

## **BATH AND NORTH EAST SOMERSET**

### **LICENSING SUB-COMMITTEE**

Thursday, 9th January, 2025

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

**Also in attendance:**

#### **107 EMERGENCY EVACUATION PROCEDURE**

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

#### **108 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **109 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

#### **111 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.

#### **112 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.

#### **113 CONSIDERATION OF “FIT AND PROPER” STATUS – 2025/JAN/01/TAXI**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. She explained that they were being asked whether the licensee remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence issued by this authority.

The licensee acknowledged the issue of vaping within their vehicle in 2019 and stated that at the time the terms and conditions of being a driver did not mention vaping specifically. The licensee added that once this point had been clarified with a member of the Licensing team they stopped and had not done so since.

The licensee addressed the complaint made in 2021 regarding a fare refusal and said that at the time they were working for Veezu and were allowed to cancel a job if their customer did not arrive within five minutes of the agreed pick-up time.

The licensee added that when they returned to the same area one hour later the same customer approached them and asked to be taken home. The licensee explained that he could not accept their request as they were not a booked job on his screen. He said that the people in question were also heavily drunk.

The licensee said that another accusation regarding that night was that they had accepted a better paying fare. The licensee explained that drivers for Veezu in 2021 would not know what their next job was.

The licensee referred to the complaint made in 2022 and said that they believed that they were acting in the best interests of the family concerned by parking as close to their home as possible to enable their disabled child to have only a short distance to travel from his vehicle to their home.

Referring to the three speeding offences the licensee said that there had been no excuse for these events. They said that at times they may have been under some personal stress, but this did not justify their actions and said that they would be more mindful now.

The licensee explained that following their court appearance in 2024 they had been allowed to keep their driving licence due to mitigating circumstances.

The licensee stated that they acknowledge the seriousness of all these events combined and would learn from this experience.

Councillor Toby Simon asked a question in relation to the complaint from 2022. He asked the licensee what their role was in notifying the taxi operator that resulted in their email to the Licensing team.

The licensee replied that they carry out a school run on behalf of Zippee and that following the incident they had informed the operator of what had happened. The licensee added that the operator had said that they knew the complainant.

The licensee admitted that they were wearing shorts that day, but had forgotten their badge. They insisted that they had not sworn during the incident.

Councillor Simon asked if he had committed any other driving offences.

The licensee replied that no further offences had been committed within the past year.

The licensee stated that over the past seven years only a few complaints had been made against them and that no complaints had been made in respect of their main role which was as a school run driver and airport transfers.

The licensee said that they wanted to do the best that they can 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 their combined Hackney Carriage/Private Hire Driver's licence in the light of complaints made against them and motoring convictions. 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 which was based upon a written statement they had prepared for Committee, and they had read the written explanations given by them in the agenda report pack.

Members noted that the Licensee had received 3 minor motoring convictions on their DVLA licence in less than one year and that they had been convicted for these offences within a period of two years. This was contrary to BANES' policy which expects that licensees will not have been convicted of three or more minor motoring offences during the previous three years.

Members considered the three complaints against the Licensee, since he was first licensed. Members noted that they had heeded the advice regarding vaping from their vehicle. In relation to the alleged refusal of a fare, they noted the explanation provided by the Licensee that they were able to cancel the booking through the Veezu app if the customer was 5 minutes late and that at a later stage one of the passengers was too drunk, in their view, for them to take in their licensed vehicle. In relation to the complaint regarding aggressive conduct, Members preferred the Licensee's account that they were not the aggressor, which was supported by their operator and the BANES staff member who was the child's escort.

Members were satisfied based on what they had heard and read from the Licensee, that they had learned from their past mistakes and had taken on board advice given by the Licensing Section to ensure that their mistakes are not repeated. In closing submissions to Members, they acknowledged the seriousness of the incidents and said that they deeply regretted any concerns that they may have caused. They indicated that they are committed to adhering to all regulations and maintaining the highest standards expected of a licensed driver.

Members noted that the Licensee's DVLA driving licence is endorsed with 12 penalty points and that is a significant deterrent to the Licensee in relation to their future conduct.

Therefore, 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 however, they issue a final warning to them that they must:

- i. Ensure that they adhere to the rules of the road;
- ii. Ensure that they comply with all the BANES conditions and policies related to their licences, including those regarding appropriate modes of dress when acting as a licensed driver.

If they appear before the Licensing Sub Committee again, against this background, they are at risk of revocation.

Members observed that if a significant complaint is upheld against the Licensee or they receive any further convictions, cautions or fixed penalties, the Licensee should be referred to Licensing Sub Committee to consider their fit and proper status.

#### **114 CONSIDERATION OF "FIT AND PROPER" STATUS – 2025/JAN/02/TAXI**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. She explained that they were being asked whether the licensee remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence issued by this authority.

Councillor Toby Simon asked why the complaint from July 2016 had not been reported to the Sub-Committee that met in August 2022.

The Public Protection Officer (Licensing) replied that she was not able to comment on why this had been the case.

The licensee stated that they were not aware of this complaint and asked for it to be removed from their record.

The Chair said that the Sub-Committee would disregard the complaint in the context of this meeting.

The licensee addressed the matter of the insurance certificate that was submitted in September 2024. They acknowledged that it had been submitted one day late said that they had not noticed that it did not cover the vehicle for public hire use or use as a Hackney Carriage. The licensee explained that the insurance company had accepted that they had made an error by issuing the wrong certificate.

The licensee added that they would never knowingly drive without insurance in place as their licence was too important to them.

The licensee said that they understood that they had breached a number of conditions of their licence. They explained to the Sub-Committee that they drive for around 60 hours per week, were now a single parent and that they try to do the best they can in their role.

They said that the majority of their paperwork is sent in on time, but said that many things had happened recently in their personal life.

Councillor Ann Morgan asked the licensee if they had considered using a calendar app, e.g. Cozi, to help with reminders for things such as insurance and MOT.

The licensee replied that this sounded like a good idea.

The Chair commented that MOT reminders could also be set through the DVLA app.

Councillor Toby Simon referred to the speeding offences and asked if any customers were within the vehicle at the time of these offences.

The licensee replied that there were no passengers present in the vehicle on any of those occasions. They added that they now use Google Maps to make them more aware of the changes in speed limit as they drive.

Councillor Simon asked if driving for 60 hours a week was too much.

The licensee replied that they do take regular breaks whilst driving during the day.

The Chair asked if somebody within their family or a close friend could help them with the paperwork.

The licensee replied that they could possibly ask a family member to help. They also thanked the Sub-Committee for their advice regarding the Cozi and DVLA apps. They added that they would also consider taking some time off during the week to allocate towards administrative duties.

The licensee said that they would do their utmost not to breach any of their conditions again.

### Decision & Reasons

Members have had to consider whether or not the licensee is a fit and proper person to continue to hold their combined Hackney Carriage/Private Hire Driver's licence in the light of minor motoring convictions and non-compliance with the conditions of their licence. 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 had read the Licensee's written explanations contained in the agenda report pack and heard from them in oral representations. The Licensee admitted that they had breached the conditions as alleged and that they had committed the speeding offences however they denied any knowledge of the 2016 allegation. As far as the Licensee was concerned, they had had no complaints from Members of the public for the whole time they had been licensed and noted that it was confirmed at the Licensing Sub Committee in 2022, that there had been no complaints against them. Members left this matter out of their consideration.

Members noted that the Licensee had accrued 3 speeding convictions in less than 3 years, albeit one was known to the Committee before their last appearance in August 2022, which meant they were in breach of the policy wherein it is expected

that a Licensee will not have been convicted of 3 or more minor motoring convictions within the previous 3 years. Members also noted that at their appearance before Committee in August 2022, they received a final warning that they must comply with the conditions on their licences as they are an important safeguard to ensure the safety of the travelling public and if they come before the Licensing Sub Committee again, against this background, there is a strong risk of revocation of their licence.

Members noted that the Licensee had experienced extenuating personal circumstances both prior to their appearance at Committee in 2022 and in relation to this Committee. Whilst Members had sympathy for them, they had to be satisfied that they were fit and proper to continue to hold their BANES driver's licence and that they had learnt from their past mistakes. In addressing Members, the Licensee indicated that they had set up Google Maps on their phone, with noise alerts so that they are notified when they start to exceed the speed limit.

On questioning from Members the Licensee identified that they plan to set aside half a day a week in order to deal with their paperwork, they would set up DLVA alerts in relation to their MOT reminder and would download an app, such as the COZI app, to ensure that they were sent reminders regarding key dates for their diary.

Therefore, 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 however, they issue a final warning to them that they must do as follows:

- i. Ensure that they adhere to the rules of the road;
- ii. Ensure that they comply with all the BANES conditions and policies related to their licences.
- iii. Ensure that they download an app such as the Cozi app or equivalent in order to manage their diary and administrative affairs.

If they appear before the Licensing Sub Committee again, against this background, they are at risk of revocation.

Members observed that if a significant complaint is upheld against the Licensee or they receive any further convictions, cautions or fixed penalties, the Licensee should be referred to Licensing Sub Committee to consider their fit and proper status.

## **115 CONSIDERATION OF FIT AND PROPER STATUS – 2025/JAN/03/TAXI**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. She explained that they were being asked whether the licensee remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence issued by this authority.

She added that some additional information had also been circulated to them and the licensee earlier in the week.

Councillor Toby Simon asked if this information should be taken into account as part of today's meeting or was merely background information.

The Public Protection Officer (Licensing) replied that it should be taken into account from the point of view of the safety of the licensee's vehicle.

The licensee said that they admit that they have made some mistakes and that they are not always good with communications and IT. The licensee added that they have enrolled in a local college course to improve their IT skills.

The licensee referred to the road traffic accident in September 2024 and explained that their vehicle had been stationary at the time of the incident and that only a small amount of damage to their vehicle had occurred.

The licensee said that despite the late submission of their insurance certificates their vehicle had always been correctly insured. They added that on the most recent occasion in July they had asked their son to submit it on their behalf.

The Chair reminded the licensee that even if their son was to help with any paperwork it was still their responsibility to make sure everything is submitted correctly and on time.

The Public Protection Officer (Licensing) referred to an email that had been sent to the licensee on 23<sup>rd</sup> December 2024 regarding the tread depth of their offside rear tyre and asked if it had yet been replaced.

The licensee replied that the tyre had been replaced on the day that this email had been received.

The licensee's son addressed the Sub-Committee. He said that they understood the seriousness of the situation and apologised for the errors that have been made. He said that the licensee was a good people person and that the job gives them joy.

### Decision & Reasons

Members have had to consider whether or not the licensee is a fit and proper person to continue to hold their combined Hackney Carriage/Private Hire Driver's licence in the light of failures to comply with the conditions related to their licences. 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 had received one lot of additional information which was shared by the Licensing Section comprising 13 pages and relating to vehicle inspection reports, an MOT test report showing an advisory in relation to a tyre, and a complaint made by the Licensee's son to the Licensing Section. The Licensee had been provided with a copy of this additional information, in advance of the hearing and had acknowledged receipt.

Members had read the Licensee's written explanations as contained in the agenda report pack and heard from them in oral representations. The Licensee was also assisted by their son at Committee.

Members noted that the Licensee had failed to provide a valid insurance certificate to the Licensing Section within the requisite 7-day period on 3 separate occasions and

that this was in breach of the condition of his licence. Furthermore, they had failed to notify the Licensing Section of a no fault road traffic accident that took place in September 2024, within the 72 hours required as a condition of their Private Hire Licence. The licensee admitted these breaches of condition.

They apologised and informed Members of the extenuating personal circumstances that they had experienced and explained that they were not very good with electronic communication. The Licensee informed Members that they were going to enrol on a course at Bath College to improve their IT skills.

Members noted that the licensee had not received any complaints from the public since they were first licensed in 2021.

Members note that compliance with the conditions relating to insurance certificates is vital so that the Council can be assured that the safety of the public when travelling in a BANES licensed vehicle is not compromised, indeed compliance with all conditions is of the utmost importance.

Member found that the Licensee was apologetic for their non-compliance, that they understood the importance of compliance with the conditions of their licences now and was taking steps to equip themselves for use of electronic communication.

Therefore, 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 however, they issue a final warning to them that they must:

- i. Ensure that they adhere to the rules of the road;
- ii. Ensure that they comply with all the BANES conditions and policies related to their licences, even if they are assisted by another to do so
- iii. Ensure that they put in place a system to manage their administrative responsibilities for their BANES licences.

If they appear before the Licensing Sub Committee again, against this background, they are at risk of revocation.

The meeting ended at 1.28 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**