

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 17th October, 2024, 10.00 am

Councillors: Steve Hedges (Chair), Ann Morgan and George Tomlin

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

67 EMERGENCY EVACUATION PROCEDURE

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

68 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor George Tomlin was present for the duration of the meeting as a substitute for Councillor Toby Simon.

69 DECLARATIONS OF INTEREST

There were none.

70 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

71 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.

72 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.

73 CONSIDERATION OF “FIT AND PROPER” STATUS - 23/00105/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 said that the reason for the late notification for his most recent offence was that the letter notifying him of the incident had been sent to him whilst he was out of the country.

He added that other previous faults regarding his licence had been either minor or as a result of a misunderstanding.

Councillor George Tomlin asked the licensee if he was aware that having 3 or more minor motoring offences during the previous three years was a breach of the Council's policy.

The licensee replied that he was not aware of this.

He stated that his licence was his livelihood and needed to be able to drive to support his family.

The Chair asked the licensee why he had broken the speed limit on numerous occasions.

The licensee replied that he mainly worked within Bristol and that his offences had occurred in Bath where he had found it difficult to control his speed whilst driving on hills. He added that he has never intended to drive at speed on purpose and now drives more carefully when in Bath.

The Chair asked how old his vehicle was.

The licensee replied that it was a 2018 model.

The Chair said that if that was the case he should be able to put a speed limiter in place on the vehicle.

The licensee replied that whilst the vehicle had been serviced this feature had been activated, but had somehow now turned off and he did not know how to put it back on.

The Chair stated that it was the licensee's responsibility to know the policy of the Council and asked him what measures he will put in place to make sure that he completes all of his statutory paperwork on time.

The licensee said that he would make sure that he renews his MOT and insurance well in advance of the deadlines. He added that for his most recent MOT his vehicle had been booked 2-3 weeks ahead of renewal, but the vehicle had failed and that the following appointment could only be made after the renewal deadline had passed.

The Chair said that it was important to inform the Licensing department as soon as you realise that there are any problems.

The licensee gave a summing up statement to the Sub-Committee. He said that whilst holding his licence he had received no complaints from the public and that he was in no way a threat to them. He stated that in his view the previous faults were minor and as a result of misunderstandings.

Councillor Ann Morgan asked the licensee if he was aware of the severity of his offences / actions now.

The licensee replied that he was.

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 speeding convictions and his licensing background. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

The Licensee addressed Members in oral representations. In relation to the reason why he had not notified licensing of his latest speeding conviction within 7 days, he indicated that the letter had been put to one side by his partner and he was not aware of it as he had gone abroad. Whilst he was abroad with his son, he had asked his partner if any post had arrived for him, and she had sent a WhatsApp image of the letter to him. It was at that point that he had notified licensing, and this is the reason for the delay in giving notification. In relation to his failures in providing MOT and insurance certificates, the Licensee explained that this was due to misunderstandings. Similarly, in relation to the incident where he attended the licensing offices in his Private Hire Vehicle without holding a Combined Hackney Carriage/Private Hire Driver's Licence, he said he did not realise that he could not drive his son to school for example, in his vehicle. He thought this was ok as he had removed his plates and was insured as far as he was concerned.

On questioning by Members, the Licensee indicated that he unintentionally committed speeding offences and whilst it was no excuse, he did not exceed the speed limits by a great deal; it was normally when he was going up or downhill. In terms of what he would do in future to ensure that he complies with the policy and conditions of his licences, he indicated that he would make sure he drives more carefully everywhere, and he would make MOT bookings and contact his insurance company earlier. The Licensee indicated that he had learned a lot now and he would make sure that he would comply with all of the conditions imposed on him. He apologised for his conduct and asked Members to give him another chance.

Members noted that the Licensee had obtained three minor motoring convictions in the last three years which was contrary to the Council's policy, and that two of these convictions had been considered when he had appeared before the Licensing Sub Committee in April 2023. At that Sub-Committee he had received a final warning that he needed to comply with the terms of his licences and must take care to travel within the speed limits, amongst other things.

Members noted that compliance with the conditions on BANES licences 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. Members also noted the importance of complying with the speed limits in force to ensure the safety of road users.

Members found the Licensee's account regarding the delay in notifying Licensing of his latest conviction to be credible, they took on board his confirmation that he understood the severity of what he had done and would put measures in place to ensure this did not happen again, and Members noted that there had been no complaints from Members of the public in relation to his conduct as a BANES licensed driver. For those reasons, on balance, Members find that the Licensee is still a fit and proper person to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence but issues a warning to the Licensee that:

1. He must understand and comply with the Council's policy on Hackney Carriage and Private Hire Licensing Standards for Drivers, Vehicles and Operators.
2. He must understand and comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public.
3. He must set up and maintain arrangements which will ensure that he complies with all the obligations of his licences and indicate in writing to the licensing section within 21 days from today i.e. by 8th November 2024, what measures he has put in place.
4. He must confirm in writing to the licensing section within 21 days from today, that he has re-read the Council's policy and the conditions of his licences.
5. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

Note

If the Licensee fails to comply with the requirements at paragraph 3 and 4 above, he may be referred back to Licensing Sub Committee to consider his fit and proper status.

74 CONSIDERATION OF FIT AND PROPER STATUS - 22/00579/TAXI

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine whether a licensee remains fit and proper to hold their combined Hackney Carriage/Private Hire Driver's licence.

He explained that there was an error on the Stop Notice within the agenda pack as that had indicated that a spare wheel was in the vehicle at the time of the inspection and there was not one present.

The licensee stated that the item that had been found within his vehicle was a gardening tool that he had purchased from B&Q. He said that it had been a genuine mistake that he had left the item in his vehicle whilst working. He explained to the Sub-Committee that he used the tool to chop down shrubbage near areas where he goes fishing and that he had offered to show the Police evidence of this if required.

He said that the tool is stored in a separate storage compartment within his boot and had totally forgot that it was in the vehicle. He added that this was an action that he regrets.

The licensee informed the Sub-Committee that he had received no complaints from members of the public since becoming a driver in 2016 and could supply a character reference if required from his employer.

The licensee addressed the Sub-Committee regarding the evening that his vehicle was stopped by a Taxi Licensing Police Officer in July 2024 and the subsequent breaches of his licence and conditions.

The licensee said that his missing vehicle roof sign, Combined Hackney Carriage/Private Hire driver's ID badges, interior comment plate, "No Smoking" signs, fire extinguisher, spare light bulbs and spare wheel were not within or on his vehicle when it had been stopped for inspection as the vehicle had been valeted and that the items that should have been in the vehicle had been removed prior to that.

He added that in his opinion the licence plates were in place and were clearly visible. He said that he had not been told that the licence plate for the rear of the vehicle could not be displayed in the window. He stated that when the vehicle was reinspected everything was fine.

Councillor George Tomlin asked the licensee when had the vehicle been valeted prior to it being stopped for an inspection.

The licensee replied that this had been one day before the inspection and accepted that all items should have been replaced.

Councillor Tomlin asked the licensee why he did not have his personal ID badge on him at the time the vehicle had been stopped for inspection.

The licensee replied that he could not explain this. He said that he understood the importance for all ID to be worn and displayed and accepted that these were his mistakes. He added that he had been calm when questioned at the inspection and that no charges had been brought against him.

The Chair stated that vehicle signage and ID need to be in place for many reasons and were vital, especially to ensure the safety of the public.

The licensee said the plate to the front of the vehicle had not been blocking the vehicle's registration and reiterated that he had not known that the rear plate could not be displayed in the window. He added that his vehicle has livery on the doors that show that the vehicle is a taxi.

The Chair asked the licensee if he now accepts that as a condition of his licence that the plates for the vehicle must be attached to the exterior of his vehicle, front and rear.

The licensee replied that he does now accept this.

The Public Protection Officer (Licensing) asked the licensee where he had had his vehicle valeted.

The licensee replied that he had done this himself. He said that he knows he should have put back the items that were removed.

The Public Protection Officer (Licensing) said that he disputed the licensee's account of his demeanour on the night of the inspection and said that the Taxi Licensing Police Officer had needed to calm him down.

The licensee said that he had been embarrassed about being pulled over for the inspection.

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

The licensee said that he acknowledged the mistakes that he had made and that he was telling the truth when answering questions at the inspection and 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 in the light of a number of breaches of the conditions of his BANES licences and for having a gardening tool present in vehicle. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

The Licensee addressed Members in oral representations and admitted his wrongdoing. He acknowledged that he had breached the conditions of his licence by failing to return items to his vehicle after he valeted it. He explained that he had all of those items at home and was able to put them back into his vehicle so that it was satisfactory on re-inspection. He disputed that the front plate was obscuring the VRN but accepted that as he was asked to move it, he did so. He explained to Members that it was negligent of him to leave the gardening tool in his vehicle. He could see how this might be perceived if a passenger had been aware of this. The Licensee explained that the tool was in his vehicle for use when fishing and that he was telling the truth that there were no malicious or suspicious reasons behind it being present in the car. He explained to Members that he had felt embarrassed when he was stopped by licensing officers and the police; he had a passenger in his vehicle at the time.

On questioning by Members, the Licensee acknowledged his wrongdoing and said he understood why it was important to have the items in his vehicle as required by the conditions on his licence, in the interests of public safety.

Members noted that the Licensee was found to have breached 8 of the conditions of his licence when his vehicle was inspected as part of a joint operation between the police and licensing. Compliance with these conditions is vital to ensure the safety of the travelling public.

Members noted that the police had decided to take no further action in relation to possession of the gardening tool.

Members were satisfied based on what they had heard and read that the Licensee understood now, the importance of complying with the conditions on his licence, to ensure the safety of the travelling public. They are also satisfied that the possession of the gardening tool in the car boot, was negligent. They also noted that he had no complaints on his licensing record from Members of the public. However, the breaches of condition and presence of the tool in the vehicle was sufficiently serious that they issue him with a final warning as to his future conduct as follows:

1. He must understand and comply with the Council's policy on Hackney Carriage and Private Hire Licensing Standards for Drivers, Vehicles and Operators.
2. He must understand and comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public.
3. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

The meeting ended at 12.55 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services