

# **BATH AND NORTH EAST SOMERSET COUNCIL**

## **LICENSING SUB-COMMITTEE**

Thursday, 29th June, 2023, 10.00 am

**Councillors:** Steve Hedges (Chair), Lucy Hodge and Toby Simon

**Officers in attendance:** Carrie-Ann Evans (Team Leader, Legal Services) and Wayne Campbell (Public Protection Officer (Licensing))

### **1 EMERGENCY EVACUATION PROCEDURE**

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

### **2 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

### **3 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

### **5 MINUTES OF PREVIOUS MEETING: 18TH MAY 2023**

The Sub-Committee **RESOLVED** to approve the minutes for the meeting held on 18<sup>th</sup> May 2023 and they were duly signed by the Chairman.

### **6 LICENSING PROCEDURE**

The driver that was present confirmed that he had received and understood the licensing procedure.

The Chairman referenced the procedure and stated that the driver would be given a fair amount of time to make a statement and give his evidence to the Sub-Committee.

### **7 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.

## 8 CONSIDERATION OF 'FIT AND PROPER' STATUS - 22/00378/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 driver acknowledged that he fully understood the content of the report.

The driver referred to the incident that took place on 6th February 2023 in which he named another person as the driver of the vehicle and explained that this occurred at stressful time when a family member had been diagnosed with a terminal illness and that he was worried that additional points could potentially see him lose his licence. He stated that he would not make this same decision again.

The driver referred to the incident that took place on 12th June 2021 and said that this had been an exceptional situation whereby he had become unwell due to food poisoning and had felt unsafe to drive so asked a friend to drive his vehicle home.

The driver referred to the previously recorded incident from 9th January 2020, when he was issued a verbal warning by Licensing, having admitted the offence of using a handheld device (mobile phone) whilst driving a vehicle. He said that at the time of the incident his vehicle was stopped at a set of temporary traffic lights and that he was checking on the location of his next fare.

The driver assured the Sub-Committee that his vehicle had at all times had an MOT certificate in place and been insured correctly despite not providing the appropriate paperwork to the Licensing team within the stated timescales in 2020.

The driver stated that he considers himself good at the work that he does, his vehicle is always in a good condition and that he is always dressed appropriately for his work. He added that he has never had any customer complaints made against him and that he has a number of regular customers.

The driver informed the Sub-Committee that no customers were ever present in his vehicle when the speeding offences occurred.

The Chairman asked the driver how he could prove to the Sub-Committee that he remains fit and proper to hold his licence.

The driver replied that he can't deny that the previous offences have occurred, but said that he was on the road for around 8 – 10 hours a day. He said that he tries to be as professional as he can and has provided a good service for many years. He stated that he would never drive while under the influence of alcohol or drugs and that he had no other police convictions aside from the matters relating to speeding that had been already raised.

The Chairman asked if he had given all the evidence that he had wished to the Sub-Committee.

The driver replied that he had.

### Decision and Reasons

Members have had to consider whether 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 speeding offences and other issues arising during his time as a BANES licensed driver. 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 received convictions for motoring offences in 2011, 2020, 2021 and for two further offences in 2023.

In relation to the 2011 offence that he failed to notify licensing of, he indicated that he had been licensed for only a year and was not very aware of the consequences.

With regard to the 2020 incident of using his mobile telephone whilst driving, he explained that he was stationary at traffic lights when he checked his telephone for his next job, his account was this had been acknowledged by the licensing officer and that resulted in a verbal warning.

The Licensee acknowledged that in 2020 he had failed to provide the Licensing Team with his MOT and insurance certificate within the requisite 7-day period however, the documents expired on 19th September, and he did not inform the Licensing Section within the next 7 days as he was attending the office on 21st October for a renewal appointment in any event. He explained to Members that he was at all times insured and had a valid MOT in place.

In relation to the 12th of June 2021 speeding incident, the Licensee explained that exceptionally the licensed vehicle was being driven by his friend as the Licensee had become ill with food poisoning and was unable to drive home. The Licensee acknowledged that his friend was not a licensed private hire driver.

In relation to the speeding incident on 6th February 2023 the Licensee admitted that he was driving his private hire vehicle at the time and not the person he had told the police was. He indicated that he panicked as he already had 6 penalty points on his DVLA driving licence and did not want to receive 9 penalty points. He admitted fault, that he had acted stupidly and took full responsibility for his actions and explained that his private hire vehicle was his only source of income. At this time his relative was terminally ill and it was a period of stress.

For the speeding offence on 24th February 2023 the Licensee indicated that he did not realise what speed he was travelling as he was going with the flow of traffic. He was not carrying passengers at this time but was travelling between jobs. He acknowledged on questioning by the Chair, that travelling between jobs was acting in the course of his business.

The Licensee explained to Members that for all of the speeding offences, he never had paying passengers in his vehicle. In respect of the 2020 incident, he was not driving his licensed vehicle.

The Licensee acknowledged the facts in the report but submitted to Members that he is still fit and proper. He said he does his job well, he keeps his car clean, operators like him and he has repeat passengers. He has never had a complaint from a member of the public and never been in trouble with the police aside from his motoring convictions. The Licensee referred to the fact that this is his only source of income, and it is a pleasure doing this job.

Members considered the fact that the Licensee had been a BANES licensed driver for nearly 13 years and during this time there had been no complaints from members of the public. That said, the Licensee has a notable number of speeding convictions during that 13-year period. Within the last 3 years his licensed vehicle had been used for 5 formal police speeding offences and he had been the driver for 4 of them. He had asked someone who was not a licensed driver to drive his licensed vehicle when such an activity was not lawful and crucially, he had lied to the police about who the driver was for the 6th of February 2023 speeding offence which had resulted in another person taking responsibility for it. The Licensee had admitted this dishonesty to the Licensing Team and before Members today however, Members view lying to the police very seriously as this is perverting the court of justice. His explanation for this; the fact that he already had 6 penalty points on his DVLA licence and that he did not want to receive 9 penalty points on his licence, as taxi driving is his only source of income, does not legitimise or justify this behaviour. Had he been honest to the police, he would have faced the possibility of a totting up disqualification.

In addition to this, whilst licenced the Licensee has failed to notify the Licensing Department of 4 speeding convictions within the requisite period in breach of the condition of his licence, and he had failed to provide his MOT and insurance certificates within the requisite period; he had received warnings from the Licensing Team for these failures. Furthermore, he received a verbal warning from the Licensing Team in January 2020 for using his mobile telephone whilst driving.

Looking at the totality of the Licensee's driving history, whilst it is acknowledged that he covers a considerable distance and works long hours as a professional driver, there is a concerning picture of repeatedly committing motoring offences and failures to comply with the conditions of his BANES licence.

Members note from the Policy that there is an expectation that a new applicant will not normally have been convicted of three or more minor motoring offences during the previous three years. If the Licensee was before Members as a new applicant, the policy starting point would be to not grant a licence. Further, the Policy provides that a serious view will be taken of any conviction occurring whilst the person holds a current licence, and a serious view will be taken of any conviction obtained by a licensed Driver or Operator.

In the circumstances and against the Policy background, Members are no longer satisfied that the Licensee is fit and proper to hold a combined Hackney Carriage/Private Hire Drivers licence and revoke his licence on notice pursuant to section 61(2A) of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 11.52 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**