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# Bath & North East Somerset Council

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## Democratic Services

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Date: 18 May 2015

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**To: All Members of the Licensing Sub-Committee**

**Councillors:-** To be appointed

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Licensing Sub-Committee: Tuesday, 26th May, 2015**

You are invited to attend a meeting of the **Licensing Sub-Committee**, to be held on **Tuesday, 26th May, 2015** at **11.00 am** in the **Council Chamber - Guildhall, Bath**.

### **Briefing**

Members of the Sub-Committee are reminded that the meeting will be preceded by a briefing at 9.30am.

The agenda is set out overleaf.

Yours sincerely

Sean O'Neill  
for Chief Executive

**If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.**

*This Agenda and all accompanying reports are printed on recycled paper*



## NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Sean O'Neill who is available by telephoning Bath democratic\_services@bathnes.gov.uk or by calling at the Guildhall Bath (during normal office hours).
- 2. Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Sean O'Neill as above.

Appendices to reports are available for inspection as follows:-

**Public Access points** - Reception: Civic Centre - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

**For Councillors and Officers** papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

### 3. Recording at Meetings:-

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control.

Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators.

To comply with the Data Protection Act 1998, we require the consent of parents or guardians before filming children or young people. For more information, please speak to the camera operator

The Council will broadcast the images and sound live via the internet [www.bathnes.gov.uk/webcast](http://www.bathnes.gov.uk/webcast) An archived recording of the proceedings will also be available for viewing after the meeting. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

- 4. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**
- 6. Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

## **Protocol for Decision-making**

### **Guidance for Members when making decisions**

When making decisions, the Cabinet/Committee must ensure it has regard only to relevant considerations and disregards those that are not material.

The Cabinet/Committee must ensure that it bears in mind the following legal duties when making its decisions:

- Equalities considerations
- Risk Management considerations
- Crime and Disorder considerations
- Sustainability considerations
- Natural Environment considerations
- Planning Act 2008 considerations
- Human Rights Act 1998 considerations
- Children Act 2004 considerations
- Public Health & Inequalities considerations

Whilst it is the responsibility of the report author and the Council's Monitoring Officer and Chief Financial Officer to assess the applicability of the legal requirements, decision makers should ensure they are satisfied that the information presented to them is consistent with and takes due regard of them.

**Licensing Sub-Committee - Tuesday, 26th May, 2015**

**at 11.00 am in the Council Chamber - Guildhall, Bath**

**A G E N D A**

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 5 on the previous page.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

3. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* an **other interest**,  
(as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

5. MINUTES: 12 MAY 2015 (Pages 7 - 10)

6. EXCLUSION OF THE PUBLIC

The Committee is asked to consider passing the following resolution:

“that having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item(s) of business and the reporting of the meeting be prevented under Section 100A(5A) because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

7. TAXI PROCEDURE (Pages 11 - 14)

To note the procedure to be followed for the next item of business.

8. CONSIDERATION OF COMPLAINTS RECEIVED - MR R F M (Pages 15 - 112)

The Committee Administrator for this meeting is Sean O'Neill who can be contacted on [democratic\\_services@bathnes.gov.uk](mailto:democratic_services@bathnes.gov.uk).

(a)

(b)

**BATH AND NORTH EAST SOMERSET COUNCIL**

**LICENSING SUB-COMMITTEE**

Tuesday, 12th May, 2015, 10.00 am

**Councillors:** Anthony Clarke (Chair), Patrick Anketell-Jones and Andrew Furse

**Officers in attendance:** Alan Bartlett (Public Protection Team Leader), Andrew Tapper (Public Protection Officer) and Shaine Lewis (Principal Solicitor and Deputy Monitoring Officer)

**173 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

**174 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**175 DECLARATIONS OF INTEREST**

Councillor Furse declared an interest as a local resident and ward member for Kingsmead. He had not been involved in the organisation of the street party, but he had been aware of it. He was confident that had not predetermined the street trading application and could consider it with an open mind.

**176 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

**177 MINUTES: 28TH APRIL 2015**

These were approved as a correct record and signed by the Chair.

**178 LICENSING PROCEDURE: MISCELLANEOUS LICENCES, PERMITS, CONSENTS**

The Chair drew attention to the procedure to be followed for the next item of business.

**179 APPLICATION FOR STREET TRADING AT THE CHELSEA VILLAGE PARTY**

Applicant: Peter Heywood

Objector: David Cheadle

The Applicant was unable to attend, but had indicated that he was content for the application to be heard in his absence.

Mr Cheadle was present.

The Chair said that he wished to make it clear that the Sub-Committee could only consider matters relating to the application for a street trading consent and that it could not take into account the wider impact on the local community of the street party. Mr Cheadle said that he had not seen the report. He was provided with a copy and the Sub-Committee adjourned for twenty minutes to allow him to peruse it.

The Public Protection Officer summarised the report.

Mr Cheadle stated his case. He said that he lived in Kennington Road, which was a relatively quiet residential road, whereas the adjoining Chelsea Road was a busy thoroughfare containing a row of shops. There was thus a marked contrast between the two roads in which the event would take place. His property was opposite the Methodist Church, where a stage would be erected and a band would play. The Chair advised Mr Cheadle that issues relating to regulated entertainment could not be considered at this hearing, and that he should focus on matters relating to the street trading application.

Mr Cheadle said that a similar event had taken place the previous year without a licence. It was in exactly the same format as the event planned for this year, so that residents knew what to expect. The organisers had claimed that surplus funds earned would be donated to charity or used to fund street lighting. No accounts for the event had been published and it was impossible to ascertain how any surplus funds had been used. He submitted that the event was being imposed on the local community by outsiders for commercial reasons. There would be considerable noise and other nuisance. Residents would effectively be confined to their homes for the duration of the event. A promotional leaflet had been widely distributed, but it gave no information about the organisers or their contact details. Last year the event continued beyond the advertised finish time of 10pm and he expected that this year's event would continue beyond the stated 9pm.

He referred to paragraph 4.2 of the Council's Street Trading Policy and submitted that there was not "an overriding public interest" in creating a new street trading pitch at this event, which would only create noise, nuisance and smell. He referred to paragraph 5.1 of the Policy, which states that the Council would seek written comments from occupiers of premises "immediately adjacent and opposite" a proposed street trading pitch and said that he had not been asked for his views. The Public Protection Officer advised that the required notice had been sent to all affected properties. He also advised that no music could be played at the street trading pitch.

In response to questions from Members Mr Cheadle stated that:

- he had not been troubled by smells from food stalls or the barbecue the previous year
- he had tried to obtain the accounts for the previous year's event without success
- there had been hundreds of people on the street during last year's event, which had been advertised widely



- music and the selling of food had continued until the end of the event

A Member asked officers whether the absence of contact details for the organisers on the promotional leaflet was normal for a community event. The Principal Solicitor advised that contact details would be found on the Temporary Event Notice for the event. The Public Protection Team Leader advised that most street trading applications were from commercial interests. As the Chelsea Village Party was a community event, the application fee had been waived. The Principal Solicitor pointed out that that Mr Heywood's letter of 16 April 2015 (agenda page 40) stated that there had been a small surplus last year, which had gone into a fund to plant trees in Chelsea Road and that any surplus from this year's event would go into the same fund.

Following an adjournment, the Sub-Committee **RESOLVED** to grant the consent subject to standard conditions. Authority was delegated to the Public Protection Officer accordingly.

#### Decision and reasons

Members have had to determine an application for a Street Trading Consent for the Chelsea Village party. This involves 10 stalls spread through Chelsea Road and Kennington Road. In determining the application members took account of schedule 4 Local Government (Miscellaneous Provisions) Act 1982, the Council's Policy on Street Trading and the Human Rights Act 1998.

Although the applicant did not attend Members noted his consent to the application going ahead in absence and therefore took account of his written representations.

The objector stated the event is commercial in nature which covers a commercial street and residential street. The event last year was unlicensed, ran over its time and had no clear community benefit.

In reaching a decision Members had regard to all relevant representations, disregarded the irrelevant and balanced the competing interests of the applicant and objector. Members therefore disregard matters of commercialism, the event in general and distribution of any profits.

The application is for 'new' pitches on 16 May 2015 between 3:00 and 9:00pm. Therefore, particular attention was given to part 4 of the Street Trading policy. As Members are aware the highway will be closed for the event vehicular obstruction and safe passage of pedestrians and staff was not an issue. In the circumstances Members find there is an overriding public interest in using public spaces for wider community events and as the general thrust of the objection fell outside of the policy framework the application was granted with the attachment of Standard Conditions.

Authority delegated to the Public Protection Officer to issue the consent.

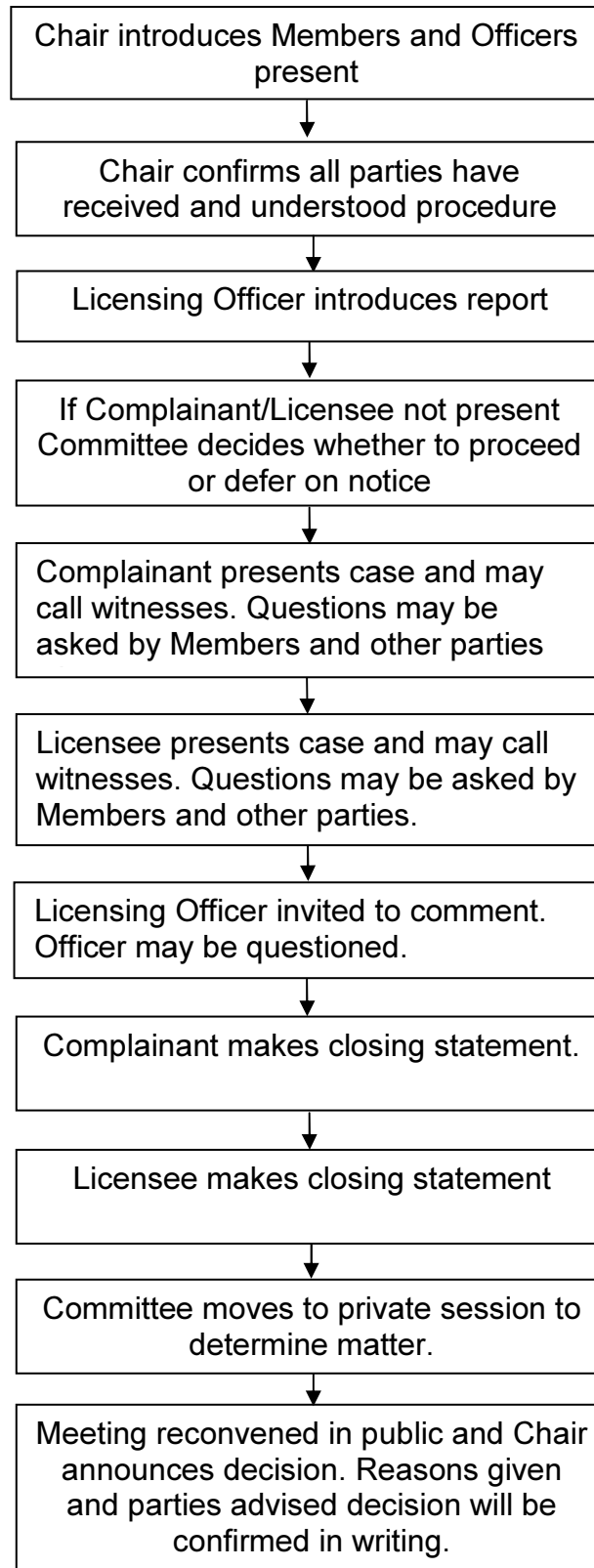
The meeting ended at 11.06 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

**LICENSING SUB-COMMITTEE  
HACKNEY CARRIAGE (TAXI) AND  
PRIVATE HIRE VEHICLES COMPLAINT PROCEDURE**



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**Licensing Sub Committee  
Hackney Carriage and Private Hire Drivers  
Complaint Hearing Procedure**

1. The Chair will introduce Members of the Committee, introduce the Officers present, explain the procedure to be followed and ensure those present have received and understood that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Committee.
3. The Complainant presents their case, may call witnesses and may be questioned by the Committee and other parties. Where a written complaint has been made the complaint will be read by the Committee. The procedure will be repeated should there be more than one complainant.
4. The Licensee presents their case, may call witnesses and may be questioned by the Committee and other parties.
5. The Chair will ask the Licensing Officers present whether they wish to comment. An Officer making comment may be asked questions.
6. The Complainant is invited to make a closing statement
7. The Licensee is invited to make a closing statement.
8. The Chair will invite the Committee to move into private session to enable the Members to deliberate in private. The Committee will reconvene publicly if clarification of evidence is required and/or legal advice is required. The Committee may retire to a private room, or alternatively require vacation of the meeting room by all other persons.
9. Whilst in deliberation the Committee will be accompanied by Legal and Democratic Services Officers for the purpose of assisting them in drafting their reasoning for the decision.
10. The Committee will reconvene the meeting and the Chair will announce the Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.

### **PLEASE NOTE:**

- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in a party's absence on the next occasion. In deciding whether to proceed all notices, communications and representations will be considered.
- Only in **exceptional circumstances** will the Committee take account of additional late documentary or other information and will be at the discretion of the Chair and on notice to all the other parties. No new representations will be allowed at the hearing.
- The Committee will disregard all information or representations considered irrelevant.
- The hearing will take the form of a discussion. The Committee will allow parties to the proceedings to ask questions. Formal cross examination will be discouraged and, should they be necessary, supplementary questions allowed for clarification purposes only.
- Parties will have an equal amount of time to present their cases. Whilst time limits are at the Chair's discretion, in the interests of cost and efficiency, presentations will not normally exceed **twenty minutes** to include summarising the case. Time limits will not include the time taken for questions.

#### **N.B.**

1. Where there is more than one party making relevant representations the time allocated will be split between those parties.
  2. Where several parties are making the same or similar representations it is suggested that one representative is appointed to avoid duplication and to make the most efficient use of the allocated time.
  3. Where an objection is made by an association or local residents group, a duly authorised person – as notified to the Licensing authority – may speak on behalf of that association or local residents group.
- The Chair may request that persons behaving in a disruptive manner should leave the hearing and their return refused, or allowed subject to conditions. An excluded person is however, entitled to submit the information they would have been entitled to present had they not been excluded.
  - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion. On occasion however, it may be necessary to exclude members of the press and public pursuant to the Local Government Act 1972 Schedule 12 (a). In those circumstances reasons for such decisions will be given.
  - If a person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing so that reasonable adjustments may be made.

**Access to Information Arrangements**

**Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA-702/15

Meeting / Decision: Licensing Sub-Committee

Date: 26<sup>th</sup> May 2015

Author: John Dowding

Exempt Report Title: Consideration of complaints received:- Mr R F M

Exempt Appendix Title:

Annex A – Current Combined Hackney Carriage/Private Hire Drivers Licence.

Annex B – Final Warning Letter 7th August 2014.

Annex C – Final Complaint Received 11th December 2014.

Annex D – Letter Advising of LSC Referral 5th January 2015.

Annex E – History Of Complaints Received 2009 -2014.

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

**PUBLIC INTEREST TEST**

If the sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972.

The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 1998 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed. Further, information to be discussed may constitute sensitive personal data in terms of the DPA, this information cannot be disclosed by the Council without the explicit consent of the individual concerned.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand, and that the report be discussed in exempt session.

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.



By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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