

Licensing Sub-Committee

Date: Thursday, 3rd October, 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

Democratic Services

Lewis House, Manvers Street, Bath, BA1 1JG

Telephone: 01225 394458

Web-site - <http://www.bathnes.gov.uk>

E-mail: Democratic_Services@bathnes.gov.uk

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, 3rd October, 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: 22ND AUGUST 2024 AND 5TH SEPTEMBER 2024 (Pages 5 - 22)

6. LICENSING PROCEDURE (Pages 23 - 26)

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 - 22/00256/TAXI (Pages 27 - 112)
9. CONSIDERATION OF FIT AND PROPER STATUS - 22/00248/TAXI (Pages 113 - 194)

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, 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

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 5th September, 2024, 10.00 am

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

Officers in attendance: Carrie-Ann Evans (Team Leader, Legal Services), Michael Dando (Senior Public Protection Officer), Wayne Campbell (Public Protection Officer (Licensing)) and Chris Jennings (Public Protection Officer (Licensing))

50 EMERGENCY EVACUATION PROCEDURE

The Chair welcomed everyone to the meeting and asked the Democratic Services Officer to read out the Emergency Evacuation Procedure.

51 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

52 DECLARATIONS OF INTEREST

There were none.

53 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

54 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.

55 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.

**56 CONSIDERATION FOR REVOCATION OF PERSONAL LICENCE
10/01627/LAPER**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine whether a Personal Licence should be revoked, having received a Police Notice requesting such revocation on behalf of The Chief Officer of Police.

The Police Licensing Officer addressed the Sub-Committee and stated that revocation of a Personal Licence was being sought due to the licensee having been convicted on three relevant offences under Section 113 and Schedule 4 of The Licensing Act 2003.

He informed the Sub-Committee that the licensee had also failed to tell the Court, when convicted, that he held a Personal Licence and had not informed the Licensing Authority regarding his convictions.

The Police Licensing Officer explained that the licensee was also the Designated Premises Supervisor (DPS) at four premises within B&NES.

The Chair asked if it was a criminal offence for the licensee to withhold that he was a Personal Licence holder from the Court.

The Police Licensing Officer replied that it was.

The licensee addressed the Sub-Committee and said that he was sorry for what he had done. He said that he now knows it was wrong to send a video to his friend, but stated that he had not actively search to find it in the first instance.

Councillor Toby Simon asked the licensee if he had completed his rehabilitation programme and series of meetings with his probation officer.

The licensee replied that he had and that they had concluded on 2nd September 2024.

The Police Licensing Officer said that in his role as a DPS, information regarding the conditions of his licence should be kept on the premises. He asked the licensee if he was able to train his staff appropriately.

The licensee replied that he was and that he receives information from the Council about training online. He added that he does keep the conditions of his licence on the premises he runs.

The Chair stated that the licensee should be fully aware and know the responsibilities that come with holding his Personal Licence.

Councillor Toby Simon asked if the Licensing team had any notable interactions with the premises ran by the licensee.

The Public Protection Officer (Licensing) replied that there was a record of some anti-social behaviour in the locality of one of the premises, that there was no evidence of a refusal log, incident log or age restricted training at another, no

complaints regarding one of the premises and one historical incident relating to test purchasing at another.

The Team Leader, Legal Services said that the Sub-Committee should consider whether or not this information was relevant when making their decision.

The Police Licensing Officer made a closing statement. He said that in order to hold a Personal Licence that person must be professional in their role and observe the four licensing objectives.

He stated that the Police believe that the licence should be revoked as the Court convictions undermine the prevention of crime and disorder and the protection of children from harm licensing objectives.

The licensee said that he had no further comments to make.

Decision & Reasons

Members have had to consider whether or not the licensee can continue to hold his personal licence under the Licensing Act 2003 in the light of a conviction for three relevant offences and a police notice requesting revocation of the personal licence. In doing so Members took account of the Licensing Act 2003, Statutory Guidance, Human Rights Act 1998 and the Council Statement of Licensing Policy.

Members heard from the licensee in oral representations who indicated that in respect of one of the offences a video had come up on Telegram, he had not searched for it, and he had shared it with his friend in America as he was surprised that this was what was happening in his country as a result of war. He went on to explain that in relation to the other offences, he had received images from his friends via WhatsApp and they had ended up saved on his phone. He acknowledged to Members his mistake and apologised for what he had done.

He appreciated now that he should not have sent the video, and he said he did not know much about the internet but he understands now that this video was on the black market and that people were doing these things without permission. The licensee explained to Members that his licensed premises had been his business and his job since 2010. If they revoke his licence, this is going to affect his business. He confirmed to Members that he had completed his rehabilitation activity requirement in relation to his court sentence, with the probation service.

Members heard from the Police Licensing Officer Ben Allen who reiterated the information regarding the conviction as provided in the police notice. In closing submissions Mr Allen indicated that a personal licence holder should act professionally and responsibly, taking responsibility for the promotion of the licensing objectives. In the police's view, those responsibilities and permissions are unsuitable for someone with the licensee's current convictions which undermine the crime prevention licensing objective and put children at risk. Mr Allen noted how rare this kind of application from the police is and that it is an indication of the seriousness of the conviction and the concerns held by the police.

Members noted that the licence holder had failed to comply with his duty under section 132(2) Licensing Act 2003 and as set out in the terms of his personal licence,

to notify the court that he was a personal licence holder and to notify the licensing authority of his conviction. The authority had only come to know about the conviction as a result of notification from the police.

In reaching a decision members had had regard to:
Representations made by premises licence holder,
Any decision of a court under section 129 or 130 of the Licensing Act 2003 of which the authority is aware,
Any other information the authority considers relevant.

Members find that if they were to allow the licensee to continue to hold the personal licence this would undermine the prevention of crime and disorder licensing objective. His offending behaviour was of a serious nature, they are mindful of the presence of children, who may be unaccompanied, in the premises that he is responsible for, and they did not feel the lesser measure of suspension of the licence was appropriate or proportionate to the circumstances. As such, they revoke his licence, and he will be provided with a notice to that effect.

57 CONSIDERATION OF IMPACT OF MEDICAL DIAGNOSIS - 22/00365/TAXI

The Lead Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine a licensee's fitness to continue to hold a combined Hackney Carriage/Private Hire Driver's licence.

The licensee confirmed that the content of the report was correct. He apologised and said that English was not his first language. He added that he was very sorry that he had not reported his medical conditions to the Licensing team.

He explained that he has to ask his son to help him when using a computer.

Councillor Toby Simon commented that the licensee had already appeared before the Sub-Committee on two previous occasions and had been warned about his conduct in relation to complying with the conditions of his licence.

He referred to the MOT failure and asked the licensee if he was aware that he could present his vehicle up to one month before the current expiry date.

The licensee replied that around the same time he had been suffering from a skin problem and that when he realised that the MOT was due his normal garage had no availability to perform the inspection.

Councillor Simon stated that there are many other garages that he could have taken his vehicle to. He asked the licensee why he had purchased the incorrect insurance.

The licensee said that this was an error by the insurance company.

Councillor Simon said that it was the licensee's responsibility to check these documents regardless.

The Chair asked the licensee how he could ensure that these issues regarding his administration / conditions would not happen again.

The licensee replied that he would ask his son to help him with all these matters.

The Team Leader, Legal Services asked the licensee if he had reported his eye condition to the DVLA in 2015.

The licensee replied that he had not and said that he has now had further tests and that all was ok.

The Team Leader, Legal Services asked the licensee if he had driven his taxi whilst knowing that he had an eye condition.

The licensee replied that he had not.

The Team Leader, Legal Services asked the licensee if he had stopped driving for a period of time after complaining of problems with his vision in December 2021.

The licensee replied that he had not driven whilst knowingly had issues with his vision at that time.

The Team Leader, Legal Services asked the licensee if he was now aware of what to do if there are any further changes to his medical condition.

The licensee replied that he knows he must inform the Council as soon as possible. He made then made a closing statement to the Sub-Committee.

He said that he was sorry for the mistakes that he has made.

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 medical diagnosis and his record as a BANES licensed driver. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

Members heard from the licensee in oral representations who indicated that he accepted all of the things set out by the licensing officer in his report to committee. He explained that English is not his first language, and he has a problem with not understanding well, so he has to ask his son each time to help him with understanding. He apologised for medical conditions from before Covid which we did not mention to the council and for that he said he was very sorry. He informed members that he has a wife and children that he has to maintain. In response to questioning regarding the gap in his MOT cover, the licensee explained that at the time he was not sleeping well and was on medication. He had gone to more than one garage and they did not have any slots free. On questioning regarding not having insurance for his vehicle for hackney carriage use, he explained that the insurance company forgot to print out hackney carriage and put 'private'.

The licensee accepted that it was his responsibility to check his documentation. On questioning regarding his eye condition in 2015, the licensee accepted he did not notify the DVLA but said that he had an eye check which confirmed all was ok. He said he goes for an eye check every year and all is ok. On questioning, he explained

that he stopped driving when he had his eye conditions. The licensee explained that if he has a change in medical condition, he knows now that needs to notify the council. In summing up the Licensee acknowledged that the mistakes have happened over and over again. He referred to the English language barrier but assured members that he had put himself back together, he was going to concentrate on his job and get everything back together.

Members noted that the licensee had held a licence with BANES since 2012.

Members noted that the licensee had two previous appearances before Licensing Sub Committee. The first was in 2015 where he received 4 penalty points on his Private Hire Driver's Licence for failing to declare a motoring conviction and making a false declaration on his renewal application. The second was in 2023 when: (i) he appeared before the committee as he had allowed an unrelated adult to join a home to school contract journey when a child was present in his vehicle, and (ii) he had received 6 penalty points on his DVLA licence, with an admission that he accepted the penalty points on behalf of someone else. On the latter occasion, members determined he was fit and proper to continue to hold his BANES licence but he was issued with warnings which included: *"he must continue to comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public"*, and, *"if he comes before the Licensing Sub Committee again, against this background, there is a risk of revocation of his licence."*

The Licensee appeared before the committee today as the medical report he provided in January of this year revealed a medical condition which he had not declared previously and his renewal application in April of this year had highlighted a number of issues, namely:

1. The insurance certificate he had supplied did not include cover for use as a Hackney Carriage vehicle, and in fact specifically excluded public hire. This was the same certificate that he had supplied in December 2023 and was asked to re-submit as he had submitted it through the wrong channels.
2. His previous MOT certificate expired on 12/04/24 and his vehicle was not taken for a new MOT until 19/04/24, consequently there was a gap in MOT cover of 6 days.
3. When his licensed vehicle underwent its MOT inspection on 18/04/24 it presented with a major defect *"nearside front tyre has a cut in excess of the requirements deep enough to reach the ply or cords close to outer sidewall & worn on inner edge."*

Enquiries made by the licensing section into the licensee's medical conditions revealed that:

1. Save for on first application, his next medical form was submitted in January 2019, his third was in January 2024.
2. The 2019 form did not include a diagnosis of hypertension. It did indicate a diagnosis of diabetes controlled by drugs other than insulin and that the diagnosis was made in December 2018. In fact, it is clear from medical

records that he was aware he had diabetes in 2017 and did not notify the licensing section of this until nearly two years later in January 2019.

3. Between January and November 2018, the licensee was strongly advised by medical professionals to commence medication for diabetes however, he failed to do so until November 2018.
4. The 2024 form indicated that he was diagnosed with hypertension in July 2021.
5. The licensee's explanation for not declaring this diagnosis was that he forgot due to Covid lockdown in July 2021. The final such lockdown ended in March 2021.
6. The licensee had been advised by medical professionals to start taking medication for high blood pressure, various times between December 2018 and December 2020 but failed to do so.
7. In February 2015 the licensee had an eye condition which he failed to declare to the licensing section. The Group 2 driver medical standards, which BANES licensed drivers must meet, indicate that where a diagnosis for this condition occurs the driver must not drive and must inform the DVLA. The licensee admitted that he did not notify the DVLA, he said to members he stopped driving, but that he had an eye test which revealed everything was ok with his eyes.
8. In December 2021 the licensee visited his GP and reported that his eyesight had deteriorated, and he was suffering blurred vision following which he was advised to book an optician appointment. The licensee did not notify the licensing section of this issue which could have affected his ability to drive and could have caused public safety issues.

Members noted that compliance with the conditions relating to: (i) declaration of medical conditions and any changes in medical condition, and (ii) MOTs and insurance, 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.

The Licensee had been given a clear warning in 2023 regarding the importance of compliance with the conditions of his licence, but he had gone on to breach these conditions again.

Whilst the licensee was apologetic and said he understood what was required of him, he had said this to the committee in 2023. He has a catalogue of breaches of the terms of his licence on his record at regular intervals throughout the period of his licence, several of which go right to the heart of public safety.

He has shown that he is unable to learn from his past mistakes, following previous warnings and appearances before committee, the most recent only 18 months ago. Therefore, on balance, members find that the licensee is not a fit and proper person

to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence and revoke his licence on notice.

The meeting ended at 12.50 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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.

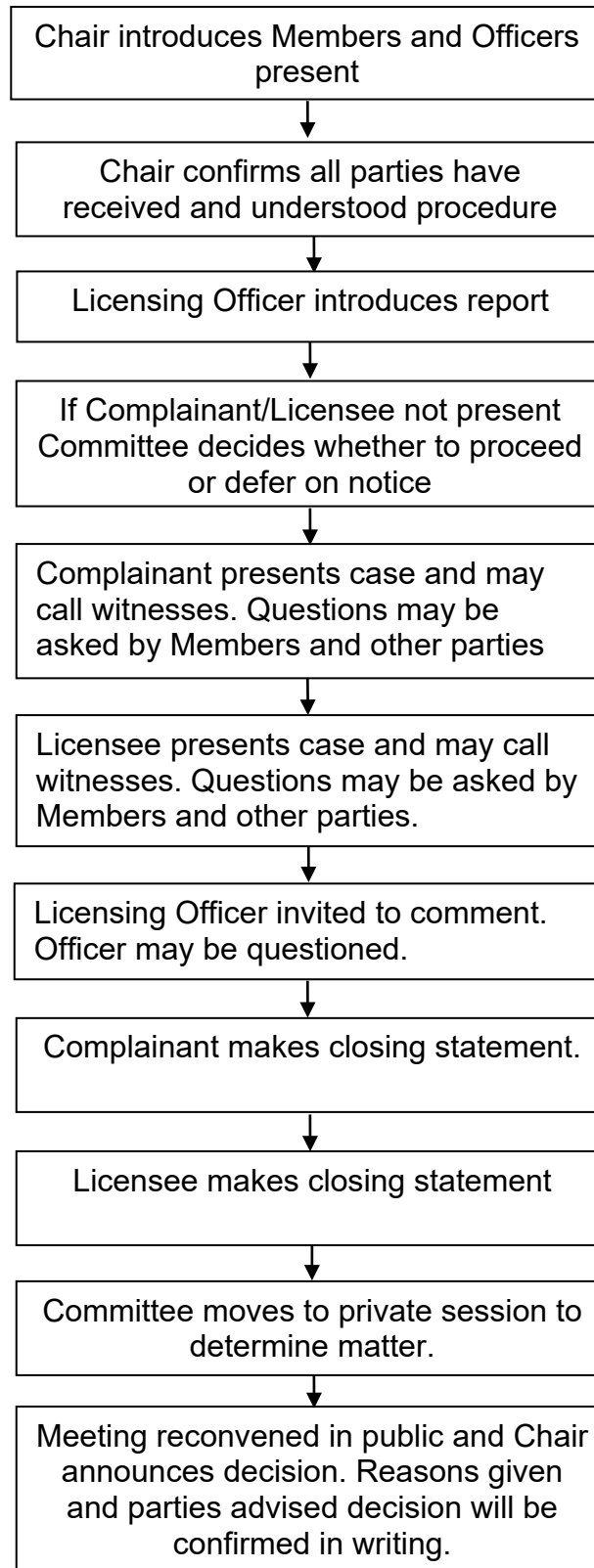
PLEASE NOTE:

- 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-2006580
Meeting / Decision: Licensing Sub-Committee
Date: Thursday 3 rd October 2024
Author: Holly Woodrow
<p>Exempt Report Title: Consideration of Fit and Proper status</p> <p>Exempt Appendix Title(s):</p> <p>Exempt Annex A - Current Licence.</p> <p>Exempt Annex B - 30/04/24 Complaint Correspondence</p> <p>Exempt Annex C - 02/05/24 Complaint Correspondence</p> <p>Exempt Annex D - Correspondence regarding LSC Referral</p> <p>Exempt Annex E - 10/03/24 Complaint Correspondence with Licensee</p> <p>Exempt Annex F - 10/03/24 Complaint Correspondence with Complainant</p> <p>Exempt Annex G - 10/03/24 Complaint Correspondence with Police Taxi Compliance Officer</p> <p>Exempt Annex H - 10/03/24 Complaint – Statement from Complainant</p> <p>Exempt Annex I - 14/10/22 Complaint Correspondence</p> <p>Exempt Annex J - 24/10/21 Complaint Correspondence</p> <p>Exempt Annex K - Minutes and Resolution of Licensing Sub-Committee hearing on 26/05/15</p> <p>Exempt Annex L – Matters considered at the Licensing Sub-Committee hearing on 26/05/15</p> <p>Exempt Annex M - Emails from Customers of the Licensee</p> <p>Exempt Annex N - Bath & North East Somerset 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.

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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-2012542
Meeting / Decision: Licensing Sub-Committee
Date: Thursday 3 rd October 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 & Attached Conditions Exempt Annex B – Copy of D4 Medical Form. Exempt Annex C – Copies of Extracted Pages From Previous Combined Hackney Carriage/Private Hire Driver’s Licence Renewal Application Forms. Exempt Annex D – Correspondence Relating to Non-Declaration Of Medical Conditions. Exempt Annex E – Copy of Letter From GP. Exempt Annex F – Copies of Extracted Pages from Assessing Fitness To Drive – A Guide For Medical Professionals. Exempt Annex G – Correspondence Relating To Immediate Suspension Of Combined Hackney Carriage/Private Hire Driver’s Licence. Exempt Annex H – Correspondence Relating Reinstatement of Combined Hackney Carriage/Private Hire Driver’s Licence. Exempt Annex I - 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.

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

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