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Date: 29 January 2014

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

**Councillors:-** Manda Rigby, Anthony Clarke and Roger Symonds

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Licensing Sub-Committee: Tuesday, 4th February, 2014**

You are invited to attend a meeting of the **Licensing Sub-Committee**, to be held on **Tuesday, 4th February, 2014 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, 4th February, 2014**

**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: 7TH JANUARY 2014 (Pages 7 - 10)

6. LICENSING PROCEDURE - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS DRIVER RENEWAL (Pages 11 - 14)

The Chair will, if required, explain the procedure.

7. EXCLUSION OF THE PUBLIC

The Committee is invited to consider passing the following resolution:

“that, the Committee having been satisfied that the public interest would be better

served by not disclosing relevant information, and 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 of business because of the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act, as amended”.

8. CONSIDERATION OF BEHAVIOUR AND DETERMINATION OF RENEWAL OF COMBINED HACKNEY CARRIAGE/PRIVATE DRIVER'S LICENCE: MR IH (Pages 15 - 30)

The Committee Administrator for this meeting is Enfys Hughes, Sean O'Neill who can be contacted on  
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.

**BATH AND NORTH EAST SOMERSET COUNCIL**

**LICENSING SUB-COMMITTEE**

Tuesday, 7th January, 2014, 10.00 am

**Councillors:** Manda Rigby (Chair), Anthony Clarke and Roger Symonds

**Officers in attendance:** Alan Bartlett (Principal Public Protection Officer), John Dowding (Senior Public Protection Officer), Kirsty Morgan (Public Protection Officer) and Shaine Lewis (Principal Solicitor)

**79 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

**80 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**81 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

**83 MINUTES - 3RD DECEMBER 2013**

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

**84 LICENSING PROCEDURE - COMPLAINT HEARING**

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

**85 EXCLUSION OF THE PUBLIC**

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 Committee **RESOLVED** that the public be excluded from the meeting for the following item 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.

**86 CONSIDERATION OF CAUTION OBTAINED:- MR R M**

The Sub-Committee considered the report, which sought consideration of a caution obtained by Mr RM during the term of his hackney carriage/private hire driver's licence. The caution had not been disclosed to the Licensing section as required by the standard conditions.

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

The Senior Public Protection Officer presented the report and stated that on renewal of the licence part of the process was a Disclosure and Barring Service check. Copies of this and a written statement from Mr RM were circulated to Members, and then the officer and Mr RM left the room. After Members had studied the documents, they returned to the room.

Mr RM put his case and was questioned. The Senior Public Protection Officer noted that there had been no complaints from members of the public about Mr RM. Mr RM made a closing statement.

Following and adjournment it was

**RESOLVED** that 4 penalty points be issued on Mr RM' hackney carriage/private hire driver's licence.

### **Reasons for decision**

Members have had to determine whether to take any action against the licensee having obtained a caution during the duration of his licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members heard that the licensee had been cautioned for an offence of violence against the person whilst he was intoxicated. Members listened carefully to his representations and took account of his written statement. Whilst taking a dim view of the offence and his failure to inform the Authority within 7 days, Members found this was an isolated occurrence and accordingly found no reason to deviate from the policy. Therefore, 4 points are endorsed on his private hire vehicle driver's licence.

## **87 RETURN TO OPEN SESSION**

The Committee returned to open session.

## **88 LICENSING PROCEDURE - MISCELLANEOUS LICENSES, PERMITS, CONSENTS**

**RESOLVED** to note the procedure for this part of the meeting.

## **89 APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT THE NEST, 7 BLADUD BUILDINGS BATH BA1 5LS.**

Applicant: Rod Johnson

Objector: Patrick Rotherham (Chair, Vineyard Residents' Association)

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

The Public Protection Officer summarised the application.



Mr Johnson stated his case. He said that his premises, a bar, were part of Bladud Buildings. The front of the premises faced south and so caught the sun, and he wished to take advantage of this by locating 2 tables and chairs on the pavement in front of the premises until 22.00 every day. The pavement at this point was 10 feet wide. He stated that his Licensing Act 2003 premises licence already authorised drinking outside the premises, that the area in front of the premises was also used as a smoking area and that other licensed premises in the vicinity already had tables and chairs outside.

Members put questions to Mr Johnson, in response to which he stated:

- 60% of his customers were aged 18-25, but there were no restrictions on who could enter the premises; the premises were a bar, not a nightclub, and there was no admission charge
- food was not served at present, though this was being considered as an option in the longer term

Mr Rotherham stated his case. He introduced himself as Chair of the Vineyard Residents' Association. He said that activities of the late night economy had impacted on residents over the years. This application represented a further extension into the daytime of drinking on the street. A great many retired people and children resided in the area, so there were many people around during the day. Residents felt under constant pressure. There was traffic congestion, air pollution and impacts from the night-time economy. This application was one more imposition on local residents. He requested the Committee either to refuse it, or to make the terminal hour 20.00.

The Principal Solicitor advised that the all the Sub-Committee could take account was the extent to which this application would result in an obstruction on the highway that would constitute a hazard for users of the highway.

The Chair asked Mr Johnson whether he would still be prepared to accept a terminal hour of 20.00, as offered in his supporting statement (Annex F to the agenda). He confirmed he would.

Following an adjournment, it was **RESOLVED** to grant the application with a terminal hour of 20.00.

#### Reasons for decision

In determining an application to place 2 tables with 8 chairs on the highway Members took account of the Highways Act and representations from the applicant and objectors.

Members approach this matter in terms of whether the application was likely to cause a public nuisance in highway terms. In doing so they had to decide whether these tables and chairs in this location were likely to obstruct the free passage of pedestrians or cause a hazard. In this regard Members noted the Highway Authority had not objected and the pavement width at the premises varied between 4 and 6 meters.

Whilst noting the objections were mainly on public nuisance grounds these related in general to matters arising from the late night economy. Accordingly, these fall to be dealt with by other statutory provisions rather than as in highway obstruction terms.

In all the circumstances Members considered the application reasonable and grant the application limited to 8 pm as suggested by the objector and agreed with the applicant. Authority is delegated to the Public Protection Officer to issue the permit with the attachment of the standard terms and conditions.

The meeting ended at 10.51 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

### **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.

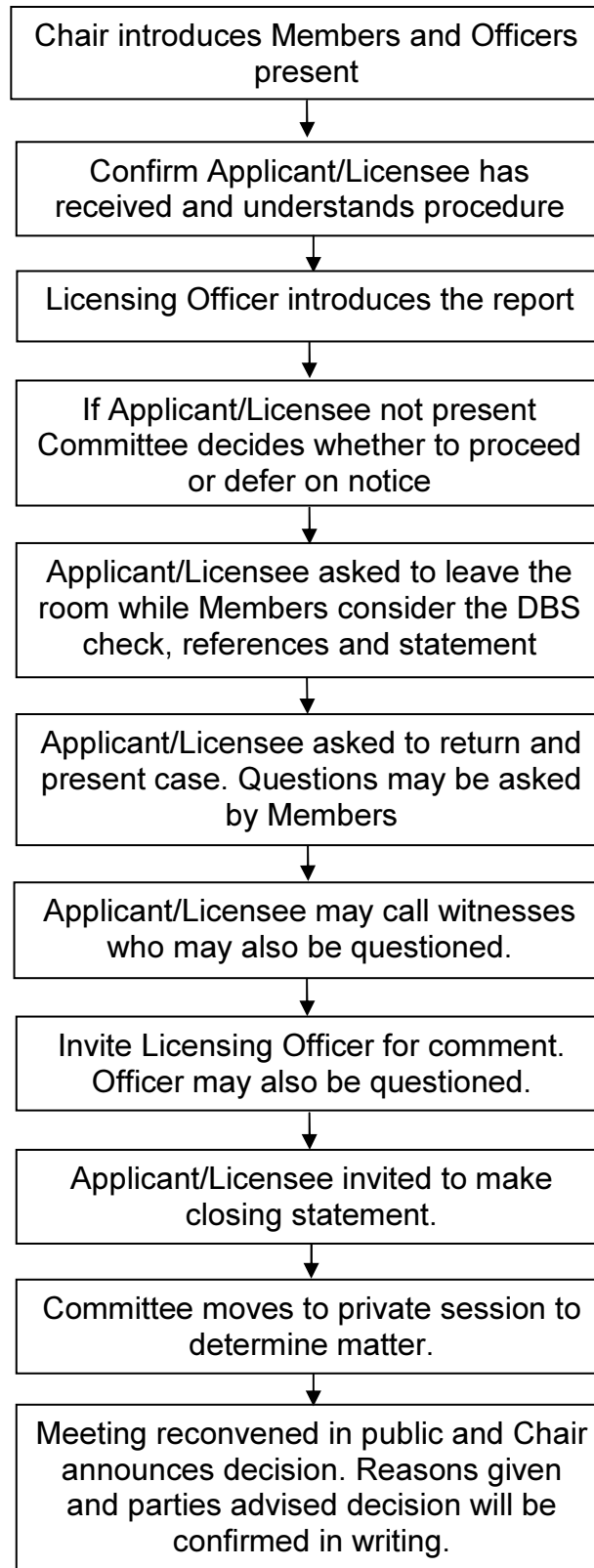
### **PLEASE NOTE:**

- 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-0088-14

Meeting / Decision: Licensing Sub-Committee

Date: 4 February 2014

Author: John Dowding

Exempt Report Title: Consideration of Behaviour and Determination of Application for Renewal of Combined Hackney Carriage/Private Hire Drivers Licence

Exempt Appendix Title:

ANNEX A –Resolution of Regulatory (Licensing Committee) 5<sup>th</sup> December 2002.

ANNEX B –Current Combined Hackney Carriage/Private Hire Drivers Licence.

ANNEX C – Letter from Mr H Informing of Motoring Offences Obtained.

ANNEX D – Report of Incident Published in Bath Chronicle 9<sup>th</sup> October 2013.

ANNEX E – Letter Informing Mr H of LSC Referral.

ANNEX F – Licence Renewal Application Form January 2014.

ANNEX G – Resolution of Licensing (Taxis, Miscellaneous & Street Trading) Sub Committee 7<sup>th</sup> September 2010.

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

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