

## **BATH AND NORTH EAST SOMERSET**

### **LICENSING SUB-COMMITTEE**

Thursday, 21st January, 2021

**Present:-** Councillors Manda Rigby (Chair), Steve Hedges and Sally Davis

**Also in attendance:** Carrie-Ann Evans (Deputy Team Leader (Barrister)) and John Dowding (Lead Licensing Officer)

#### **60 WELCOME & INTRODUCTIONS**

The Chair welcomed those present to the meeting and introduced the other members of the Sub-Committee and the officers in attendance.

#### **61 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **62 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

#### **64 MINUTES OF PREVIOUS MEETINGS: 10TH DECEMBER 2020 & 22ND DECEMBER 2020**

The Sub-Committee approved the minutes of 10<sup>th</sup> December 2020 and 22<sup>nd</sup> December 2020 as a correct record.

#### **65 LICENSING PROCEDURE**

The Chair explained the procedure for the meeting to all parties who were present.

The parties confirmed that they understood the procedure to be followed for the hearing.

#### **66 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. They **RESOLVED** that the public should 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.

## 67 CONSIDERATION OF FIT AND PROPER - 2000194TAXI

The Lead Licensing Officer presented the report to the Sub-Committee. He explained that the report invited the Members to consider whether the driver before them remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence issued by this authority.

He stated that the Sub-Committee is asked to consider the matter, determine the issue and take any action it may consider suitable after hearing any representation from the driver or any representative acting on their behalf.

He informed them that the driver currently holds a combined Hackney Carriage/Private Hire drivers licence issued by this authority with an expiry date of 28th February 2023.

He explained that it is a condition of the Private Hire Vehicle licence that the proprietor keep the Council updated with a valid insurance and MOT certificate and provide consecutive certificates within seven working days of expiry of the previous certificate.

He stated that the driver had breached this condition on three separate occasions which is why he had been referred to the Licensing Sub-Committee.

He informed them that there have been no complaints from members of the public relating to the driver's conduct since the grant of his first licence.

The driver addressed the Sub-Committee. He said that he realised how serious the breaches of conditions were and apologised. He explained that in 2018 his wife had collapsed and that she remains unwell and that had obviously caused him a great deal of worry and stress and to a degree has affected him mentally.

He stated that he is a five-star rated Uber driver and is proud to work in the city of Bath. He explained that he felt he only had to provide his insurance and MOT documents to Uber so that he would be able to continue to drive.

Councillor Sally Davis asked if he would be able to make sure that he complied with all future deadlines.

The driver replied that he would and agreed with a suggestion from Councillor Steve Hedges to have them all written down in a safe and memorable place.

The Chair commented that it was the responsibility of the Council alongside the Sub-Committee to make sure that all vehicles are safe for the public to use and that all drivers remain fit and proper in their role.

The driver replied that he was 100% trustworthy and definitely did not want to appear in front of the Sub-Committee again. He added that he was a safe driver and always treated customers with respect.

### **Decision and Reasons**

Members have had to consider whether a licensee remains fit and proper to hold a combined Hackney Carriage/Private Hire Driver's licence having failed to keep the Council updated with a valid insurance and MOT certificate and provide consecutive certificates within seven working days of expiry of the previous certificate in respect of his vehicle licence. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members reminded themselves that each case is considered on its own merits. They had regard to the licensee's oral representations and balanced these against the report before them.

Members heard from the licensee who 100% accepted his fault, appreciates the seriousness of these breaches and apologises for what has happened. He explained that he had been going through a particularly difficult period in his life with his wife being unwell. The licensee explained to members that the renewal dates for his insurance and MOT are firmly embedded in his mind now and he is clear on what he needs to do to comply going forwards. The licensee explained that he has never had complaints from his passengers, always treats passengers with the utmost respect and hopes he can carry on being a driver. He commented upon the professionalism and kindness that Mr Dowding had shown in relation to the handling of this matter.

Members noted that compliance with the condition relating to insurance and MOT 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, furthermore, a safe and courteous driving experience offered by a driver is of equal importance to compliance with the administrative responsibilities.

Members found the licensee's conduct with regards to his administrative responsibilities, and compliance with this insurance and MOT condition, had been poor for a period of time and these responsibilities are of great importance. The licensee holds a position of great responsibility concerning public safety and compliance with these conditions is mandatory not discretionary with the onus on the licensee to comply with them.

Members were satisfied however, that notwithstanding his failure to comply with this condition, the licensee had maintained appropriate insurance and there were extenuating circumstances that had led to the breach of condition; they found his explanation in relation to his personal circumstances to be credible and this is all against a background where he has no complaints against his record from members of the public.

On this occasion, Members are satisfied that he remains fit and proper but issue a formal warning that his conduct has not been acceptable, and they do not expect to see it repeated. He needs to ensure he complies with the conditions of his licences and should seek support where required. If he appears before the LSC again for conduct issues, against this background, the outcome may not be the same.

## **68 CONSIDERATION OF FIT AND PROPER - 1900708TAXI**

The Lead Licensing Officer presented the report to the Sub-Committee. He explained that the report invited the Members to consider whether the driver before them remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence issued by this authority.

He stated that the Sub-Committee is asked to consider the matter, determine the issue and take any action it may consider suitable after hearing any representation from the driver or any representative acting on their behalf.

He informed them that the driver currently holds a combined Hackney Carriage/Private Hire drivers licence issued by this authority with an expiry date of 28th February 2022.

He explained that it is a condition of the Private Hire Vehicle licence that the proprietor keep the Council updated with a valid insurance and MOT certificate and provide consecutive certificates within seven working days of expiry of the previous certificate.

He stated that the driver had breached this condition on three separate occasions which is why he had been referred to the Licensing Sub-Committee.

He informed them that there have been no complaints from members of the public relating to the driver's conduct since the grant of his first licence.

The driver addressed the Sub-Committee. He acknowledged the facts that had been presented to them and said this was because he was in general a disorganised person.

He stated that at no point had his insurance or MOT expired and that in his ten years as a taxi driver he had never received any complaints.

Councillor Steve Hedges said that he was concerned at the length of time it had taken for the previous documents to be submitted and asked how he could be sure of compliance in the future.

The driver replied that on the first two occasions he had been confused over the dates regarding the submission of the MOT and insurance documents and on the third occasion this had coincided with the birth of his son. He added that he would really try his best to comply from now on.

Councillor Sally Davis commented that he should consider setting himself a reminder either by using an app or a calendar entry on his phone.

The driver said that the appearance before the Sub-Committee has shown him how serious the issue is and that he really will try to do better.

The Chair asked him if he understood that the submission of his required documents was of equal importance as being a good driver.

The driver replied that he did and that he understood the consequences if it were to happen again. He added that the documents had been given to his operating

company as he knew that if they were not in place with them, he would not receive any work. He said that he will be more responsible in the future.

### **Decision and Reasons**

Members have had to consider whether a licensee remains fit and proper to hold a combined Hackney Carriage/Private Hire Driver's licence having failed to keep the Council updated with a valid insurance certificate and provide consecutive certificates within seven working days of expiry of the previous certificate in respect of his vehicle licence. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members reminded themselves that each case is considered on its own merits. They had regard to the licensee's oral representations and balanced these against the report before them.

Members heard from the licensee who indicated that he totally accepted what had happened and accepted that it was his fault. He explained that he did not do it on purpose but knows that he has to work on this and change this. He explained that although he did not send the papers to the Council on time, he never had expired insurance or MOT, he is a law-abiding citizen and there has never been any other problems with him as driver. He assured members that he understands the importance of these issues, promises that he will comply in future and understands what the consequences could be if he does not comply. He apologised to all parties present for putting them in this position and offered an assurance that it will not happen again.

Members noted that compliance with the condition relating to insurance 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. This is of equal importance alongside ensuring a safe and courteous driving experience for passengers.

Members found the licensee's conduct with regards to his administrative responsibilities and compliance with this insurance condition to be very poor and these responsibilities are of great importance. The Licensee holds a position of great responsibility concerning public safety and the licensee must understand that compliance with these conditions is mandatory not discretionary with the onus on the licensee to comply with them. The licensing authority should not, nor is it obliged to, provide reminders but any request from the licensing authority for information in relation to a licence condition should be met with a swift and polite response from the licensee.

Members were satisfied however, that notwithstanding his failure to comply with this condition repeatedly, the licensee had maintained appropriate insurance and MOT throughout the relevant period and he has no complaints against his record from members of the public since first licensed by BANES in 2012.

On this occasion, Members are satisfied that he remains fit and proper but issue a formal warning that his conduct has not been acceptable, and they do not expect to see it repeated. He needs to ensure he complies with conditions notwithstanding his

admitted difficulties with organisation and he needs to put in place measures, such as smartphone diary entries and alerts, to ensure he is reminded. If he appears before the LSC again for conduct issues, against this background, the outcome may not be the same.

The meeting ended at 11.34 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**