

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 20th February, 2025

Present:- Councillors Steve Hedges (Chair), George Tomlin (in place of Toby Simon) and Ann Morgan

Also in attendance: Carrie-Ann Evans (Team Leader (Barrister), Legal Services), John Dowding (Lead Officer - Licensing), Holly Woodrow (Public Protection Officer (Licensing)) and Emma Howard (Lawyer (Regulatory & Prosecution))

116 EMERGENCY EVACUATION PROCEDURE

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

117 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

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

118 DECLARATIONS OF INTEREST

There were none.

119 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

120 MINUTES OF PREVIOUS MEETING: 2ND JANUARY 2025 & 9TH JANUARY 2025

The Sub-Committee **RESOLVED** to approve the minutes of the meetings held on 2nd January 2025 and 9th January 2025 and they were duly signed by the Chair.

121 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.

122 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.

123 CONSIDERATION OF FIT AND PROPER STATUS – 2025/FEB/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 Chair asked if the medication prescribed, GTN (Glyceryl trinitrate), could cause dizziness.

The Public Protection Officer (Licensing) replied that this was a potential side effect, but that the licensee had not reported any such reaction.

The Chair asked for confirmation that the licensee had been driving his vehicle, as a taxi, illegally for the past six years.

The Public Protection Officer (Licensing) replied that had Licensing been aware of the medical conditions at the time of diagnosis, the licensee's initial application would have been refused pending further medical information.

The licensee addressed the Sub-Committee and apologised for not declaring their medical diagnosis. They said that as part of this recent process they had been declared medically fit to drive and that they had always considered themselves to be fit at all times.

They said that they had been scared at the time and feared losing their job, but would never put the safety of the public at risk.

Councillor Tomlin asked if following the diagnosis in 2018 if they had been advised not to drive at all by their doctor.

The licensee replied that they were advised only to rest for four days as it had not been a major attack.

Councillor Tomlin asked the licensee for further explanation of why they had not declared their diagnosis to the Licensing department.

The licensee replied that it had been at the time that they were transferring from South Gloucestershire to B&NES and that they had submitted the D4 medical form

with their diagnosis on it to South Gloucestershire Council incorrectly instead of B&NES.

The Chair asked the licensee if they had had a stent fitted following their attack.

The licensee replied that they have two stents that have been fitted.

The Chair asked the Licensing officers present if they felt that if the D4 medical form had been sent to South Gloucestershire in error would they have not contacted B&NES to inform them.

The Lead Officer (Licensing) replied that the form that the licensee had completed was a B&NES one.

The licensee acknowledged that it was their responsibility to have checked that the correct forms should have gone to the right place. They reiterated that they have been declared medically fit to drive.

The Chair asked the licensee why they had made a total of three false declarations to the Licensing team when applying for a licence.

The licensee replied that when re-applying and stating that there had been no change to their previous medical form this was because they thought that they had already made a declaration, but that this must have been to the wrong Council (South Gloucestershire).

Councillor Tomlin asked the licensee what the response had been from South Gloucestershire when they learnt of their diagnosis.

The licensee replied that they had received nothing further and that their licence had been issued to them.

The licensee gave a summing up statement to the Sub-Committee. They apologised for the past six years and said they would not make these same mistakes again, would inform the Licensing team of any further changes in medical diagnosis and comply with all the conditions of their licence.

Decision & Reasons

Members have had to consider whether to renew the licensee's combined Hackney Carriage/Private Hire Driver's licence in the light of failures to declare medical conditions and their licensing record. 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 written correspondence provided by the licensee in the agenda report pack and they heard their oral representations.

In oral representations, the Licensee apologised wholeheartedly for the past 6 years and informed Members that they would never make the mistakes again; they would ensure forms were filled in with clarity, they would fully inform and communicate with

the Licensing Authority any further medical issues and would be fully compliant with all medical regulations.

Members noted that the licensee had been licensed since 2019 and in that time there had been no complaints against them from members of the public.

Members found the licensee's account regarding submission of applications to South Gloucestershire and BANES to be muddled and difficult to follow. Ultimately, whatever applications the licensee made at that time, Members found they should have disclosed to BANES' licensing authority their medical conditions as the conditions of their BANES licences should have been fresh in their mind and they should have been clear on the requirement to notify a change in medical condition.

The licensee's account was that they thought they had disclosed their medical conditions on first application to licensing, but their confusion in this regard may have been due in part to having submitted applications to two local authorities at the same time. The licensee indicated that for this reason that they did not think they had made subsequent false declarations as they thought BANES was aware of their medical conditions.

Notwithstanding the licensees explanations, Members found that there had been a period of time where due to the licensee's non-disclosure of their medical conditions, the safety of the public could have been put at risk. They were mindful however that in December of 2024 it had been identified that they meet the requirements of Group 2 DVLA driving standards and Members attribute substantial weight to that fact.

Therefore, on balance, Members find that the licensee is a fit and proper person to hold the combined Hackney Carriage/Private Hire Driver's Licence on renewal however, they issue a final warning to them as follows that:

- (i) they must conduct themselves with professionalism as an ambassador for BANES.
- (ii) They must ensure that they comply with any medical advice regarding any medical conditions in order to ensure that they meet the requirements of Group 2 DVLA driving standards.
- (iii) They must comply with all conditions of their licences but notably the condition that provides: *"Any change in a licensee's medical condition that may affect his/her ability to drive shall be notified to an authorised officer of the Council as soon as reasonably practicable, or in any event, within 48 hours."*
- (iv) They must take care to ensure that any forms submitted to BANES as part of the licensing process are completed with care and accuracy.
- (v) They must re-acquaint themselves with the requirements of their BANES licenses and be absolutely clear on their obligations in order to ensure compliance with the conditions imposed upon them.

If there is any further non-compliance regarding the requirements of their licence, they will be referred back to the Licensing Sub-Committee and they are at risk of revocation of their licence.

The meeting ended at 11.20 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services