

Licensing Sub-Committee

Date: Thursday, 20th February, 2025

Time: 10.00am

Venue: Council Chamber - Guildhall, Bath

Councillors: Steve Hedges, George Tomlin and Ann Morgan

Chief Executive and other appropriate officers
Press and Public

A briefing session for Members will be held at 9.30am.



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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.

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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, 20th February, 2025

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: 2ND JANUARY 2025 & 9TH JANUARY 2025
(Pages 5 - 20)

6. LICENSING PROCEDURE (Pages 21 - 24)

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 – 2025/FEB/01/TAXI (Pages 25 - 140)

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, 2nd January, 2025

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

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

98 EMERGENCY EVACUATION PROCEDURE

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

99 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

100 DECLARATIONS OF INTEREST

There were none.

101 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

102 MINUTES OF PREVIOUS MEETING: 28TH NOVEMBER 2024 & 12TH DECEMBER 2024

The Sub-Committee **RESOLVED** to approve the minutes of the meetings held on 28th November 2024 and 12th December 2024 and they were duly signed by the Chair.

103 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.

104 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.

105 CONSIDERATION OF 'FIT AND PROPER' STATUS – 2024/DEC/02/PHOP

Checks were made to locate the licensee, but he was not in attendance when the hearing commenced at 10am.

Members decided to proceed with the other substantive item on the agenda first and see if the licensee was in attendance once that matter had concluded. Members asked the Senior Public Protection Officer to attempt to contact the licensee in the meantime.

Having concluded consideration of the other matter Members returned to this item. At 11.30am the licensee was not in attendance at the hearing. The Senior Public Protection Officer informed members of the contact made with the licensee in relation to his attendance at the hearing. Having considered all relevant information regarding whether to defer or proceed in the licensee's absence, members resolved to proceed in the licensee's absence.

The report and appendices related to this item on the agenda were read by members.

Decision & Reasons

Members have had to consider whether or not the licensee is a fit and proper person to continue to hold his Private Hire Operator's licence in the light of the revocation of his combined Hackney Carriage/Private Hire Driver's 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.

This matter was due to be heard by the Licensing Sub Committee on 12th December 2024; however, it was deferred in advance of that hearing due to a lack of committee time. The Licensee had been notified of the deferral.

On 12th December 2024, the Licensee had been sent an email, and letter attachment, to the email address held for him on file. Within that correspondence, it was indicated that he was required to attend the Licensing Sub-Committee hearing at 10am on 2nd January 2025 at the Guildhall in Bath; full address details were provided. He was asked to confirm his attendance, which he had not done, and he was warned that if he failed to attend the hearing, the matter might proceed in his

absence. The Licensee was not in attendance at the hearing today. At the request of Members, the Senior Public Protection Officer – Licensing, attempted to contact the Licensee by telephone, on the mobile telephone number held for him on file. Two attempts to call were made which resulted in a ring tone initially followed by a busy tone. At 10.06 am the Senior Public Protection Officer received a text message from the Licensee indicating that he could not talk as he was driving. Two minutes later, the Senior Public Protection Officer sent a text message response asking if the Licensee would be attending the Licensing Sub-Committee meeting. By 11.30am a response had not been received, and the Licensee was not in attendance.

Members had to determine whether the matter should proceed in the Licensee's absence today. In doing so, they had regard to the licensing procedure within the agenda report pack which says as follows: *"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."* Members had regard to the correspondence with the Licensee in relation to his attendance at the Committee and, given the warnings he had had in relation to his non-attendance, determined that it was in the public interest to proceed in his absence.

Members had regard to the agenda report pack and all annexes to that report which included the minutes, reasons and decision for the Licensing Sub Committee hearing on 22nd August 2024. Within that documentation, they had a note of the Licensee's explanation to Members at that hearing.

Members noted that under section 55 Local Government (Miscellaneous Provisions) Act 1976, the Licensee has to be fit and proper to hold an Operator's licence. On the evidence before them, and for the reasons given by Members at the hearing of 22nd August, they were no longer satisfied that he was fit and proper to hold his Operator's licence. Those reasons are as follows:

1. Failed to familiarise himself with the conditions of his licence.
2. Failed to comply with his licence conditions at all times.
3. Failed to fully cooperate and answer promptly all questions raised by the licensing officers.
4. He has a history of speeding offences.
5. At times he has failed to declare to licensing officers his motoring convictions.
6. He 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
7. In 2022 the Licensing Sub Committee suspended his Driver's Licence for a period of approximately two months.
8. He failed to comply with the conditions of his licence for the display of roof signs, personal identity badge and vehicle interior badge.
9. He drove a vehicle with a tyre that had failed an MOT.
10. He did not respond to a vehicle recall.
11. Members consider that he does not take seriously the requirement to comply with the licence conditions.
12. Members consider that he had not learnt his lesson from previous warnings, penalty points and suspension.

In relation to §4 Members attached relatively less weight to the Licensee's speeding convictions per se; but his failure to declare relevant speeding convictions to the Licensing Section carried greater weight when considering whether he is fit and proper to hold an Operator Licence.

Members noted that as an Operator the Licensee would be one step removed from passengers; but his role would be to ensure the safety of the travelling public through the drivers that he manages. Furthermore, Operators should be well versed in the conditions of their licences and take the utmost care to ensure compliance with them. They should also be wholly cooperative with the Licensing Section in order to ensure compliance with the requirements imposed upon them and to ensure the safety of the travelling public. The Licensee has a record of non-compliance with numerous aspects of the licensing regime as noted above.

For these reasons Members consider on balance that the Licensee is not a fit and proper person to continue to hold a licence and revoke his Private Hire Operator's licence.

106 CONSIDERATION OF 'FIT AND PROPER' STATUS – REPORT 2024/DEC/01/TAXI

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He 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 letter to the licensee regarding the hearing that was due to take place on 12th December 2024 stated that he was required to attend.

The Public Protection Officer (Licensing) replied that a letter was emailed to the licensee on 21st November 2024 which stated that his attendance was required at the meeting and that if he was unable to attend he should inform the Licensing team.

The Chair asked the licensee why he had not attended the meeting on 12th December 2024.

The licensee apologised and said that he was not very good with emails. He said that the letter was an attachment to the email and that he had not fully understood the nature of the meeting.

The licensee addressed the Sub-Committee. He said that he was shocked that this has happened and would naturally comment on people's clothes whether it was hot or cold. He added that he did not mean to offend.

He explained that conversations of the nature that were reported do happen but insisted that he does not initiate them.

He said that he likes to have a conversation while driving, but that this incident has made him consider his future conduct.

He stated that he was gutted that the passenger had felt uncomfortable on her journey and would not want anyone to feel that way.

Councillor Toby Simon asked if he had made any further changes to how he behaves while driving.

The licensee replied that this has been a big wake up call and understands that younger people will have different views to him or the choice of words he uses. He added that he has carried out over 18,000 trips with Uber and has a five star rating with them.

Councillor Simon asked him if he was now driving for Uber again, following a period of being delisted after the complaint.

The licensee replied that he was now driving for Uber again.

Councillor Ann Morgan asked if he would only comment on the clothes worn by women passengers.

The licensee replied no and said that it would just be a way of breaking the ice with a passenger at the start of a journey.

The Chair told the licensee of the importance of his behaviour as he represents the Council with every journey that is undertaken. He said that the comments he had made were not appropriate.

The licensee said that he was absolutely gutted about the incident and would not want anyone to think badly of him. He added that he had been in his role for 22 years and felt that he had not done much else wrong in that time. He said that his worked has included school runs and trips for customers who have dementia.

He stated that he recognises how serious this situation is, was sorry for his actions and was willing to undertake any course(s) deemed necessary by the Sub-Committee.

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 passenger complaint made against him. 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 determination of this matter had been deferred from 12th December 2024 due to the Licensee's non-attendance. The letter from the Public Protection Officer dated 21st November 2024 to the Licensee indicated that his attendance was required and if he failed to attend, the matter might proceed in his absence.

The invitation letter to the Licensing Sub-Committee was in an attachment to an e-mail. On questioning by Members the Licensee said that his e-mail skills were poor

and that could explain why he had not noticed his attendance was required. The licensee apologised to Members for his non-attendance and said that he did not mean any disrespect as a result of this.

Members had read the Licensee's written account and heard from him in oral representations. He indicated in writing that he did not doubt that he had the conversation as alleged. The complaint had made him reevaluate his reactions to all future conversations of this nature and he assured Members in writing that he had learnt a valuable lesson from it. He said he would shut down any such conversations now as he would hate it to be thought that he was anything other than a professional private hire driver.

In oral representations, the Licensee said he had been licensed with BANES for 22 years, and in that time, he said he did not think he had done too much wrong. He had done lots of school runs, as well as trips for passengers with dementia and Aspergers and said that he really tried his best. He referred to the fact that he had over 18000 5-star ratings with Uber. In response to a question from Members, the licensee indicated that he certainly did not intend to make the passenger feel sexually harassed. In oral representations, the licensee apologised to Members and to the female passenger again. In his written representations he said *"To the person I picked up and made to feel like they did, I am glad they complained to you. I would like to apologise to them and hope they didn't think badly of me and that I will take on board how they felt."*

In closing remarks, the Licensee indicated that he would undertake any course Members felt necessary.

Members had considered the complaint to Uber and the further e-mail from the complainant to the Licensing Section setting out details of the complaint. Members reminded themselves that they can have regard to hearsay evidence and determine what weight to attach to that evidence. They noted that the complainant had said that the Licensee had started making comments as soon as she got into car with him which had made her feel uncomfortable and insecure from the off and progressed to her feeling anxious and helpless in the back of his car. By the time she left the vehicle she had felt completely shaken and violated. He had talked about Only Fans, aesthetic procedures and the appearance of passengers.

The passenger reported this incident as she did not think this was the first time he had spoken inappropriately and out of line with women in the back of his car and said she would hate for any other girl to go through the same thing as she had.

Members noted that the Licensee did not dispute the conversation with the complainant. A BANES licensed driver should act with courtesy and professionalism. It would appear from the complainant's account and what the Licensee had said in response, that this is not the first time that the Licensee has had a conversation of this nature. That said, the Licensee has been licensed with BANES for 22 years and has 18000 5 star rated journeys through Uber.

The Licensee presented to Members as genuinely apologetic for his actions and they noted that he showed contrition and had immediately reflected upon his behaviour, once he had been notified of the complaint. He now thinks carefully about the

conversations he has with passengers and whether or not any conversation is appropriate.

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 him that he must conduct himself with professionalism as an ambassador for BANES. In order to reinforce his fit and proper status, and given the offer from the Licensee, he must successfully complete the following:

- (i) The Blue Lamp Safeguarding course; and
- (ii) A CPD-certified Sexual Harassment Training course

and provide to the Licensing Section certificates of completion of these by no later than 28th February 2025.

The meeting ended at 11.37 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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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: Carrie-Ann Evans (Team Leader, Legal Services) and Holly Woodrow (Public Protection Officer (Licensing))

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 23rd 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

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.

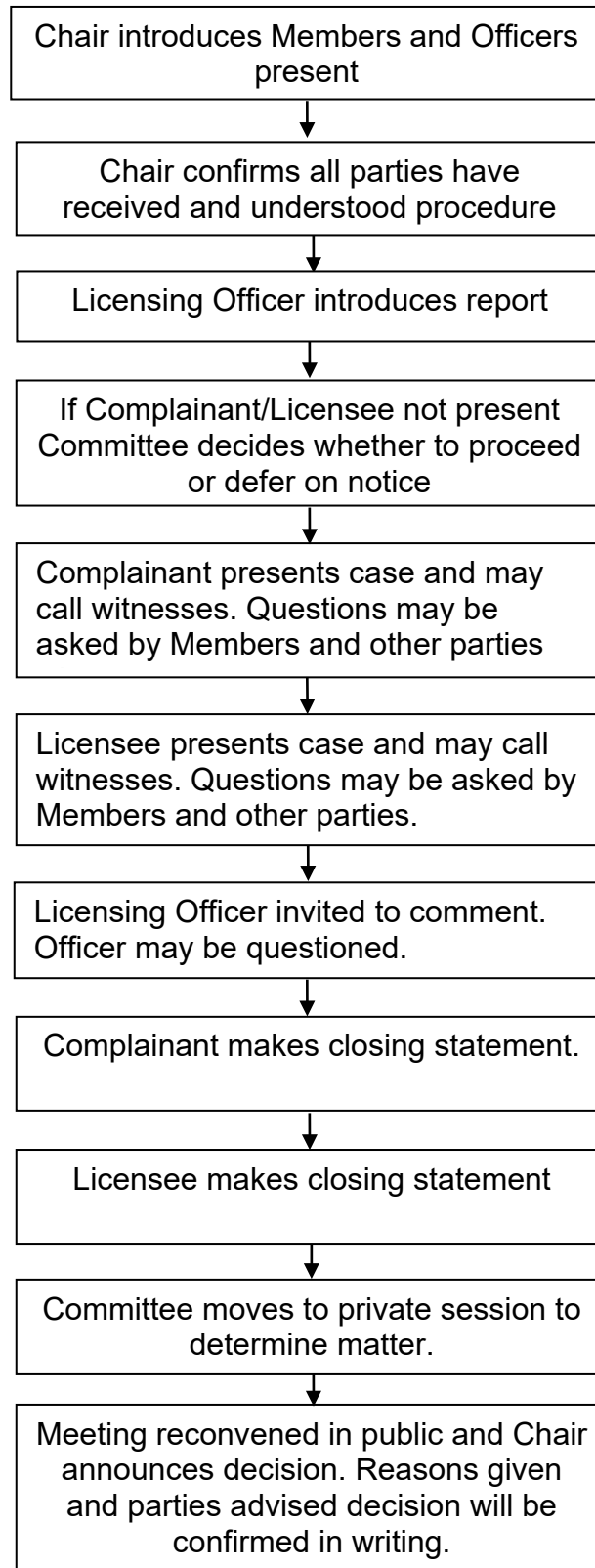
PLEASE NOTE:

- 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-2206131
Meeting / Decision: Licensing Sub-Committee
Date: Thursday 20 th February 2025
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 - D4 Medical Report.</p> <p>Exempt Annex C - DVLA Medical Guidance.</p> <p>Exempt Annex D - DVLA Medical Guidance.</p> <p>Exempt Annex E - DVLA Medical Guidance.</p> <p>Exempt Annex F - DVLA Medical Guidance..</p> <p>Exempt Annex G – Renewal Correspondence with Licensee.</p> <p>Exempt Annex H - Group 2 Correspondence and Documents.</p> <p>Exempt Annex I - Correspondence Following LSC Referral.</p> <p>Exempt Annex J - Informal MOT warning.</p> <p>Exempt Annex K - Insurance Warning.</p> <p>Exempt Annex L - Roof Sign Correspondence.</p> <p>Exempt Annex M – Previous LSC Minutes and Resolution.</p> <p>Exempt Annex N - 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.

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

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