

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 12th August, 2021

Present:- Councillor Rob Appleyard (Chair), Councillor Steve Hedges and Councillor Sally Davis

Also in attendance: John Dowding (Lead Officer - Licensing) and Shaine Lewis (Team Leader, Legal Services)

31 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

32 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

33 DECLARATIONS OF INTEREST

There were none.

34 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

35 MINUTES OF PREVIOUS MEETING: 29TH JULY 2021

These were approved as a correct record.

36 LICENSING PROCEDURE

The Chairman explained the procedure to be followed for the meeting.

37 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.

38 CONSIDERATION OF IMPACT OF MEDICAL DIAGNOSIS - 19/00946/TAXI

The Lead Officer - Licensing presented the report to the Sub-Committee. He explained that the report invited the Members to consider whether the Licensee concerned remains fit and proper to hold a combined Hackney Carriage/Private Hire Driver's licence following the disclosure of a medical condition.

The Licensee addressed the Sub-Committee and said that since June he has been keeping both an electronic and paper record of his blood sugar levels in relation to his diabetes.

The Licensee asked how soon after the 3-month process would he be able to drive again.

The Lead Officer – Licensing replied that providing the report from the Diabetic Consultant gives approval to resume driving and is received by the Council, the licence would be reinstated straight away.

Decision and Reasons

Members have had to consider whether or not a licensee is fit and proper to continue to hold a combined Hackney Carriage/Private Hire Driver's Licence in light of the disclosure of a medical condition. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law, Council's Policy, conditions and the linked DVLA guidance.

Members reminded themselves that each case is considered on its own merits and regarding medical fitness the licensee must meet the higher standard of medical fitness for Group 2 (Vocational). Members primary consideration is public safety.

Members heard from the licensee that he had voluntarily ceased driving licensed vehicles following a diagnosis of diabetes. Since then, he has been recording his blood sugar levels and is awaiting the conclusion of the 3-month process and an appointment with the consultant.

Members noted the conditions attached to a Combined Hackney Carriage/Private Hire Driver's licence recommend a licensee should cease driving and the licence be immediately revoked on public safety grounds. Members also note, however, that the DVLA guidance, updated in March 2021, contains a 3-stage process which must be completed before a licensee may resume driving. Members have real concerns around public safety and have considered immediate revocation. They note, however, that the licensee has embarked on the DVLA process and is pending the end of the process.

In the circumstances Members find it reasonable and proportionate to follow the latest DVLA guidance and depart from their Policy. Accordingly, Members suspend the licence until the satisfactory conclusion of the 3-stage process. Authority is delegated to the Licensing Officer to reinstate the licence on receipt of satisfactory consultant report and issue future licences on a 12 monthly basis subject to satisfactory medical reports.

39 CONSIDERATION OF IMPACT OF MEDICAL DIAGNOSIS - 19/01164/TAXI

The Lead Officer – Licensing informed the Sub-Committee that the licensee would not be attending the meeting.

As the licensee was not present Members had to consider whether to continue in their absence. The Members resolved to proceed in their absence.

The Lead Officer - Licensing presented the report to the Sub-Committee. He explained that the report invited the Members to consider whether the Licensee concerned remains fit and proper to hold a combined Hackney Carriage/Private Hire Driver's licence following the disclosure of a medical condition.

Decision and Reasons

Members have had to consider whether or not a licensee is fit and proper to continue to hold a combined Hackney Carriage/Private Hire Driver's Licence in light of the disclosure of a medical condition. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law, Council's Policy, conditions and the linked DVLA guidance.

Members reminded themselves that each case is considered on its own merits and regarding medical fitness the licensee must meet the higher standard of medical fitness for Group 2 (Vocational) drivers. Members primary consideration is public safety.

Members heard from the licensing officer that the licensee had consented to the matter being dealt with in his absence and that he had voluntarily ceased driving licensed vehicles following a diagnosis of diabetes. Further, the licensee had voluntarily surrendered his licence. In all the circumstances, including an email from the licensee consenting to the matter being dealt with in absence Members resolved to determine the matter in absence.

Members noted the conditions attached to a Combined Hackney Carriage/Private Hire Driver's licence recommend immediate revocation of a licence on public safety grounds in these circumstances. Members also note, however, that the DVLA guidance, updated in March 2021, contains a 3-stage process which must be completed before a licensee may resume driving. Members gave credit to the licensee for surrendering his licence and in all the circumstances find it reasonable and proportionate to follow the DVLA guidance and depart from their Policy.

Accordingly, Members suspend the licence until the satisfactory conclusion of the 3-stage process. Authority is delegated to the Licensing Officer to reinstate the licence on receipt of satisfactory consultant report and issue future licences on a 12 monthly basis subject to satisfactory medical reports.

The meeting ended at 10.40 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services