

Cheltenham Borough Council

Full Licensing Committee

Meeting date: 16 December 2022

Meeting time: 2.00 pm

Meeting venue: Council Chamber - Municipal Offices

Membership:

Councillor Dr David Willingham (Chair), Councillor Angie Boyes (Vice-Chair), Councillor Barbara Clark, Councillor Tim Harman, Councillor Richard Pineger, Councillor Julie Sankey, Councillor Diggory Seacome, Councillor Izaak Tailford, Councillor Simon Wheeler and Councillor Bernard Fisher

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Agenda

1. Apologies

2. Declarations of interest

3. Minutes of the last Full Licensing Committee meeting (Pages 5 - 10)

To approve the minutes of the meeting held on 8th June 2022.

4. Minutes of sub-committee meetings (Pages 11 - 22)

To approve the meetings of the Licensing Sub Committees–Miscellaneous, held on 6 April 2022, 5 October 2022, and 2 November 2022.

5. Review of a Hackney Carriage Driver's Licence (Pages 23 - 52)

Report of the Licensing Team Leader

6. Review of a Hackney Carriage Driver's Licence (Pages 53 - 68)

Report of the Licensing Team Leader

7. Any other items the Chairman determines urgent and requires a decision

8. Local Government Act 1972 Exempt Information

The committee is recommended to approve the following resolution:-

That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1 and 2, Part (1) Schedule (12A) Local Government Act 1972, namely:

- Paragraph 1: Information relating to any individual
- Paragraph 2: Information which is likely to reveal the identity of an individual

9. Exempt Minutes of the last Full Licensing Committee (Pages 69 - 74)

To approve the exempt minutes of the Full Licensing Committee meeting held on 8 June 2022

10. Exempt Minutes of Sub-Committee meetings (Pages 75 - 82)

To approve the exempt minutes of the Licensing Sub-Committee – Miscellaneous meetings, held on 6 April and 2 November 2022.

1.1 Date of next meeting

1 March 2023

Full Licensing Committee

Wednesday, 8th June, 2022
Times Not Specified

Attendees	
Councillors:	David Willingham (Chair), Angie Boyes (Vice-Chair), Richard Pineger, Julie Sankey, Diggory Seacome, Izaak Tailford, Simon Wheeler and Bernard Fisher
Also in attendance:	Vikki Fennell, Jason Kirkwood, Judith Baker and Bev Thomas

Minutes

1. **APOLOGIES**
Apologies were received from Councillor Harman.
2. **DECLARATIONS OF INTEREST**
There were none.
3. **PUBLIC QUESTIONS**
There were none.
4. **MINUTES OF PREVIOUS FULL LICENSING COMMITTEE MEETING**
The minutes of the Full Licensing Meeting held on 1st September 2021 were approved as a true record by all Members who were present.
5. **MINUTES OF LICENSING SUB-COMMITTEE MEETING**
The minutes of the Licensing Sub-Committee Meeting held on 6th April 2022 were approved as a true record by all Members who were present.
6. **APPOINTMENT OF SUB-COMMITTEES**
The Senior Licensing Officer confirmed that Licensing is one of two regulatory committees with a broad range of delegated powers as set out in the constitution. Since 2017, some of its work has been dealt with by two sub-committees, each comprising five Members (currently four LibDems and one Conservative), as nominated by the groups.

The Chair confirmed that he and Councillor Boyes would continue as Chair and Vice-Chair of Licensing Sub-Committee-Miscellaneous; the Licensing Sub-Committee-Alcohol and Gambling was a 3-person committee which elected a Chair on the day. Nominations for the two sub-committees were set out in the papers, and the Chair invited Members to vote for them as listed en bloc.

The nominations were approved unanimously.
7. **APPLICATION FOR A (LATE) RENEWAL OF PRIVATE HIRE VEHICLE PROPRIETOR'S LICENCE**

The Chair explained the process, then introduced the Senior Licensing Officer, who summarised the case as set out in his report. In order to benefit from continuity rights, a licence should be renewed in a timely fashion, but in this case was allowed to lapse. He said the matter was complicated and reflected a situation not envisaged in the legislation – the Covid pandemic and its effect on trade – and Members must decide whether this justified the lapse and was reason enough to depart from the council's usual renewal policy. Public safety must always be the overriding consideration - in this case, there was no risk – so Members were being asked whether the late renewal should be granted, with continuity rights, or a new application be required.

The Chair noted that the vehicle is seven years old, with Euro 5 or 6 emissions, in line with current policy. The Senior Licensing Officer confirmed that new Private Hire Vehicle licence applications required the vehicle to be less than five years old, but for a renewal it can be older.

The applicant had no questions for the officer, and was invited to explain her late renewal application. She said she got her licence and started driving in December 2019, working for three months before lockdown. Evening and night-time work suited her family life, but when restrictions began to be lifted and only daytime work was available, she decided not to renew her licence as she could not leave her children during the day. She and her partner needed extra income to support their household, but could not afford a vehicle less than five years old required for a new licence.

In response to a Member question, she confirmed that she has only had two very minor accidents and two parking tickets since she started driving.

In debate, Members made the following points:

- the overriding consideration is public safety, and the applicant has shown herself to be honest in her statement. She has explained how much she wants the role and how it will work with her family situation, and there is no doubt that the unusual circumstances of the pandemic badly affected trade;
- there is no risk to public safety with regard to the vehicle or the suitability of the driver;
- buying a new car for a new licence would not be easy, and had the applicant renewed in good time, she would have been driving the same car anyway.

The Chair summarised Members' views as follows:

- no public safety concerns;
- no environmental concerns – the vehicle is Euro 5 or 6 emissions;
- Covid had a huge impact on all manner of professions, and it seems reasonable to vary the policy in light of this;
- the availability of cars is challenging;
- due regard should be paid to the equality act, in view of the applicant's childcare responsibilities.

The applicant had no further comments, so the Chair moved to the vote.

4.1(a) – give delegated authority to officers to grant late renewal

8 in support - unanimous

Carried

The Chair advised the applicant that officers would write to her to confirm.

8. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE

The Chair explained the process to the applicant, drawing the applicant's attention to the Licensing Committee privacy statement, and making him aware that information shared with the committee may be disclosable under the Data Protection Act and GDPR. He said the applicant had the right to refuse to answer specific questions or not speak, but in the absence of any information to the contrary, the committee was entitled to draw their own conclusions based on the information available to it. He asked the Senior Licensing Officer to introduce the case.

The Senior Licensing Officer reminded Members that on hearing the case, and taking into account any mitigating circumstances, they needed to decide whether the applicant was fit and proper to hold a licence, and what actions they felt should be taken – no action, a written warning, a requirement to take an advanced driving test, suspension, or revocation. He said the driver was not currently suspended, so if using the power of immediate suspension would not be appropriate.

He highlighted a number of considerations in the detailed taxi policy – drivers should abide by good code of conduct, drive with due care and attention at all times, and consider other road users and pedestrians. He confirmed that the driver has no record of previous offences, and licensing officers generally follow a 'three strikes' policy for less serious offences, but the report suggests that officers believe the standard of driving in question requires something more.

Government guidance suggests that a 'fit and proper' driver can be defined as one with whom you would allow a person for whom you care to travel alone. This is a difficult situation and the driver cannot be given the benefit of the doubt, but if Members feel 51% certain that he is not fit and proper, they can revoke his licence or take other measures to resolve the situation.

He said the report did not reflect the conversation between the applicant and the enforcement officer, and advised the applicant to be honest and tell the committee if there were any anomalies.

Members were shown a video of the incident, and were advised by the Senior Licensing Officer that there have been no previous complaints about the applicant's driving.

The applicant did not have any questions for the officer, and was invited to explain the incident. He told Members that he had had a bad experience with travellers a few years ago, refusing to pay and taking his keys, as a result of which he was always nervous when picking them up – as were most drivers, some of whom refuse to do so. On the evening in question, he picked up a fare from the railway station after a long wait, started driving to where he understood the person wanted to go, but as he approached what he thought was the correct turn-off from the Golden Valley roundabout towards Churchdown, the man shouted that he was going the wrong way and grabbed his arm to turn the wheel. His reaction was to panic and cut across the lane. He is not proud of what he did, has driven for 22 years with no incident, and offered his apologies for the incident.

Member questions

In response to questions from Members, the applicant confirmed that:

- there was one passenger in the car;
- he approached the roundabout as if to take the Churchdown turnoff, but panicked when the passenger shouted that this was the wrong way and grabbed his arm;
- the passenger was sitting in the back and pushed his left arm from behind;
- the passenger wasn't wearing a seatbelt – most passengers do so automatically, and if not he usually asks them to do so, but didn't ask this passenger as he was on the phone and agitated and would not have done so;
- the incident was reported to the police, who contacted him to confirm that he was the driver; he has not heard anything else from the police;
- the passenger actually wanted to go to Coldpool Lane, not Churchdown;
- the vehicle is a Vauxhall Insignia; it does not have CCTV though officers have since recommended this;
- the passenger was on the phone when he got into the car. He was with a friend, who got into a different taxi and did not cause any problems to that driver.

The Senior Licensing Officer stressed the importance of all passengers wearing seatbelts, saying that any insurance could be invalid if they don't. He wondered about the extent to which the passenger touched the driver's arm, and said the concern to the council was that the driver made such a violent move when the customer shouted. The applicant said he was not proud of his reaction and could have handled it better - he was a safe driver, who also held a bus driver's licence, but memories of his own and his colleagues' experience with this type of passenger made him particularly nervous.

Member debate

Members made the following points:

- the video footage shows a very dangerous manoeuvre but having heard the driver's story of events, it is clear that he was in a scary situation and the actions he took were for his own safety in extraordinary circumstances; it was not the way he usually drove;
- as the driver has not been suspended already, it isn't necessary to suspend him now, but regardless of the situation he was in, the video showed dangerous driving and as public safety is the ultimate concern, some sort of assessment would be appropriate;
- watching the video in slow motion, it is clear that the driver managed a difficult situation by braking, indicating and driving across the lane in time for the car in that lane to stop – perhaps not as dangerous as was being made out, in which case a written warning may be more appropriate than a driving assessment. The applicant is a professional driver of 22 years, with no fines or problems, not a reckless joy-rider;
- a written warning suggests carelessness and would not have any great value, as the driver was forced to take the action he took, but training might provide the tools needed to handle a similar situation in a better way.

The Chair suggested that suspending or revoking the licence was disproportionate, but some action needed to be taken. Members could vote for both a written warning and an advanced driving assessment should they wish, but if minded to recommend a driving assessment, they would need to include a time limit.

After further discussion of the options, the applicant was invited to respond to the debate. He said he would respect any decision made by the Committee – his actions were a mistake, not intentional, but he will do whatever has to do to keep his licence.

The vote was taken on the various resolutions as follows:

1.4.1 – to take no action

0 in support

8 in objection

Not carried

1.4.2(a) – written warning

4 in support, including Chair's casting vote

4 in objection

Carried

1.4.2(b) - advanced driving assessment

6 in support

2 in objection

Carried

1.4.2(c) - suspend

0 in support

8 in objection

Not carried

Regarding the timescale for the driving assessment, Members were advised that assessments are available in Gloucester and the applicant would have no trouble doing it within three months.

Members agreed unanimously that the driver should undertake an advanced driving assessment in three months.

The Chair advised the driver that he would receive a written warning and must complete an advanced driving assessment at his own expense within three months. Officers would write to him with the details, and he had the right to appeal within 21 days.

**9. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION
RESOLVED THAT**

“in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will

be disclosed to them exempt information as defined in paragraphs 1 and 2, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 1: Information relating to any individual

Paragraph 2: Information which is likely to reveal the identity of an individual

- 10. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE**
A review of a Hackney Carriage Driver's Licence was undertaken by Members.
The licence was revoked.
- 11. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE**
A review of a Hackney Carriage Driver's Licence was undertaken by Members.
The licence was revoked.
- 12. BRIEFING NOTE: TAXI SAFEGUARDING**
A Briefing Note was circulated and discussed by Members.
- 13. REVIEW OF PREVIOUS DECISIONS**
No previous decisions were reviewed.
- 14. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION**
There were none.
- 15. DATE OF NEXT MEETING**
To be confirmed.

David Willingham
Chairman

Licensing Sub-Committee - Miscellaneous

Wednesday, 6th April, 2022

18:00

Attendees	
Councillors:	David Willingham (Chair), Angie Boyes (Vice-Chair), Alisha Lewis, Diggory Seacome and Simon Wheeler (Reserve)
Also in attendance:	One Legal and Senior Licensing Officer

Minutes

1. APOLOGIES

There were apologies from Councillor Stafford and Councillor Wheeler attended as a substitute.

2. DECLARATIONS OF INTEREST

There were none.

3. MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting were agreed.

4. APPLICATION FOR A HACKNEY CARRIAGE VEHICLE PROPRIETOR'S LICENCE

The Senior Licensing Officer introduced the report.

The matter then went to Member questions for the officer and the responses were as follows:

- There are very few drivers that swapped to private hire, however we do need to be aware that may be setting a precedent.
- There are very few big proprietors who switched to private hire.
- In this particular case the applicant could have applied to renew in September, however he would have had to renew again on the 31/12 with another test etc.

The applicant then addressed the committee and made the following points:

- It was all a matter of timing for him with his renewal in September.
- He chose not to get a WAV due to the expense.
- He was a sole trader but chose to go to private hire which cost an extra £270.
- He chose not to go to a third party due to the cost involved with the fee that you have to pay to the third party.
- It would be better if he could go back to being a hackney carriage driver.

During the Member debate the Members made the following points:

- There needs to be discussion that the committee is happy to give officers the delegation to make this decision ongoing.

- The change to the WAV was unfortunate it was bad timing in this particular case.
- The priority has to be to make life easier for the driver.

The matter went to the vote on
1.9a – the vote was unanimous in favour.

To close the matter the Chair stated that this would draw a line under the matter unless a driver has already engaged with officers on the matter, the committee would not consider any future applications.

5. DRAFT LICENSED VEHICLE EMISSION AND WHEELCHAIR ACCESSIBILITY POLICY

The Cabinet Member introduced the report and started with thanks to Louis and Jason for all their hard work, along with engagement with him as the Cabinet Member, other colleagues and the accessibility forum. The aim is for a wheelchair accessible fleet without too much pressure on the trade. The aim to have a zero carbon fleet by 2030 looks complicated but it takes a vehicle by vehicle and category by category approach.

The Senior Licensing Officer confirmed that the closing date for the consultation is 25th April 2022.

Members comments were as follows:

- Huge thanks was given to the Licensing team for their work in a very well written and laid out report.
- The phased approach to bringing in these changes seems like a good idea.
- There was praise given due to the trade engagement.
- There was a question raised with regard to the fleet being silver and how easy silver cars are to obtain. The Senior Licensing officer confirmed that this will be looked into.
- With regard to electric vehicles there was acknowledgement that charging points would be needed on the rank and that pressure would need to be put on GCC to make sure that there are charging points on terraced streets.
- There needs to be numerical analysis of the different pathways – how will the role out run in terms of number, safe vehicles and obtaining a good life out of them.
- It is important to clarify what is meant by a carbon neutral WAV.
- There will need to be an exceptional circumstances policy ie when a driver is waiting for a vehicle to be delivered, or if a vehicle is written off in a no fault accident.
- Consideration needs to be given to unexpected damage.
- There is a need to give the fleet time to prepare for the changes going forward, there needs to be a fully accessible fleet whilst respecting the economic constraints of the trade.

The Cabinet Member concluded the debate by explaining that the definition of carbon neutral is laid out by the government. With respect to electric vehicles there is acknowledgement that there will have to be a policy regarding pavements etc.

6. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION

There were none.

7. LOCAL GOVERNMENT ACT 1972 EXEMPT INFORMATION

The decision to enter exempt session was voted for unanimously.

8. EXEMPT MINUTES

The minutes were approved.

9. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE

After the Senior Licensing Officer introduced the report and the matter went to Member questions and debate, the vote was taken and the decision was unanimous to revoke the licence with immediate effect.

David Willingham
Chairman

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Licensing Sub-Committee - Miscellaneous

Wednesday, 5th October, 2022

Attendees	
Councillors:	David Willingham (Chair), Angie Boyes (Vice-Chair), Barbara Clark, Simon Wheeler and Tim Harman (Reserve)

Minutes

1. APOLOGIES

There were apologies from Councillor Seacome, Councillor Harman attended as a substitute.

2. DECLARATIONS OF INTEREST

There were none.

3. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 6th July 2022 were approved as a true record..

4. APPLICATION FOR A STREET-TRADING CONSENT

The Senior Licensing Officer introduced the report as published. The application was for a food van to be situated on the promenade. The applicant was not present at the meeting.

The matter went to Member questions and the responses were as follows:

- There had been no further photographs from the applicant (which had been requested by the Licensing department)
- The applicant had not provided the environmental statement that had been requested.
- There was confirmation that there was no further information available with regards to a similar van elsewhere.
- There is not a clear image of where the servery will be.
- There were no provisions for litter collection in the application.
- It is not a licensing concern as to what generators will be used.

The matter then went to Member debate where the following points were made:

- Due to where the van will be placed and the lack of substantial information with the application the Member could not support the application.
- There are many new restaurants in the area so this does not seem appropriate. The vehicle will not enhance the street scene in any way.

- There were also concerns with regard to the smell that would be generated as well as the emissions from the van.
- There was concern that the van would be in too close a proximity of the food outlets in the Promenade.
- There was confirmation that the applicant had been asked to attend the meeting and that he hadn't answered the questions that had been asked by the Licensing Team.

Prior to the vote the Legal Officer made the committee aware that there was the option to defer as the applicant hadn't attended the meeting. It was decided that the committee would not do that.

The matter went to the vote on 1.6.3 – to refuse the application.

For refusal – 5 – UNANIMOUS

Refused.

5. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION

There were none,

Meeting ended 18.40.

David Willingham
Chairman

Licensing Sub-Committee - Miscellaneous

**Wednesday, 2nd November, 2022
6pm**

Attendees	
Councillors:	David Willingham (Chair), Angie Boyes (Vice-Chair), Barbara Clark, Diggory Seacome and Simon Wheeler
Also in attendance:	Vikki Fennell (OneLegal) Jason Kirkwood

Minutes

1. APOLOGIES

There were none.

2. DECLARATIONS OF INTEREST

There were none. However, there was a site visit by all Members of the committee to the proposed SEV premises.

3. APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE

The Licensing Team Leader introduced the report.

It was made clear to the Members of the Committee that none of the mandatory grounds for refusal apply. Section 4.5 of the report deals with the relevant grounds for refusal. It would be deemed to be acting illegally to take a moral stand.

The Chair then asked the objectors to speak, there were two objectors, one a business owner in the area and the other a pastor from a nearby Church who made the following points:

- As a business that opens some evenings for the convenience of their clients having an establishment such as this next door could possible damage their reputation and lose them business as well as possibly losing designers who they collaborate with.
- The business already has to deal with rubbish and sometimes vomit and this is always increased at race week.
- The business already loses business during race week as people do not like to visit the town due to the behaviour of some of the race goers.
- The business owner acknowledged that there was a pub next door previously who they enjoyed a good relationship with and who were constantly clearing up any outside mess during race week. It was accepted that they could have the same relationship with the applicant.
- The Baptist Church has a congregation of approx. 400 including 100 children. It is a church that is very active within the community.
- The 2020 policy indicates a specific area where there should be no SEV's. The proposed site is centimetres outside that boundary, therefore it is an inappropriate location.

- There are numerous flats in Cambray Court and a childrens nursery is only 5 doors away. There is also a dance school around the corner, all this makes it clear that this is not the appropriate area for an SEV.
- The Church is thriving and provides youth clubs in the evenings, runs a Christmas market, provides a provision for working mums, adults with learning difficulties and hosts a thriving Chinese Church.

The objectors responses to Member questions were as follows:

- That the most used entrance and exit during the evenings is the rear entrance in Rodney Road. The emphasis was made that both entrances are used in the evenings as the parking on Rodney Road can be difficult.

The two supporters, one an employee of Red Apple and a representative from the BID then made the following points:

- That having worked for the applicant both as a performer and now as a house mother, the company have a great reputation and they look after the performers really well.
- One venue in the town is better than multiple venues where the performers might not be as well looked after.
- Red Apple operate an excellent establishment with very high standards.
- Has sympathy with both the church and the business but feels that there is a need during race week for this kind of entertainment.

There were no Member questions. The applicants solicitor then had the opportunity to address the committee and made the following points:

- The applicant has a wealth of experience running these types of premises and there have never been any incidents that they are aware of.
- There will be no indication from the signage on the premises that there are performers in the building.
- The Police have not objected to the application and have been consulted throughout the process. They have asked for conditions which the applicant has agreed to.
- There are only six days a year that this application will apply as the rest of the time it will be a bar and café.
- It is accepted that the premises are on the edge of the permitted area, but it is within that area. Impact on the locality will be minimal as it is only for a set number of days.
- With regard to the courtesy bus it is well known and been successful for ten years. It is the safe easy way of getting both customers and performers to the venue. There are staff that hand out leaflets to the venue, they are trained not to distribute to anyone under 25.
- Operations such as these are normal and there is no substantiated correlation between crime and SEV's.
- There are a number of representations and events at the nearby church are mentioned, there will be discreet signage at the premises and the upper floors and the basement will be the only ones used for this purpose. It is understood that the church uses the rear entrance at the times that the SEV would operate.

- Previously has been operating from the Two Pigs which is in very close proximity to a church and that has operated successfully for the last few years.
- There will not be queues of people waiting for the venue to open as it will be a well-managed and discreet venue so there should not be any cross over with the nursery.
- There will be security on the door and it will be well managed.
- Red Apple has made a significant investment in the currently vacant building and are only asking for 6 days during race week.
- Customers tend to leave the properties in a respectful manner and there is no evidence to support that there has been any damage to property or any excess noise.
- A lot of the objections are based on moral objections, an SEV is a legitimate business that has a right to apply for a licence.
- The Councils report from 11/2/20 recognises that it is better for the Council to regulate an SEV through licensing and each application needs to be determined by its own merits.

The matter then went to Member questions. The responses were as follows:

- Even though the race meet finishes on a Friday we have found that people stay in the town and for the last 3 years it has been very successful operating on the Saturday.
- Performers are not allowed to leave the premises with a large amount of cash. The majority of the money paid to them is by way of cheque.
- The bus never has both customers and performers in it at the same time.
- If the application is agreed would engage with local businesses as they want a good relationship with their neighbours. The plan is that the premises will open as a coffee shop at 9am so it is in their interests as well as the other businesses that the outside of the premises is clean and free of rubbish.
- The venue is being moved from the Two Pigs to the proposed venue as the Two pigs is in need of repair.
- At the new venue Red Apple will have full control of the premises.
- The timings on the application are from 6-5 as if they open any later there has been incidents of groups of men gathering around outside waiting for it to open. Therefore if it is open earlier it should avoid this happening.
- There will be queue management systems in place with security and a dispersal policy if people are not quiet and respectful to the surrounding area they will be asked to move on.
- There is no advertising on the leaflets that states that it is advertising an SEV. This is a condition agreed with the police, the leaflet only states that there is a courtesy bus. Their staff do try and pick up any discarded leaflets where appropriate.
- In response to a concern raised with regard to the lack of male facilities it was confirmed that this was not a licensing matter.
- The applicant confirmed that they are happy to work with the BID on any issues that other businesses may have.
- If you are entering the church you would not see anything different from the outside of the premises than you would a normal pub or bar.

- Security varies from premises to premises, they will always exceed the number of security by about three times the recommended amount.
- The premises will be visited between 3 and 5 times a night during the nights that they trade as an SEV.

The matter then went to Member debate where the following points were made:

- It is worth highlighting the standard condition 32 with regard to monitoring the area outside the premises for 30 meters.
- Everyone has the right of freedom of expression, it is a lawful activity and performers do have the right to work. The licence does not specify the gender of the performer, the law is compliant.
- The premises does not prevent anyone practising their faith.
- Parliament has made it lawful for these establishments, the Councils role is to administer the regime.
- Objections have to relate to mandatory or discretionary grounds, there is no mandatory reason to refuse.
- SEV's can operate without a licence so by licencing a venue we are providing a stronger degree of protection to performers, customers and residents.
- Mandatory reasons, discretionary powers, parts a, b and c do not apply.
- Part d does apply, there was a site visit, the premises have been empty for a while, applicant has told us about the renovations, if they don't they will have no customers, use of premises, as well as the physical locality there is a temporal element, events may well use a different entry for nearby sensitive premises, applicant indicated he will work with the BID and nearby businesses. The premises are inspected by a number of parties. Not just police, whole host of checks and balances. Performers are required to sign up online and have proper documentation.
- There will be door supervisors looking after the front of the building.
- There are already conditions in relation to modern slavery and coercive control. There are 40 conditions for a licenced SEV compared to none if it operates under the exemption.

The matter then went to the vote:

FOR : 4

AGAINST: 1

Granted.

4. LOCAL GOVERNMENT ACT 1972 EXEMPT INFORMATION

The vote to enter exempt session was unanimous.

5. TAXI APPLICATION

The matter was heard in exemption session and the vote was taken to delegate the decision to Officers.

For: 5

Unanimously agreed.

6. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION

There were none.

David Willingham
Chair

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Licensing Sub-Committee – 16th December 2022

Review of a Hackney Carriage Driver's Licence

Mr Malcolm John Rogers - HCD194

Report of the Licensing Team Leader

1. Executive Summary and Recommendation

- 1.1 Mr Malcolm Rogers holds Hackney Carriage Driver's licence number HCD194 and has been licensed since at least 2001 (being as far back as the council's records exist).
- 1.2 On 20 October 2020 the licensing team received a complaint concerning Mr Rogers' behaviour. There are now 10 complaints recorded against Mr Rogers between 2008 and 2018.
- 1.3 The following documents are included as background papers:-
- Appendix 1 – Summary of the complaint provided by one of the council's Licensing Enforcement Officer –Sarah Hughes
 - Appendix 2 - Statement of complainant
 - Appendix 3 – Statement of driver
 - Appendix 4 – Complaint history against Mr Rogers
 - Appendix 5 – Images taken by complainant
 - Appendix 6 – Praise received about Mr Rogers
 - Appendix 7 – Email from a member of the public who states they witnessed the incident
- 1.4 In light of the complaints and the information provided, the matter is being referred to the licensing sub-committee to allow Members the opportunity to consider whether Mr Rogers is a fit and proper person to hold a hackney carriage driver's licence.
- 1.5 The sub-committee can:
- 1.5.1 Determine to take no action if Members consider Mr Rogers to be a fit and proper person to hold a licence; or
- 1.5.2 Take such of the following steps as the sub-committee considers appropriate:
- (a) Give a written warning
 - (b) Suspend the licence (please refer to paragraph 4.5 in relation to this option)
 - (c) Revoke the licence
- 1.5.3 Subject to 1.5.2(c) Members should consider whether such revocation should take immediate effect in the interests of public safety.
- 1.6 Implications

Contact officer: Vikki Fennell
E-mail: Vikki.Fennell@teWKesbury.gov.uk
Tel no: 01684 272015

2 Background

- 2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage Driver's licence is a fit and proper person to hold that licence. The safety of the public is the paramount concern.

3. Policy Considerations

The information below highlights the council's stated policy on certain matters for information and guidance.

Appendix J - Relevance of Convictions, Cautions and Fixed Penalty Notices in Relation to the Licensing of Drivers and Operators

- 3.1 *The licensing authority must be satisfied that all those who are licensed to drive hackney carriages and / or private hire vehicles, and those who are licensed to operate under a private hire operator's licence, are fit and proper persons. This general policy relates to the Council's assessment of the suitability of an applicant to be licensed, in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver or operator's licence has received a relevant conviction, caution or fixed penalty.*
- 3.2 *Additionally, it will be referred to where a relevant conviction, caution or fixed penalty has been received during the period of a driver or operator's licence and used to help inform any decision as to the licence-holder's continuing fitness to hold a licence.*
- 3.3 *These guidelines shall apply to all new applicants for, and all existing holders of, hackney carriage / private hire driver's licences and private hire operator's licences.*

General Policy

- 3.4 *Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.*
- 3.5 *The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.*
- 3.6 *Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.*

- 3.7 When the relevant required information has been returned, the application will be considered in the light of the information provided. The information will be used to ascertain whether the information given on the original application form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage.
- 3.8 A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a licence. This is a criminal offence and, as such, may lead, not only to consideration of the applicant as not being a “fit and proper person”, but criminal proceedings.
- 3.9 Applications where convictions, cautions or fixed penalties are held will be considered by a Licensing Officer who, having regard to this policy may refer the application to a Licensing Committee for determination. This will result in either the determination of the applicant as a “fit and proper person”, indicated by the issue of a licence, or the application being refused. In these circumstances, the applicant has the right of appeal to the Magistrates’ Court, such appeal to be lodged within 21 days of the decision being notified.

Non-conviction information

- 3.10 The Council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of both the witness / complainant and the licence holder will be taken into account.
- 3.11 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application or, in the case of an existing licence holder, a suspension or revocation of their licence. Such offences would include violent and / or sexual offences.
- 3.12 In assessing the action to take, the safety of the travelling public must be the paramount concern.

Outstanding Charges or Summonses - Existing Licence Holders

- 3.13 If an existing licence holder is the subject of an outstanding charge or summons, consideration will be given whether to suspend or revoke their licence until the matter is resolved. Consideration will be given to the:
- Seriousness and relevance of the offence;
 - When the alleged offence(s) were committed;
 - Compliance and complaints history of the licence holder;
 - Circumstances of the individual concerned;
 - Any other relevant matters.

Convictions / cautions / fixed penalty notices / criminal investigations

- 3.14 Licence holders must notify the council in writing within 7 days if he or she is convicted or cautioned for an offence, receives a fixed penalty notice or is the subject of a criminal investigation.

4. Statutory Taxi & Private Hire Guidance

- 4.1 The Department for Transport's statutory guidance for licensing authorities was published in July 2021 and places a statutory duty on licensing authorities who “must have regard” to it when exercising their licensing functions.

4.2 The DfT standards have been set directly to the safeguarding of the public and the potential impact of failings in this area, therefore the “importance of thoroughly considering these standards cannot be overstated.”

4.3 Fit and proper test

The statutory guidance defines “fit and proper” as:

“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 of day or night?”

4.4 The statutory guidance goes on to say at paragraphs 5.13 and 5.14:

4.5 If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.

4.6 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. **This means that an applicant or licensee should not be ‘given the benefit of doubt’. If the committee or delegated officer is only “50/50” as to whether the applicant or licensee is ‘fit and proper’, they should not hold a licence.** The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction. [Emphasis added]

5. Licensing Comments

5.1 The licensing committee must have regard to the statutory guidance and the provisions of its own policy when coming to a determination of this application for a review.

5.2 The committee is under a statutory obligation to ensure that persons licensed as hackney carriage drivers are, and remain, fit and proper people.

5.3 The licensing committee will note from the authority’s licensing policy that the committee can act in relation to circumstances where a licence holder has not been convicted of an offence. Under these circumstances, Member’s attention is drawn to the following policy provisions:-

Where an existing licence holder is the subject of an outstanding charge or summons, consideration will be given whether to suspend or revoke their licence until the matter is resolved.

If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application or, in the case of an existing licence holder, a suspension or revocation of their licence. Such offences would include violent and / or sexual offences.

The driver has been sent a copy of this report and invited to attend this meeting to speak in support of his case and to answer members' questions or to be represented. In considering the case on its own merits Members should have regard to the adopted Probity Guide.

Some important areas that will be considered by the Council are:-

- a) Honesty and trustworthiness – licensed drivers and operators often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. For example, any passenger would expect to be charged the correct fare for a journey and then given the correct change, they would also expect a driver to hand in any article left by a passenger in a vehicle, and also to maintain confidentiality between driver and fare.
- b) Courtesy - taxi drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. A driver be expected to not have any convictions or cautions for offences of a violent or threatening nature.
- c) Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.
- d) Good knowledge of the area that they are working in.
- e) Good physical and mental health.
- f) Ability to read, speak and understand English, together with a working knowledge of arithmetic in giving the correct change, etc.

3.4 Extracts from Cheltenham Borough Council's Code of Good Conduct for Licensed Drivers

The Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

Licence holders shall:-

- a) Always be polite and courteous to all members of the public, avoiding the use of bad language, even when provoked . . .
- m) Drive with care and due consideration for other road users and pedestrians

The full policy and the code of good conduct for licensed drivers are available at www.cheltenham.gov.uk/licensing.

4. Licensing Comments

- 4.1 The council is under a **statutory obligation** to ensure that persons licensed as hackney carriage drivers are fit and proper people.
- 4.2 This case presents 2 entirely different and conflicting versions of the incident, from the complainant and the driver. It would be quite normal for there to be variations between such accounts, but not usually to the extent presented in those accounts. Members must pay a great deal of attention to this element of the case. Members must ultimately come to a determination on whether Mr Rogers is telling the truth or whether the complainant is doing so. Members will of course never know the real

truth of the incident, but they must come a **Page 26** they believe is more likely than not to be telling the truth.

- 4.3 In coming to such a conclusion, they must be thorough and inquisitive in their questioning.
- 4.4 It is interesting to note that a member of the public has given up a great deal of time to make this complaint and been very detailed in their statement. It is difficult to see why a person would do that, without any genuine grievance against the driver, and particularly as they have signed a section 9 statement in giving their evidence.
- 4.5 On the flip side of that argument, we have received an email giving praise against this driver (Appendix 6) and one suggesting that there was a witness to the incident (Appendix 7). Members must give full and proper attention to these communications, but as with any evidence they must consider it and weight it accordingly in considering this case. The person referred to in Appendix 7 described themselves as 'friend of family member' and they have been asked for section 9 statement, and they have not yet confirmed if they will do so.
- 4.6 The council's policy is clear that drivers licensed by the council are expected to be careful and considerate drivers who are polite and courteous to all members of the public, regardless of provocation.
- 4.7 Members are advised that Mr Rogers has not been convicted or cautioned for any offence. It is for the sub-committee to consider the details of the complaints and the information provided by Mr Rogers and others, to weigh up whether he is a safe and suitable person to be licensed.
- 4.8 Members are advised that whilst the council's policy gives the sub-committee the option of suspending a licence, this should not be used as a punitive measure. The option of suspending a driver's licence should only be used as a corrective measure where Members feel that a driver is not currently a fit and proper person to hold a licence, but that he or she will become fit and proper in due course. Members may employ a suspension in conjunction with a training requirement (or similar and related requirements). This could be valid if they have concerns that a driver may currently be more likely than not to act in a way that is not conducive to being considered as 'fit and proper' in certain situations, but where they believe the likelihood of such actions arising or being triggered could be mitigated to a satisfactory extent through education and support for the driver concerned. This approach also allows Members to respond appropriately to cases where corrective steps are considered as required because they believe that specific remedial action will mitigate any potential risk to the public.
- 4.9 However, it must be noted that such an approach in respect of suspension cannot be used where Members believe that a driver is not 'fit and proper' and where they may *hope* this can be remedied, but do not *believe* on the balance of probability that this *will* be remedied.
- 4.10 Members must be assured of the honesty and integrity of the driver subject to this complaint, and must ensure that they give him an opportunity to address the wide variation in accounts given to the Authority in respect of this complaint.
- 4.11 Finally, Members must ask themselves why the driver concerned has been the subject of such a disproportionately high number of recorded complaints over time. It would be quite fair and reasonable to 'filter' out some complaints where they were historic allegations or seemed out of character and a lesser period of time had passed. However, that does not seem appropriate in this case as there does seem a pattern of behavior for the driver highlighted through these complaints. It would be reasonable to surmise that on occasion a small number of complaints could be made against a driver with no genuine foundation, and simply made out of spite. However, such a relatively high number of complaints with similar issues highlighted must be of concern to the Authority, as that seems more likely to not be the case and that the driver's actions were more likely than not to have been inappropriate on occasion(s).

4.12 Mr Rogers has been sent a copy of this report and to attend the meeting, to address the sub-committee and to answer Members' questions.

4.13 In considering the case on its own merits Members should have regard to the adopted Probity Guide.

Background Papers

Report Author

Contact officer: Jason Kirkwood
Team Leader Licensing
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 262626

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ENFORCEMENT OFFICER – SUMMARY OF CASE

Uniform Case No: 22/05150/LHCDCO

Officer: Sarah Hughes

Driver: Mr Malcolm Rogers – HCD194

Details of Complaint

A complaint from a member of the public was received on 20th October 2022 that the driver of the Hackney Carriage Vehicle 198, registration number TX51MAL was rude and abusive towards him in Pittville Street earlier that same day. The customer reports that he is registered disabled and the driver was not only rude and abusive, but questioned the genuineness of his disability in front of members of the public, which they found upsetting.

The member of the public took photographs of the Hackney Carriage Vehicle, the driver's badge that was positioned on the dashboard, and a photograph of the driver.

Investigation

1. Reported into the Council via email on the same day on the incident (20/10/2022).
2. I emailed the member of the public on 21st October 2022 to establish first contact and request further information.
3. I identified the driver as Mr Malcolm Rogers. I made contact with Mr Rogers via telephone on 21st October 2022 to inform him that a complaint had been made about him following an incident on Pittville Street rank the previous day. Mr Rogers confirmed he recalled this, although his account was different to that of the reporter. I requested that Mr Rogers provide me with further details via email and send his dash cam footage for the period of 12:15-12:45. I confirmed that I would send an email confirming this to his email address.
4. Email sent to Mr Rogers on the same day. Email requested Mr Rogers provide details of his account of the incident in chronological order, what was said by the other party, what was said by himself and how he felt throughout. Also requested the dash cam footage from his vehicle.
5. I corresponded with both the member of the public, and Mr Rogers, over subsequent weeks.
6. Member of the public provided a full signed statement, which was signed on 9th November 2022.
7. Mr Rogers provided a full signed statement on 14th November 2022. No dash cam footage was made available.

Reason for referral to licensing committee.

Cheltenham Borough Council must take all reports of driver aggression seriously.

The Borough Council must be satisfied that the holder of a Hackney Carriage Driver's licence is a fit and proper person to hold that licence. The overriding consideration is the safety of the public.

The reporter of this complaint is a member of the public, who is registered disabled.

The reporter suggests that the licensed driver was rude and abusive towards them and questioned the genuineness of their disability. They report that the driver made aggressive comments towards them which made them feel uncomfortable. The reporter suggests that following this they felt compelled to report it to the Council to prevent this happening to any other person in future.

Mr Rogers reports that the member of the public was the aggressor and he was fearful. Mr Rogers has confirmed at every opportunity that he did not leave his vehicle during the whole time.

Having checked the database for previous complaints recorded against Mr Rogers, 10 previous complaints are recorded.

Mr Rogers appeared before licensing sub-committee 7th November 2018 following receipt of the last report of abusive behaviour. Members voted to issue Mr Rogers with a warning letter.

CHELTENHAM BOROUGH COUNCIL

STATEMENT OF WITNESS

**(Criminal Procedure Rules, 2005 r27.1(1);
Criminal Justice Act 1967, s.9 Magistrates' Courts Act 1980,s. 5B)**

Statement of XX name removed

Age of witness: Over 18

Occupation of witness: N/A

This statement consisting of 4 pages (signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 9th November 2022

Signed

I would like to make an official complaint regarding serious abuse from a Cheltenham Borough Council Taxi driver (driver number 254, vehicle number 198, registration number TX51MAL) at 12:30 on the 20th October 2022 in Pittville Street.

I had driven into the end of the taxi rank to reverse into the disabled bay situated to the rear of the rank. I had put my car into reverse when the taxi driver pulled up directly behind me in the disabled bay, initially preventing me from reversing into the disabled bay.

The taxi driver came up so close to me, so quickly, it was almost like it was intentional. I was already reversing, I know this as my reversing sensors on my car went haywire when the car got close. I looked behind and I could see the taxi, and I thought "where the hell have you just come from"?.

It was clear from seeing his car that he was a taxi driver and I thought he'd move back and then go in front of me onto the taxi rank. There was space in front of me

Signed

for him to pull into but he didn't move, he just sat there.

I attempted to reverse a little bit more, so the driver would see that I'm reversing into the disabled space. I only went back a few inches and he beeped his horn at me.

At first he refused to move and finally after a while, probably only a minute but it often feels longer, he moved out. I reversed into the disabled space and the taxi driver then pulled into the taxi rank in front of me.

I placed my blue badge onto my dashboard and got out of my car.

The driver was positioned directly in front of me on the rank, there were no other cars behind him. I could see that in the taxi there were customers, I'm not sure if there were two customers, but I could definitely see one. They had not got out of the car at this point.

As I walked past the taxi I looked into the car. The driver looked at me and gestured to me by putting his hands up into the air. It looked like he said something too but I couldn't hear because his window was up.

I shrugged my shoulders in the same way back to him and he then opened the door and said "come here" and proceeded to get out of his car. The customer was still in the back of the car.

When I said to him "did you not see me reversing? Me reverse back into the disabled bay? My reverse lights were clearly on" he then just said to me, "well you're in a taxi rank".

I said to him, "that's a disabled bay, you can't park there anyway"

The passenger was starting to get out of the car at this point, it was an elderly lady. I could see the discomfort on their face, he was ignoring the passenger getting out of the car.

He then said "you're not disabled there's nothing wrong with you" and I said to him, "the badge is on the dashboard, go and have a look"

The driver then said "Oh, I don't care about the badge, there's nothing wrong with you, you're not disabled". I responded, "Whatever" and started to walk away. I probably only walked about the length of one and a half cars when I heard the driver shout to me as he got into his car. I can't recall what it was that was said but it triggered me to turn back round. As I walked back I could see him shutting his

Signed

door and I thought he would drive off.

I walked towards his car and I took photos of him, his car, and plate. At this point the driver got back out of his car and I said to him that I was going to report him.

He was carrying on about me not being disabled, and again, I suggested he go to my car and look at my disabled badge. He appeared to walk towards my car and had a look over the dashboard towards where my badge was positioned. As he was doing this I walked around his car and clocked his ID badge on his dashboard, so I took a photo of that as well.

The driver came back towards my car, pointing, saying that I was not disabled and that I was "abusing the system" and "there's nothing wrong with you". I said to him "how do you know, I could have terminal cancer which isn't necessarily noticeable?" and his response was "well that's the good news, what's the bad?". I took a photo as this was happening. You can see his hand raised in the photo taken.

The driver, he wasn't quiet. I was a good car and a half away from him and he was shouting down to me. You could hear people giggling at what he said when he said 'that's the good news, what about the bad'. It left me feeling disgusted and appalled, not to mention uncomfortable. I shouldn't need to explain my disability to anyone, let alone in front of the eyes of so many members of the public.

The driver then went back to his car.

I then decided to go back and sit in my car until he left the area. I was concerned that if I left my car the driver might cause damage to my vehicle as a form of retaliation.

After roughly fifteen minutes the driver finally got a customer and I then left my car to get on with what I had intended to do before I was verbally attacked by this man.

From the start of me parking up, to me finally leaving my car to go into town, about thirty minutes had gone. I know this as I had to change the clock for my badge from 12:30 to 1pm.

I have decided to report this to the Council as I felt it was rude to be accused of not being disabled in front of members of the public. I don't look old, I don't have mobility issues, but I shouldn't have to explain myself. It is an uncomfortable feeling. I don't easily get offended but that is not to say that I don't get uncomfortable. I felt uncomfortable, like everyone was looking at me, probably thinking that I was abusing the system and using someone else's badge.

Signed

I have previously had incidents where licensed taxi drivers have parked in the disabled bay in Pittville Street before and haven't made complaints, but this driver took it to another level and I felt I needed to report it.

Given the circumstances, the way he was talking, how loud he was, and the fact he was kicking off so much, even though he had a passenger, I felt this was another level.

It was the last comment about "that is the good news, what about the bad", that did it for me. I have had a lot going on. I have lost my Mum, and other members of my family and this comment was too much. I thought, I'm not having this.

I am an ex traffic warden and have taken a lot of abuse whilst I did that job, more than this incident, but what if this happened to someone with skin not so thick? What if someone else had terminal cancer? This may see them breaking down in the street.

I didn't like it and I can take a fair amount of abuse, but the comment about the cancer really did it. I probably wouldn't have reported it otherwise, but I don't want it to happen again to someone else. You don't know how others will react in the same situation. There are a lot of people that can take it, but many that can't take it and keep it hidden inside.



Incident Account / Response to Complaint

Details of Complaint

It was reported to the Council that on Thursday 20th October 2022 at approximately 12:30 you were rude and abusive in your language to a member of the public after an incident that occurs on Pittville Street.

This member of the public holds a disability badge and reports that they had pulled into the rear end of the taxi rank on Pittville Street, to reverse into the disabled bay located behind, and as they were reversing you came in behind them, causing them to stop their manoeuvre. They report that after a short time, where you did not move to allow them to reverse, you moved around them and onto the taxi rank.

The customer alleges that after this you became rude and abusive towards them, questioning their disability, and their requirement for a blue badge.

Account of: Mr Malcolm Rogers

Your Account of Incident:

These are my memories of the incident of the 20th October 2022, regarding a member of the public. This member of public was not a customer.

I had picked up a lady from the train station, and she wished to go to New Barn Lane but she asked me if I could take her to town and wait for her beforehand, this I did.

When I got into Pittville Street, I could see there was a space on the back of the rank, but a private car was parked there.

I genuinely thought that he would pull off when he saw me waiting behind him, but he started to reverse. I peeped my horn as I thought he might not have seen me, but he just kept coming towards me so I had to move out of his way.

My customer was amazed at his arrogance and seemed shocked. She said to me "oh my God" as the other driver was reversing into me. I told her it happens often and that we get used to it.

Signed:

Date:

She paid me and thanked me and got out

I had no idea where the other car had gone. I

About five minutes passed and as I was waiting for a job, a bearded man slammed on my window, shouting abuse at me. The first thing he said was "What the fuck do you think that was about", he then said "are you stupid, oh of course you are, you're a taxi driver!!"

I told him he was parked on a rank, and that I had a customer who needed dropping off safely. Once again he got very rude and aggressive.

I didn't get out of my car but my window was down and I was and fearful he was going to hit me through my window so I closed my window.

A passing lady member of the public actually called him a (prick) for the way he was abusive toward me!

I did not get out of my car whilst all this was going on.

He was shouting "can't you read", and again said "oh no you're a taxi driver".

He then walked off down the street and I thought thank goodness, but he then came back, and again started threatening me.

He then shouted you won't have this job much longer, and started walking around my car taking pictures of my plate my badge, and even came up to my window and took a picture of me. I stayed in the car whilst he was taking pictures, he even came up to the driver's window to take a picture of me.

I have been suffering with anxiety ,my Daughter has been diagnosed with cancer, my son is due to be operated on his spine and my wife has an aneurysm in her head and is awaiting surgery, so the last thing I want is any other problems with people like this.

I understand that he was probably upset from road rage, and needed to get it off his chest, but it really was not this serious.

I did not say anything at all to the driver other than inform him that he was parked on a taxi rank.

Further comments:

Signed:

Date:

Document is Restricted

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Photographs supplied by complainant

Exhibit 1









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Appendix 6

Message received from a member of the public from a personal email address

"Taxi 198

Taxi - hackney carriage

Myself and a friend arrived in Cheltenham for the 1st time on Friday 25 November in the pouring rain. We were heading to an airB&B. This lovely man made sure we were at the correct place as the post code was not clear. He waiting whilst we checked and kept us out of the rain. We were also slightly short of cash as we are not used to paying cash, and he let us off this. Wanted to say a MASSIVE thank you it was a great start to our trip!!!"

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Mon 05/12/2022 10:40

Email from XX name removed to Sarah Hughes Enforcement Officer

Hello! And I was just a member of the public walking by! I don't know the driver personally, Just as a friend of family member. I just remember being nosey enough to watch a little and just thought it was so rude. As said family member works around there so we was talking about it! I just thought I'd best say what I saw as it's unfair that it's gone this far

Sent from my iPhone

> On 2 Dec 2022, at 12:36, Sarah Hughes <Sarah.Hughes@cheltenham.gov.uk> wrote:

>
> Dear XX name removed,
>
> Thank you so much for your email.
> Could I ask;
>
> Where were you at the time?
> Are you a member of the public?
> How do you know this driver? (I am assuming that you know them and
> have spoken to them again in order to contact us so long after the event) Would you be prepared to complete a signed statement outlining this?
>
> Thank you again for your correspondence.
>
> Sarah Hughes
> Licensing Enforcement Officer /APLH tutor Licensing Cheltenham Borough
> Council

> -----Original Message-----

> From: XX name removed
> Sent: 02 December 2022 10:53
> To: Licensing (CBC) <Licensing@cheltenham.gov.uk>
> Subject: To whom it may concern

>
> I have decided to write to you today on behalf of Malcolm Rogers a taxi driver plate HC198, I believe a member of the public has made a complaint against this man, concerning an altercation on the 20/10/22 at pittville st , I witnessed this from the start, the man was rude and abusive to the taxi driver, I heard him call the taxi driver stupid and illiterate because he drove a taxi.
> At no time did the driver retaliate, or get out of his vehicle, I was surprised how calm the taxi driver was.
> Then the man walked away,
> Only to return minutes later , and again he abuses the taxi driver, then taking photos all around his car, And right in to the taxi drivers face, whilst laughing. How Mr Rogers kept his cool was a credit to him .
> Yours truly XX name removed

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Licensing Misc. Sub-Committee – 16th December 2022

Review of a Hackney Carriage Driver's Licence

Mr Adam Kamil Zamojski – PHD035

Report of the Licensing Team Leader

1. Executive Summary and Recommendation

- 1.1 Mr Adam Kamil Zamojski holds Hackney Carriage Driver's licence number PHD035 and has been licensed since 2014.
- 1.2 On 29 September 2022 a report was made to the Police about the alleged actions of a private hire driver. The licensing team subsequently received a complaint concerning the driver's behaviour.
- 1.3 The following documents are included as background papers:-

Appendix 1 – Summary of the complaint provided by one of the council's Licensing Enforcement Officers –Matthew Morris
Appendix 2 - Statement of complainant
Appendix 3 – Statement/ account of driver
Appendix 4 – Video footage of incident (to be shown on the day of hearing)
Appendix 5 – Extract of email stream with Police regarding the complaint made to them

- 1.4 In light of the complaint and the information provided, the matter is being referred to the licensing sub-committee to allow Members the opportunity to consider whether Mr Zamojski is a fit and proper person to hold a hackney carriage driver's licence.

1.5 The sub-committee can:

- 1.5.1 Determine to take no action if Members consider Mr Zamojski to be a fit and proper person to hold a licence; or**
- 1.5.2 Take such of the following steps as the sub-committee considers appropriate:**
(a) Give a written warning
(b) Suspend the licence (please refer to paragraph 4.5 in relation to this option)
(c) Revoke the licence
- 1.5.3 Subject to 1.5.2(c) Members should consider whether such revocation should take immediate effect in the interests of public safety.**

1.6 Implications

- 1.6.1 Legal There is a right of appeal against the revocation or suspension of a Hackney Carriage Driver's licence which, in the first instance, is to the Magistrates' Court.

Contact officer: Vikki Fennell
E-mail: Vikki.Fennell@teWKesbury.gov.uk
Tel no: 01684 272015

Mr Adam Zamojski		Last updated 08 December 2022
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2 Background

- 2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage Driver's licence is a fit and proper person to hold that licence. The safety of the public is the paramount concern.

3. Policy Considerations

The information below highlights the council's stated policy on certain matters for information and guidance.

Appendix J - Relevance of Convictions, Cautions and Fixed Penalty Notices in Relation to the Licensing of Drivers and Operators

- 3.1 *The licensing authority must be satisfied that all those who are licensed to drive hackney carriages and / or private hire vehicles, and those who are licensed to operate under a private hire operator's licence, are fit and proper persons. This general policy relates to the Council's assessment of the suitability of an applicant to be licensed, in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver or operator's licence has received a relevant conviction, caution or fixed penalty.*
- 3.2 *Additionally, it will be referred to where a relevant conviction, caution or fixed penalty has been received during the period of a driver or operator's licence and used to help inform any decision as to the licence-holder's continuing fitness to hold a licence.*
- 3.3 *These guidelines shall apply to all new applicants for, and all existing holders of, hackney carriage / private hire driver's licences and private hire operator's licences.*

General Policy

- 3.4 *Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.*
- 3.5 *The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.*
- 3.6 *Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.*
- 3.7 *When the relevant required information has been returned, the application will be considered in the light of the information provided. The information will be used to ascertain whether the information given on the original application form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage.*
- 3.8 *A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a licence. This is a criminal offence and, as such, may lead, not only to consideration of the applicant as not being a "fit and proper person", but criminal proceedings.*

- 3.9 Applications where convictions, cautions (Page 53) or fixed penalty notices are held will be considered by a Licensing Officer who, having regard to this policy may refer the application to a Licensing Committee for determination. This will result in either the determination of the applicant as a “fit and proper person”, indicated by the issue of a licence, or the application being refused. In these circumstances, the applicant has the right of appeal to the Magistrates’ Court, such appeal to be lodged within 21 days of the decision being notified.

Non-conviction information

- 3.10 The Council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of both the witness / complainant and the licence holder will be taken into account.
- 3.11 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application or, in the case of an existing licence holder, a suspension or revocation of their licence. Such offences would include violent and / or sexual offences.
- 3.12 In assessing the action to take, the safety of the travelling public must be the paramount concern.

Outstanding Charges or Summonses - Existing Licence Holders

- 3.13 If an existing licence holder is the subject of an outstanding charge or summons, consideration will be given whether to suspend or revoke their licence until the matter is resolved. Consideration will be given to the:
- Seriousness and relevance of the offence;
 - When the alleged offence(s) were committed;
 - Compliance and complaints history of the licence holder;
 - Circumstances of the individual concerned;
 - Any other relevant matters.

Convictions / cautions / fixed penalty notices / criminal investigations

- 3.14 Licence holders must notify the council in writing within 7 days if he or she is convicted or cautioned for an offence, receives a fixed penalty notice or is the subject of a criminal investigation.

4. Statutory Taxi & Private Hire Guidance

- 4.1 The Department for Transport's statutory guidance for licensing authorities was published in July 2021 and places a statutory duty on licensing authorities who “must have regard” to it when exercising their licensing functions.
- 4.2 The DfT standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, therefore the “importance of thoroughly considering these standards cannot be overstated.”

The statutory guidance defines “fit and proper” as:

“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 of day or night?”

4.4 The statutory guidance goes on to say at paragraphs 5.13 and 5.14:

4.5 If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.

4.6 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. **This means that an applicant or licensee should not be ‘given the benefit of doubt’. If the committee or delegated officer is only “50/50” as to whether the applicant or licensee is ‘fit and proper’, they should not hold a licence.** The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction. [Emphasis added]

5. Licensing Comments

5.1 The licensing committee must have regard to the statutory guidance and the provisions of its own policy when coming to a determination of this application for a review.

5.2 The committee is under a statutory obligation to ensure that persons licensed as hackney carriage drivers are, and remain, fit and proper people.

5.3 The licensing committee will note from the authority’s licensing policy that the committee can act in relation to circumstances where a licence holder has not been convicted of an offence. Under these circumstances, Member’s attention is drawn to the following policy provisions:-

Where an existing licence holder is the subject of an outstanding charge or summons, consideration will be given whether to suspend or revoke their licence until the matter is resolved.

If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application or, in the case of an existing licence holder, a suspension or revocation of their licence. Such offences would include violent and / or sexual offences.

The driver has been sent a copy of this report. **Page 55**ed to attend this meeting to speak in support of his case and to answer members' questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.

Some important areas that will be considered by the Council are:-

- a) Honesty and trustworthiness – licensed drivers and operators often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. For example, any passenger would expect to be charged the correct fare for a journey and then given the correct change, they would also expect a driver to hand in any article left by a passenger in a vehicle, and also to maintain confidentiality between driver and fare.
- b) Courtesy - taxi drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. A driver be expected to not have any convictions or cautions for offences of a violent or threatening nature.
- c) Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.
- d) Good knowledge of the area that they are working in.
- e) Good physical and mental health.
- f) Ability to read, speak and understand English, together with a working knowledge of arithmetic in giving the correct change, etc.

3.4 Extracts from Cheltenham Borough Council's Code of Good Conduct for Licensed Drivers

The Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

Licence holders shall:-

- a) Always be polite and courteous to all members of the public, avoiding the use of bad language, even when provoked . . .
- m) Drive with care and due consideration for other road users and pedestrians

The full policy and the code of good conduct for licensed drivers are available at www.cheltenham.gov.uk/licensing.

4. Licensing Comments

- 4.1 The council is under a **statutory obligation** to ensure that persons licensed as hackney carriage drivers are fit and proper people.
- 4.2 This case is brought before Members after a member of the public witnessed an incident which he was concerned about. The member of the public has provided footage of the incident, and this should be helpful for Members to determine the review. It should be noted that footage is not available from the very start of this incident, but it is hoped that it is useful all the same for Member's consideration.
- 4.3 The council's policy is clear that drivers licensed by the council are expected to be careful and

considerate drivers who are polite and courteous members of the public, regardless of provocation.

- 4.4 Members are advised that Mr Zamojski has not been charged, convicted or cautioned for any offence. It is for the sub-committee to consider the details of the complaints and the information provided, to weigh up whether he is a safe and suitable person to be licensed.
- 4.5 Members are advised that whilst the council's policy gives the sub-committee the option of suspending a licence, this should not be used as a punitive measure. The option of suspending a driver's licence should only be used as a corrective measure where Members feel that a driver is not currently a fit and proper person to hold a licence, but that he or she will become fit and proper in due course. Members may employ a suspension in conjunction with a training requirement (or similar and related requirements). This could be valid if they have concerns that a driver may currently be more likely than not to act in a way that is not conducive to being considered as 'fit and proper' in certain situations, but where they believe the likelihood of such actions arising or being triggered could be mitigated to a satisfactory extent through education and support for the driver concerned. This approach also allows Members to respond appropriately to cases where corrective steps are considered as required because they believe that specific remedial action will mitigate any potential risk to the public.
- 4.6 However, it must be noted that such an approach in respect of suspension cannot be used where Members believe that a driver is not 'fit and proper' and where they may *hope* this can be remedied, but do not *believe* on the balance of probability that this *will* be remedied.
- 4.7 Members must be assured of the honesty and integrity of the driver subject to this complaint, and must ensure that they give him an opportunity to address the allegation and video footage given to the Authority in respect of this complaint.
- 4.8 Finally, Members must ask themselves why the driver concerned has been the subject of such a serious allegation. It would be reasonable to surmise that on occasion a small number of complaints could be made against a driver with no genuine foundation, and simply made out of spite or with malicious intent for some reason. However, there is no evidence of a relationship between the complainant and the driver and it seems completely by chance that the member of the public was a witness to this incident. This would suggest that the complainant was genuinely shocked by the driver's behavior and believed that the Licensing Authority should consider the matter.
- 4.9 The other driver involved in this altercation has not reported this matter to the Licensing Authority, but seems to have contacted the Police.
- 5.0 Mr Zamojski has been sent a copy of this report and invited to attend the meeting, to address the sub-committee and to answer Members' questions.
- 5.1 In considering the case on its own merits Members should have regard to the adopted Probity Guide.

Background Papers

Report Author

Contact officer: Jason Kirkwood
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 262626



ENFORCEMENT OFFICER – SUMMARY OF CASE

Uniform Case No: 22/05182/LHCDCO

Officer: Matt Morris

Subject: Adam Kamil Zamojski - PHD035

Details of Complaint

Allegation that at about 1340hrs on Thursday 29th September 2022, Mr Zamojski assaulted a member of the public in the car park at Tesco Supermarket, Colletts Drive, Cheltenham.

Investigation

1. Reported to Police (Inc 226/29/09/22) by other party (Unknown Male – UM). Police attend but no further action taken as both parties were making counter allegations and neither wished to proceed. UM was incorrectly parked in electric charging bay when Mr Zamojski confronted UM. It was alleged that Mr Zamojski threw the first punch; however, UM threatened him with a spanner. (Email chain PC Daniel Stephens attached – details UM not disclosed).
2. Independent witness produces Dashcam footage of incident (Exhibit DH1 attached).
3. Witness describes Mr Zamojski as being the aggressor and instigator of the incident but did not see the other party make threats with a spanner (SoE attached).
4. Mr Zamojski has provided a written response to the complaint stating he calmly approached the UM and requested him to move his vehicle from the electric charging bay. Mr Zamojski states he was neither the aggressor nor instigator of the incident; however, admits to pushing and punching the other party in self-defence and that the other party made threats with a spanner. (Driver Response to Complaint attached).

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CHELTENHAM BOROUGH COUNCIL

STATEMENT OF WITNESS

**(Criminal Procedure Rules, 2005 r27.1(1);
Criminal Justice Act 1967, s.9 Magistrates' Courts Act 1980,s. 5B)**

Statement of [REDACTED]

Age of witness: Over 18

Occupation of witness: N/A

This statement consisting of 2 pages (signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated: 7th November 2022

Signed: [REDACTED]

At about 1340hrs on Thursday 29th September 2022, I was sat in the front of my parked vehicle in Tesco's Car Park, Colletts Drive, Cheltenham. I had a clear and unobstructed view of parking bays designated for the charging of electric vehicles approximately 10 metres away. These bays are situated at the edge of the car park adjacent to Gloucester Road and there is clear signage that states these bays are for "Electric Charging Only". I believe all these designated bays were occupied at this time.

I saw of an orange car, HG66AXA, which had Spa-Tax livery on the front passenger door, pull up sharply, diagonally behind a small blue car, which was occupying the final electric charging bay, next to a pedestrian access onto Gloucester Road.

The driver of the Spa-Tax car was a white male, approximately 40 years old and of athletic build (Male 1). He got out of his vehicle and approached the driver's door of the parked blue car saying "move, move, move" in a loud and aggressive manner. The driver of the

Signed: [REDACTED]

Date: 7th November 2022

blue car got out and a scuffle started between the two men. I describe the driver of the blue car as a white male, late teens / early 20's with dark hair (Male 2). At this stage I switched my engine on and started my dashcam to record the incident. I now produce a copy of that dashcam recording (Exhibit DH1).

During the scuffle I saw Male 1 punch Male 2 in the face on at least two occasions, after which Male 2 returned to his car and drove away. Male 1 then reversed into the vacated electric charging bay and parked.

Approximately 10 minutes later I saw Male 2 walking across the carpark towards the electric charging bays. He was carrying something in his left hand but I cannot say what it was. As Male 2 approached, Male 1 got out of his car and Male 2 appeared to be using a mobile phone. It looked as if Male 2 was initially taking photographs, then making a phone call.

Approximately 5 minutes later two Police vehicles arrived and Police Officers spoke to both men. I approached the Police and told them what I had seen and provided them with my dashcam footage.

I do not know Male 1 or Male 2 but believe I would recognise them both again. Although Male 1's vehicle was stopped between me and Male 2's vehicle, I still had a clear view of the initial scuffle due to the raised seating position in my vehicle.

It is my opinion that Male 1 was the instigator and aggressor of this incident. I have reported it to the council as I believe it could have turned into a serious incident and question whether this taxi driver is a fit and proper person to drive the public and to represent Cheltenham Borough Council.

Signed:



2

Date: 7th November 2022



Incident Account / Response to Complaint

Details of Complaint

It is alleged that at about 1340hrs on Thursday 29th September 2022, the driver of an Orange Hyundai Ioniq, HG66AXA, (PHV129) assaulted a member of the public at the electric charging bays, Tesco car park, Colletts Drive, Cheltenham. PHV129 was displaying "SPA-TAX" signage and it is alleged that the driver of this vehicle was the instigator and aggressor of the assault.

Account of: Adam Kamil Zamojski

Your Account of Incident:

(What happened?)

On Thursday 29 September 2022 at about 1340hrs, I arrived at the electric charging bays at Tesco car park in Cheltenham to charge my car. I noticed there was a diesel car parked at the electric car only bay, so I approached the driver and politely asked how long he was going to be there as I needed to use the charger. He dismissed me by waving his hand and returned to playing with his phone. I knocked on his window. He rolled it down slightly. I asked politely if he could move his car as this was an electric car only spot and that I was in need of charging. In a vile and abusive language, he told me to get out of his sight and that he would beat me up if I didn't. I did not go away and asked him again to park his car somewhere else, as there were many empty parking spaces around. This made him go into a frenzy mode. He jumped out of the car and got very close to my face and told me *'I will kick the sh*t out of you, because you are old and I am young..I will f**k you up! What are you gonna do about it?!'* I felt very uncomfortable with him so close, invading my space and offending me, but I didn't back off and told him best if he wouldn't do that as I will defend myself. He pushed me and I pushed him back. He bounced off his car and I saw that he was going for a swing at me so I threw a single punch in self defence to avoid him punching me. He then walked away towards his car and returned wielding a French spanner. I told him not to come any closer. He replied he was going to call the police, which I welcomed and waited at the spot for their arrival.

The police arrived promptly and I was asked about the incident. I gave my statement and I was told I am free to go, as they managed to secure some CCTV footage from a car parked nearby and they will be in touch with me if required.

Signed: Adam Zamojski

Date: 18.11.2022

Further comments:

The police have not be in touch since, but as I have been referred to Victim Support following the incident, I assumed the footage has confirmed my version of events and the driver's claim that I was the aggressor was dismissed. I have now requested an update from the police, but the officer in charge of this case is currently on leave.

I don't recall there being anybody else at the time of the incident close enough to hear the conversation between the driver and I, but I understand how this situation may have looked like to a bystander without the context. I would like to assure you that I did not instigate the assault and was not the aggressor. I am a very calm and friendly person, but I am sensitive to injustice and bullying. Because that person behaved like a bully, he offended and attacked me, I felt I needed to stand up against him. Please note, that I did not want to hurt him deliberately. I acted in self defence and I have been upset by how the situation ended, as this is not the way to solve arguments.

I am a happy husband and a father of two little children and would have never risked losing my license, as I need to look after them. I have been a private hire driver in Cheltenham for eight years and I believe my record in customer service is excellent, with no complaints from the customers. I'm confident that if asked, the customers that have used my service in the past would confirm that I am a fit and proper person to be a licensee.

I would welcome the opportunity to appear before the committee to answer the allegation in person.

Appendix 5

From: Stephens, Daniel
Sent: 01 November 2022 22:49
To: Matthew Morris
Subject: RE: Taxi Driver Assault?
Hello,

Summary of case:

We received a call from IP to state he had been assaulted by a taxi driver due to parking in an electric space without an electric vehicle. We attended and spoke to both parties. Taxi driver and IP both agreed that Taxi driver threw the first punch.

Taxi driver alleged that the IP went back to his car to get a spanner and came back up to him.

We viewed dash cam which shows the above. Due to both sides committing offences, neither wanted to make an official complaint and were given suitable advice at scene. Therefore it is NFA. If the IP did not go back and get the spanner from his car, it is likely the crime would have been progressed.

Hope this helps,

Dan

From: Matthew Morris
Sent: 01 November 2022 08:34
To: Stephens, Daniel
Subject: RE: Taxi Driver Assault?

Hi Dan,

Yes please to a summary of the case – I assume it is NFA your end.

Fully understand re disclosing details of the other party – if you could ask him the question and get back

to me one way or the other, I would be grateful.

Thanks

Matt Morris

Licensing Enforcement & Compliance Officer

From: Stephens, Daniel

Sent: 31 October 2022 21:25

To: Matthew Morris

Subject: RE: Taxi Driver Assault?

Hello,

I can give you details about what happened, but if you wanted the other males details I would need to ask him first if he is happy for those to be passed to you.

Many thanks,

Dan Stephens

PC 252670

Local Policing Team

Cheltenham

Gloucestershire Constabulary

From: Matthew Morris

Sent: 26 October 2022 09:51

To: Stephens, Daniel

Cc: Jason Kirkwood

Subject: FW: Taxi Driver Assault?

FAO PC 2670 Stephens

Good morning,

I work as a Licensing Enforcement & Compliance Officer at the council. One of my duties is to investigate incidents where licensed taxi drivers behave in a way which may cause concern as to whether they are "fit and proper persons" to be licensed by the council.

An independent witness contacted me about this case as he was concerned about the actions of the taxi driver. I appreciate your case has been NFA'd; however, the burden of proof for the licensing committee reviewing taxi drivers' licences is usually lower than in criminal law and I feel this incident may need to be referred to committee.

Are you able to provide me with a summary of your case?

Can you provide me with the other party's details so I can contact him, if he is willing.

Thanks for your help and let me know if you require anything else from me.

Kind regards

Matt

Matt Morris

Licensing Enforcement & Compliance Officer

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