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# Bath & North East Somerset Council

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## Democratic Services

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Date: 6 June 2016

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

**Councillors:-** Mark Shelford, Caroline Roberts and Peter Turner

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Licensing Sub-Committee: Tuesday, 14th June, 2016**

You are invited to attend a meeting of the **Licensing Sub-Committee**, to be held on **Tuesday, 14th June, 2016 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

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, 14th June, 2016**

**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: 3RD MAY 2016 (Pages 7 - 14)

6. TAXI PROCEDURE (Pages 15 - 18)

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

7. 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.

8. APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR CJD (Pages 19 - 32)
9. APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR DSM (Pages 33 - 46)

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).

**BATH AND NORTH EAST SOMERSET COUNCIL**

**LICENSING SUB-COMMITTEE**

Tuesday, 3rd May, 2016, 10.00 am

**Councillors:** Paul Myers (Chair), Mark Shelford and Caroline Roberts

**Officers in attendance:** Carrie-Ann Evans (Senior Legal Adviser), John Dowding (Senior Public Protection Officer) and Terrill Wolyn (Senior Public Protection Officer)

**159 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

**160 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**161 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

**163 MINUTES: 19TH APRIL 2016**

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

**164 TAXI PROCEDURE**

The Chair drew attention to the procedure to be followed for agenda items 8-11.

**165 EXCLUSION OF THE PUBLIC**

The Committee 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, **RESOLVED** that the public be excluded from the meeting for the following four items 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.

**166 APPLICATION FOR COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE: MR AUA**

Mr AUA confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report and provided Members with copies of a DBS certificate, a statement from the applicant and two references

given on his behalf. The hearing was adjourned to give Members time to study these documents.

After the meeting had been reconvened, Mr AUA stated his case and was questioned by Members. He made a closing statement.

Following a further adjournment the Sub-Committee **RESOLVED** to grant Mr AUA a combined Hackney Carriage/Private Hire Driver's Licence on the basis that he was a fit and proper person.

#### Decision and reasons

Members have had to determine an application for a combined Hackney Carriage/Private Hire Driver's 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.

In making a determination Members took account of the applicant's oral representations, his statement, references and balanced these against the information contained in the Disclosure and Barring Service report.

Members noted that Mr A had remained conviction free for the period anticipated in the Council's Policy however, as he has convictions on his record his application is deemed contentious. Members formed the view that Mr A had learned from his past mistakes and showed genuine regret for his actions. Members were satisfied that Mr A would be able to conduct himself appropriately if faced with a confrontational situation now and Members find him a fit and proper person to hold a combined Hackney Carriage/Private Hire driver's licence.

#### **167 APPLICATION FOR COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE: MR RCP**

Mr RCP was accompanied by a friend. He confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer summarised the report and provided Members with copies of a record of convictions from the applicant's country of origin, a statement from him and a reference. The hearing was adjourned to allow Members time to study these documents.

Mr RCP stated his case and was questioned by Members. He did not wish to make a closing statement.

Following a further adjournment the Sub-Committee **RESOLVED** that to grant Mr RCP a combined Hackney Carriage/Private Hire Driver's Licence on the basis that he was a fit and proper person.

#### Decision and reasons

Members have had to determine an application for a combined Hackney Carriage/Private Hire Driver's 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.

In making a determination Members took account of the applicant's oral representations, his statement, reference and balanced these against the information contained in the certified and translated documents relating to his previous convictions obtained in his country of origin.

Members noted that Mr P had been convicted of 5 minor motoring offences in Romania within the last 3 years. As such the Council's Policy applies which says that Bath and North East Somerset Council will expect that an applicant will not have been convicted of three or more minor motoring offences during the previous three years. That said, Members took into account the nature of his minor motoring convictions and the mitigating circumstances that he faced in Romania and found they could depart from the policy on the facts of this case. Accordingly they find Mr P is a fit and proper person to hold a combined Hackney Carriage/Private Hire driver's licence but note that Mr P must be responsible for his own actions and that the road safety is of the utmost importance to the protection of the public. Members would take a dim view of any appearance before the LSC in the future should Mr P be convicted of motoring offences or any other offence.

**168 APPLICATION FOR COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE: MR MM**

Mr MM confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report and distributed copies of a DBS certificate, a statement from the applicant and two references. The hearing was adjourned to give Members time to study these documents.

After the hearing had been reconvened the applicant stated his case and was questioned by Members. He made a closing statement.

Following a further adjournment the Sub-Committee **RESOLVED** to grant Mr MM a combined Hackney Carriage/Private Hire Driver's Licence on the basis that he is a fit and proper person

Decision and reasons

Members have had to determine an application for a combined Hackney Carriage/Private Hire Driver's 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.

In making a determination Members took account of the applicant's oral representations, his statement, references and balanced these against the information contained in the Disclosure and Barring Service report.

Members noted that Mr M had remained conviction free for the period anticipated in the Council's Policy however, as he has a conviction on his application, it is deemed contentious.

Members formed the view that the conviction arose out of a one-off incident that was out of character for Mr M and that he had learned his lesson. Members were satisfied that Mr M would be able to handle a confrontational situation as a taxi driver. Members find him to be a fit and proper person to hold a combined Hackney Carriage/Private Hire driver's licence.

## **169 CONSIDERATION OF CAUTION OBTAINED: MR MRC**

Mr MRC was accompanied by his partner. He confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer summarised the report and provided Members with copies of a DBS certificate and a statement from Mr MRC. The hearing was adjourned to allow Members time to study these documents.

After the hearing had been reconvened Mr MRC stated his case and was questioned by Members. He did not wish to make a closing statement.

Following a further adjournment the Sub-Committee **RESOLVED** to issue Mr MRC with a warning as they found that Mr MRC continued to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

### Decision and reasons

Members have had to determine what action to take against the holder of a combined Hackney Carriage / Private Hire Driver's Licence having received a formal police caution during the course 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 took account of the applicant's oral representations and his statement. Members balanced this against the formal police caution on his record.

Accordingly Members had to decide whether the licensee continued to be a fit and proper person to hold a licence taking into account all the circumstances including his driving history and character.

Members noted that the licensee was first licensed in 1994 and that he had been a licensed driver without complaint until 2015.

Members had regard to the Council's Policy which states that Bath and North East Somerset Council will expect that a licensee will not have been cautioned by the police for an offence during the previous two years however, members noted that they can depart from the Policy where there are reasons for doing so.

Members formed the view that the police caution arose out of what seemed to be a genuine misunderstanding and Mr C did not try to minimise his mistakes which he admitted and acknowledged. Members noted that Mr C had acted as a licensed taxi driver from 1994 to 2015 without complaint. Accordingly Members find Mr C is a fit and proper person to continue to hold a combined Hackney Carriage/Private Hire driver's licence but issued a stern warning that he needs to be fully aware of, and understand his legal responsibilities and obligations as a licensed taxi driver.

## 170 LICENSING PROCEDURE

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

## 171 APPLICATION TO VARY THE PREMISES LICENCE FOR THE DARK HORSE, 7A KINGSMEAD SQUARE, BATH BA1 2AB

Applicant: That's What She Said Limited, represented by David Holley (Licensing Agent) and Louis Lewis Smith

Responsible Authority: Avon and Somerset Police, represented by Geoff Cannon (Police Licensing Officer)

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

The Senior Public Protection Officer summarised the report. She reported that the Police had made a representation relating to the licensing objective of the prevention of crime and disorder and had proposed additional conditions to further this objective.

Mr Holley stated the case for the applicant. He said the additional hours were being sought so that the premises could operate as a cocktail bar. He noted that the Police had not objected to the principle of the variation and said that the applicant had no objection to the conditions proposed by the Police. Mr Smith said that he had lived in Bath for twenty years and thought there were no premises offering what he wished to offer to customers. Free water would be available to customers at all times. He did not intend the premises to become a nightclub; he wanted to provide a calm and grown-up ambience in which business could be done over a relaxing drink. He was already doing the things required by the additional conditions proposed by the Police. They were the kind of things that suited the type of premises he wished the Dark Horse to be, and had no objection to their being made conditions.

The Senior Public Protection Officer drew attention to the new condition offered by the applicant that "all outside areas will be cleared of patrons by 23:00 each day" and pointed out that no outside areas were shown on the plan of the premises. Mr Smith confirmed that the premises had no outside areas and agreed that this proposed condition could be removed.

Mr Cannon presented the case for the Police. He said that Kingsmead Square is a particularly busy area of the city at night. It is situated on a route used by many late-night revellers. There is a takeaway nearby, which is likely to attract custom from patrons of the Dark Horse leaving the premises late at night. He believed that the application as originally submitted lacked clarity. He had had a serious conversation with Mr Smith, who had agreed to the conditions proposed by the Police. The lack of clarity in the application that he was concerned about included failure to specify the quality of the CCTV and the length of time that recordings would be retained. He would be concerned if food were not available when drink was being sold. Mr Smith had agreed that the original condition about the provision of hot food, which he had proposed to delete entirely, should be replaced with the condition proposed by the

Police requiring light menu-based meals being available. Since the premises would be operating as a cocktail bar, the Police had proposed that the Challenge 21 condition attached to the current licence should be replaced by a Challenge 25 condition. They had also proposed a condition requiring SIA-registered security staff to be on duty at the entrance to the premises on Thursdays, Fridays and Saturdays from 19:00 until closing. He said that the premises were well run and that the Police would have no further concerns about them at the present time if the conditions they had proposed were attached to the licence.

Members asked about the Challenge 25 condition. Was this intended to be a deterrent? Could the applicant refuse admittance to people under the age of 25? Mr Cannon said any one over the age of 18 would still be able to enter and drink at the premises, but the Challenge 25 condition would indicate that premises did not particularly wish to cater for those under 25.

There were no questions from the applicant.

The Senior Public Protection Officer pointed out that the specification of acceptable forms of identity in one of the proposed Police conditions was otiose, as there were legal requirements about acceptable forms of identity.

The parties were invited to sum up. Mr Cannon said that the Police believed better specified conditions were required for premises situated in the Cumulative Impact Area. Mr Holley said that the applicant would accept everything proposed by the Police.

Following an adjournment the Sub-Committee **RESOLVED** to grant the variation with modifications as detailed below.

#### Decision and reasons

Members have today determined an application to vary a premises licence at The Dark Horse, 7a Kingsmead Square, Bath. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's 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 in the promotion of the licensing objectives based on the information put before them. In this case, however, Members noted the premises are situated in the Cumulative Impact Area. As the Council has a Cumulative Impact Policy in relation to the sale of alcohol for consumption on the premises, which applies to variation applications, a rebuttable presumption is raised that such applications should be refused unless the applicant demonstrates that the application promotes the licensing objectives and would be unlikely to add significantly to the cumulative impact being experienced.

Members were careful to take account of the relevant written and oral representations made and were careful to balance their competing interests. Members were however careful to disregard irrelevant matters.

## **Applicant**

The application was for a variation to the premises licence in respect of the sale of alcohol, provision of late night refreshment, to extend the opening hours and to remove a condition from the existing licence.

The applicant through his agent Mr Holley, noted that the police have not objected to the principle of the licensing application but there are certain things that the police would like to see to strengthen it. The applicant had no objection at all to the additional matters proposed by the police which simply anchor on to what already exists by way of condition.

Mr Smith as applicant said the purpose of the Dark Horse is to offer a very calm and grown up experience and that he welcomes all of the suggested conditions from the police which suit the kind of establishment that the Dark Horse is.

## **Responsible Authorities**

The Avon and Somerset Constabulary have objected to the variation application on the basis of the prevention of crime and disorder licensing objective however, they have said that they do not object to the variation sought per se, they simply take the view that more clear and detailed conditions are needed in order to promote the licensing objective.

Geoff Cannon Police Licensing Officer, informed the LSC that having entered into a dialogue with the Applicant, they had reached agreement on suitable licensing conditions which the Committee is asked to consider. Mr Cannon acknowledged the premises are well run and with these conditions in place the police would have no further concerns.

## **Members**

Members noted that there had been no representations from other parties.

Members found that the applicant had satisfied them that granting the variation would not contribute significantly to the cumulative impact already experienced.

Accordingly members resolved to grant the application subject to:

- i. conditions consistent with the operating schedule save for one deletion as set out below and agreed to by the applicant, and
- ii. the mandatory conditions; and
- iii. the conditions set out below agreed to by the Applicant in consultation with the police, subject to a small modification to remove duplication with a mandatory condition on the acceptable forms of ID, as members felt these conditions were appropriate and proportionate to deal with the objective of the prevention of crime and disorder:

### Deletion from M(d) of application

“All outside areas will be cleared of patrons by 2300 on each day”

### Conditions agreed to and approved by LSC

- A digital CCTV system will be fitted and maintained at the premises in consultation with the Police. The images will be of evidential quality, time and date marked and will be kept for a minimum of 31 days. Images from this system will be made available to the Police on request.
- Light menu-based meals will be made available at all times during the opening hours of the premises.
- A Challenge 25 proof of age scheme shall be adopted, implemented and advertised at the premises.
- There will be at least one SIA registered member of door staff on duty at the entrance to the premises on Thursday, Friday and Saturday nights from 19:00 until closing.

Authority was delegated to the Senior Public Protection Officer to issue the licence.

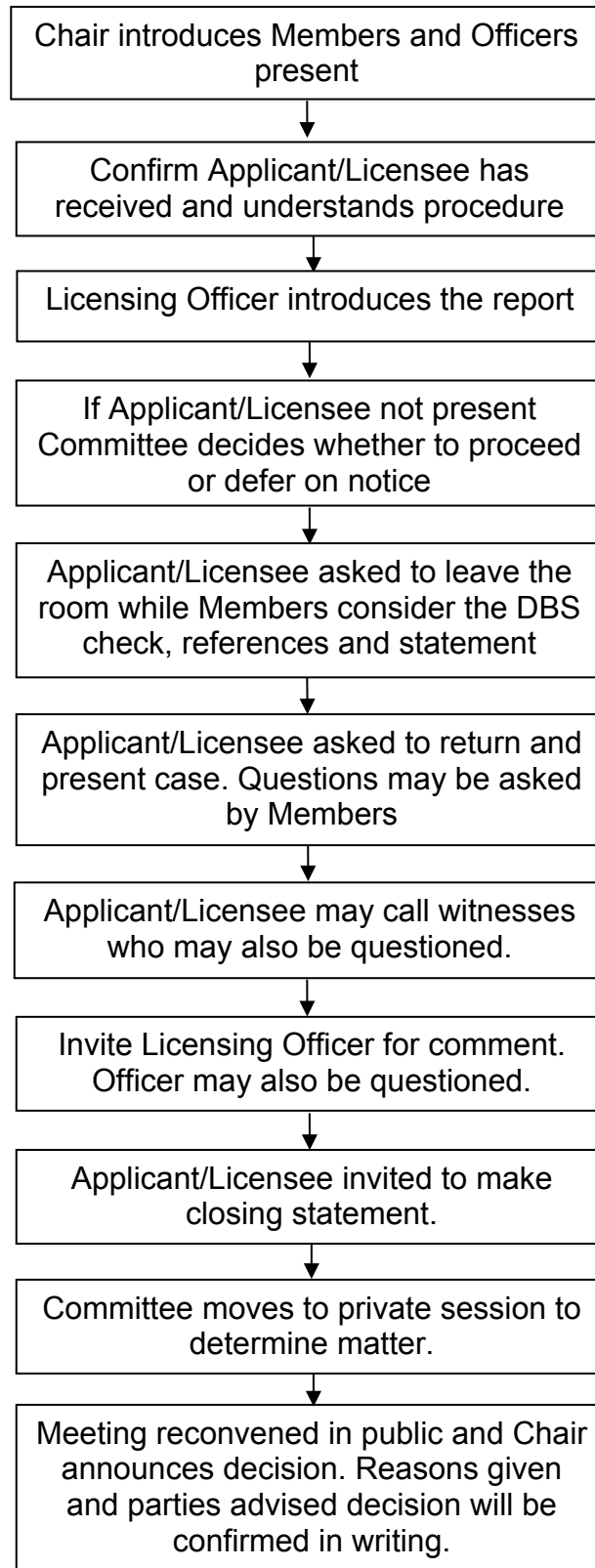
The meeting ended at 12.45 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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



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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.

Updated November 2013

### **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 0878/16
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Meeting / Decision: Licensing Sub-Committee
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Date: 14/06/2016
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Author: John Dowding
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Exempt Report Title: Application For Hackney Carriage/Private Hire Driver's Licence
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Exempt Appendix Title:
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<b>Annex A – Application Form</b>
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<b>Annex B – Policy on Previous Convictions, Cautions and Fixed Penalty Notices</b>
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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:
------------------------

- |   |
|---|
| <ol style="list-style-type: none"> <li>1. Information relating to any individual</li> <li>2. Information which is likely to reveal the identity of an individual</li> <li>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</li> </ol> |
|---|

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. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

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 0890/16

Meeting / Decision: Licensing Sub-Committee

Date: 14/06/2016

Author: John Dowding

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

Exempt Appendix Title:

**Annex A – Application Form**

**Annex B – Policy on Previous Convictions, Cautions and Fixed Penalty Notices**

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.

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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. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

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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