

## **BATH AND NORTH EAST SOMERSET**

### **LICENSING SUB-COMMITTEE**

Thursday, 3rd April, 2025

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

**Also in attendance:** Holly Woodrow (Public Protection Officer (Licensing)) and Donna Marks (Legal Services Manager and Deputy Monitoring Officer) and Emma Howard (Lawyer (Regulatory & Prosecution))

#### **140 EMERGENCY EVACUATION PROCEDURE**

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

#### **141 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **142 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

#### **144 MINUTES OF PREVIOUS MEETING: 6TH MARCH 2025**

The Sub-Committee **RESOLVED** to approve the minutes of the meeting held on 6th March 2025 and they were duly signed by the Chair.

#### **145 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.

#### **146 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.

## 147 CONSIDERATION OF FIT AND PROPER STATUS – 2025/APR/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 have their combined Hackney Carriage/Private Hire Drivers licence renewed by this authority.

The Chair asked why the licensee had been previously suspended for a week in 2016 after a previous meeting of the Sub-Committee.

The Public Protection Officer (Licensing) referred to the minutes from the February 2016 meeting of the Sub-Committee and read that this was *'in order to allow them to reflect on their behaviour and deter them from misconduct in the future.'*

The licensee addressed the Sub-Committee and apologised for not declaring previous speeding offences the Licensing department. The licensee also stated that their vehicles have always been road legal despite some previous issues relating to the submission of paperwork.

The licensee said that they loved doing their job.

The licensee's sister was also in attendance and addressed the Sub-Committee. She explained that the licensee had reached out to her after several years of struggling to say that they find all digital interactions difficult. She said that she intended to help the licensee in the future with correspondence and applications.

She informed the Sub-Committee that the licensee had installed the Waze app on their mobile phone to alert them when nearing the speed limit while driving.

The licensee said that they could not defend the offences, but said that they do not drive very fast around the city.

The licensee's sister stated that many regular customers were willing to give a character reference for the licensee if required.

Councillor Toby Simon asked if the Waze app provided an audible warning for when reaching a speed limit.

The licensee replied that the speedometer on the app will turn red if you reach the speed limit and you get an audible alert.

Councillor Simon asked the licensee for further comment on why there had been a gap of 81 days in insurance cover in July 2020.

The licensee replied that due to the pandemic they had removed public liability insurance from their vehicle because they were not working at the time. The licensee stated that the vehicle was insured for private use at all times and had never driven a taxi without the required paperwork in place.

The Chair sought assurance from the licensee that they understood the reasons that they were before the Sub-Committee and the need for them to sure that they can drive safely whilst representing the Council.

The licensee stated that they understood why they were asked to attend the meeting of the Sub-Committee and made a brief closing statement.

The licensee said that they had found the change to digital communication really difficult, was sorry for everything that has happened and regrets that they are in this position.

The licensee explained that due to the lack of having a licence they have been unable to work for the past five weeks.

The licensee stated that they were proud to represent the city and does not intend to be in this position again.

### Decision & Reasons

The Members of the Licensing Panel thank all parties for attending the hearing today on the 3<sup>rd</sup> April 2025.

This hearing concerns a licensee's renewal of a combined Hackney Carriage/Private Hire Driver's licence issued by Bath & North East Somerset Council. The licence issued by this authority had an expiry date of 28 February 2025. The licensee has been licensed with this authority since 28 February 2003.

Members have had to consider whether or not the licensee is a fit and proper person to have an application for a combined Hackney Carriage/Private Hire Driver's licence renewed in the light of matters regarding their driving record as referred to in the Licensing Officer's report. In doing so, Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

It is a legal requirement that drivers and operators must be 'fit and proper' for a licence to be granted under the Local Government (Miscellaneous Provisions) Act 1976. The Fit and Proper Person test is a statutory test but there is no statutory definition. However the Panel needs to be mindful of the Council Policy and the Statutory taxi and private hire vehicle standards which provides as follows in relation to the Fit and Proper person test: "Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a fit and proper person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question: Without prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?" Members have asked themselves if they would allow their friends, loved ones and indeed all members of the community to travel alone in a vehicle driven by this person which is considered to be substantively the same as the suggestion in the Standards Guidance. Members of the Licensing Sub-Committee are aware that decisions on the suitability of an applicant or licensee are made on the balance of probabilities.

When the licensee completed a renewal application on 15 January 2025, on the application form, the licensee declared three prior motoring offences. One of the motoring offences had not previously been declared to the Licensing Team (dated 27th September 2023). One of the conditions of a Combined Hackney Carriage/Private Hire Driver's licence is to provide written notification within seven days of the conviction, formal caution or Fixed Penalty Notice, together with providing information relating to the circumstances surrounding the offence.

Previous enforcement matters also include: on 16 February 2016 the licensee appeared before a Licensing Sub-Committee Meeting as they had received three convictions for speeding offences in the previous three years. Following this, their licence was suspended for one week. On 4 September 2019, the licensee was sent a reminder text about their rear licence plate not being fitted properly to their Hackney Carriage Vehicle. On 24 July 2020, the licensee was issued with a written warning and 6 penalty points for a gap of 81 days in insurance cover, and a first instance of failing to provide a valid insurance certificate within the timeframe required by their licence conditions. Further incidents are also included in the Licensing Officer's report.

The Panel has considered these incidents and has given the most weight to the motoring offences that occurred between 27 June 2022 and 27 September 2023 and the gap of 81 days in insurance cover where a written warning was issued on 24 July 2020. In particular, the Licensee's failure to notify the Licensing Team of one of the motoring offences.

Members heard from the Licensing Officer and the licensee in oral representations. It was noted by the Panel that the licensee provided adequate explanations into the recent incidents and further insight and rationale as to what led to that behaviour. The licensee explained that they have difficulties using technology and sending emails. They admitted they had not notified the Licensing Team of the motoring offence within the seven days required as a condition of their licence. The licensee notified the Licensing Sub-Committee that they had installed a Waze app, this is an audible app to notify the licensee of the speed limits on roads. The licensee also said they had not been working as a taxi driver when they had not had insurance in 2020 and it had been during Covid-19. The licensee's sister accompanied the licensee at the Licensing Sub-Committee, explaining that the licensee is unable to use digital software and that they could support the licensee with submitting documents and making applications to the Council. The licensee's sister would be able to support the licensee on a monthly basis with any disclosure to the Council that is required.

On balance, the Members of the Panel find that the licensee is a fit and proper person and the renewal application that has been submitted by the licensee for a combined Hackney Carriage/Private Hire Driver's Licence is granted. The Members have taken into account the licensee's comments regarding their speeding offences, their gap in insurance cover and that their sister could assist with completing application forms. Previously, following the 16 February 2016 licensing sub-committee, the licensee's licence was suspended for one week, this suspension period has been shown to be insufficient. The licensing sub-committee would have considered a one month suspension in this case, however, as the licensee has not had a licence since 28 February 2025, as their previous licence had expired, and has

not been working during this period, this licensing sub-committee will not impose any further penalties in this instance.

The Panel requests that the licensee attend a driver's speed awareness course within the next three months and to provide evidence of successful completion of the course to the Council's officers. Officers will refer the matter back to the Licensing Sub-Committee if this is not done. The licensee must notify officers of any further motoring offences within the timeframes set out within their licence.

If the licensee is referred back to the Licensing Sub-Committee regarding motoring offences or other matters, they are at considerable risk of losing their Private Hire/Hackney Carriage licence.

The Panel notifies the licensee that they have 21 days to Appeal the Panel's decision to the Magistrates Court on receipt of the written decision from the Council.

**148 APPLICATION TO RENEW COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - CONSIDERATION OF FIT AND PROPER – 2025/APR/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 have their combined Hackney Carriage/Private Hire Drivers licence renewed by this authority.

The licensee addressed the Sub-Committee and explained that they have Type 2 Diabetes and that it is controlled by taking medication. They added that they were currently wearing a device that monitors their blood sugar levels.

The Chair asked the licensee why there had been a period of time where they had not been testing their blood sugar levels on a regular basis as required.

The licensee replied that their Diabetes was under control and that there was no information on the forms they had that said that they needed to test as regularly.

Councillor Toby Simon asked the licensee what steps they took when they found out they had not met the DVLA requirements for visual acuity.

The licensee replied that they were initially unaware that they had failed the test they had taken at their doctors. They added that when they had been informed of this by the Licensing department, they arranged for a further test to be taken two weeks later at Specsavers.

Councillor Simon asked the licensee if they had stopped driving for the period of time in between the two tests and if not, do they consider now that they should have done so.

The licensee replied no to both questions.

Councillor Simon asked the licensee if they were fully aware of the symptoms of hypoglycaemia.

The licensee replied that they were.

Councillor Simon asked the licensee if they were now regularly self-monitoring their blood sugar levels.

The licensee replied that they were testing twice a week only. They added that they find it difficult to test prior to driving, especially when starting early in the morning. The licensee said that they could not commit to keep on wearing the monitor as it would cost them around £100 a month.

The Chair asked if it was a legal requirement for the licensee to test their blood sugar levels prior to driving.

The Public Protection Officer (Licensing) replied that they if they were not wearing a monitor they would have to test manually before driving.

The Legal Services Manager asked the licensee if they were currently paying to wear the monitor.

The licensee replied that they were not, but believed they would have to start paying for it soon.

The Chair commented that the licensee had previously agreed to test their blood sugar levels regularly and had not been doing so. He asked how the Sub-Committee could be sure that they would test as required in the future so that members of the public would be safe in their vehicle.

The Chair asked the licensee if they were aware of the conditions of their licence.

The licensee replied that they were.

The Public Protection Officer (Licensing) clarified that the licensee was required to test no more than two hours before driving.

Councillor Simon asked the licensee if they would like to address the issue of the type of language they should use when corresponding with officers from the Licensing department.

The licensee replied that this could have happened because they had previously had depression.

The licensee made a closing remark to the Sub-Committee that should they have their licence renewed they would test themselves appropriately with regard to their blood sugar levels – within two hours of driving their vehicle.

## Decision & Reasons

The Members of the Licensing Panel thank all parties for attending the hearing today on the 3<sup>rd</sup> April 2025.

This hearing concerns a licensee who held a combined Hackney Carriage/Private Hire driver licence issued by this authority with an expiry date of 28th February 2025. The licensee has been licenced with this authority since 17th August 2009.

Members have had to consider whether or not the licensee is a fit and proper person to have an application for a combined Hackney Carriage/Private Hire Driver's licence renewed in the light of matters regarding their driving record as referred to in the Licensing Officer's report. In doing so, Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

It is a legal requirement that drivers and operators must be 'fit and proper' for a licence to be granted under the Local Government (Miscellaneous Provisions) Act 1976. The Fit and Proper Person test is a statutory test but there is no statutory definition. However the Panel needs to be mindful of the Council Policy and the Statutory taxi and private hire vehicle standards which provides as follows in relation to the Fit and Proper person test: "Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a fit and proper person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question: Without prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?" Members have asked themselves if they would allow their friends, loved ones and indeed all members of the community to travel alone in a vehicle driven by this person which is considered to be substantively the same as the suggestion in the Standards Guidance. Members of the Licensing Sub-Committee are aware that decisions on the suitability of an applicant or licensee are made on the balance of probabilities.

This Licensing Sub-Committee hearing concerns the D4 medical form submitted to the licensing team on behalf of the licensee. Bath & North East Somerset Council require that licensees meet the higher standard of medical fitness for Group 2 (Vocational) drivers, by producing a D4 medical report and if aged 65 or older, must provide a D4 medical report annually. The licensee has previously been referred to the Licensing Sub-Committee on other occasions and these are confirmed in the Licensing Officer's report.

The visual acuity required to meet the Group 2 medical standards is Snellen 6/7.5 in the better eye, and Snellen 6/60 in the poorer eye (glasses or contact lenses can be worn to achieve this). One of the medications the licensee is prescribed is Gliclazide. Where medication carrying a hypoglycaemic risk is used, the licensee must carry out regular self-monitoring of blood glucose levels at least twice daily and at times relevant to driving.

The D4 medical form submitted on 28 January 2025, indicated the licensee did not meet the Group 2 (Vocational) Driver medical standards required for licensing. The

licensee's D4 form listed their visual acuity as 6/9 in each eye. These measurements meet the requirements for the poorer eye, but not for the better eye. The licensee's D4 form showed that they tested their blood glucose at least twice daily, it indicated that they do not test at times relevant to driving.

On 25th February 2025, the licensee submitted their licence renewal application. This included further medical information showing the licensee does meet the Group 2 requirements relating to their visual acuity and had seen a diabetic nurse regarding blood glucose testing, with a follow up appointment scheduled. Their GP updated their D4 form to state that the required blood glucose testing was now being carried out.

The licensee's previous medical form was submitted to Licensing on 30th January 2024. This identified the licensee had been prescribed Gliclazide and was not carrying out the required blood glucose testing. Licensing addressed this with the licensee, they confirmed that they would comply with these requirements moving forward on 26th February 2024.

There are a number of incidents in the licensee's record, but the D4 medical form issues set out in the Licensing Officer's report is what the Panel have given the most weight too.

Members heard from the Licensing Officer and the licensee in oral representations. It was noted by the Panel that the Licensee provided adequate explanations into the recent incidents and provided further insight and rationale as to what led to that behaviour. The licensee confirmed they have type 2 diabetes and that they are taking anti-depressants. They confirmed that they will monitor their blood glucose levels in accordance with the testing requirements for Group 2 (Vocational) drivers.

The Panel considered that the licensee has diabetes and in the past they have shown risky behaviours. A pattern of behaviour has shown they have not previously been acting in a trustworthy way. The Panel is concerned about the licensee's previous rude behaviour towards officers at the Council and would request that they always treat officers with respect and politeness. The licensee must show that they will follow their responsibilities in complying with the medical standards required when holding a Hackney Carriage/Private Hire Driver's Licence.

The previous form was submitted on 30th January 2024, the licensee had confirmed they would follow the blood glucose testing, but they did not follow the testing requirements. They demonstrated poor insight into the Group 2 (Vocational) drivers requirements.

On balance, the Members of the Panel find that the licensee is a fit and proper person and the renewal Hackney Carriage/Private Hire Driver's Licence application that has been submitted will be granted. One of the conditions of the Hackney Carriage/Private Hire Driver's Licence is for the licensee to submit a blood glucose log to the Licensing team, on a monthly basis. In the log, for the avoidance of doubt, the blood glucose testing required is within the 2 hours prior to the commencement of driving and every 2 hours after driving has started (this is at times relevant to driving). This log will be arranged in consultation with the Licensing team. If the licensee fails to submit the blood glucose readings to the Licensing team within the

required timeframe, they will be required to attend a further Licensing Sub-Committee.

The licensee is warned that a further appearance before the Licensing Sub-Committee is likely to result in a revocation of the Hackney Carriage/Private Hire Driver's Licence.

The Panel notifies the licensee that they have 21 days to Appeal the Panel's decision to the Magistrates Court on receipt of the written decision by the Council.

The meeting ended at 1.15 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**