

BATH AND NORTH EAST SOMERSET

MINUTES OF LICENSING SUB-COMMITTEE MEETING

Thursday, 25th July, 2024

Present:- **Councillors** Steve Hedges, Toby Simon and Ann Morgan

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

25 EMERGENCY EVACUATION PROCEDURE

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

26 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

27 DECLARATIONS OF INTEREST

The Chair, Councillor Steve Hedges, informed the meeting that he had previously helped one of the persons attending in support of a Licensee with a planning application as he lives within his ward. He stated that this in no way would have any impact on his impartiality during the meeting.

All parties present were asked if they had any objection to the Chair remaining in the meeting and all declared that they did not.

28 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

29 MINUTES OF PREVIOUS MEETING: 11TH JULY 2024

The Sub-Committee **RESOLVED** to approve the minutes of the meeting held on 11th July 2024.

30 LICENSING PROCEDURE

The Chair referenced the procedure that would be followed during the course of the meeting.

Those that were present confirmed that they had received and understood the licensing procedure.

31 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.

32 CONSIDERATION OF FIT AND PROPER STATUS - 22/00342/TAXI

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine whether a licensee remains fit and proper to hold their combined Hackney Carriage/Private Hire Driver's licence.

Following his summary of the report the Public Protection Officer (Licensing) showed the Sub-Committee a video, around 30 seconds in length, of the conclusion of the latest alleged incident which had been filmed by the complainant whilst driving.

The licensee addressed the Sub-Committee and began by thanking the Public Protection Officer (Licensing) for his part in this process. The licensee explained that he had brought with him a number of written submissions, that comprised of a personal statement, accompanied by 18 annexes, which included some character references.

The Sub-Committee asked the licensee and his representative to retire whilst these were considered for a short period of time.

On resumption of the meeting the licensee's representative addressed the Sub-Committee. He stated that the licensee was a dedicated and exemplary driver who was responsible, meticulous and punctual.

He added that the licensee's role involves driving school runs, that he has a friendly demeanour, is dedicated to his work and provides an invaluable service to the local community.

The Lead Officer (Licensing) queried part of the personal statement submitted by the licensee. He said that he did not agree that he had said words to the effect of 'having a taxi sign on your roof makes you a target'. He believed that whilst advising the licensee about his behaviour following a previous incident that he had said that whilst having this role as a taxi driver their vehicles are more noticeable and could therefore be more open to complaints.

The licensee acknowledged this and agreed that they had had previous conversations about his behaviour.

Councillor Toby Simon referred to the video clip that they had been shown and asked the licensee if he had been using the taxi / bus lane to make his progress through that area of city (Churchill Bridge Roundabout).

The licensee replied that this was correct and that the video was taken after the complainant had cut him up on the Wellsway. He added that he was signing to the complainant that she should not be using her phone whilst driving.

He stated that in no way was he trying to antagonise the situation and that his wife was with him in his vehicle at the time. He said that the complainant had brake checked him during the journey down the Wellsway into the city centre and that when he left the Churchill Bridge Roundabout he pulled into the nearby petrol station.

The Lead Officer (Licensing) asked, after the initial incident on the Bear Flat, why he didn't take the decision to not engage any further with the complainant.

The licensee replied that he had not been driving aggressively and that he had probably flashed his lights at the complainant because he was shocked by the manner in which she was behaving. He said that he felt that the incident was over, but the complainant had decided to carry it on.

The Chair asked the licensee if he could address the Sub-Committee on the other issues raised within the report from the Public Protection Officer (Licensing).

The licensee replied that having provided previous statements that were contained within the agenda pack of the Sub-Committee that he did not have much more to add to these. He said that he has immense pride in the work that he does and that the references that he has submitted have made him realise the importance of his role to the community.

He stated that he regrets being in this position and would endeavour not to be here again.

Decision & 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 a complaint made against him as well as his licensing record. 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 had considered additional information in the form of:

- a witness account from the licensee's wife who was present in his vehicle at the time of the latest alleged incident;
- a witness statement from an independent third party who said he had witnessed the latest incident; and
- video footage provided by the most recent complainant.

At the point when it was the licensee's opportunity to address Members, he indicated that he had some written representations with 18 annexes, for Members' consideration. As such, Members asked the licensee and his representative to retire whilst these were considered.

Having reconvened, Members heard from the licensee in oral representations. He indicated that in relation to the 2024 allegation he did not antagonise the complainant at all and that her behaviour was shocking and left his wife visibly shaking and disturbed. The licensee explained to Members that he had learned his lesson. In

relation to the written material he had presented to Members, he indicated that he wanted to convey what kind of person he is and his character.

He explained to Members that his explanations in relation to each of the incidents contained in the report pack stand as his account in relation to those incidents.

Members also heard from another driver and operator who had attended to support the licensee. He read aloud a character reference for the licensee which described him as a dedicated and exemplary driver who is meticulous in his approach to ensuring the safety and well-being of the children he transports. The reference spoke about overwhelmingly positive feedback that he had received from parents and colleagues as well as his friendly demeanour, patience and ability to handle any situation with calm and competence.

Members noted that the licensee had been a driver with BANES for nearly 26 years. During this time, there had been a catalogue of complaints against him and an incident of non-compliance with a condition of his licence. These matters occurred relatively frequently in 2010, 2013, 2014, 2018, 2019, 2021, 2023 and 2024.

The licensee has six allegations against him for being verbally abusive, driving aggressively and/or using rude gesticulations. The complainants included a BANES councillor, a BANES Civil Enforcement Officer, another vehicle user and another licensed driver.

Members had regard to the licensee and his witnesses accounts in relation to these allegations, but Members find on balance that there is a clear pattern of behaviour where he shows aggression and uses offensive hand gestures when he finds himself in challenging situations. As a licensed BANES driver, he is expected to be an ambassador for BANES and an example of professionalism, good manners and careful driving.

Given the weight of evidence from many unrelated, independent sources, Members find on balance that he is not currently fit and proper to hold a combined Hackney Carriage/Private Hire Driver's Licence. That said, they weigh this against the material submitted by the licensee that commends his behaviour, such as the character references from 2010 and 2024, the Councillor letter from 2016 regarding his excellent customer service, and his clean driving licence.

They also take into account the remorse that the licensee has shown today. Accordingly, they think that after appropriate learning and reflection, the licensee will be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's licence again.

Members therefore take the following action:

The Licensee's licence will be suspended for a period of one month during which time he shall complete an online anger management course accredited at QLS level 2 involving not less than 20 hours learning, agreed in advance by the licencing team and shall provide a certificate of completion. In the event that he cannot complete the course within the one- month period, his licence shall be suspended until he provides the certificate of completion.

If Members find the licensee before them in similar circumstances again, he is at risk of revocation of his licence.

33 CONSIDERATION OF 'FIT AND PROPER' STATUS - 22/00891/TAXI

The Lead Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine whether a licensee remains fit and proper to hold their combined Hackney Carriage/Private Hire Driver's licence.

He apologised for an error in the report at section 3.3 and said that the date referred to should be 18th March 2024, not 2023.

The Team Leader, Legal Services explained that the Sub-Committee had received the witness statements that had been provided by the licensee's solicitor.

The licensee's solicitor addressed the Sub-Committee and said that he questioned the Council's decision to suspend the licensee following the most recent alleged incident. He said that this was tricky to respond to as no further correspondence had been received from the complainant.

He said that the licensee has no convictions against him and that two of the incidents that the Council had been made aware of, as part of an information sharing agreement with the Police, predate the licensee's initial application.

The licensee's solicitor asked the licensee to give his account of the alleged Uber incident on 9th March 2024.

The licensee said that he was first made aware of the incident when contacted by the Licensing department on 9th April 2024. He said that he didn't know anything about it and that it must be false. He explained that having initially checked his list of jobs for 9th March 2024 he had realised that it would have been recorded as a journey that would have been carried out on 8th March 2024 due to the system used by Uber.

The licensee said that he had not intended to deceive anyone by his initial denial. He added that he has a 4.99 out of 5 rating on Uber and has carried out 1,000s of journeys.

The licensee's solicitor asked the licensee about his work ethic.

The licensee said that he always waits for his passengers to engage in conversation with him first.

The licensee's solicitor asked the licensee to give his account of the alleged Veezu incident in 2023 when he had been accused of putting his hand down the trousers of a male passenger.

The licensee replied that this allegation was not true and that he was only made aware of it when the Police visited his home around two weeks after the date of the

journey in question. He stated that he showed the Police the dashcam footage from his vehicle and that no further action was taken.

He stated that the booking for this journey had been made by a female on behalf of a male passenger who wanted to travel to Bristol from Bath. He explained that it was booked as 'cash job', but that on commencement of the journey the male passenger said that he did not have any money on him.

The licensee said that they agreed to drive to a cashpoint at the Tesco Express on Windsor Bridge, but the male passenger was unable to obtain any money. He said that at this point the male passenger asked to be taken back to Bath city centre, at which point he refused. He stated that the male did not seem angry at this point and left of his own will.

The licensee's solicitor asked the licensee to give his account of the alleged workplace complaint from 2020.

The licensee explained that following a complaint made by a colleague he had been suspended for one and a half months whilst an internal investigation took place. He stated that no further action was taken against him and that he was asked to return to his role.

The licensee's solicitor asked the licensee to give his account of the alleged incident in 2014.

The licensee said that he had met a female on a number of occasions and became friends. He added that this became more of a relationship and that they had engaged in consensual sex. He explained that he had been arrested following an allegation from her, but that no further action was taken by the Police as the allegation was withdrawn.

The licensee's solicitor asked the licensee if he felt he remained 'fit and proper' to carry out his role as a Hackney Carriage/Private Hire Driver.

The licensee replied that he believed that he was and that he likes to help people as much as possible.

The Chair asked if he had any further comments on the allegations that had been made against him.

The licensee stated that the workplace concerned at the time was quite a toxic environment to work in and that if staff took extra breaks, especially when busy, it was part of his role to ask them to return to their duties. He surmised that the colleague who made the allegation must not have liked this and decided to try to get rid of him.

The licensee's solicitor made a summing up statement. He said that none of the incidents that have been alleged against the licensee have been pursued following any initial investigations and that no further action has been taken by the Police or any other body. He said that he maintained his view that the decision to suspend the licensee was incorrect and that he should have his licence reinstated.

Decision & 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 a complaint made against him as well as information received from the Police under an Information Sharing Agreement. 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 had considered additional information in the form of two witness statements from the licensee's colleagues at the time of the 2020 incident which was a workplace allegation. They had regard also to a statement made by the licensee for the purposes of his first licence application which was referred to licensing sub-committee.

Members heard from the licensee in oral representations who was taken through each allegation by his solicitor. In summary the licensee provided as follows:

- (1) In relation to the 2024 complaint, he did make the journey, but he denied that there was any truth to the allegation.
- (2) In relation to the 2023 allegation, he provided Members with a detailed account of what happened which was that the job had been booked by a female, however it was her male companion that was going to take the journey. It was a cash job, so he took the male to the cashpoint as a gesture of good will. The male was unable to obtain any cash and the licensee was not willing to complete the journey without payment upfront. There had been no conduct such as that described by the complainant who had sat in the rear passenger side of the vehicle. He explained to Members that the police had attended his property two weeks later to investigate the allegation. They had asked to see his dashcam footage which faced into his vehicle, and he had willingly shared this with them. They viewed the footage, seemed happy with it and left his property.
- (3) In relation to the 2020 workplace complaint the licensee denied the allegations and said they had been the subject of an internal HR investigation which had found there was no wrongdoing and allowed him to resume his role as Store Manager. Members had regard to the two witness statements of his colleagues at the time.
- (4) In relation to the 2014 allegation, the licensee indicated that he had been struggling emotionally at this time and had entered into a relationship with a female friend which had become sexual and consensual. He had subsequently been arrested as a result of the allegation she had made. He offered to provide DNA and undertake a lie detector test however he was released without charge.

The Licensee explained to members that he undertakes his role to a high standard, greets his customers with kindness, gets out of his vehicle to help customers with

their luggage. He said he likes to help his community and loves Bath. He would like to continue working here for the rest of his life.

The Licensee’s solicitor addressed Members in closing submissions.

Members carefully considered the information that they had heard and read and weighed it in the balance, disregarding any irrelevant information.

Members fully understood the officer decision to immediately suspend the licensee’s licence in the interests of public safety, which had been taken in good faith on the evidence before them at that time.

They considered the issue of whether or not the licensee is fit and proper to hold a combined Hackney Carriage/Private Hire Driver’s licence with an open mind based on the evidence before them today and conclude that the evidence weighs in favour of a finding that the licensee is a fit and proper person to hold a combined hackney carriage/private hire driver’s licence.

The meeting ended at 2.04 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services