

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 10th March, 2022

Present:- Councillors Rob Appleyard (Chair), Steve Hedges and Karen Warrington

Also in attendance: John Dowding (Lead Officer - Licensing), Wayne Campbell (Public Protection Officer (Licensing)) and Rebecca Jones (Deputy Team Leader - Legal Services)

72 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

73 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

74 DECLARATIONS OF INTEREST

There were none.

75 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

76 MINUTES OF PREVIOUS MEETING: 13TH JANUARY 2022

These were approved as a correct record and signed by the Chairman.

77 LICENSING PROCEDURE

The Chairman explained the procedure to be followed for the meeting and all parties stated they had read, heard and understood the procedure.

78 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.

79 CONSIDERATION OF FIT AND PROPER - 22/00070/TAXI

Members of the Licensing Sub-Committee have had to consider whether an applicant was a fit and proper person to hold a combined Hackney Carriage / Private Hire Drivers licence issued by Bath and North East Somerset Council to drive in the Bath and North East Somerset area, subject to the conditions attached to the license and a satisfactory DBS check and DVLA check as appropriate.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976 s 51(1) licensing of drivers of private hire vehicles, s 59 qualifications for drivers of Hackney Carriages, s 61 suspension and revocation of drivers' licenses, and Human Rights Act 1998, case law and the Council's Policy.

Members reminded themselves that each case is taken on its merit, any economic impact of the decision is irrelevant and with public protection being of paramount importance the whole of a person's character is relevant.

Members had to:

- Consider the evidence presented by the licensing officers and the applicant and his representative.
- Had to determine the issue of whether the applicant was a fit and proper person to hold a private hire / hackney carriage license
- Had to take any suitable action including consideration of attaching to the grant of a licence under section 51 Local Government (Miscellaneous Provisions) Act 1976 s 51(1) such extra conditions as they consider reasonably necessary; a suspension or a decision not to renew the license under s 61.

Licensing Officers Report

The applicant has held a licence since 22 July 2016. The last licence expired on 28 February 2022 and is due for renewal. The applicant submitted an application for renewal on 6 January 2022.

This hearing and consideration was triggered by information obtained on the consideration of the application for renewal of the applicant's Private Hire / Hackney Carriage Drivers License.

The Licensing Officer gave his report and referred to previous concerns

The conditions attached to the grant of a combined Hackney Carriage/Private Hire Drivers licence state "*Should the Licence holder receive any conviction, caution or Fixed Penalty Notice for a motoring offence during the period of the Licence he/she shall within 7 days give the Council written notice of the conviction, formal caution or Fixed Penalty Notice together with providing information relating to the circumstances surrounding the offence*".

The applicant failed to inform the Council of three speeding offences between August 2016 and November 2018.

In the renewal application on 17 January 2019 the application form contained a standard question *“Have you been convicted or cautioned for any offence (including motoring & fixed penalties) since the grant of your last licence?”*.

The applicant stated ‘No’. This was not correct and the standard DVLA check on renewal revealed the three convictions. The licensing officers accepted the applicant’s explanation for not informing the Council of his speeding convictions was because he thought the question related to criminal and did not include motoring offences, but informed him in August 2019 that there would be a zero tolerance of any future failure to disclose motoring convictions.

The applicant had two further speeding convictions on 11 and 27 November 2020. He did not inform the Council of these convictions.

On the license renewal application of 6 January 2022, the applicant listed the 2020 convictions and stated that he had informed the Council of the convictions, a check of the applicants file, revealed that he had not done so.

The applicant has had a total of five speeding convictions since his first combined PH/Hackney Carriage License in 2016.

There have been two other enforcement incident concerns with the applicant:

- on 5 July 2017 in breach of the terms of his license he parked his private hire vehicle on a hackney carriage stand
- on 8 October 2019 the License holder gave false details to a Civil Enforcement Officer regarding a littering incident, contrary to section 88 Environmental Protection Act 1990

Applicant’s Representations

In response to the Licensing Officers request for an explanation, the applicant apologised for giving incorrect information to the CEO, he had been taken by surprise, rushed and stressed as his mobile phone was not working. He realised immediately that he had made a big mistake and paid the fine for littering as fast as he could.

The applicant apologised and said he usually gets someone to help him with emails, due to the pandemic he cannot recall whether he did that or personally went to the Council office at Locksbrook Road to provide the information about his speeding offences in November 2020.

He needs help with computer work. It is his mistake, he apologised for parking on the taxi rank. He does not have any complaints from the public. He helps everyone. The last offence was in the middle of the pandemic, no one answered the phone and then he forgot as he was busy in the pandemic supporting his family and struggling to pay bills. Now he understands the license conditions are part of running his business.

Bath and North East Somerset Council Licensing Sub-Committee decision:

Having heard from the licensing officers and the applicant and taking into consideration:

- that the applicant has had five speeding convictions since the issue of the applicant's first license in 2016
- the applicant's failure to follow the requirements of the license to report motoring convictions, despite the previous warning
- the mis-information supplied by the applicant to a Civil Enforcement Officer

The Hackney Carriage / Private Hire License is renewed, but suspended for three months until 1 June 2022. The applicant is advised that any further breach of license conditions could have a different outcome.

80 CONSIDERATION OF FIT AND PROPER - 22/00140/TAXI

Members of the Licensing Sub-Committee have had to consider whether an applicant was a fit and proper person to hold a combined Hackney Carriage / Private Hire Drivers licence issued by Bath and North East Somerset Council to drive in the Bath and North East Somerset area, subject to the conditions attached to the license and a satisfactory DBS check and DVLA check as appropriate.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976 s 51(1) licensing of drivers of private hire vehicles, s 59 qualifications for drivers of Hackney Carriages, s 61 suspension and revocation of drivers' licenses, and Human Rights Act 1998, case law and the Council's Policy.

Members reminded themselves that each case is taken on its merit, any economic impact of the decision is irrelevant and with public protection being of paramount importance the whole of a person's character is relevant.

Members had to:

- Consider the evidence presented by the licensing officers and the applicant.
- Had to determine the issue of whether the applicant was a fit and proper person to hold a private hire / hackney carriage license
- Had to take any suitable action including consideration of attaching to the grant of a licence under section 51 Local Government (Miscellaneous Provisions) Act 1976 s 51(1) such extra conditions as they consider reasonably necessary; a suspension or a decision not to renew the license under s 61.

Licensing Officers Report

The applicant has held a licence since 18 August 2016. The last licence expired on 28 February 2022 and is due for renewal. The applicant submitted an application for renewal on 17 January 2022.

This hearing and consideration was triggered by information obtained on the consideration of the applicant's application for renewal of his Private Hire / Hackney Carriage License.

The Licensing Officer gave his report.

In the renewal application on 17 January 2019 the application form contained a standard question "*Have you been convicted or cautioned for any offence (including motoring & fixed penalties) since the grant of your last licence?*".

The applicant stated 'Yes' and gave details of three motoring offences:

- a speeding offence on 15 May 2019 3 penalty points
- two offences for using a vehicle with defective tyres on 8 March 2020 3 penalty points for each offence
- a total of 9 penalty points on his DVLA driver's licence.

The conditions attached to the grant of a combined Hackney Carriage/Private Hire Drivers licence state "*Should the Licence holder receive any conviction, caution or Fixed Penalty Notice for a motoring offence during the period of the Licence he/she shall within 7 days give the Council written notice of the conviction, formal caution or Fixed Penalty Notice together with providing information relating to the circumstances surrounding the offence*".

In answer to the question, have you provided details of the convictions to the Council in accordance with the requirement in your license, the applicant stated 'No'.

The applicant apologised for his failing and gave an explanation for his failure.

No complaints have been received from members of the public during the term the applicant has been licensed by Bath & North East Somerset Council.

Applicant's Representations

The applicant apologised for failing to notify the Council of his convictions within 7 days and for failing to pay enough attention to these requirements. He stated that he had forgotten that he had to inform the Council and that he had been stressed by the whole situation and with the pandemic the need to report the convictions had slipped his mind.

The applicant provided a written submission to the Members:

I received the fine for two defective tyres on 8th March 2020. That was a difficult time when the pandemic situation started. Meanwhile, the situation being penalised was also very stressful. I was fully focused on this offence and times which were coming. Everyone was expecting restrictions and people were focused on COVID. That everything took my mind off, I was defocused on other activities than work where I tried to work as much as possible before lockdowns.

I can explain myself only with that I forgot about my obligation to inform the Licensing Office. I would like to note that it wasn't my ignorance.

My current work is very important to me and I cannot imagine working somewhere else. That's why I would never threaten this position consciously. From the beginning I put a lot of effort to be as good as possible. I keep the car in clean condition, servicing whenever it is needed. I must say that my offence for worn tyres happened the day before I had an appointment to replace them. Besides, after a few years of practice I have a very good knowledge of Bath and surrounding areas.

I can assure the Licensing Office that this situation will never happen again.

The applicant told the Members that he knew he had to report the speeding conviction, it just slipped his mind. He apologises and cant give a reason why he did not report the speeding.

When the defective tyre matters occurred, he had been dealing with family issues and was focused on that. The car was booked in the next day for the tyres to be replaced. He has to make an appointment as his tyres are not a usual size. He normally checks his tyres once a week / two weeks.

Bath and North East Somerset Council Licensing Sub-Committee decision:

The license is granted but the applicant is advised that this is a warning that any further offence or breach of the license conditions may result in a different outcome.

81 CONSIDERATION OF FIT AND PROPER - 22/00218/TAXI

Members of the Licensing Sub-Committee have had to consider whether an applicant was a fit and proper person to hold a combined Hackney Carriage / Private Hire Drivers licence issued by Bath and North East Somerset Council to drive in the Bath and North East Somerset area, subject to the conditions attached to the license and a satisfactory DBS check and DVLA check as appropriate.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976 s 51(1) licensing of drivers of private hire vehicles, s 59 qualifications for drivers of Hackney Carriages, s 61 suspension and revocation of drivers' licenses, and Human Rights Act 1998, case law and the Council's Policy.

Members reminded themselves that each case is taken on its merit, any economic impact of the decision is irrelevant and with public protection being of paramount importance the whole of a person's character is relevant.

Members had to:

- Consider the evidence presented by the licensing officers and the applicant.
- Had to determine the issue of whether the applicant was a fit and proper person the hold a private hire / hackney carriage license
- Had to take any suitable action including consideration of attaching to the grant of a licence under section 51 Local Government (Miscellaneous Provisions) Act 1976 s 51(1) such extra conditions as they consider reasonably necessary; a suspension or a decision not to renew the license under s 61.

Licensing Officers Report

The applicant has held a licence since 19 April 2012. The last licence expired on 28 February 2022 and is due for renewal. The applicant submitted an application for renewal on 24 January 2022.

This hearing and consideration was triggered by information obtained on the consideration of the applicant's application for renewal of his Private Hire / Hackney Carriage License.

The Licensing Officer gave his report.

The applicant has had two previous warnings for non-compliance with the requirements of his Hackney Carriage / Private Hire Licence.

- 5 June 2014 for failing to inform the Council of his change of address, although he advised the DVLA and insurers
- 16 March 2016 for failing to disclose a conviction for speeding on a motorway

The conditions attached to the grant of a combined Hackney Carriage/Private Hire Drivers licence state "*Should the Licence holder receive any conviction, caution or Fixed Penalty Notice for a motoring offence during the period of the Licence he/she shall within 7 days give the Council written notice of the conviction, formal caution or Fixed Penalty Notice together with providing information relating to the circumstances surrounding the offence*".

On the application to renew his licence on 24 January 2022, in answer to the question, the applicant answered 'yes', speeding on a motorway.

In answer to the question have you provided details of the conviction to the Council in accordance with the requirement in your license, the applicant stated 'No'.

The applicant apologised for his failing and gave an explanation for his failure:

I remember the time when I received the penalty, but the office was closed by the time I received the penalty letter from the DVLA, the reason why I failed to tell the Licensing about the penalty it's because I applied to made the speeding course but it turned that I was not allowed to, I did not know the reason why, probably because the Coronavirus lockdown that came in place shortly after. I am sorry, I know I should've been telling you, honestly I probably forgot to. Please reconsider about any penalty as I promise you I will be careful and I will tell you about any changes in the future.

No complaints have been received from members of the public during the term the applicant has been licensed by Bath & North East Somerset Council.

Applicant's Representations

The applicant apologised for failing to notify the Council of his convictions within 7 days.

The applicant told Members I am guilty. I am the only person in my house providing money. I accept I am guilty, sorry. For the last offence I totally forgot, I have young children, it is very busy, as I am a new father, it is difficult to adapt and I forgot. I can only give my word that I will do my best in future, you can trust me.

Bath and North East Somerset Council Licensing Sub-Committee decision:

Having heard from the licensing officers and the applicant and taking into consideration:

- that the applicant has had two speeding convictions on a motorway.
- that the applicant has twice failed to follow the requirements of the license to report a motoring conviction
- That the applicant has had two previous warnings for failing to comply with the requirements of his Hackney Carriage / Private Hire License

The license is renewed but suspended until 1 April 2022. The applicant is advised that any further breach of license conditions could have a different outcome.

82 CONSIDERATION OF FIT AND PROPER - 22/00283/TAXI

Members of the Licensing Sub-Committee have had to consider whether an applicant was a fit and proper person to hold a combined Hackney Carriage / Private Hire Drivers licence issued by Bath and North East Somerset Council to drive in the Bath and North East Somerset area, subject to the conditions attached to the license and a satisfactory DBS check and DVLA check as appropriate.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976 s 51(1) licensing of drivers of private hire vehicles, s 59 qualifications for drivers of Hackney Carriages, s 61 suspension and revocation of drivers' licenses, and Human Rights Act 1998, case law and the Council's Policy.

Members reminded themselves that each case is taken on its merit, any economic impact of the decision is irrelevant and with public protection being of paramount importance the whole of a person's character is relevant.

Members had to:

- Consider the evidence presented by the licensing officers and the applicant.
- Had to determine the issue of whether the applicant was a fit and proper person to hold a private hire / hackney carriage license
- Had to take any suitable action including consideration of attaching to the grant of a licence under section 51 Local Government (Miscellaneous Provisions) Act 1976 s 51(1) such extra conditions as they consider reasonably necessary; a suspension or a decision not to renew the license under s 61.

Licensing Officers Report

The applicant has held a licence since 2 July 2013. The last licence expired on 28 February 2022 and is due for renewal. The applicant submitted an application for renewal on 28 January 2022.

This hearing and consideration was triggered by information obtained on the consideration of the applicant's application for renewal of his Private Hire / Hackney Carriage Drivers License.

The Licensing Officer gave his report.

The applicant was given a previous warning in 2016 for non-disclosure of two speeding offences obtained in 2015.

In the renewal application on 28 January 2022 the application form contained a standard question "*Have you been convicted or cautioned for any offence (including motoring & fixed penalties) since the grant of your last licence?*".

The applicant stated 'Yes' "*SP30 points replaced those which had expired*".

The conditions attached to the grant of a combined Hackney Carriage/Private Hire Drivers licence state "*Should the Licence holder receive any conviction, caution or Fixed Penalty Notice for a motoring offence during the period of the Licence he/she shall within 7 days give the Council written notice of the conviction, formal caution or Fixed Penalty Notice together with providing information relating to the circumstances surrounding the offence.*"

In answer to the question, had he informed the Council of the convictions, the applicant replied 'No'.

A DVLA check revealed two speeding offences since the grant of the last license:

- a speeding offence on 8 July 2020 3 penalty points
- a speeding offence on a motorway 17 September 2021 3 penalty points

The applicant had not provided details of the convictions to the Council in accordance with the requirement in his license.

An explanation was requested as to why the applicant had not reported his convictions as required by the requirements of his license. The applicant replied:

I have no reason not to report these offences just mitigation. On numerous occasions I have attempted to contact your office by telephone and in person but to no avail. There has been a pandemic these past 22 months and many of us have worked almost continually, helping the public and risking our own health. I apologise for my failings but having made endless attempts at notification and eventually simply forgot! I would only be too pleased to discuss this situation before any committee.

And further

I did in fact disclose offence and hid nothing, forwarding full details upon request , even though I had already given DVLA permission to share information with you.

No complaints have been received from members of the public during the term the applicant has been licensed by Bath & North East Somerset Council.

Applicant's Representations

As above that he had not been able to contact the Council by telephone or in person / that he disclosed the information and had given permission to the DVLA to share information with the Council.

The applicant pointed out that appendix A had been amended and questioned whether there was an error in appendix G.

The applicant said that he had made a mistake and in response his livelihood had been threatened. He had sent the licensing officers a screenshot of the DVLA license before the DVLA check was made, the timeline had been distorted. He had answered truthfully as he had believed at the time and had expected taxi license penalty points, not to have his integrity questioned. He had paid the fee to renew his license, he had passed his DBS check and had made a mistake. It was fair comment that he had repeated the mistake.

Don't suggest he is not a fit and proper person because he is a bit absent minded and not very good with admin. As a driver he considers what is DVLA legal. He tried to inform the office, but not within seven days and he would have to look up how he would do that. He deals with elderly and the young and he appreciates his duty of care. He had no answer why he had not informed the licensing office of the convictions, he apologised for not doing so.

Bath and North East Somerset Council Licensing Sub-Committee decision:

Having heard from the licensing officers and the license holder and taking into consideration:

- that the applicant had a previous warning for not reporting speeding convictions in 2015
- that the applicant has had two speeding convictions, one of which was on a motorway since the issue of the last license
- the failure to follow the requirements of the license to report motoring convictions
- no explanation as to why the applicant had not been able to contact the Council by email or in writing within the timescales

The license is renewed but suspended until 1 May 2022. The applicant is advised that any further breach of license conditions could have a different outcome.

83 CONSIDERATION OF FIT AND PROPER - 22/00391/TAXI

Members of the Licensing Sub-Committee have had to consider whether an applicant was a fit and proper person to hold a combined Hackney Carriage / Private Hire Drivers licence issued by Bath and North East Somerset Council to drive in the Bath and North East Somerset area, subject to the conditions attached to the license and a satisfactory DBS check and DVLA check as appropriate.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976 s 51(1) licensing of drivers of private hire vehicles, s 59 qualifications for drivers of Hackney Carriages, s 61 suspension and revocation of drivers' licenses, and Human Rights Act 1998, case law and the Council's Policy.

Members reminded themselves that each case is taken on its merit, any economic impact of the decision is irrelevant and with public protection being of paramount importance the whole of a person's character is relevant.

Members had to:

- Consider the evidence presented by the licensing officers and the applicant.
- Had to determine the issue of whether the applicant was a fit and proper person the hold a private hire / hackney carriage license
- Had to take any suitable action including consideration of attaching to the grant of a licence under section 51 Local Government (Miscellaneous Provisions) Act 1976 s 51(1) such extra conditions as they consider reasonably necessary; a suspension or a decision not to renew the license under s 61.

Licensing Officers Report

The applicant has held a licence since 16 September 2012. The last licence expired on 28 February 2022 and is due for renewal. The applicant submitted an application for renewal on 8 February 2022.

This hearing and consideration was triggered by information obtained on the consideration of the applicant's application for renewal of his Private Hire / Hackney Carriage Drivers License.

The Licensing Officer gave his report.

The applicant was previously brought before the Licensing Sub-Committee in January 2021 for failure to follow his Hackney Carriage / Private Hire license conditions.

The applicant had failed on three occasions to keep the Council updated with valid insurance and MOT certificates. The applicant accepted he was at fault, that he was a dis-organised person, took the matter seriously and would try harder. Members accepted that neither insurance nor MOT had lapsed, but issued a formal warning to the applicant about the importance of complying with his license conditions.

In the renewal application on 8 February 2022 the application form contained a standard question “*Have you been convicted or cautioned for any offence (including motoring & fixed penalties) since the grant of your last licence?*”.

The applicant stated ‘No’. This was not correct.

A DVLA check revealed one speeding offence since the grant of the last license:

- a speeding offence on 13 September 2019 3 penalty points

The conditions attached to the grant of a combined Hackney Carriage/Private Hire Drivers licence state “*Should the Licence holder receive any conviction, caution or Fixed Penalty Notice for a motoring offence during the period of the Licence he/she shall within 7 days give the Council written notice of the conviction, formal caution or Fixed Penalty Notice together with providing information relating to the circumstances surrounding the offence.*”

The applicant had not provided details of the conviction to the Council in accordance with the requirement in his license.

An explanation was requested as to why the applicant had not reported his convictions as required by the conditions of his license. The applicant replied:

the reason that i ve put "no" on my application was that I tought that "conviction" refers to a matter decided in court and i didn t know that having 3 points means that i was convicted! I also honestly didn t know that i have to inform the council! It s possible that it is stated in my licence agreement but i just didn t know !i never had penalty points in my 22 years driving "career"! Secondly,i usually don t lie especially when my licence is beeing checked and knowing that you would see that there! This would insult my intelligence! I sincerely apologise for not letting you know and under no circumstances make false statements!

No complaints have been received from members of the public during the term the applicant has been licensed by Bath & North East Somerset Council.

Applicant’s Representations

As above that he had not realised that he had to report a motoring conviction and on his application for renewal did not realise having penalty points was a conviction. He has never previously had penalty points in 22 years of driving.

The applicant told members that in January 2021 he had valid documents, but forgot to submit them. He speaks English well, but struggles to understand the difference in convictions if not before a court. He takes it seriously to play by the rules and to look after the public. He has spoken to a friend a solicitor and understands now what he should do. The speeding offence happened before the first offence and warning. He knows it is his fault. He has not had any penalty points before, he has set up reminders on his phone to send his documents and has done so.

Bath and North East Somerset Council Licensing Sub-Committee decision:

The license is granted but the applicant is advised that he needs to carefully read his license conditions and ensure he understands them and any further breach of the conditions may result in a different outcome.

84 CONSIDERATION OF FIT AND PROPER - 22/00496/TAXI

Members of the Licensing Sub-Committee have had to consider whether an applicant was a fit and proper person to hold a combined Hackney Carriage / Private Hire Drivers licence issued by Bath and North East Somerset Council to drive in the Bath and North East Somerset area, subject to the conditions attached to the license and a satisfactory DBS check and DVLA check as appropriate.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976 s 51(1) licensing of drivers of private hire vehicles, s 59 qualifications for drivers of Hackney Carriages, s 61 suspension and revocation of drivers' licenses, and Human Rights Act 1998, case law and the Council's Policy.

Members reminded themselves that each case is taken on its merit, any economic impact of the decision is irrelevant and with public protection being of paramount importance the whole of a person's character is relevant.

Members had to:

- Consider the evidence presented by the licensing officers and the applicant.
- Had to determine the issue of whether the applicant was a fit and proper person the hold a private hire / hackney carriage license
- Had to take any suitable action including consideration of attaching to the grant of a licence under section 51 Local Government (Miscellaneous Provisions) Act 1976 s 51(1) such extra conditions as they consider reasonably necessary; a suspension or a decision not to renew the license under s 61.

Licensing Officers Report

The applicant held a licence from 22 December 2009 to 28 February 2015 and again since 2 December 2016. The last licence expired on 28 February 2022 and is due for renewal. The applicant submitted an application for renewal on 14 February 2022.

This hearing and consideration was triggered by information obtained on the consideration of the applicant's application for renewal of his Private Hire / Hackney Carriage Drivers License.

The Licensing Officer gave his report.

The applicant has previously been referred to the Licensing Sub-Committee in December 2016 for:

- having three speeding convictions in 2012 which he did not declare to the Council

- being disqualified from driving on 14 November 2014 for totting up 12 penalty points on his DVLA licence, which he did not declare to the Council

In the renewal application on 14 February 2022 the application form contained a standard question “*Have you been convicted or cautioned for any offence (including motoring & fixed penalties) since the grant of your last licence?*”.

The applicant stated ‘Yes’ ‘speeding’.

The conditions attached to the grant of a combined Hackney Carriage/Private Hire Drivers licence state “*Should the Licence holder receive any conviction, caution or Fixed Penalty Notice for a motoring offence during the period of the Licence he/she shall within 7 days give the Council written notice of the conviction, formal caution or Fixed Penalty Notice together with providing information relating to the circumstances surrounding the offence.*”

The applicant stated he had reported his conviction to the Council.

A DVLA check revealed the applicant had been convicted of two motoring offences since the grant of his previous licence:

- speeding offence on 28 August 2019 3 penalty points
- a speeding offence on 10 February 2020 3 penalty points

Neither conviction had been reported to the Council as required by the terms of his Hackney Carriage / Private Hire License. One offence of speeding was reported in March 2021, over a year after the later of his convictions.

The Council asked for an explanation as to why the first conviction had not been reported and the second conviction not for over a year and neither conviction reported as required by the conditions of his license. The applicant replied:

Unfortunately I do not hold this information.

Since the preparation of the report for LSC a further speeding offence had been reported by the applicant to the Council. The offence had occurred on 4 January 2022, the fine had been paid on 12 January 2022, but the applicant did not report the matter until 28 February 2022.

Two complaints have been received from members of the public during the term the applicant has been licensed by Bath & North East Somerset Council.

- October 2014 obstructed another motorist and was abusive
- February 2022 obstructed another motorist and was abusive

The applicant’s explanation for the historic matter had been noted.

The recent complaint on 5 February 2022 had been reported to licensing officers by a member of the public.

Applicant's Representations

The applicant told the Members that he was unable to advise licensing officers within seven days because of the time delay in being informed and then after replying to the details of the matter, it was some time before he got the DVLA notification. He was not clear within seven days of what.

He doesn't put 'just little value on the process' of reporting matters and his license conditions. He waits for the paperwork to come back and then I inform the office. Members pointed out to the applicant that he knew about the last offence when he paid the fine on 12 January 2022, but did not report it to the Council until 28 February 2022.

The applicant cannot remember the first complaint matter. The second complaint matter, it was the other driver who was aggressive. The applicant had not been concentrating and had driven into a traffic calming area when it was not his right of way and there was an oncoming car. He realised his mistake, put his hand up to the other driver to apologise and backed up. When the other driver came forward, he stopped, got out of his car and was aggressive to the applicant. The applicant just drove off.

The applicant told Members that his recurring speeding offences, not one was over 38 mph. He doesn't rush around; all were low speed offences. Not reckless driving. When he had the ban from driving for totting up points, he had other matters going on and that was why he did not report the matters.

Bath and North East Somerset Council Licensing Sub-Committee decision:

Having heard from the licensing officers and the license holder and taking into consideration:

- the applicant had four speeding convictions and was disqualified from driving in 2014
- none of the convictions or the disqualification was reported to the Council
- that the applicant was previously before the Licensing Sub-Committee in December 2016 when he received a formal warning to comply with the requirements of his license to declare convictions
- the applicant has had another three convictions for speeding during the term of his last Hackney Carriage / Private Hire license
- only two of the convictions were reported and neither reported as required within the timescale stipulated by the conditions of his Hackney Carriage / Private Hire License
- the applicant had made a false declaration on his renewal application
- there have been two complaints from the public that the applicant has obstructed them and been abusive, one was reported to the Council in 2014, but the second was most recently reported to the Council in February 2022.

For all the above reasons the Members do not consider that the applicant is a fit and proper person to hold a combined Private Hire/ Hackney Carriage License.

85 CONSIDERATION OF FIT AND PROPER - 22/00024/TAXI

Members of the Licensing Sub-Committee have had to consider whether an applicant was a fit and proper person to hold a combined Hackney Carriage / Private Hire Drivers licence issued by Bath and North East Somerset Council to drive in the Bath and North East Somerset area, subject to the conditions attached to the license and a satisfactory DBS check and DVLA check as appropriate.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976 s 51(1) licensing of drivers of private hire vehicles, s 59 qualifications for drivers of Hackney Carriages, s 61 suspension and revocation of drivers' licenses, and Human Rights Act 1998, case law and the Council's Policy.

Members reminded themselves that each case is taken on its merit, any economic impact of the decision is irrelevant and with public protection being of paramount importance the whole of a person's character is relevant.

Members had to:

- Consider the evidence presented by the licensing officers and the applicant.
- Had to determine the issue of whether the applicant was a fit and proper person to hold a private hire / hackney carriage license
- Had to take any suitable action including consideration of attaching to the grant of a licence under section 51 Local Government (Miscellaneous Provisions) Act 1976 s 51(1) such extra conditions as they consider reasonably necessary; a suspension or a decision not to renew the license under s 61.

Licensing Officers Report

The applicant has held a licence since 15 January 2020. The last licence expired on 28 February 2022 and is due for renewal. The applicant submitted an application for renewal on 2 January 2022.

This hearing and consideration was triggered by information obtained on the consideration of the applicant's application for renewal of his Private Hire / Hackney Carriage License.

The Licensing Officer gave his report.

In the renewal application on 2 January 2022 the application form contained a standard question "*Have you been convicted or cautioned for any offence (including motoring & fixed penalties) since the grant of your last licence?*".

The applicant stated 'No'.

A DVLA check advised the need for a new DBS check, which showed a formal caution for a matter under the Fraud Act 2006.

The conditions attached to the grant of a combined Hackney Carriage/Private

Hire Drivers licence state “Should the Licence holder receive any conviction, caution or Fixed Penalty Notice for a motoring offence during the period of the Licence he/she shall within 7 days give the Council written notice of the conviction, formal caution or Fixed Penalty Notice together with providing information relating to the circumstances surrounding the offence”.

In answer to the question, have you provided details of the convictions to the Council in accordance with the requirement in your license, the applicant stated ‘No’.

The applicant apologised for his failing and gave an explanation for his failure:

I am very sorry but I was not even aware that the caution was meant to be reported to council. When this happened it was pandemic and I was told by police officer I will have to pay fine. I thought police reported everything where was needed? Do you want me to write everything and sent necessary document by email or sent by letter? I will write later afternoon.

Aa also my English is my second language I am not that confident with understanding more complicated documents, so if I omitted sth it's my fault.

The applicant also gave an explanation about the caution for fraud:

The policeman said that this is a warning / punishment that should not affect the work. I thought it would not be so important and it would not hurt in DBS or other papers. Now that I had to do new a DBS check, I am surprised that this penalty was included under a paragraph. I also pay an annual fee on DBS website that you can have access to it. I was sure that You had all this information, so I did not inform about anything, because I thought that you know that everything is ok, because it was only fine. I am very sorry because my DBS is not clean anymore, and I do not know how to understand my offense in the context of my work. During pandemics, everything is done by e-mail, online, there is no one to deal with face-to-face, especially when English is my second language and not always everything is understandable. Now I know that when applying for a license this year I incorrectly marked the answer to the question: "have you been convicted or cautioned for any offense ...". I should tick yes. I have always considered these questions about convictions that they concern convictions carried out in court. Because my case did not go to court and I was not found guilty, therefore I considered this penalty a minor offense that will not affect my DBS.

I'm sorry in advance, yes now I understood this question. If there is anything else I can provide any information please let me know. I am very anxious to keep my licenses as I feel more independent working as a taxi driver and can fulfill my duties as a father to pick up my child from school when my wife is at work. Thank you in advance for listening to my position.

One complaint has been received from a member of the public during the term the applicant has been licensed by Bath & North East Somerset Council.

Applicant's Representations

The applicant apologised for failing to notify the Council of his convictions within 7 days and for failing to pay enough attention to these requirements. He stated that he

had forgotten that he had to inform the Council and that he had been stressed by the whole situation and with the pandemic the need to report the convictions had slipped his mind.

The applicant told Members that he was not trying to hide something. English is his second language. He did not think he had to report the caution. Now clear he has to report everything. Did not think the caution would be on his DBS.

The complaint incident never happened. Why would someone complain about something that did not happen? He is an experienced driver. Worked for First Bus for fourteen years and he has an NVQ in customer service.

The caution, he tried to help a friend to buy the cheaper ticket. Police say fine, not go to court, not go on your criminal record. He paid £200 to the bus company. He doesn't know the value of the ticket.

He is sorry if he knew it would go on his DBS he would have reported it.

Bath and North East Somerset Council Licensing Sub-Committee decision:

Having heard from the licensing officers and the applicant and taking into consideration:

- that the applicant has had a formal caution for fraud involving his work as a bus driver and the selling of a fake ticket
- that there has been a complaint from a member of the public which the applicant had denied and was not substantiated by the Council's enquiries
- that the applicant failed to follow the requirements of the license to report motoring convictions
- that the applicant made a false declaration that he did not have any convictions as he did not realise that a caution was a conviction

The Members do consider on a balance of probabilities that the applicant is a fit and proper person to hold a combined Private Hire/ Hackney Carriage License.

The license is granted but the applicant is advised that this is a warning that any further offence or breach of the license conditions may result in a different outcome.

The meeting ended at 3.26 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services