

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 23rd March, 2023

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

Also in attendance: Carrie-Ann Evans (Team Leader, Legal Services), John Dowding (Lead Officer - Licensing) and Wayne Campbell (Public Protection Officer (Licensing))

100 EMERGENCY EVACUATION PROCEDURE

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

101 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

102 DECLARATIONS OF INTEREST

There were none.

103 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

104 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.

105 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.

106 CONSIDERATION OF 'FIT AND PROPER' – 22/00550/TAXI

The Public Protection 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 the driver to address them on why he believed he should remain considered as fit and proper to hold his licence.

The driver began to speak about recently passing a regulatory age related check up at his doctors and having an ongoing medical condition, but stated that this did not affect his driving at all.

The Public Protection Officer (Licensing) said that officers were aware of the medical condition and that that was a matter that was being pursued separately and was not part of the hearing today.

The Sub-Committee agreed to a ten minute break to the hearing to allow the Lead Officer, Licensing to explain the content of the report to the driver.

On resumption of the hearing the Lead Officer, Licensing addressed the Sub-Committee. He said that having gone through the report with the driver he had noticed that some information from a previous Sub-Committee meeting had not been included.

He explained that the driver had appeared before a previous Sub-Committee in in February 2010 before being granted his licence for the first time.

The Sub-Committee acknowledged the information that had been provided.

The Chairman asked the driver if he could explain why he had not supplied the Licensing team with the documentation they require in good time.

The driver replied that he was very sorry and promised that it would not happen again. He added that he understands properly now how serious the matter is.

Councillor Steve Hedges asked how he could be assured that incidents such as this would not happen again.

The driver replied that he has made notes of the information that is required of him and that he keeps these in his vehicle.

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 indicated that having spoken to the Lead Licensing Officer, he fully understood what was required of him now, he had written down his obligations and keeps that note in his vehicle and promised Members that this would not happen again. He apologised to Members for his conduct.

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 this concerned a purely administrative failure to comply with the conditions of his licence and there not been a gap in insurance cover.

With that in mind, on balance, Members find that the Licensee 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 in the strongest possible terms 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. It is his responsibility, nobody else's, to ensure compliance with the terms of his licences.
4. If he comes before the Licensing Sub-Committee again, against this background, there is a very strong risk of revocation of his licence.

107 CONSIDERATION OF 'FIT AND PROPER' - 22/00409/TAXI

The Public Protection 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 the driver to address them on why he believed he should remain considered as fit and proper to hold his licence.

The driver stated that he had held a licence for nearly 19 years and that during that time his vehicles had always been in a legal state. He said that he was not always the best with paperwork and apologised for the oversights that had occurred.

The Chairman commented that he would like to understand how there had possibly been any gap in his insurance cover.

The driver said that he had been assured that insurance was in place at all times and that possibly it had been due to a change in providers.

The Chairman asked if he could explain the adjustment to the policy that had been identified in the report.

The driver replied that this could have been when he asked for a named person to be removed from the policy as this was costing him extra money. He assured the Sub-Committee again that he would not have ever driven without insurance.

The Chairman stated that the failure to supply documents to the Licensing team had happened on a number of occasions and he asked if the driver could explain why.

The driver replied that in previous years his ex-wife had helped him with this aspect of the process.

The Lead Officer, Licensing addressed the Sub-Committee. He said that in his view there was a discrepancy in the insurance cover and advised the driver of the need to make sure his documentation is fully up to date at all times.

The Team Leader, Legal Services addressed the Sub-Committee. She explained that within the papers for the hearing they had received an email from the driver's insurance broker that states that he did always have insurance cover in place.

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 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 indicated that he had been a taxi driver for 19 years, he explained that as far as he was concerned, he had always done what was required of him legally but acknowledged that he could do better with his administrative responsibilities.

He accepted that it was his responsibility to comply with the terms of his licences and understood the importance of these obligations. He assured Members that this would not happen again and apologised for what had happened.

Members noted that there was an e-mail from the Licensee's insurance broker that indicated there was always a policy of insurance in place however, Members also noted that this did not explain the gap of 38 days between insurance policies.

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 combined Hackney Carriage/Private Hire Driver's licence for 19 years and had no complaints against him from Members of the public.

Members find the Licensee to be credible and that he held a genuine belief that there was continuity of insurance cover, given the explanation from the insurance broker. There was however a lack of clarity regarding the 38-day period between insurance policies.

With all of that in mind, on balance, Members find that the Licensee is fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence, but they issue a warning to the Licensee that:

1. He must ensure that he has continuity of insurance and MOT cover in respect of his vehicle(s).
2. He must comply with the conditions on his licences as they are an important safeguard to ensure the safety of the travelling public.
3. 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.
4. If he comes before the Licensing Sub-Committee again, against this background, there is a risk of revocation of his licence.

108 CONSIDERATION OF 'FIT AND PROPER' - 22/00254/TAXI

The Chairman began the hearing by advising the driver that the Sub-Committee had been made aware of a further complaint that had been made against him since their agenda had been produced.

The Team Leader, Legal Services addressed the Sub-Committee. She explained that the Licensing team had been notified on 20th March of the additional complaint and that time was now required to gather evidence in writing from the individual concerned and the driver.

She said that she would be asking the Sub-Committee to consider deferral of the hearing to allow for any investigation to conclude as it might be relevant to the driver's fit and proper status.

She advised the Sub-Committee to seek the views of the driver in relation to the question of deferral. In the event that the Sub-Committee decides to defer, the target date for the matter to come back before the Sub-Committee would be 20th April.

The driver commented that he agreed that the hearing could be deferred.

Decision and Reasons

Members were due 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.

Members were made aware verbally that a new complaint had been received in relation to the Licensee via Uber on Monday of this week. In the light of this Members considered whether or not to defer the determination of this matter to allow for the outcome of that investigation to be reported to Licensing Sub-Committee as it may have a bearing on the Licensee's fit and proper status.

The Licensee was content for the matter to be deferred.

In those circumstances Members deferred this matter with a target date of 20th April 2023 for it to come back before the Licensing Sub-Committee.

The meeting ended at 11.52 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services