

**BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL**  
**LICENSING SUB-COMMITTEE**

Minutes of the Meeting held on 03 March 2020 at 10.00 am

Present: Cllr B Dion, Cllr G Farquhar and Cllr P Parrish

Officers in attendance: Nananka Randle – Licensing Manager, BCP Council  
Wesley Freeman – Licensing Technician, BCP Council  
Linda Cole – Senior Solicitor, BCP Council  
Michelle Cutler – Democratic and Overview & Scrutiny Support Officer, BCP Council

106. Election of Chairman

**RESOLVED that Councillor G Farquhar be elected Chairman of the Sub-Committee for the duration of the meeting.**

Voting: Unanimous

107. Apologies

There were no apologies for absence.

108. Declarations of Interests

There were no declarations of interest.

109. Exclusion of Press and Public

**RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.**

110. Review of an Application for a Private Hire Driver's Licence

The Applicant was in attendance.

The Chairman made introductions and explained the procedure for the Hearing.

The Sub-Committee considered an application for a Private Hire Drivers Licence in the Christchurch Zone, from the person named in the non-public report for agenda item 5.

The Licensing Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as an Appendix to these Minutes in the Minute Book.

The Licensing Manager informed the Sub-Committee that the Applicant had disclosed convictions and had previously held a licence that was revoked by New Forest District Council. A recent Disclosure and Barring Certificate showed two convictions had been issued and one caution, these were:-

- a) Driving a motor vehicle with excess alcohol on 8 October 2008,
- b) Battery on 28 July 2012; and
- c) Assault occasioning actual bodily harm on 13 August 2010.

The Applicant had had his licence revoked by New Forest District Council due to complaints about his behaviour and his attitude towards female passengers, his rudeness towards passengers and his unacceptable behaviour to the Council Mechanic and Licensing Manager.

The Sub-Committee was asked whether in light of the disclosures and previous revocation and, having heard from the Applicant, to consider whether or not the Applicant was a 'fit and proper' person to hold a Private Hire Drivers Licence.

The Licensing Manager outlined the test of a 'fit and proper' person and highlighted relevant guidance published by the Institute of Licensing in April 2018 and the options available to the Sub-Committee in determining the case; as detailed in the report.

The Applicant attended the Hearing and addressed the Sub-Committee. The Applicant provided more details regarding the personal circumstances around the two convictions and caution, along with the events that had led to New Forest District Council revoking his Public Carriage Licence. He confirmed that he did not appeal the decision to revoke his Licence.

To support his application, the Applicant advised that he had recently undertaken a two day BTEC course at Brockenhurst College in relation to Taxi Driving and was waiting to hear if he had passed the examination. The Applicant advised that the course had given him further insight in how to deal with difficult customers and situations. The Applicant accepted that he could have dealt with many of the highlighted incidents in a better way.

Members of the Sub-Committee asked various questions of all parties present at the Hearing.

All parties were given the opportunity to sum up before the Sub-Committee retired to make its decision.

The Sub-Committee adjourned at 10:43 to make its deliberations in private. The Sub-Committee reconvened at 11:20am to give its decision.

**RESOLVED that:-**

The Licensing Sub-Committee, having considered the written report and verbal submissions of the Licensing Manager, and the verbal representations of the Applicant, has determined that the Applicant is not a 'fit and proper' person to hold a Private Hire Driving Licence and therefore should not be allowed to continue with the application process to become a licenced driver.

**Reasons for the Decision**

The Sub-Committee considered the three previous convictions detailed on the DBS and the Applicant's explanation for them, and noted when considering an application for a Private Hire Drivers Licence, that convictions are never spent and will always need to be considered by the Council.

It became clear during the hearing that the Applicant has difficulty in managing his own emotional state and the Sub-Committee has no confidence that he will be able to behave appropriately when faced with challenging situations, which are common to the role of a Private Hire Driver.

The Sub-Committee noted that the convictions were a number of years ago, but it has also taken into account the behaviour displayed whilst holding a licence issued by New Forest District Council. This Licence has since been revoked on the 29/11/18. The Sub-Committee is concerned that he appears to not take responsibility for the previous incidents and appears quick to apportion blame to another person.

The Sub-Committee has taken into account the guidance issued by the Institute of Licensing, which confirms that the function of licensing and therefore the Council, is to protect the public, and any bar set when considering an applicant should be at the highest level. The Licensing process places a duty on the Council to determine the suitability of any applicant and it has determined that the Applicant is not suitable to be a Private Hire Driver

**Right of Appeal**

The Legal Advisor reported that all parties to the application have the right to Appeal to the Magistrates Court within the period of 21 days beginning with the day on which the Applicant is notified by the Licensing Authority of the decision in writing.

111. Review of an Existing Hackney Carriage Driver's Licence

The Driver was in attendance.

The Chairman made introductions and explained the procedure for the Hearing.

The Sub-Committee considered whether an existing Hackney Carriage and Private Hire Drivers Licence Holder in the Poole Zone, remained to be seen as a 'fit and proper' person following a physical altercation with another licensed driver on 27 January 2020.

The Licensing Technical Officer presented a report, a copy of which had been circulated to each Member and a copy of which appears as an Appendix to these Minutes in the Minute Book.

The Licensing Sub-Committee advised that the driver had held a Private Hire Drivers Licence since 15 October 2014 and that there was one previous complaint on file from 2018 regarding the maintenance of his vehicle.

The Taxi Licensing Department was made aware of a physical altercation which took place between two licensed drivers on 27 January 2020 at the George Taxi Rank, Poole. The incident was captured by CCTV which had been submitted to the Sub-Committee.

The Licensing Technical Officer informed the Sub-Committee that the driver had been interviewed by the Taxi Licensing Department on 28 January 2020 regarding the incident. The driver admitted in participating in a fight with another driver. A potential witness to the incident did not wish to disclose observations.

The Sub-Committee was being asked whether in light of the information available, to consider whether or not the driver was a 'fit and proper' person to continue to hold a Hackney Carriage and Private Hire Drivers Licence for BCP Council.

The Licensing Manager outlined the test of a 'fit and proper' person and relevant guidance and the options available to the Sub-Committee in determining the case, as detailed in the report.

The driver attended the Hearing and addressed the Sub-Committee and answered questions asked of him.

The driver provided more detail about the circumstances relating to the altercation with another driver. He explained that the other driver had used bad words and bullying behaviour towards him and that he had acted in self-defence.

The Sub-Committee viewed the CCTV footage of the incident.

Members of the Sub-Committee asked various questions from all parties present at the Hearing.

All parties were given the opportunity to sum up before the Sub-Committee retired to make its decision.

The Sub-Committee adjourned at 12:26 and agreed to defer its decision making in this matter until they had heard from the next driver who was also involved in the incident.

The Sub-Committee reconvened at 3.04pm to give its decision.

**RESOLVED that**

**The Licensing Sub-Committee having considered the written report and verbal submissions of the Licensing Technical Officer and the verbal representations of the driver, and having viewed the CCTV footage of the incident of 27<sup>th</sup> January 2020 at the George Taxi Rank, has determined that the driver is a ‘fit and proper’ person and remains suitable to continue to hold a Hackney Carriage and Private Hire Drivers Licence with BCP Council, Poole Zone.**

**The Sub-Committee has taken into account the guidance issued by the Institute of Licensing, which confirms that the function of licensing and therefore the Council is to protect the public, and any bar set when considering a driver should be at the highest level. The Licensing process places a duty on the Council to determine the suitability of any driver.**

**Reasons for the Decision**

**The Sub-Committee feel that this was a one-off incident and that no members of the public were at risk. However, it is clear from the Byelaws that drivers should behave in a civil and orderly manner and clearly this was not displayed during this incident.**

**The Sub-Committee feel that a driver for BCP Council, should behave in an exemplary manner at all times and take a dim view of this type of behaviour. It is not a driver’s role to enforce Council Policy, and actions should be limited to reporting any concerns about other drivers to the Licensing Department, who will make the appropriate investigations.**

**It is the decision of the Sub-Committee that the Driver be issued with a warning letter to remind him of expected behaviour, the Bylaws contained in the Blue Book and the ‘Taxi Driver Etiquette Guide’. The letter will remain on record and will be referred to in the future should any further incidents occur.**

**Right of Appeal**

**There is no right of appeal against this decision.**

112. **Review of an Existing Hackney Carriage Driver's Licence**

The driver was in attendance.

The Chairman made introductions and explained the procedure for the Hearing.

The Sub-Committee considered whether an existing Hackney Carriage and Private Hire Driver Licence Holder, in the Poole Zone, remained to be seen as a 'fit and proper' person, following a physical altercation with another licensed driver on 27 January 2020.

The Licensing Technical Officer presented a report, a copy of which had been circulated to each Member and a copy of which appears as an Appendix to these Minutes in the Minute Book.

The Licensing Sub-Committee advised that the driver had held a Private Hire Drivers Licence since 19 November 2011 and that there had been previous complaints from drivers and passengers, which included the refusal of short trips, incidents of poor driving and a previous driver dispute. The complaints had all been investigated and resolved.

The Taxi Licensing Department was made aware of a physical altercation which took place between two licensed drivers on 27 January 2020 at the George Taxi Rank, Poole. The incident was captured by CCTV and had submitted to the Sub-Committee.

The Licensing Technical Officer informed the Sub-Committee that the driver had been interviewed by the Taxi Licensing Department on 28 January 2020 regarding the incident. The driver had advised that a verbal altercation had taken place between himself and another driver, followed by a physical altercation, and he had telephoned the Police. Once the call to the Police had ended a further physical altercation had taken place. The driver had advised that he did not hit the other driver or participate in the fight as he had been restrained by a colleague, however, he had used self defence.

Two potential witnesses had been identified by the Taxi Licensing Department, one was a relation to the second driver and the other did not wish to disclose observations.

The Sub-Committee was being asked to consider whether in light of the information available, whether or not the driver was a 'fit and proper' person to continue to hold a Hackney Carriage and Private Hire Drivers Licence for BCP Council.

The Licensing Manager outlined the test of a 'fit and proper' person, and relevant guidance, and the options available to the Sub-Committee in determining the case, as detailed in the report.

The driver attended the Hearing and addressed the Sub-Committee. He was accompanied by a friend for moral support and who also acted as his translator.

The driver provided more detail about the circumstances relating to the altercation with another driver. He explained that the other driver had sworn

at him and had attacked him. He explained that he had telephoned the Police and that he had visited the hospital for his injuries. The driver submitted photographic evidence of his facial injuries, which had been taken at the hospital.

The Sub-Committee viewed the CCTV footage of the incident.

Members of the Sub-Committee asked various questions to all parties present at the Hearing.

The Legal Adviser asked the Licensing Technical Officer to confirm the number of complaints that had been received against the driver. The Technical Officer confirmed that there had been a total of three past complaints.

The driver informed the Sub-Committee that he had brought a witness to the incident with him and that he was in the waiting room. The Sub-Committee took the view that as the witness had been contacted by the Police and had refused to make a statement, it would not be necessary for him to address the Sub-Committee.

All parties were given the opportunity to sum up before the Sub-Committee retired to make its decision.

The Sub-Committee adjourned at 1.54pm to make its deliberations in private.

The Sub-Committee reconvened at 3.10pm to give its decision.

#### **RESOLVED that**

**The Licensing Sub-Committee having considered the written report and verbal submissions of the Licensing Technical Officer, the verbal representations of the driver and those made through his translator, and having viewed the CCTV footage of the incident of 27<sup>th</sup> January 2020 at the George Taxi Rank, has determined that the driver is a ‘fit and proper’ person and remains suitable to continue to hold a Hackney Carriage and Private Hire Drivers Licence with BCP Council, Poole Zone.**

**The Sub-Committee has taken into account the guidance issued by the Institute of Licensing, which confirms that the function of licensing, and therefore the Council, is to protect the public and any bar set when considering a driver should be at the highest level. The Licensing process places a duty on the Council to determine the suitability of any driver.**

**Reasons for the Decision**

The Sub-Committee feel that this was a one-off incident and that no members of the public were at risk. On this occasion they wish to take no further action against the driver.

The Sub-Committee feel that it would be beneficial if the Licensing Officer met with the driver to reissue the Blue Book and the Taxi Rank Etiquette Guide to remind the driver of how his conduct can be perceived by passengers and other drivers.

**Right of Appeal**

There is no right of appeal against this decision.

The meeting ended at 3.15 pm

CHAIRMAN