

**Democratic Services**

Riverside, Temple Street, Keynsham, Bristol BS31 1LA

Telephone: (01225) 477000 *main switchboard*

Direct Lines - Tel: democratic\_services@bathnes.gov.uk

Web-site - <http://www.bathnes.gov.uk>

Date: 27 November 2013

E-mail: Democratic\_Services@bathnes.gov.uk

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

**Councillors:-** Manda Rigby, Anthony Clarke and Ian Gilchrist

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Licensing Sub-Committee: Tuesday, 3rd December, 2013**

You are invited to attend a meeting of the **Licensing Sub-Committee**, to be held on **Tuesday, 3rd December, 2013 at 10.00 am** in the **Kaposvar Room - 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

Enfys Hughes, 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 Enfys Hughes, Sean O'Neill who is available by telephoning Bath democratic\_services@bathnes.gov.uk or by calling at the Riverside Offices Keynsham (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 Enfys Hughes, Sean O'Neill as above.

Appendices to reports are available for inspection as follows:-

**Public Access points** - Riverside - 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. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 4. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**
- 5. 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.

**Licensing Sub-Committee - Tuesday, 3rd December, 2013**

**at 10.00 am in the Kaposvar Room - 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 - 1ST OCTOBER AND 15TH OCTOBER 2013 (Pages 7 - 18)

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 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. LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVER APPLICATION (Pages 19 - 22)

The Chair will, if required, explain the licensing procedure.

8. APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR L G E-N (Pages 23 - 34)
9. CONSIDERATION OF CAUTION OBTAINED:- MR P D (Pages 35 - 44)
10. CONSIDERATION OF CAUTION OBTAINED:- MR R K (Pages 45 - 54)
11. CONSIDERATION OF CAUTION OBTAINED:- MR R M (Pages 55 - 64)
12. CONSIDERATION OF CONVICTION OBTAINED:- MR P L T (Pages 65 - 80)

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

# 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.

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**BATH AND NORTH EAST SOMERSET COUNCIL**

**LICENSING SUB-COMMITTEE**

Tuesday, 1st October, 2013, 9.30 am

**Councillors:** Manda Rigby (Chair), Patrick Anketell-Jones and Roger Symonds

**Officers in attendance:** Andrew Jones (Environmental Monitoring and Licensing Manager), Kirsty Morgan (Licensing Officer) and Simon Barnes (Principal Solicitor)

**37 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

**38 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**39 DECLARATIONS OF INTEREST**

The Chair announced that she had been copied into email correspondence received from the parties since the agenda had been published, but had had no conversations with any of them and had an open mind.

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

There was none.

**41 MINUTES: 29 JULY AND 3 SEPTEMBER 2013**

These were approved

**42 LICENSING PROCEDURE**

The Chair drew attention to the licensing procedure, copies of which had been made available to those attending the meeting.

**43 APPLICATION FOR A PREMISES LICENCE FOR THE PORTER, 15 GEORGE STREET, BATH, BA1 2EN**

Applicant: Hector Main (applicant and proposed DPS), accompanied by Giles Thomas (Owner) and Simon Dehany (Group Events and Marketing Manager)

Other Persons: Ian Perkins (The Abbey Residents Association), Mr and Mrs Davies, Henry Brown, Mr and Mrs Dougall

The parties confirmed that they had received and understood the licensing procedure.

The Licensing Officer summarised the application, which was for a new premises licence as detailed in section 4 of the report. Representations had been received from local residents' associations and from local residents relating to the licensing

objective of the prevention of public nuisance. She explained that although the applicant was currently trading under a valid premises licence, this application had been made so that the second floor could be included within the licensed area. She invited the Sub-Committee to determine the application.

Mr Thomas stated the case for the applicant. He introduced himself as owner of the building and a director of the business. He explained that the aim was to include two areas on the second floor within the licensed area, which would be used for conferences and private dining. He said that he understood the problems that residents had had from the premises under the previous owners, so the application sought a terminal hour of 02:00 instead of the current licence's 03:00. The building had been in a poor state of repair, so he had completed an extensive programme of refurbishment. The premises had previously been targeted at the student market, with an emphasis on cheap alcohol and bass-heavy music. £12,000 had been spent on additional sound proofing and the maximum volume of the sound system had been reduced. These measures had been introduced to prevent noise from the basement disturbing customers who were dining on the second floor and their serviced apartments next door. They would also reduce the likelihood of noise nuisance to local residents. It was true that the Porter had become synonymous with unruly youth, drunkenness, noise and vomit on the streets. He understood the apprehensions of local residents – his own mother lived on Gay Street. However, the premises were now aimed at a more sophisticated clientele. It was hoped that the Porter would become a hub for business people. Cultural events had been held there. He noted that all the representations had been submitted before the Porter had reopened and hoped that local residents could now see the improvement in the management of the business. Since reopening there had been no complaints about litter or anti-social behaviour. He submitted that most of the previous problems with the Porter arose from the nature of the clientele, but it was no longer an establishment aimed at students. A reduction in trading hours had been proposed; the refurbishment of the basement had made it more like a lounge area than a nightclub; there had been a reduction in the number of public bars and beer was mostly served in half pints. He submitted that the contribution of the premises to cumulative impact in the area had been reduced and that the refurbishment had improved the character of the area, even stimulating the owners of neighbouring properties to improve them.

In reply to questions from Members, Mr Thomas stated:

- the premises had been open for four weeks and students had not resorted to them; the ambience of the premises was more like a five-star hotel than that of a student venue; we do not want our investment to be ruined by students
- though a terminal hour of 02:00 had been applied for, the premises would probably usually close at 00:30; people sometimes came to the premises at 22:00 or 23:00 and wanted a meal, which could not be provided if the premises had to close at 00:30; some people from ITV had visited late and wanted a meal; it was useful to be able to be able to serve customers who arrived later, even if just as a private party
- he was very aware of the problems that had occurred in the past; he and his two colleagues had extensive experience of dealing with difficult customers in



the challenging environment of London; they employed door staff who could talk to customers rather than just use muscle

- escape of noise from windows was not really an issue; the highest level of sound would be generated in the basement and there were eight layers of sound insulation between this and the floor above, as they did not wish diners to be disturbed by noise from below; there were windows on the first and second floors, but these were lounge areas where people would be sitting in armchairs having relaxed conversations while drinking coffee

The Other Persons were invited to put questions to the applicant.

Mr Brown said that it might very well be that people sometimes arrived late hoping to have a meal, but why should the hours of the premises not be the same as other restaurants? Mr Thomas replied that people arrived throughout the evening, some after going to the theatre, for example. He did not see the relevance of restaurant hours as the premises were not intended to be a restaurant, but an establishment where various activities would be taking place throughout the day. The premises would normally cease trading at 00:30, but on occasion it would be useful to be able to go on until later.

The Other Persons stated their cases.

Mr Perkins said that his association was not campaigning against the Porter, but it had to be acknowledged that this was an application for a premises licence in a sensitive area where there were many residents. Unacceptable behaviour in the area had reached an extreme level. He said the Porter's new licence should have a condition attached requiring them to sweep up litter, as was customary on new premises licences in the area. He thought that it was important that a maximum noise level for the basement should be set by Environmental Health. There had been problems with noise in the past, and though management had been quick to respond when contacted about it, it had happened and caused disturbance to residents. He queried what business model the management had in mind when they applied for the hours they had.

Mr Davies said that he supported everything that Mr Perkins had said. There had undoubtedly been an improvement under the new management, but the terminal hour was still an issue. Why did it need to be 02:00? In conversations with residents Mr Thomas had said that this had been chosen to protect the value of the licence if the current management ever decided to sell the business. He submitted that the hours allowed to licensed premises should reflect only the current character of the premises. Mr Thomas had said that the premises would usually cease trading at 00:30; Mr Davies submitted that this should be the conditioned terminal hour.

Mr Brown said that he lived just round the corner from the Porter. He welcomed the change of character the new management had brought to the premises. The emphasis on dining and cultural events betokened a very civilized ethos. There were a number of good restaurants already in the area, none of which found it necessary to have three bars. Why was it necessary for the premises to be able to trade until 02:00 every night including Sundays? Did the book club and the knitting circle require this? A terminal hour of 02:00 plus fifteen minutes drinking up time would mean that people coming from the premises would be on the street at 02:30. Even

civilized people could be very noisy after they had been drinking. His usual bedtime was 23:00. People on the street in the early hours were more likely to cause and be the victims of crime and disorder. He issued a challenge to the applicant to think again and accept a terminal hour of 00:00 on Mondays to Saturdays and 23:00 on Sundays. That would be adequate for the dining part of the business. It would put him on a par with other high-end restaurants, so that he would suffer no competitive disadvantage. He submitted that that would be the socially acceptable conclusion to this application.

Mrs Dougall said that she was concerned that noise would escape when the doors were opened. She also wondered whether customers leaving the premises would be supervised.

A Member asked Mr Brown if he had kept a record of incidents of noise nuisance. He replied that he had not, but there was noise in the area every night. Mr Perkins said that the resident associations had prepared a detailed report on the impact on residents of the drink culture in the area.

A Member asked whether residents had noticed any change in noise levels in the area since the Porter had reopened after being closed for a while. Mr Davies replied that the noise level had certainly dropped when the Porter was closed. He honestly did not think it had increased since it had reopened. There had been a lot of noise in Freshers' Week, but this had been associated with Moles, not the Porter. Mr Perkins thought very little noise could be attributed to the Porter since it had reopened. Mr Thomas said the maximum level of the sound system had been reduced from 3KW to 1KW.

The parties were invited to sum up.

Mr Thomas said that the new application actually reduced the opening hours. He was willing to modify the application and accept a terminal hour of 00:00 on Sundays. The character of the premises was no longer what it had been. There had been no complaints since reopening. The front of the premises was swept every night and every morning. The alterations to the premises had actually reduced its capacity. Sound insulation had been improved, to prevent noise from the basement irritating customers dining on the first floor. The ambience of the premises was now reminiscent of a hotel.

Mr Brown said that Bath was a world heritage site from which people expected a certain quality of experience. He recalled that Beau Nash had specifically opposed late night drinking and in his view it should not be allowed now. He welcomed the applicant's concession on the Sunday terminal hour. He referred to a report on the harm caused by excessive consumption of alcohol and suggested that the licensing trade should face the consequences of this and requested the applicant to reconsider the terminal hour.

The Chair requested the Principal Solicitor to clarify the options open to the Sub-Committee. The Principal Solicitor said that the overriding duty of the Sub-Committee was to promote the licensing objectives. He noted that representations had been received in relation to the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder. A decision to reduce the hours applied for had to be based on evidence and the licensing objectives. The Sub-

Committee had to consider whether the application was likely to increase the cumulative impact of licensed premises in the area. The Sub-Committee should also remember that the premises already had a licence and that the Licensing Act 2003 provided a review procedure for premises licences if there were any problems. Finally, he noted that there had been no representations from the Responsible Authorities.

Following an adjournment, the Sub-Committee **RESOLVED** to grant the licence as applied for. Authority was delegated to the Licensing Officer accordingly.

### **Committee Decision and Reasons**

Members have today determined an application for a new Premises Licence for the Porter.

In doing so they have reminded themselves of the Licensing Act 2003, Statutory Guidance, the Council's Statement of Licensing Policy and the Human Rights Act 1998.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate to promote the licensing objectives based on the evidence before them.

In this case the relevant licensing objectives were crime and disorder and public nuisance.

Members heard that the premises are under new management and the business is now food-led but requires the flexibility to conduct licensable activities up until 2am. Members noted that noise is a particular issue and to this end the premise has been sound proofed and the operator has a vested interest in not causing noise nuisance due to their diners upstairs and their serviced apartments next door. Members noted the evidence from residents that since the re-furbished premises opened, there has been no evidence of problems attributable to the Porter. Members also noted that the premises already has a licence which it can fall back on were this licence to be refused.

In reaching their decision Members took account of all relevant representations, disregarded irrelevant representations and were careful to balance the competing interests of the Applicant and Interested Parties.

Members have therefore decided to grant the application as applied for because members are satisfied that:

- the premises is unlikely to cause a nuisance;
- it would not add to the cumulative impact of licensed premises in the area as the Porter already has a licence and the new licence would have shorter licensed hours; and
- there is the possibility that the licence could be reviewed if there are problems in the future.

Members noted that the Applicant was willing to accept a reduction in hours on Sundays until midnight but felt there was no evidential basis to justify imposing such a condition. However, the Applicant could close voluntarily at midnight on Sundays.

The conditions as set out in the operating schedule will be attached to the licence together with the mandatory conditions.

Authority is delegated to the Licensing Officer to issue the licence accordingly.

Finally, members noted that the Applicant sweeps the street outside the premises every day and would encourage that to continue. Members would also encourage the Applicant to participate in any Pubwatch or similar schemes.

The meeting ended at 11.00 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

## **BATH AND NORTH EAST SOMERSET COUNCIL**

### **LICENSING SUB-COMMITTEE**

Tuesday, 15th October, 2013, 10.00 am

**Councillors:** Manda Rigby (Chair), Anthony Clarke (In place of Gabriel Batt) and Roger Symonds

**Officers in attendance:** Enfys Hughes, John Dowding (Senior Licensing Officer) and Simon Barnes (Principal Solicitor)

#### **44 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

#### **45 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Councillor Gabriel Batt sent his apologies, Councillor Anthony Clarke was his substitute.

#### **46 DECLARATIONS OF INTEREST**

There were none.

#### **47 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

#### **48 MINUTES**

There were no minutes to be considered at the meeting.

#### **49 LICENSING PROCEDURE -HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE PROPRIETORS' HEARING**

**RESOLVED** that the procedure for this part of the meeting be noted.

#### **50 APPROVAL OF VEHICLE FOR PRIVATE HIRE - MR MATTHEW BANNISTER**

The Sub-Committee considered the report which sought approval of a Mini Cooper vehicle for use as a private hire vehicle. The vehicle did not comply with the requirements stipulated in the current private hire vehicle licence conditions.

Mr MB was present. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and explained how the vehicle did not comply with current requirements.

Mr MB put his case and was questioned. He stated that he would only be running pre-bookable tours in the car and it would be clear to the customer that it was a classic mini. He confirmed he would not be using the car for general private hire work. He stated that the car had a low mileage, had been regularly serviced, had an

airbag and side impact safety bars. With regard to the car only having two doors he explained that the rear side windows could be pushed out in an emergency. Mr MB then made a closing statement.

Following an adjournment it was

**RESOLVED** that Mr Matthew Bannister's Mini Cooper be approved for private hire use subject to the modification of the standard conditions as identified in the report and the following additional condition:

- The vehicle shall only be used for privately booked tours and shall not be used for general private hire use.

#### Reasons for decision

Members had to determine an application to licence Mr Bannister's Rover Mini Cooper as a private hire vehicle.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, the Human Rights Act 1998, case law and the general conditions relating to private hire vehicles adopted by the Council.

Members had to consider whether the vehicle was suitable for use as a private hire vehicle, having regard in particular to public safety. To assist them in making a determination, Members inspected the vehicle and heard from the applicant who explained that his intention was to only use the vehicle to give privately booked tours of the area and not for general private hire use. Members acknowledged that the Mini did not fit the criteria in the Council's standard conditions but were satisfied that the Mini was safe and suitable for the limited use proposed by the applicant.

Members therefore decided to grant the licence subject to modification of the standard conditions to take account of the aspects of the vehicle which did not conform to the standard conditions, as detailed in the report; and the following condition:

"The vehicle shall only be used for privately booked tours and shall not be used for general private hire use."

Authority was delegated to the Senior Licensing Officer to issue the licence accordingly.

## **51 EXCLUSION OF THE PUBLIC**

**RESOLVED** "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 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."

## **52 LICENSING PROCEDURE HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE VEHICLE DRIVERS**

**RESOLVED** that the procedure for this part of the meeting be noted.

**53 CONSIDERATION OF CAUTION OBTAINED:- MR P D**

The Sub-Committee considered the report which sought consideration of a Police Caution obtained by Mr PD during the term of his hackney carriage/private hire driver's licence.

Mr PD was not present. The Licensing Officer had not heard anything from him.

Following an adjournment it was

**RESOLVED** that the item be deferred until the next meeting of the Licensing Sub-Committee with advice to Mr PD that it was likely to go ahead in his absence if he did not turn up.

**54 CONSIDERATION OF CAUTION OBTAINED:-:- MR A M**

The Sub-Committee considered the report which sought consideration of a Police Caution for taxi touting obtained by Mr AM during the term of his hackney carriage/private hire driver's licence.

Mr AM was present. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and stated that he had received information from the Metropolitan Police in respect of a formal caution which Mr AM had not disclosed to Licensing in accordance to the conditions attached to his licence.

Mr AM put his case and was questioned. Mr AM then made a closing statement.

Following an adjournment it was

**RESOLVED** that four penalty points be imposed on Mr AM's hackney carriage/private hire driver's licence in respect of the formal police caution.

Reasons for decision

Members had to determine whether to take any action against Mr AM as he had obtained a caution for taxi touting during the period of his combined hackney carriage/private hire driver's licence which he had failed to declare to the Council in accordance with the standard conditions attached to his licence.

In doing so, they took account of the Local Government (Miscellaneous Provisions) Act 1976, the Human Rights Act 1998, case law and the Council's policy.

Members had to consider whether Mr AM was a fit and proper person to continue to hold such a licence and therefore asked themselves whether they would allow their son, daughter, spouse, partner or anyone they cared about to travel alone in a vehicle driven by Mr AM.

To assist them in making a determination, Members listened to Mr AM's representations. Mr AM stated that he did not realise that he had been given a caution and had done nothing wrong. Members took account of his otherwise excellent record as a driver.

Members therefore decided that Mr AM was a fit and proper person to continue to hold a private hire/hackney carriage driver's licence. Accordingly, they decided to impose 4 points on his licence in accordance with the Council's policy.

## **55 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR MA W**

The Sub-Committee considered the report which sought determination of an application by Mr MAW for the grant of a combined hackney carriage/private hire driver's licence.

The applicant was present with two witnesses. He confirmed he had read and understood the procedure for the meeting. One complainant was also present.

The Licensing Officer presented the report and stated that as part of the application process a Disclosure and Barring Service check was undertaken which had revealed a number of previous convictions. He circulated the Disclosure and Barring Service check, personal statement and reference for Mr MAW. He explained that Mr MAW's licence had previously been revoked and MR MAW had appeared twice previously before the Licensing Sub-Committee. The Licensing Officer went on to explain that Mr MAW was currently licensed by Mendip District Council and Bath and North East Somerset had received complaints regarding Mr MAW's conduct which had been referred to Mendip for their consideration. The applicant and officer withdrew from the meeting while Members took some time to consider these documents.

Mr MAW put his case and was questioned and called his witnesses. He submitted a further document from Mendip District Council which Members agreed to consider. Members refused permission to admit other late documents as they were not relevant to Mr MAW's fitness to hold a licence.

The complainant put his case before the Sub-Committee and was questioned.

Mr MAW then made a closing statement.

Following an adjournment it was

**RESOLVED** that a hackney carriage/private hire driver's licence not be granted in respect of Mr MAW.

### Reasons for the decision

Members had to determine an application for a combined hackney carriage/private hire driver's licence by Mr MAW.

In doing so, they took account of the Local Government (Miscellaneous Provisions) Act 1976, the Human Rights Act 1998, the Home Office guidelines on the relevance of convictions and the Council's adopted policies.



Members had to consider whether Mr MAW was a fit and proper person to hold a driver's licence and therefore asked themselves whether they would allow their son, daughter, spouse, partner or anyone they cared about to travel alone in a vehicle driven by Mr MAW.

To assist them in making a determination, Members listened to Mr MAW's oral representations. These included that Mr MAW was licensed by Mendip District Council as a hackney carriage/private hire driver and that his last conviction was in 2007. Members also took account of the evidence from Mr MAW's character witnesses, one of whom is a local solicitor, and noted that Mr MAW only wanted the licence so he could move taxis within Bath and North East Somerset as part of his business. However, Members noted Mr MAW's history of convictions for violent and aggressive behaviour including the caution referred to in his statement which involved possession of a weapon in a taxi. Members also noted the evidence of two people who had complained about Mr MAW, one of whom was a customer and the other a driver who gave live evidence about a campaign of bullying and intimidation by Mr MAW. Although Mr MAW only wanted the licence for a limited purpose, he still needed to be a fit and proper person.

In light of Mr MAW's history of aggressive behaviour, the evidence from the two complainants and the fact that Mr MAW had previously had a driver's licence revoked by the Council, Members concluded that Mr MAW was not a fit and proper person and the application was refused.

The meeting ended at 1.27 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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### **Licensing Sub Committee Hackney Carriage (taxi) and Private Hire Driver Application 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 Applicant, representative and/or witness is asked to leave the room while the Committee consider the Disclosure and Barring Service report, references and statement.
4. The Applicant, representative and/or witness returns and presents the case to the Committee.
5. The Applicant may be questioned about the matter by the Committee.
6. The Applicant may call witnesses in support of their application and each witness may be asked questions.
7. The Chair will ask the Licensing Officers present whether they wish to comment. If an Officer makes comment they may be asked questions.
8. The Applicant will be invited to make a closing statement.
9. 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.
10. 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.
11. 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.

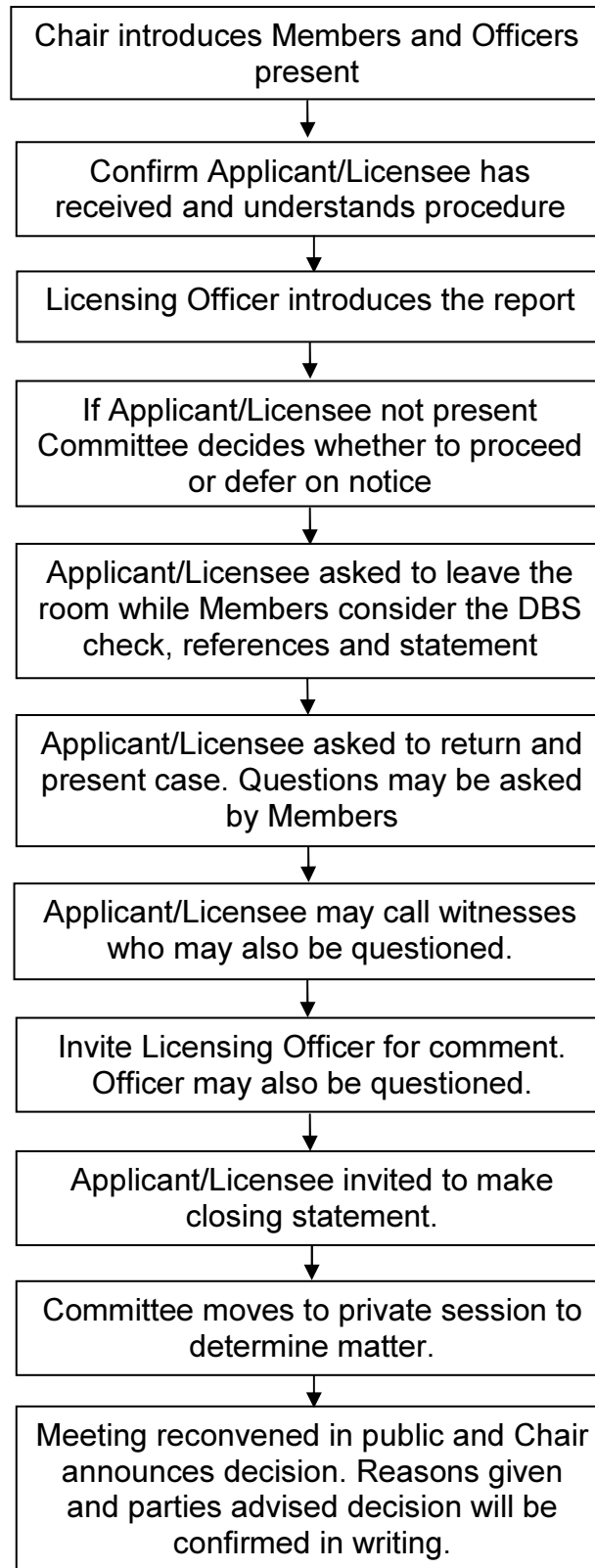
### **PLEASE NOTE:**

- 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.

**LICENSING SUB-COMMITTEE  
HACKNEY CARRIAGE (TAXI) AND  
PRIVATE HIRE VEHICLES DRIVERS' LICENCE PROCEDURE**



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**Access to Information Arrangements**

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

Information Compliance Ref: LGA-1516-13

Meeting / Decision: Licensing Sub-Committee

Date: 3 December 2013

Author: John Dowding

Exempt Report Title: Application For Hackney Carriage/Private Hire Driver's Licence

Exempt Appendix Title:

ANNEX A – Application Form

ANNEX B – Home Office Guidelines Relating to Relevance of Convictions.

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.

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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**Access to Information Arrangements**

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

Information Compliance Ref: LGA-1024-13

Meeting / Decision: Licensing Sub-Committee

Date: 3 September 2013

Author: John Dowding

Exempt Report Title: Consideration of Caution Owbtained

Exempt Appendix Title:

ANNEX A – Current Hackney Carriage/Private Hire Drivers Licence.

ANNEX B – First Application Form Submitted After Caution Obtained (2011)

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, as any information revealed by the Criminal Records Bureau check is likely to 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  
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**Access to Information Arrangements**

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

Information Compliance Ref: LGA-1519-13

Meeting / Decision: Licensing Sub-Committee

Date: 3 December 2013

Author: John Dowding

Exempt Report Title: Consideration of Caution obtained

Exempt Appendix Title:

ANNEX A – Current Hackney Carriage/Private Hire Drivers Licence.

ANNEX B – Declaration of Caution

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, as any information revealed about the caution is likely to 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.



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**Access to Information Arrangements****Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA-1517-13

Meeting / Decision: Licensing Sub-Committee

Date: 3 December 2013

Author: John Dowding

Exempt Report Title: Consideration of caution obtained

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, as any information regarding the caution is likely to 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.

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**Access to Information Arrangements**

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

Information Compliance Ref: LGA-1518-13

Meeting / Decision: Licensing Sub-Committee

Date: 3 December 2013

Author: John Dowding

Exempt Report Title: Consideration of conviction obtained

Exempt Appendices  
 ANNEX A –Current Combined Hackney Carriage/Private Hire Drivers Licence  
 ANNEX B – Declaration of Conviction Obtained  
 ANNEX C – Letter to Mr Thomas  
 ANNEX C – Letter of Mitigation  
 ANNEX D – Home Office Guidelines Relating to the Relevance of Convictions.

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, as any information regarding the conviction is likely to 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.

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