

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 17th April, 2025

Present:- Councillors Steve Hedges (Chair), Michael Auton (in place of Toby Simon) and Samantha Kelly (in place of Ann Morgan)

Also in attendance: Aled Williams (Team Manager - Environmental Protection & Licensing), Michael Dando (Lead Officer (Licensing)), Emma Howard (Lawyer (Regulatory & Prosecution)) and Donna Marks (Legal Services Manager and Deputy Monitoring Officer)

149 EMERGENCY EVACUATION PROCEDURE

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

150 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor Toby Simon had sent his apologies to the Sub-Committee, Councillor Michael Auton was present as his substitute for the duration of the meeting.

Councillor Ann Morgan had sent her apologies to the Sub-Committee, Councillor Samantha Kelly was present as her substitute for the duration of the meeting.

151 DECLARATIONS OF INTEREST

There were none.

152 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

153 MINUTES OF PREVIOUS MEETING: 20TH MARCH 2025

The Sub-Committee **RESOLVED** to approve the minutes of the meeting held on 20th March 2025 and they were duly signed by the Chair.

154 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.

155 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.

156 APPLICATION TO RENEW COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - CONSIDERATION OF FIT AND PROPER - 2025/APR/03/TAXI

The Lead Officer (Licensing) introduced the report to the Sub-Committee. He explained that they were being asked whether the licensee remains fit and proper to have their combined Hackney Carriage/Private Hire Drivers licence renewed by this authority.

The licensee's DBS certificate was shared by the Lead Officer (Licensing) with the Members.

The Chair confirmed to the Sub-Committee there had been a misprint in the record of interview papers, the papers confirm one of the charges was £97.90, this should be £7.90.

The Chair asked the licensee if they could explain to the Sub-Committee why they had been cautioned by the Police in February 2022.

The licensee replied that it had been a stupid incident involving their family and that they didn't inform Licensing about it as it was a personal issue. The licensee added that they did not mean to declare a false application and was told by the Police that they could continue to work.

The Chair reminded the licensee that the conditions of their licence states that they must declare all offences.

The licensee replied that they now understand this point.

In a summing up statement the licensee said that they needed their licence to continue to support their family.

Decision & Reasons

Members have had to consider whether to renew the licensee's combined Hackney Carriage/Private Hire Driver's licence in the light of a failure to declare a criminal caution for a course of conduct amounting to harassment, received on 18 February 2022 and their 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.

The licence issued by Bath & North East Somerset Council had an expiry date of 28th February 2025. The licensee has been licensed with this authority since 1st June 2015.

It is a legal requirement that drivers and operators must be 'fit and proper' for a licence to be granted under the Local Government (Miscellaneous Provisions) Act 1976. The Fit and Proper Person test is a statutory test but there is no statutory definition. However, the Panel needs to be mindful of the Council's Policy and the Statutory taxi and private hire vehicle standards which provides as follows in relation to the Fit and Proper person test: "Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a fit and proper person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question: Without prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?" Members have asked themselves if they would allow their friends, loved ones and indeed all members of the community to travel alone in a vehicle driven by this person, which is considered to be substantively the same as the suggestion in the Standards Guidance. Members of the Licensing Sub-Committee are aware that decisions on the suitability of an applicant or licensee are made on the balance of probabilities.

Members had read the written correspondence provided by the licensee in the agenda report pack. Members have had regard to one lot of additional information subsequent to the report pack, which comprised further information about the incident resulting in the caution and a witness statement from the licensee. In the witness statement, the licensee acknowledged that they had failed to inform the Licensing Team that they were the subject of a police investigation within 24 hours, nor that they were charged with a criminal offence within 7 days, nor that they had been issued with a criminal caution within 7 days (breaches of the conditions of their licence). They acknowledged they had made a false declaration in their renewal licence application form, when they responded 'no', to the question "have you been convicted or cautioned for any offence (including motoring and fixed penalties) since the grant of your last licence?"

Members have heard the licensee's oral representations.

In oral representations, the Licensee provided further information about the incident that resulted in the caution. The licensee did not know they had to inform the Council about the caution. They thought informing them would be required if, for example, there were issues with a customer or speeding in the car they would inform the Council of this. They did not want to falsify information, but did not know that everything should be declared. It was a stupid act between the licensee and their sister in law. The licensee was told by the police they could continue to work. The licensee has a family to support, they need to work to maintain and provide food for them. In the last few months, they have borrowed money to pay the rent and for car finance payments.

Members attribute substantial weight to the fact that the Licensee was of the understanding that this was a personal matter and that they did not need to notify the

Council about the caution. They were also informed by the police that they could continue working. However, the Licensee must follow the conditions of their licence and understand their obligations and duties under the driver's licence.

Therefore, on balance, Members find that the licensee is a fit and proper person to hold the combined Hackney Carriage/Private Hire Driver's Licence on renewal.

However, they issue a warning to them as follows that:

- (i) The licensee must speak to the Licensing Team at the Council if they have any questions regarding their licence or request clarification and the Licensing Team can support them with this;
- (ii) They must comply with all conditions of their licences, but notably the condition that provides: "If a licensee is accused of any criminal activity that is the subject of an active Police investigation, they should inform the Licensing Office as soon as reasonably practicable and in any event within 24 hours of such investigation being commenced. The licensee should provide as much information as possible that does not prejudice the investigation."
- (iii) They must re-acquaint themselves with the requirements of their BANES licenses and be absolutely clear on their obligations in order to ensure compliance with the conditions and legal obligations imposed upon them as a BANES licensed driver. They must review the requirements of their BANES license on a monthly basis.

Members also request that the Licensing Team translate the documents BANES' 'PRIVATE HIRE DRIVER'S GENERAL CONDITIONS & HACKNEY CARRIAGE DRIVER BYELAWS' and the 'POLICY ON HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING STANDARDS FOR DRIVERS, VEHICLES AND OPERATORS' to Romanian and to summarise the key points within the two documents. Members request that the licensee is provided with copies of the translated documents within one month of this Licensing Sub-Committee meeting (by 16/05/2025).

If there is any further non-compliance regarding the requirements of their licence, the licensee will be referred back to the Licensing Sub Committee and they are at risk of revocation of their licence.

The Panel notifies the licensee that they have 21 days to Appeal the Panel's decision to the Magistrates Court on receipt of the written decision from the Council.

157 APPLICATION TO RENEW COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - CONSIDERATION OF FIT AND PROPER - 2025/APR/04/TAXI

The Lead Officer (Licensing) introduced the report to the Sub-Committee. He explained that they were being asked whether the licensee remains fit and proper to have their combined Hackney Carriage/Private Hire Drivers licence renewed by this authority.

The licensee's DBS certificate was shared by the Lead Officer (Licensing) with the Members.

The licensee addressed the Sub-Committee and referred to the incident in 2017 when they had been the subject of a complaint that they had been parked on double yellow lines. The licensee explained that they had arrived around 5 minutes early for a fare for a regular customer and had parked their vehicle to wait for the short period of time. The licensee apologised and stated that they had not parked there since the incident.

The licensee referred to the dangerous driving complaint from 2017 and stated that they had reported the incident to the Police as they had felt intimidated by the actions of the other driver. The licensee insisted that the other driver had caused the incident by their actions whilst driving and behaviour following the incident.

The licensee referred to the previous Caution that was issued on 17th May 2023. They said that this had been a result of the Police visiting their home 3-4 times a day over a number of weeks whilst they were looking for a child they thought was a friend of the licensee's son and had attended the same school as their son.

The licensee explained that on the day in question he had approached the officers that were present to say that the returning visits were scaring their family, and they did not know anything about the child they were looking for. The argument with the police was 45 minutes in length and a video was also recorded of the licensee's interaction with the police.

The licensee admitted to shouting and swearing during the incident and has subsequently apologised for their actions and voluntarily attended an anger management course.

The licensee explained that they had not declared the caution as part of the renewal application as they were not aware of it until the DBS check was carried out earlier this year. They said that they thought they had only received a warning and had been told by the Police that they were allowed to continue to drive. They did not believe they had been dishonest when completing the application form, as they did not know they had received a caution.

The licensee referred to the speeding offence from 16th September 2024 and stated that this was when their wife had been driving the licensed vehicle after they had become unwell.

The licensee informed the Sub-Committee that in the main they would now carry out school runs with vulnerable and disabled children and airport transfers for work if their licence was to be renewed.

Councillor Samantha Kelly asked the licensee if they had received any advice on what to do when becoming unwell whilst driving their licensed vehicle.

The licensee replied that they were aware of the rules and queried whether they could be adapted 'in the event of an emergency'. The licensee stated that they were in the vehicle for the duration of the short journey and that they would never ask anyone to drive their vehicle for work.

The Chair asked the licensee if they had reported the harassment type behaviour to the Police.

The licensee replied that they did not know what to do regarding this.

The Chair asked the licensee why they asked their wife to drive their vehicle when they were aware of the rules.

The licensee replied that they were worried about leaving their vehicle in an area they did not know, they were concerned that their car may be vandalised and was in pain.

The Lead Officer (Licensing) confirmed that provisions in the Local Government (Miscellaneous Provisions) Act 1976 require a licensed vehicle to be driven by a licenced driver only.

Councillor Michael Auton asked the licensee if they had notified the Council regarding their wife driving their vehicle.

The licensee replied that they had not as it was only around a three-minute drive and had not thought any further about it. They added that their wife had not noticed the change in speed limit as she was worried about them being in pain.

The licensee made a summing up statement. They said that they hoped that they had been able to explain about the incidents raised within the report and reiterated that they had only become aware of the Caution when the result of the DBS check was received.

They said that nobody would be asked to drive their vehicle again and that they have not and would not park on yellow lines in the future.

The licensee said that they have been driving since 2009 and that the last two months have been very difficult whilst not being able to work.

Decision & Reasons

Members have had to consider whether to renew the licensee's combined Hackney Carriage/Private Hire Driver's licence in the light of a failure to declare a criminal caution for the use of threatening/abusive words/behaviour or disorderly behaviour likely to cause harassment/alarm or distress under S.5(1)(A)+S.5(6) of the Public Order Act 1986, issued on 17th May 2023 and their 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.

The licence issued by Bath & North East Somerset Council had an expiry date of 28th February 2025. The licensee has been licensed with this authority since 3rd March 2009.

It is a legal requirement that drivers and operators must be 'fit and proper' for a licence to be granted under the Local Government (Miscellaneous Provisions) Act 1976. The Fit and Proper Person test is a statutory test but there is no statutory

definition. However, the Panel needs to be mindful of the Council's Policy and the Statutory taxi and private hire vehicle standards which provides as follows in relation to the Fit and Proper person test: "Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a fit and proper person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question: Without prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?" Members have asked themselves if they would allow their friends, loved ones and indeed all members of the community to travel alone in a vehicle driven by this person which is considered to be substantively the same as the suggestion in the Standards Guidance. Members of the Licensing Sub-Committee are aware that decisions on the suitability of an applicant or licensee are made on the balance of probabilities.

Members had read the written correspondence provided by the licensee in the agenda report pack. Members have had regard to one lot of additional information subsequent to the report pack, which comprised information on offences, a witness statement from the licensee, a letter under caution sent to the licensee, their responses to the letter under caution and an email from the licensing officer to the licensee. In the witness statement, the licensee acknowledged that they had failed to inform the Licensing Team that they were the subject of a police investigation within 24 hours, nor that they were charged with a criminal offence within 7 days, nor that they had been issued with a criminal caution within 7 days (breaches of the conditions of their licence). They acknowledged they had made a false declaration in their renewal licence application form, when they responded 'yes', to the question "have you been convicted or cautioned for any offence (including motoring and fixed penalties) since the grant of your last licence?" They did not include the caution in their response. In addition to accepting the caution, the licensee attended an optional anger management course and apologises for not declaring the conviction or informing licensing of the incident.

Members have heard the licensee's oral representations.

In oral representations, the Licensee provided further information about the complaints and the caution. Regarding the complaint from another driver, the licensee had made a complaint to the police and had been intimidated by shouting and swearing from the driver.

In relation to the caution, the licensee had been arrested, they had been informed by police it was a minor issue and they attended a voluntary anger management course. The licensee had not been aware they had received a caution. They became aware of the caution when they received their DBS certificate as part of their licence renewal application. The licensee did not think they had anything on their DBS. The licensee did not believe they had made a false declaration, as they had not known they had received a caution. The licensee is currently corresponding with the police, as they do not believe they should have been given the caution.

Regarding the incident where the licensee's wife drove their licensed vehicle, this had been an emergency situation, as the licensee had been unwell. The licensee had attempted to contact other drivers to assist, they had not been available. They

had requested that their wife drive the car to another location. They were concerned their car could have been vandalised at the previous location. The licensee took responsibility for their actions, they apologised for their actions.

In relation to the complaint of parking on double yellow lines, this had been for five minutes, while the licensee was waiting in the area for another job to begin. The licensee has not parked in that location since.

The licensee admitted they had made mistakes. The licensee has been driving private hire vehicles since 2009. The licensee has four children and a wife and is the only earner. This process has financially impacted the licensee significantly over the past two months.

Members attribute substantial weight to the licensee's explanations that they were being harassed in their local community. The licensee has shown remorse for their actions, particularly in relation to not disclosing the caution to the Licensing Team within the required timescales and allowing their wife to drive their licensed taxi when they were unwell. The licensee has acknowledged that they made mistakes. The Members understand that the licensee has not been working since 28 February 2025 and this was a penalty on them.

Therefore, on balance, Members find that the licensee is a fit and proper person to hold the combined Hackney Carriage/Private Hire Driver's Licence on renewal.

However, they issue a warning to them as follows that:

- (i) They must comply with all conditions of their licences but notably the condition that provides: "If a licensee is accused of any criminal activity that is the subject of an active Police investigation, they should inform the Licensing Office as soon as reasonably practicable and in any event within 24 hours of such investigation being commenced. The licensee should provide as much information as possible that does not prejudice the investigation."
- (ii) They must take care to ensure that any forms submitted to BANES as part of the licensing process are completed with care and accuracy.
- (iii) They must re-acquaint themselves with the requirements of their BANES licenses and be absolutely clear on their obligations in order to ensure compliance with the conditions and legal obligations imposed upon them as a BANES licensed driver.

If there is any further non-compliance regarding the requirements of their licence, the licensee will be referred back to the Licensing Sub Committee and they are at risk of revocation of their licence.

The Panel notifies the licensee that they have 21 days to Appeal the Panel's decision to the Magistrates Court on receipt of the written decision from the Council.

The meeting ended at 1.00 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services