

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 9th March, 2023, 10.00 am

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

Officers in attendance: Carrie-Ann Evans (Team Leader, Legal Services) and John Dowding (Lead Officer - Licensing)

90 EMERGENCY EVACUATION PROCEDURE

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

91 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

92 DECLARATIONS OF INTEREST

There were none.

93 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

94 MINUTES OF PREVIOUS MEETING: 1ST DECEMBER 2022 & 6TH DECEMBER 2022

The Sub-Committee **RESOLVED** to approve the minutes for the meetings held on 1st December 2022 and 6th December 2022 and they were duly signed by the Chairman.

95 LICENSING PROCEDURE

The Chairman referenced the procedure for each of the applications before the Sub-Committee and stated that all parties would be given an equal opportunity to make their representations and give evidence.

96 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.

97 CONSIDERATION OF FIT AND PROPER - 1902844TAXI

The Lead Officer, Licensing introduced the report to the Sub-Committee. He explained that they were being asked to determine whether a driver remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence.

He outlined the key points from the report.

Councillor Steve Hedges asked for confirmation that it is an illegal act to drive without an MOT.

The Lead Officer, Licensing replied that if a vehicle does not have an MOT it can only be driven to a scheduled MOT appointment in order for it to then pass the subsequent test.

The driver confirmed that the content of the report presented was correct and said that he was willing to accept any punishment that the Sub-Committee might impose on him.

The Chairman asked if he could explain the nature of the 110 mile journey referenced in the report.

The driver replied that this was for his own personal purpose.

The Team Leader, Legal Services asked the driver if he could explain why following the service on 11th May 2022 he did not seek to replace all four tyres having been informed that they only showed 2mm of tread (the legal limit for tyre tread is 1.6mm). She added that when the tyres were finally replaced on the 7th September 2022 a total of 2,701 miles had been travelled on these old tyres.

The driver replied that he had not fully checked the paperwork following the service. He said that he was not working as a taxi driver at this time and was only driving the vehicle for personal use.

He explained that he was then on holiday for a period of time and on his return was when the vehicle failed the MOT and repairs were then carried out.

The Chairman said that even if he was not carrying fare paying passengers at the time the vehicle was a potential danger to the public due to its condition.

The driver apologised and said that he had no intention to harm anyone. He added that there were ongoing family issues at this time.

The Lead Officer, Licensing commented that daily / weekly checks of the vehicle could have prevented it from becoming in such poor condition.

The driver apologised once again. He added that he recognised that it had been the wrong thing to do in lying to the Licensing team with regard to the 110 mile journey.

The Team Leader, Legal Services asked the driver if he could tell the Sub-Committee why he should remain considered as fit and proper to hold his licence.

The driver replied that these events had taught him a big lesson and that this would never happen again.

The Chairman asked the driver if he felt he had given the Sub-Committee as much information as he could regarding his case.

The driver replied that he had.

Decision and 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 failures to comply with the conditions of his Private Hire Vehicle Licence relating to insurance and MOT certificates. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

Members heard from the licensee in oral representations who took full responsibility for what had happened and was there to take whatever punishment Members wanted to give him. He accepted on questioning that he had lied to the Lead Licensing Officer regarding the 110 miles driven after his vehicle failed its MOT. The Licensee explained that once his vehicle failed his MOT, he took it back and got the job done to get it fixed. The Licensee explained that he had no intention to harm anyone and he had some family and personal issues at the time.

Members noted that compliance with the conditions relating to MOT and insurance certificates 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. Indeed, compliance with all licence conditions is of the utmost importance. In this case there are administrative failures related to licensing conditions as well as serious safety issues related to the licensed vehicle.

Members noted that the Licensee had held his combined Hackney Carriage/Private Hire Driver's licence for 22 months and there had been no complaints from members of the public.

Whilst Members acknowledged that the Licensee may have had personal and family issues during the relevant period, this is no excuse for neglecting the upkeep and essential repairs of his vehicle in order to ensure the safety of the traveling public, and in this case the Licensee had:

- (1) Failed to comply with the conditions of his BANES licence related to insurance and MOT certificates;
- (2) Driven 2701 miles since all 4 tyres showed a tread of 2mm (the legal limit is 1.6mm) in May 2022 and had not had the tyres replaced until after his vehicle failed its MOT in September 2022;
- (3) When presented for MOT in September 2022 his vehicle had one tyre with ply or cords exposed and another with a cut in excess of the requirements deep enough to reach the ply or cords

(4) Drove his car 110 miles with 1 dangerous defect (do not drive until repaired) and 4 major defects following, his failed MOT; and

(5) Lied to Licensing regarding the 110 miles driven without a valid MOT.

With those reasons in mind, on balance, Members find that the licensee no longer fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence. Accordingly, they revoke his licence on notice.

98 CONSIDERATION OF FIT AND PROPER – 22/00324/TAXI

The Lead Officer, Licensing introduced the report to the Sub-Committee. He explained that they were being asked to determine whether a driver remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence.

He outlined the key points from the report.

The Chairman asked if there had been any actual gaps in the driver's insurance cover for his vehicle.

The Lead Officer, Licensing replied that the vehicle had always been appropriately insured and said that the driver had failed to provide documentation in the required time to the Licensing team.

Councillor Steve Hedges asked for confirmation that the driver had had only one previous complaint made against him.

The Lead Officer, Licensing replied that this was correct.

The driver addressed the Sub-Committee. He said that since having his licence in 2014 he had always been on time with his insurance and MOT and was very sorry for not following the process of informing the Licensing team within the correct timescales.

He also apologised for not informing them of his previous penalty points and was aware of the importance of doing so in the future.

He referred to the previous complaint made against him and stated that in his opinion he had not been aggressive and had not used any inappropriate language. He explained that when he arrived to pick up the family that it became apparent that his vehicle could not carry all the passengers, including the new-born baby.

He said that he had offered to take at least one adult and the baby home on one trip and return to collect the remaining members. He informed the Sub-Committee that the potential passengers were not happy with his offer.

The Chairman stated that the lack of compliance with the process was a concern as the safety of the public must be ensured. He asked if the driver had anything further to say regarding his case to the Sub-Committee.

The driver replied that all of his documentation was in place and that he now recognises the need to comply and send this information on time to the Licensing team.

Decision and 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 failures to comply with the conditions of his Private Hire Vehicle Licence relating to insurance and MOT certificates. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

Members heard from the licensee in oral representations who accepted that he had failed in his administrative responsibilities regarding his MOT and insurance licence conditions but indicated that he always had the insurance cover and valid MOT in place since he was first licenced in 2014. He was not trying to hide anything regarding his speeding conviction and noted that would have been disclosed on the DBS check in any event. He gave his account of the incident involving a customer complaint and explained to Members that he was firm in his dealings with them regarding safe numbers but did not accept any aggression.

The licensee told members that he was really sorry for his oversight in relation to his documentation, he promised that he would take extra care in the future and ensure that he would send everything on time.

Members noted that compliance with the conditions relating to MOT and insurance certificates, 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. Indeed, compliance with all licence conditions is of the utmost importance. Members noted that the licensee had held his licence with BANES for over 8 years and found that he was sincere in his apology and had learnt from this experience.

Members noted that this concerned a purely administrative failure to comply with the conditions of his licence and there had been no gap in insurance cover. With that in mind, on balance, members find that the applicant is fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence, but they issue a final warning to the licensee that:

1. He must comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public.
2. He must take care to ensure that he completes his documentation related to his BANES licences with care and accuracy, if in doubt he should seek assistance from licensing.
3. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

99 CONSIDERATION OF FIT AND PROPER – 21/02440/TAXI

The Lead Officer, Licensing introduced the report to the Sub-Committee. He explained that they were being asked to determine whether a driver remains fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence.

He outlined the key points from the report.

The driver, who was accompanied by his son, said that he acknowledged the dates relating to the MOT and insurance documentation, but believed they had been submitted in good time as his granddaughter had been helping him as he does struggle with some aspects of technology.

The Chairman asked if the required documentation had been received by the Licensing Team.

The Lead Officer, Licensing replied that it had not. He added that all email correspondence is retained and kept in their own separate sub-folders.

Councillor Karen Warrington said that although he was receiving some help to complete this process it is ultimately his responsibility to make sure that documents are sent in and on time.

The driver acknowledged that.

Councillor Steve Hedges asked how would he ensure that this does not happen again in the future.

The driver replied that he would ask his granddaughter to continue to help him. His son added that the second driver of the vehicle would also be asked to help in the process of supplying the documentation to the Licensing team.

The Chairman asked if it was possible to hand the documents to someone in person.

The Lead Officer, Licensing replied that yes there was a site in Bath where drivers could meet officers in person. He stated though that this was strictly by appointment only.

The Chairman asked if failing to report his speeding conviction to the Licensing team was an oversight.

The driver replied that it was.

The Chairman said that with there being a history of non-compliance the Sub-Committee would need to have confidence that things will change as the safety of the public is very important.

The driver's son replied and said that others, including family members will take more of an active role in the process to help his dad. He added that until the hearing today he had possibly not realised the severity of the situation.

The Chairman asked if there was anything further that they wished to say as part of their case.

The driver replied that there was not.

Decision and 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 failures to comply with the conditions of his Private Hire Vehicle Licence relating to insurance and MOT certificates. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

Members heard from the licensee who was supported by his son in making oral representations. He acknowledged that he was not good with technology and needed assistance with submitting his documentation online. He acknowledged that there had been an oversight when it came to declaring his speeding convictions. He assured members that where he is helped by someone else, he would check to ensure that his licence conditions were complied with and he accepted that ultimately it was his responsibility as licensee to ensure compliance.

Members noted that compliance with the conditions relating to MOT and insurance certificates, 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. Indeed, compliance with all licence conditions is of the utmost importance.

Members noted that the licensee had held his licence with BANES for at least 23 years and the Lead Licensing Officer indicated that he had always been a pleasant person to deal with.

In light of the above, on balance, members find that the Licensee is fit and proper proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence, but they issue a final warning to the licensee that:

1. He must comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public. This applies to all conditions but those pertinent to his appearance before the LSC today are that he must:
 - a. *“Produce to the Licensing Section a new insurance certificate or cover note within seven working days of the expiry of the current certificate or cover note.”*
 - b. *“Produce to the Licensing Team a new MOT certificate within seven working days of the expiry of the current certificate.”*
2. He must take care to ensure that he completes his documentation related to his BANES licences with care and accuracy, if in doubt he should seek assistance from licensing.

3. Even if a third party helps with his paperwork, in hard copy or using technology, it is his responsibility as licensee to ensure that he complies with his licensing obligations and conditions.
4. He can arrange by prior appointment to attend a meeting with licensing in person, in order to hand over hard copy documentation.
5. If he comes before the Licensing Sub-Committee again, against this background, there is a strong risk of revocation of his licence.

The meeting ended at 12.56 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services