

## **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 28<sup>th</sup> November 2024 and 12<sup>th</sup> 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 12<sup>th</sup> 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 12<sup>th</sup> 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 2<sup>nd</sup> 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 22<sup>nd</sup> 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 22<sup>nd</sup> 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 12<sup>th</sup> December 2024 stated that he was required to attend.

The Public Protection Officer (Licensing) replied that a letter was emailed to the licensee on 21<sup>st</sup> 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 12<sup>th</sup> 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 12<sup>th</sup> December 2024 due to the Licensee's non-attendance. The letter from the Public Protection Officer dated 21<sup>st</sup> 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 28<sup>th</sup> February 2025.

The meeting ended at 11.37 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**