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North Devon Council
Brynsworthy Environment Centre
Barnstaple
North Devon EX31 3NP

K. Miles
Chief Executive.

LICENSING AND COMMUNITY SAFETY COMMITTEE

A meeting of the Licensing and Community Safety Committee will be held in the Barum Room - Brynsworthy on **TUESDAY, 19TH MARCH, 2024 at 10.00 am.**

(NOTE: A location plan for the Brynsworthy Environment Centre is attached to the agenda front pages. For meetings held at Brynsworthy only, you can join the meeting virtually via Microsoft Teams. There are also limited spaces to attend the meeting in person. Please check the Council's website for the latest information regarding the arrangements that are in place and the requirement to book a place 2 working days prior to the meeting. Taking part in meetings (northdevon.gov.uk)

Members of the Licensing and Community Safety Committee Councillor York (Chair)

Councillors Biederman, Cann, Denton, Haworth-Booth, Hunt, Jusef, Lethaby, Maskell, Milton, Norman, Quinn, Renshaw, Whitehead and Williams

AGENDA

1. Apologies for Absence
2. To approve as a correct record the minutes of the meeting held on 14 November 2023 (Pages 5 - 10)
3. Items brought forward which in the opinion of the Chair should be considered by the meeting as a matter of urgency
4. Declarations of Interests
Declarations of Interests. (Please telephone the Corporate and Community Services team to prepare a form for your signature before the meeting. Interests must be re-declared when the item is called. A declaration of interest under the Code of Conduct will be a Disclosable Pecuniary Interest, an Other Registrable Interest or a Non-Registrable Interest. If the item directly relates to your interest you must declare the interest and leave the room for the item, save in the case of Other Registrable Interests or Non-Registrable Interests where you may first speak on the item as a member of the public if provision has been made for the public to speak. If the matter does not directly relate to your interest but still affects it then you must consider whether you are affected to a greater extent than most people and whether a reasonable person would consider your judgement to be clouded, if you are then you must leave the room for the item (although you

may speak as a member of the public if provision has been made for the public to speak) or, if you are not, then you can declare the interest but still take part).

5. To agree the agenda between Part 'A' and Part 'B' (Confidential Restricted Information)

PART 'A'

6. **Community Safety Updates**

Crime Safety Partnership Officer to report.

7. **General Licensing Activities update**

Public Protection Manager to report.

8. **Licensing and Community Safety Sub-Committees** (Pages 11 - 24)

To consider and approve as correct records the minutes of the following meetings (attached):

(a) Licensing and Community Safety Sub-Committee B: 23 November 2023

(b) Licensing and Community Safety Sub-Committee C: 23 February 2024

PART 'B' (CONFIDENTIAL RESTRICTED INFORMATION)

Nil.

If you have any enquiries about this agenda, please contact Corporate and Community Services, telephone 01271 388253

11.03.24



North Devon Council protocol on recording/filming at Council meetings

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The rules that the Council will apply are:

1. The recording must be overt (clearly visible to anyone at the meeting) and must not disrupt proceedings. The Council will put signs up at any meeting where we know recording is taking place.
2. The Chair of the meeting has absolute discretion to stop or suspend recording if, in their opinion, continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules.
3. We will ask for recording to stop if the meeting goes into 'part B' where the public is excluded for confidentiality reasons. In such a case, the person recording should leave the room ensuring all recording equipment is switched off.
4. Any member of the public has the right not to be filmed. We ensure that agendas for, and signage at, Council meetings make it clear that recording can take place – anyone not wishing to be filmed must advise the Chair at the earliest opportunity to allow them to be directed to an area in the room where they will not be caught on camera. Subject to paragraphs 1, 2 and 3 above, audio recordings shall be permitted at all times during public meetings.
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For more information contact the Corporate and Community Services team on **01271 388253** or email memberservices@northdevon.gov.uk or the Communications Team on **01271 388278**, email communications@northdevon.gov.uk.

North Devon Council offices at Brynsworthy, the full address is:
Brynsworthy Environment Centre (BEC), Roundswell,
Barnstaple, Devon, EX31 3NP.

Sat Nav postcode is EX31 3NS.

At the Roundswell roundabout take the exit onto the B3232, after about ½ mile take the first right, BEC is about ½ a mile on the right.

Drive into the site, visitors parking is in front of the main building on the left hand side.

On arrival at the main entrance, please dial 8253 for Corporate and Community Services.

All public meetings held at Brynsworthy Environment Centre are held on the ground floor and are accessible through the main entrance to the building or via a ramp located adjacent to the main entrance



NORTH DEVON COUNCIL

Minutes of a meeting of the Licensing and Community Safety Committee held in the Barum Room - Brynsworthy on Tuesday, 14th November, 2023 at 10.00 am

PRESENT: Members:

Councillor York (Chair)

Councillors Biederman, Cann, Denton, Haworth-Booth, Hunt, Jusef, Norman, Quinn, Whitehead and Williams

Officers:

Solicitor, Paralegal, Community Safety Sergeant and Community Protection Officer

17. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Maskell, Milton and Renshaw.

18. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 12 SEPTEMBER 2023

RESOLVED that the minutes of the meeting held on 12 September 2023 (circulated previously) be approved and signed by the Chair.

19. DECLARATIONS OF INTERESTS

There were no declarations of interest announced.

20. FUNCTIONS AND STRUCTURE OF COMMUNITY SAFETY IN NORTH DEVON

The Committee received a presentation from the Community Protection Officer.

The Community Protection Officer introduced the Community Safety Sergeant who was located in an office at Brynsworthy Environment Centre.

The Community Protection Officer presented the following:

- The functions and structure of Community Safety in North Devon.
- The Statutory basis for the partnership was underpinned by the Crime and Disorder Act 1998 and the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007.
- Section 6 of the Crime and Disorder Act 1998 required Responsible Authorities in a Local Government area to work together in formulating and implementing strategies to tackle local crime and disorder.

- This was the formation of Community Safety Partnerships – local agencies working together to address crime and disorder.
- The Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007 sets out the way in which Responsible Authorities should carry out their functions as a Community Safety Partnership. There was a requirement to prepare a partnership plan for the Local Government area, setting out the priorities and a County level community safety agreement, setting out the ways the Responsible Authorities in the County might work more effectively to implement the identified priorities by joint working.
- The introduction of the Police, Crime and Sentencing Act 2022 required the specified Responsible Authorities for a Local Government are to collaborate with each other to prevent and reduce serious violence.
- The duty to plan together to exercise their functions to prevent and reduce serious violence in the area. In particular, identification of the kinds of serious violence that occur in the area, the causes of serious violence and the preparation and implementation of a strategy for exercising functions to prevent and reduce serious violence in the area.
- The North Devon Community Safety Partnership works jointly with Torridge District Council's Community Safety Partnership. The Police work across both borders so it makes sense the Local Authorities work together.
- There are examples of similar joint partnerships across Devon such as South Devon and Dartmoor and East and Mid Devon.
- The partnership had a duty to meet to be scrutinised by both Council's Crime and Disorder Sub-Committees.
- The meeting for 2023 was scheduled on 30 November where two meetings were held consecutively with the Chair for both Authority's respective committee in attendance.
- The Statutory partners included the Local Authority, Police, Fire, Probation, County and Health Authorities.
- The non-Statutory partners included North Devon Against Domestic Abuse (NDADA), Devonwide Drug and Alcohol Services, Fear Free, Sunrise Diversity, NDVS, TTVS.
- The current Chair of the North Devon and Torridge Community Safety Partnership was Superintendent Davies. The Police did not chair other Partnerships in Devon.
- The relationship between partners in Devon were strong and had developed useful day-to-day communications.

In response to a question, the Community Protection Officer advised that Councillor York had been present at the recent, quarterly, Community Safety Partnership meeting. Normally the Council's representative, Councillor C. Leaver would have been in attendance but was unable to attend this particular meeting.

Councillor York added that at a previous meeting she had raised the disconnect between the partnership and the Licensing and Community Safety Committee, hence the decision was taken to add a Community Safety update as a standing item on future agendas.

The Community Safety Sergeant addressed the committee advising that the Chair of the Community Safety Partnership was keen to address the deficit in terms of member participation.

The Chair requested that the Community Protection Officer feedback to the next Partnership meeting the request for the Chairs of the respective committees from Torridge District Council and North Devon Council be formally appointed as members of the partnership.

Councillor Biederman put forward the motion to recommend that a Chair from each authority was appointed, in addition to, the Councils' Community Safety Partnership Representative to the Community Safety Partnership.

The Community Protection officer resumed his presentation:

- At the recent quarterly meeting of the Community Safety Partnership three overarching priorities were agreed:
 - Serious Violence including Violence Against Women and Girls
 - Safer Streets and Anti-Social Behaviour; and
 - Emerging Themes – Hate Crime
- It was worth mentioning that North Devon was one of the safest places to live in the UK.
- A lot of work was carried out at a local level working to prevent young people from taking a path towards criminality.
- The serious violence duty the Police were bound to discharge focussed on children in care placements, who were more likely to be vulnerable to slipping into crime, along with Children with special educational needs.
- People who had been displaced from their community and became isolated could be vulnerable to bad choices. The partnership was working to be proactive on what causes issues of crime and anti-social behaviours.
- A serious violence assessment had been developed to focus on preventative work in this area and was still developing. Funding of £4,000 had been received to tackle serious crime issues and it was likely it would be used around the issue of domestic violence.

In response to an observation made that the figures reported were never accurate, the Community Safety Sergeant responded that there were many reasons why people lost confidence in contacting the Police. This could be reflected in inaccuracies in reporting and that reporting could only be made on the figures that were available. He understood the frustrations on not being able to get hold of the Police.

He went on to thank Councillor Jusef for raising the points that the phone service 101 was not working and that the advice to people to go online was not helpful to those in the community whose first language was not English and the aged population who did not have access to the internet. He acknowledged that there were still tranches of society who did not use modern technologies.

In response to observations that a point of contact for the Police in the Centre of town was a great idea and on not seeing mental health issues as a priority, the

Community Safety Sergeant responded that the effects of aggressive behaviours by the public towards officers had a detrimental effect on morale and resulted in sickness/absences from work. No one wanted to come to work to be abused. Training was being undertaken to help customer service officer's deal with abuse. Dealing with suicidal individuals was a very resource intense issue. Preventative work focussing on street attached individuals who often had issues with drug and alcohol misuse, which could lead to mental health problems was a priority.

The Community Safety Sergeant added that there had been a gap in the Police team across both Torridge and North Devon. A new Community Safety Police officer had been recruited filling this gap.

In response to a question on recruitment problems, the Community Safety Sergeant advised that according to Government guidelines recruitment requirement had been filled. With the influx of people moving to the area to live population numbers were always on the rise so the Police could always benefit from more officers. The Police had to work smarter with the resources that were available.

In response to an observation that the number of Community Police Officers had halved in recent years and therefore as a result Anti-Social Behaviour had increased, the Community Safety Sergeant replied that there were a lot of challenges, apathy amongst the community resulted in the drop in numbers recruited as Community Police Officers. How all people were treated in the community mattered. Ensuring that the available resources were used to their best potential was vital.

The Chair added that statistics showed that the presence of Street Marshalls in Barnstaple had helped to lower anti-social behaviour issues.

The Community Protection Officer resumed his presentation:

- Safer Devon was the mechanism that allowed partners to work together. It's Statutory Duty was at a Local District level but it made sense for all Community Safety Partnerships to work together.
- The Board of the Safer Devon group was made up of the Chairs from all the different Community Safety Partnerships, representatives from Devon County Council and the Police and Crime Commissioners Office.
- The role of Safer Devon was to produce a yearly strategic assessment of its work carried out and a serious violence assessment.
- Sub groups of Safer Devon included Youth Crime prevention which focussed on serious violence and SPACE – a group addressing the deficit of youth liaison.
- Devon and Torbay Prevent Partnership was a scheme to stop people being drawn into terrorism activity. Ways to divert people away from terrorism were discussed.
- Devon was a risk area for terrorism activity but not as great a risk as a city for example. Prevent guidance stated that there should be a group in the area with the expectation that statutory authorities work together, As a low risk area meetings were only attended if a referral on a resident in Devon had been made.

- Other Statutory Responsibilities included the Prevent scheme as well as serious violence and Domestic Homicide Reviews.
- The approach to serious violence in Devon was focussed on prevention. Unlike cities, there were no gang activities in the area.
- Domestic homicide reviews gave an opportunity for lessons to be learnt, and the Safer Devon group had the statutory duty to carry out these reviews.
- The role of members in connection with the Community Safety partnership was to act as a voice for their community. Issues would likely be reported to members via the public. If this was the case then information about this issue should be emailed to the Community Safety Officer who would offer assistance with issues.
- Having a regular meeting with the Licensing and Community Safety committee would be very helpful to keep Officers informed of any issues arising.

The Chair requested a visual flow diagram of the hierarchy of all the different groups working in the partnership to come to the next meeting.

The Chair thanked the Community Safety Sergeant and Community Protection Officer for their attendance at the meeting and for the really useful presentation.

RECOMMENDED that the Chair of Licensing and Community Safety Committee, North Devon Council and the Chair of the External Overview and Scrutiny Committee, Torridge District Council be put forward to become appointed members of the Community Safety Partnership.

21. LICENSING AND COMMUNITY SAFETY SUB-COMMITTEES

RESOLVED that the minutes of the Licensing and Community Safety Sub-Committee A (circulated previously) held on 25 August 2023 be approved as a correct record and signed by the Chair.

Chair

The meeting ended at 11.55 am

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.

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NORTH DEVON COUNCIL

Minutes of a meeting of the Licensing and Community Safety Sub Committee B held in the Barum Room - Brynsworthy on Thursday, 23rd November, 2023 at 1.00 pm

PRESENT: Members:

Councillors Biederman, Whitehead and Williams

Officers:

Paralegal, Solicitor and Licensing Officer and Corporate and Community Services Officer

11. APPOINTMENT OF CHAIR

The Corporate and Community Services Officer requested a nomination for Chair.

RESOLVED that Councillor Biederman be appointed Chair.

12. APOLOGIES FOR ABSENCE

There were no apologies for absence.

13. ITEMS BROUGHT FORWARD WHICH IN THE OPINION OF THE CHAIR SHOULD BE CONSIDERED BY THE MEETING AS A MATTER OF URGENCY

There were no items, which in the opinion of the Chair, to be considered as a matter of urgency.

14. DECLARATIONS OF INTEREST

There were no declarations of interest announced.

15. EXCLUSION OF PUBLIC AND PRESS AND RESTRICTION OF DOCUMENTS

RESOLVED:

(a) That, under Section 100(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 2 of Part 1 of the Schedule 12A of the Act (as amended from time to time), namely information which was likely to reveal the identity of an individual.

(b) That all documents and reports relating to the item be confirmed as "Not for Publication".

16. APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE AND A PRIVATE HIRE DRIVER'S LICENCE- (REF NB007/23)

The Chair introduced himself and invited those in the room to introduce themselves.

The Licensing Officer confirmed that the formal requirements had been met in the submission of the application.

The Legal Officer was asked to outline the hearing proceedings.

The Licensing Officer presented the report and highlighted the following:

- An application for a Hackney Carriage and Private Hire Driver's Licence was received on 29 August 2023.
- The results of a Disclosure and Barring Service check were received on 19 October 2023 which showed two recorded convictions from 6 September 1996.
- The Applicant also disclosed an offence which did not appear on the Disclosure and Barring Service check. He declared that approximately 15 years ago he was found to be driving or being in charge of a motor vehicle with alcohol concentration above the prescribed limit.
- The Applicant currently worked as a class 1 HGV driver.
- The Applicant had attended a formal interview which was audio recorded and conducted under the conditions of the Police and Criminal Evidence Act 1984.
- The Applicant had been sentenced to 200 hours of community service, a two year supervision order, £100 compensation and £100 costs. He immediately after the offence decided he did not wish to remain in friendship with these boys and had no further contact with them.
- He further clarified the circumstances of the offence of driving or being in charge of a motor vehicle with alcohol concentration above the prescribed limit.
- The North Devon Hackney Carriage and Private Hire Licensing Policy (March 2022), appendix H, provided the following guidelines in relation to previous convictions:
 - Appendix H (18) section C
Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
 - Appendix H (18) section D
Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.
 - Appendix H (18) section J
Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed.
- All offences disclosed on the Disclosure and Barring Service check by the Applicant had now elapsed and the guidelines suggest that granting of a licence could now be considered.

- Whilst the guidelines suggested that sufficient time had now elapsed between the time of offences and the application a further consideration of whether or not the applicant was dishonest in his application had to be considered:
 - General Policy section 12
Dishonesty
Any dishonesty by any applicant or other person on the applicant's behalf which was discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- During his interview the Applicant stated that the convictions for robbery and possession of a firearm occurred 28 years ago when he was 15 years old and he had forgotten all about it. He felt that the disclosure of the offence of driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit (which did not appear on his Disclosure and Barring Service Check) demonstrated he had not intended to deceive anyone or be dishonest during his application.
- The Applicant had written a letter in relation to the omission of the convictions as shown at Appendix D of the report.

The Applicant was invited to present his case. He explained the circumstances around the incident that happened when he was 15 years old. He explained that he enjoyed driving for a living but that due to back trouble was starting to struggle with the heavy loading involved with the HGV driving and hoped that taxi driving would be lighter.

In response to questions, the Applicant gave the following responses:

- He was a family man and enjoyed days out with his family he had moved to Devon for a better life he was a friendly, happy person.
- It wasn't that he thought the 200 hours community service was irrelevant he had just forgotten all about it.
- He no longer drank alcohol.
- He regretted the incidents.
- He worked hard and played hard and to accommodate the drop in regular hours he would continue to supplement his income with the HGV driving, he was aware he would need to be aware of the number of hours he had driven and take the necessary breaks
- On checking with the Police about the classification of the firearm as a shotgun he was told that it would be entered as shotgun regardless of it being one.

The Licensing Officer summed up with explaining that the Applicant had been very co-operative throughout the whole application process and had happily attended a recorded interview to discuss his convictions further.

The Applicant summed up by saying he had nothing further to add other than he looked forward to becoming a member of the community.

RESOLVED that everyone be excluded from the meeting with the exception of the Members, Solicitor, and Corporate and Community Services Officer in order for the

Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

It being 14:14 and the Sub-Committee requested to recall the Applicant for further questions, the meeting reconvened.

The Chair invited the Applicant to provide further assurances of his status as a fit and proper person.

The Applicant was asked to read page 9 of the agenda section 3.1 (iii):

- In assessing the carious information collected in relation to the 'fit and proper' status of an applicant or licence holder, the Licensing Authority would apply the following test:
- "Would the decision maker(s) charged with the ability to grant a licence, without any 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 day or night"? These include any dishonesty and offences involving violence against a person.

The Applicant reiterated he was not a violent person – he was a changed man and was looking to provide a nice future for himself and his family. Someone else had filled the form in on his behalf. He had forgotten about the convictions which were 28 years old and his thoughts had been focussed on the driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit offence. His current role as a class 1 HGV driver involved him working away from home working with the Police on the removal of counterfeit goods from warehouses. He himself had been a victim of an attack while in his lorry but he had learned to always stay calm and in the vehicle, he had been a HGV driver for 15 years.

RESOLVED that everyone be excluded from the meeting with the exception of the Members, Paralegal, Solicitor, and Corporate and Community Services Officer in order for the Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED that everyone be re-admitted to the meeting.

The Chair requested that the Corporate and Community Services Officer read the proposed decision, which was voted on, and agreed.

The Members of the Sub-Committee had determined, with the high responsibility that the Licensing Authority had in the protection of the public in North Devon in mind, that the Applicant was not a fit and proper person to hold the above licences for the following reasons, pursuant to section 59 of the Local Government (Miscellaneous Provisions) Act 1976, Appendix H (12) and Section 4.1.2 of the Council's Hackney Carriage and Private Hire Licensing Policy dated March 2022 and the information that Members have heard today.

The reasons for this were the failure to:

- a) disclose the previous convictions of Robbery and Possession of a Firearm on 6th September 1996 at Birmingham Crown Court within the application process; and
- b) Provide adequate reassurance to Members of the sub-committee that the Applicant was a fit and proper person.

Appendix H (12) of the Council's Hackney Carriage and Private Hire Licensing Policy stated that any dishonesty occurring in any part of the application process, by the applicant or any other person, would result in a licence being refused. The evidence did not reassure Members that the Applicant was a fit and proper person despite being prompted for further evidence.

It was considered that the spent convictions were still relevant and serious enough to justify the refusal to grant a licence. Despite the length of time that had elapsed, there was insufficient evidence before Members to disregard the convictions.

RESOLVED that the application for a Hackney Carriage and a Private Hire Driver's Licence – (Ref NB0007/23) be refused.

Chair

The meeting ended at 3.13 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.

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NORTH DEVON COUNCIL

Minutes of a meeting of Licensing and Community Safety Sub Committee C held in the Barum Room - Brynsworthy on Friday, 23rd February 2024 at 10.00 am

PRESENT: Members:

Councillor Norman (Chair)

Councillors Maskell and Milton

Officers:

Legal Advisor and Licensing Officers (PF, NB and CH) and Clerk

32. APPOINTMENT OF CHAIR

The Clerk asked for a nomination for Chair.

RESOLVED that Councillor Norman be appointed as Chair of this Sub-Committee C.

33. APOLOGIES FOR ABSENCE

There were no apologies for absence.

34. ITEMS BROUGHT FORWARD WHICH IN THE OPINION OF THE CHAIR SHOULD BE CONSIDERED BY THE MEETING AS A MATTER OF URGENCY

There were no matters, which in the opinion of the Chair, to be considered as a matter of urgency.

35. DECLARATIONS OF INTEREST

There were no declarations of interest announced.

36. EXCLUSION OF PUBLIC AND PRESS AND RESTRICTION OF DOCUMENTS

RESOLVED that:

(a) Under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 2 of Part 1 of the Schedule 12A of the Act (as amended from time to time), namely information which was likely to reveal the identity of an individual.

(b) All documents and reports relating to the item be confirmed as "Not for Publication".

37. DISCIPLINARY HEARING OF A HACKNEY CARRIAGE AND PRIVATE HIRE LICENSED DRIVER – (REF PFDD0001(24))

Also present: The Applicant and the Applicant's Representative.

The Chair introduced himself, the other Sub-Committee members and the officers present.

The Chair asked the Legal Advisor to explain the order of the hearing proceedings.

The Licensing Officer presented his report. The Licensing Officer highlighted the following:

- Section 13.3 of the North Devon District Council's Hackney Carriage and Private Hire Licensing Policy (December 2023) required a licensed hackney carriage and private hire driver to notify the Licensing Authority within 48 hours of any motoring offence.
- On 9 January 2024 the driver (reference PFDD0001 (24) reported to the Council that he had been convicted of a driving offence in October 2023 and had incurred three penalty points. He advised that this offence would take the total points on his DVLA driving licence to nine penalty points. Notification of this could be seen at Appendix A of the report.
- Whilst the licence holder did inform the Licensing Authority of the October 2023 driving endorsement, no record could be found that the driver ever informed the Licensing Team of the two previous speeding offences for May 2023.
- On 18 January 2024, a Licensing Officer contacted the driver to seek clarity on the position surrounding the October 2023 speeding offence. The driver advised it was a speeding offence on the North Devon Link Road. The driver advised that he was not offered a National Speed Awareness Course (NSAC) in relation to any of the three current offences as he had undergone a NSAC course in August 2021. Once a driver had attended, a course there was no option for re-attendance for a further three years.
- As part of the Licensing Team's procedures, a DVLA check was made every year on a Hackney Carriage and Private Hire Driver's Driving licence. A check was made on 11 July 2023 but this did not disclose the two SP30 offences, which were accrued on the 25 and 26 May 2023 as can be seen at Appendix B of the report.
- In relation to the latest speeding offence, a check was made on 22 January 2024 that identified three driving endorsements totalling nine penalty points, as can be seen at Appendix C of the report.
- The licensee currently held a Hackney Carriage and Private Hire Driver's licence for the period 16 March 2021 to 15 March 2024.
- The driver was being referred to the Licensing and Community Safety Sub-Committee C for the following reasons:
 - The driver had acquired nine penalty points on their DVLA driving licence;
 - The driver had not previously advised the Council of the NSAC attended in August 2021;
 - Points had accrued in short succession following the attendance of the NSAC, which showed a propensity to speed;

- The driver failed to inform the Council of the two speeding offences on the 25 and 26 May 2023, contrary to the Council's Policy; and
- The driver had been issued a final warning for a racially aggravated complaint, a copy of which could be seen at Appendix D of the report.
- It should be noted that the nine penalty points would remain on the driving licence for a period of four years from the date of the offence.
- On 11 December 2023 the driver was issued a final warning with regard to his Hackney Carriage and Private Hire Driver's licence in relation to the complaint of a racially aggravated section 4A Public Order Offence contrary to section 4A of the Public Order Act 1986, which can be seen at Appendix D of the report.
- Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 stated that a district council might suspend, revoke or refuse to renew the licence of a driver of a Hackney Carriage or Private Hire vehicle. Where he had been convicted of an offence under or had failed to comply with the provisions of the Town Police Clauses Act 1847 or the 1976 Act or for 'any other reasonable cause'.
- It was submitted that a driver acquiring nine penalty points on his driving licence, failing to notify the Licensing Authority of a NSAC in 2021, and two of the three driving endorsements accrued in 2023, in combination with being issued a final warning for a racially aggravated Public Order Offence soundly fell within the category of 'any other reasonable cause'.
- A further consideration as to whether the failure to disclose the previous speeding offences was a dishonest act. Appendix H Section 12 of the North Devon Hackney Carriage and Private Hire Licensing Policy referred to any dishonesty by any applicant or other person on the applicant's behalf which was discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- The Sub-Committee was entitled to draw upon any of the considerations outlined in its Hackney Carriage and Private Hire Licensing policy dated December 2023.
- The most significant policy considerations were contained in the following parts of the document:
 - Section 4.12 of the main text (Relevance of Convictions and Cautions). This set out the general principles, which the Licensing Authority adopted in relation to an applicant's convictions and cautions;
 - Appendix H (Guidelines relating to relevance of convictions). Section 18 (12) (I) and (L) set out guidance as to the relevance of convictions for minor traffic offences which appeared on the applicant's record. General Policy (12) Any dishonesty by any applicant or other person on the applicant's behalf which was discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) would result in a licence being refused, or if already granted, revoked and may result in prosecution. Motoring Convictions (I) Hackney carriage and private hire drivers were professional drivers charged with the responsibility of carrying the

public. It was accepted that offences could be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant did not exhibit the behaviours of a safe road user and one that was suitable to drive professionally. Any motoring conviction while a licensed driver demonstrated that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the Licensing Authority considered that the licensee remained a fit and proper person to retain a licence. Other Motoring Offences (L). A minor traffic or vehicle related offence was one which did not involve driving under the influence of drink or drugs, driving whilst using a mobile phone, and had not resulted in injury to any person or damage to any property (including vehicles).; and

- Appendix I (Disciplinary hearings). This set out the disciplinary procedures, which the Sub-Committee may adopt in relation to licence holders who had acquired six or more penalty points on their DVLA driving licence.
- Issues for the Sub-Committee to consider were:
 - Whether the three driving offences (9 penalty points) for speeding, failure to notify of a speed awareness course in 2021 and two of the previous driving offences of May 2023, together with the final warning letter issued for the racially aggravated public order offence issued on 11 December 2023 by the Licensing Officer were relevant and serious enough to justify the suspension or revocation of the Hackney carriage and Private Hire Driver's Licence;
 - Whether the failure to disclose the previous speeding offences was an act of dishonesty; and
 - Whether the applicant continued to be a fit and proper person to hold Hackney Carriage and Private Hire Driver's Licences.
- The Sub-Committee must have regard to all the evidence it hears in reaching its decision.
- In assessing the various information collected in relation to the 'fit and proper' status of an applicant or licence holder, the Licensing Authority would apply the following test:
 - "Would the decision maker (s) charged with the ability to grant a licence, without any 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 day or night"? These included any dishonesty and offences involving violence against the person.

The Chair invited the Applicant and/or his representative to present their case.

The Applicant's representative highlighted the following:

- The copy of the NDC policy that he had been given was dated November 2022 and in it there was no mention of notifying the Licensing Authority about undertaking a National Speed Awareness Course. The Applicant had done nothing wrong by not notifying the Authority and could not be called dishonest if unaware he had done anything wrong.
- The Police had advised him that no one needed to be notified of the undertaking of the course.
- The Police had notified the representative for the Applicant initially; as he was, the owner of the vehicle that the Applicant had been driving when caught speeding.
- He felt that the Licensing Authority should issue paper copies of the policy with a signed confirmation of receipt.
- Now he was aware of the need to notify the Licensing Authority about NSAC undertaken by any of his drivers he would inform the Authority straightaway.
- The Applicant was still waiting for the bodycam footage of the civil enforcement officer.
- The Applicant had sent a letter of apology to the officer involved in the racially aggravated incident.

RESOLVED that it being 10:43 the meeting be adjourned for a comfort break.

RESOLVED that it being 10:45 the meeting be reconvened.

Members questioned the Applicant.

The Applicant's representative made the following responses:

- It was difficult to keep on top of all the changes that occurred for drivers.
- The copy of the policy he was adhering to didn't mention the need to notify a National Speed Awareness Course attended.
- The Licensing Officer had to check what was stated in the policy before he could answer his question on whether it needed to be notified.
- Felt he had been kept up to date as the copy of the policy he was using was supplied to him by the Licensing Officer.
- The Applicant had school contracts for Devon County Council, had regular customers to take to the airports he drove around 60,000 miles a year.
- The offence in London was four miles an over the limit in a 20 miles an hour zone he was unfamiliar with the area.
- The two offences on the dual carriageway he didn't have passengers in the vehicle and was caught at 48 miles an hour in a 40 mile an hour zone.
- Devon County Council carried out their own DBS checks on their drivers and these speeding offences would not show up on the DBS.
- The policy was probably only looked at once by the drivers in the three years that they held their licence.
- He felt his regular customers who knew him would still want to get in the car with him if the number of points he had were displayed on the dash.
- He had an impeccable record and had been driving for over 30 years.
- In recent times he had been suffering with anxiety due to the loss of close friends. He had recognised this and addressed it with the help from a GP.

- He felt he was well liked in the community and received over 100 well wishes on social media recently for his birthday.

The Licensing Officer summed up. In his summing up the Licensing Officer confirmed no record of a phone-call could be found to support the Applicant's claim he had notified us of the May 2022 speeding points. He advised that the list of offences that had to be notified were too numerous to list them all but would seek clarification on whether the policy should be amended to list them all. It was the Council's preference to use email for updates and correspondence and it could not be responsible for emails going into spam folders. All updates and policies were available on the Council's website.

The Applicant's representative summed up. In his summing up he confirmed he now understood he had done wrong by not notifying the Authority about the Speed Awareness Course and that he would ensure he would notify the Authority going forwards.

RESOLVED that it being 11:20, everyone be excluded from the meeting with the exception of Members, the Legal Advisor and the Clerk in order for the Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED that it being 12:36, everyone be readmitted to the meeting.

The Chair requested that the Clerk read the proposed decision, which was voted on, and unanimously agreed.

RESOLVED that the Hackney Carriage and Private Hire Drivers Licences, reference PFDD0001 (24) be revoked with immediate effect.

The decision was made for the following reasons:

The Licensing Authority has determined, with the high responsibility that the Licensing Authority has in respect to the protection of the public, that the Applicant was not a fit and proper person to continue to hold the above licence(s) for the following reasons, pursuant to section (61) (1) and (2B) of the Local Government (Miscellaneous Provisions) Act 1976, and Appendix H (18) (i) (I) and Section 4.12 of the Council's Hackney Carriage and Private Hire Licensing Policy dated December 2023, and the information that Members had heard today.

The reasons for this were:

- a) Failure to understand the moral and professional obligation to notify the Licensing Authority of a speed awareness course undertaken in 2021.
- b) There was no evidence of the Licensing Authority being notified of two driving offences of May 2023 in line with reporting requirements of the Council's Hackney Carriage and Private Hire Licensing Policy. These May 2023 offences having occurred at a site where there has been fatalities.

- c) Accumulation of nine DVLA penalty points for speeding offences within a six-month period between May & October 2023.
- d) The final warning letter issued by the Licensing Authority on the 11 December 2023 for a racially aggravated public order offence.

Appendix H (18) (i) of the Council's Hackney Carriage and Private Hire Licensing Policy states that Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence.

In this instance the driver had incurred nine penalty points for speeding within a short period of time which was not a single occurrence, and the Licensing Authority believed the number of points accrued indicated a propensity to drive in this manner. Moreover, these points had accumulated following the driver's attendance at an educational speed awareness course. It was held that the accumulation of these penalty points indicated that the driver did not exhibit the behaviours of a safe road user and one that was suitable to drive professionally.

Whilst the Licensing Authority was not considering the grant of a new licence in this instance, Members also noted that within Appendix H (18) (I) of the Council's Hackney Carriage and Private Hire Licensing Policy where a new driver applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. This sets the expectation and gravitas pertaining to the propensity to speed in motor vehicles used prior to a licence having been granted, and now the Licensing Authority is determining a situation after the grant of a licence and relevant to the standard of fitness of a licensed hackney carriage and private hire driver.

There were concerns over a multitude of issues, namely the Licensing Authority was not satisfied that attempts to notify were evidenced; speeding offences and final warning in respect of the racially aggravated public order offence and it was considered that the above reasons were relevant and serious enough to justify the revocation of the current hackney carriage and private hire drivers licence with immediate effect.

The Decision Notice was printed and passed to the Applicant.

Chair

The meeting ended at 12.41 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.

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