 August 2008, his current combined hackney carriage/private hire driver's licence is due to expire on 28 February 2025.
- Between 2008 and 2015 there were a number of complaints from members of the public regarding his conduct.
- On 26 May 2015 the complaints were referred to LSC, which considered fifteen issues including issues of rudeness, aggression, discouraging fares, being unhelpful and other concerns. The licensee was given a clear warning as to his future conduct and that he was at risk of having his license revoked if he appeared before the LSC again.
- Since then there have been a number of further complaints from members of the public:

- 24 October 2021 complaint from member of public alleging the licensee was rude, aggressive and intimidating
  - 14 October 2022 complaint from member of the public alleging the licensee had been unpleasant and reluctant to accept fare
  - 20 April 2024 complaint from member of public re alleged rudeness and reluctance to accept fare
  - 2 May 2024 complaint from member of the public the licensee was aggressive and abusive and reluctant to accept fare
- 10 March 2024 complaint from member of the public re road traffic incident on the 13 December 2023.
  - The licensee failed to comply with his licensing conditions to report the road traffic incident and damage to his vehicle to licensing
  - Not until 25 June 2024 after several requests from the motorcyclist and licensing did the licensee provide his insurance details to the motorcyclist.
- Eight written and one character reference letters in support of the licensee's conduct as a taxi driver were submitted to the Sub-Committee.

Members heard from the motorcyclist involved in the incident on 13 December 2023. He confirmed the evidence he had provided in his written statement to licensing officers. That is that he had fallen from his motorbike following a collision with the licensee. He had hurt his arm, his motorbike had fallen to the ground and been damaged. The licensee's response had been aggressive and unhelpful, despite several requests he had not provided his insurance details to him until several months later.

Members heard from the licensee and his representative. The licensee expanded on the written reasons that he had provided to licensing officers explaining his behaviour with hirers. He stated that he had been misunderstood, that he had not refused or been reluctant to take fares, but had merely provided information re the closeness of their requested destination and had now learnt his lesson not to do that. On another occasion he had merely been reluctant to converse with a hirer as he had just come from a funeral. He considered he was helpful, polite, often drove persons who were unwell or struggling without charge and that he provided exceptional service.

The licensee stated that he had provided his insurance details directly to the motorcyclist's insurers shortly after the incident. That he had not reported the incident to licensing as he did not consider he was required to do so as there had not been a direct collision between the vehicles.

The licensee stated that he had reported the incident to the police as road rage and that the motorcyclist had hit his car, as in punched it. Members reviewed the call logs from both parties and noted that in the licensee's call there was no mention of road rage or a punch by the motorcyclist.

Members reviewed the texts exchanged at page 61 to 64 of the bundle, it did appear that the licensee contacted the insurers of the motorcyclist. Members considered, those insurers appear to have said that they had to hear directly from their own client and their own client had not been provided with the licensees insurance details, despite requests via his mother and licensing until June 2024. Members do not consider that this discharged the licensee's duties under section 170 of the Road Traffic Act to provide full details, especially as the motorcyclists insurers may not have recorded details provided to them by a third party.

Members found on the facts:

- The four complaints since 2021 together with the incidents considered by LSC in 2015 demonstrated a pattern of behaviour which was incompatible with the duties of a licensed taxi driver.
- The licensee had received a clear warning from the LSC in 2015 as to his future conduct
- The licensees behaviour following the road traffic incident on 13 December 2023 displayed an attitude that was combative, unhelpful and demonstrated a failure to comply with the requirements of his license including following the Council policy and the Road Traffic Act.

Members find on balance that the Licensee is not a fit and proper person to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence.

Members therefore conclude separately and together these issues demonstrate that the licensee is not a fit and proper person to hold a combined a taxi and hackney carriage license.

## **66 CONSIDERATION OF FIT AND PROPER STATUS - 22/00248/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 had struggled with completing forms for many years and should have asked for help. He stated that he had now put things in place to help him.

Councillor Toby Simon asked if the Licensee could give any examples of how he has struggled and for how long.

The Licensee replied that, if honest, he had probably had these issues since being at school and would avoid having to confront them as much as possible. He added that he had recently become more aware as his children had been diagnosed with ADHD.

He explained that he asks his partner to now double check forms before signing them and acknowledged that he requires some instructions to be repeated to him.



Councillor Simon asked the Licensee how he feels when receiving information from passengers about where they want to travel to.

The Licensee replied that he checks with them two or three times to make sure he has the right destination.

Councillor Simon asked the Licensee how he handled information whilst driving, such as road diversions.

The Licensee replied that this was normally fine as the information would normally be in large print.

The Chair asked the Licensee how he would cope if his partner was away for a period of time and he had to respond or complete some forms within a required timeframe.

The Licensee replied that he would find another family member to help him. He added that he has an eye test every year and knows to inform the Licensing department if there are any changes in his medical condition.

Councillor Simon asked the Licensee if he was now driving full time.

The Licensee replied that he was now driving around 40 hours per week.

The Chair asked the Licensee to make a summing up statement.

The Licensee said that he acknowledges the mistakes that he has made and will now ask for support from family members when required. He added that he has had no complaints made against him from any members of 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 license conditions relating to failing to inform the Licensing Authority of relevant medical conditions and falsely declaring at four licence renewals that he had no relevant medical conditions. 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, heard from officers, and considered the written and oral submissions from the licensee. Officers stated that the licensee had now provided relevant medical reports and was assessed fit to drive.

Members considered the facts that:

- The licensee has held a license since 6 November 2006, the current licence expires on 28 February 2025.
- B&NES licensed drivers have to meet the DVLA group 2 standards for vocational drivers. The DVLA provides guidance: Assessing Fitness to Drive – A guide for medical professionals (last update June 2022).

- The licensee had a number of medical conditions that should have been declared to the Licensing Authority when first diagnosed. One condition required an assessment and new glasses before he was assessed as fit to drive.
- At 45 years old all B&NES drivers have to produce a medical form (D4). A D4 report submitted on 31 January 2024 (first report since he was licensed in 2006) stated that the licensee had multiple conditions which he had not notified licensing of previously:
  - Diabetes – first diagnosed in 2020 and on medication for this. Notified licensing of this four years after diagnosis.
  - Hypertension. On medication for this.
  - Obstructive sleep apnoea syndrome – first diagnosed moderately severe in 2017 and referral for CPAP therapy. Licensing first informed of this condition seven years later. In 2021 licensee reported to a doctor he was too tired to drive his taxi in the afternoons. Last review of his sleep apnoea in 2018 so is now overdue.
  - In 2015 underwent an ECG due to breathlessness. Not reported to licensing until nine years later.
  - Visual acuity readings indicated he did not meet the Group 2 standards

On 2 and 8 February 2023 the licensee provided further information in relation to his medical status.

- Since 2015 the licensee renewed his combined license four times, each time making a false declaration on the renewal applications as he had indicated an answer of “no” when asked “are you aware of any event which would affect the information supplied on the last medical certificate submitted to B&NES Council by you?”
- The licensee has indicated he has dyslexia and ADHD which makes it difficult for him to read and understand forms. The Members noted he has not been formally diagnosed with either condition. He has never previously expressed any difficulties to licensing in completing applications and had completed forms in the presence of licensing officers without apparent difficulty.
- On 5 April 2024 his licence was immediately suspended as licensing could not be satisfied he met the group 2 standards. The license was reinstated on 11 April 2024 on production of evidence he met those standards.
- Apart from the failure to declare medical concerns there have been no other concerns or complaints regarding the licensee.

Members heard from the licensee:

- He has struggled with forms and to read all his life.
- He admitted he should have asked for help
- He has let himself and licensing down
- He has now put things in place with his partner or eldest son to read things to him and he asks them to repeat information until he has understood.
- He has now read and fully understands the terms and conditions of his license.
- He can read road signs without difficulty due to the size of the text
- He will ask hirers more than once to clarify information.

- He admitted it took a long time for licensing to become aware of his serious medical conditions. He was not a full time driver until more recently.
- He has now arrangements in place for a CPAP review and eye test every year.
- He knows that any issues and changes to his conditions he must report to licensing.

Members found the on the facts the licensee:

- Had failed to comply with the condition on his licence regarding informing licensing of changes in his medical condition. Some conditions he had for seven years and had not notified licensing.
- Had made four false declarations on renewal applications.
- Members accepted the licensee’s evidence regarding his dyslexia.
- The licensee had held his licence for approximately eighteen years and there have been no other concerns or complaints.

Members find on balance 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 familiarise himself with the conditions of his licence, especially those relating to medical conditions
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 that he appropriately seeks medical advice and reports any changes to his conditions to licensing as required by his license conditions.
4. If he is unsure about any matter he must speak to licensing.
5. 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 1.45 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**