
Bath & North East Somerset Council

Democratic Services

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Date: 26 October 2016

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To: All Members of the Licensing Sub-Committee

Councillors:- Les Kew, Mark Shelford and Caroline Roberts

Chief Executive and other appropriate officers
Press and Public

Dear Member

Licensing Sub-Committee: Thursday, 3rd November, 2016

You are invited to attend a meeting of the **Licensing Sub-Committee**, to be held on **Thursday, 3rd November, 2016 at 10.00 am** in the **Brunswick 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 01225 395090 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 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 - Thursday, 3rd November, 2016

at 10.00 am in the Brunswick 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 OF 6TH OCTOBER 2016 (Pages 7 - 18)

6. TAXI PROCEDURE (Pages 19 - 22)

The Chair will, if required, explain the procedure to be followed for the next item of business.

7. CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A PRIVATE HIRE VEHICLE (Pages 23 - 72)

The Committee Administrator for this meeting is Sean O'Neill who can be contacted on 01225 395090.

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 6th October, 2016, 10.00 am

Councillors: Les Kew (Chair), Deirdre Horstmann (in place of Mark Shelford) and Caroline Roberts

Officers in attendance: Alan Bartlett (Public Protection Team Leader), John Dowding (Senior Public Protection Officer), Ian Nash (Public Protection Officer (Licensing)) and Carrie-Ann Evans (Senior Legal Adviser - Bath & North East Somerset Council)

40 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

41 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Mark Shelford, for whom Councillor Deirdre Horstmann substituted.

42 DECLARATIONS OF INTEREST

There were none.

43 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

44 MINUTES OF PREVIOUS MEETING

The minutes of the meeting of 8th September 2016 were approved as a correct record and signed by the Chair.

45 EXCLUSION OF THE PUBLIC

RESOLVED that 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, that the public shall be excluded from the meeting for agenda items 8 and 9 and that the reporting of this part 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.

46 TAXI PROCEDURE

Members note the procedure to be followed for the next two items of business.

47 CONSIDERATION OF A FIT AND PROPER PERSON IN THE ABSENCE OF A VALID DBS CERTIFICATE - MR J M O

Mr JMO confirmed that he had received and understood the procedure to be followed for this hearing.

The Senior Public Protection Officer presented the report. Members noted that a valid DBS certificate had not been received from the licence holder, despite several requests from Licensing for him to supply one. The DBS web portal had confirmed that a valid certificate had been issued to Mr JMO in March this year. A statement from Mr JMO was circulated to Members, and the hearing was adjourned to allow them time to study this.

After the hearing reconvened, Mr JMO said that there was little he could add to his written statement except to reiterate his apologies. The problem was that he had changed address and was not receiving post from his old address. He had applied for another DBS certificate, which he would forward as soon as he received it. He assured the Sub-Committee that the certificate would show that he had no convictions. In his closing statement he once again apologised for the trouble he had caused.

Following a further adjournment the Sub-Committee **RESOLVED** that Mr JMO continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

Reasons

Members have had to determine what action to take against the holder of a combined Hackney Carriage/Private Hire Driver's Licence who has failed to provide a valid DBS certificate. 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 had to decide whether the licensee was a fit and proper person to continue to hold a licence taking into account all of the circumstances.

Members took account of the licensee's written statement and his oral representations and balanced these against the failure to produce a DBS certificate.

Members noted that on renewal of his licence in February 2016, Mr J M O's licence was issued subject to the caveat, which was expressly stated on the face of the licence, that *"to drive a Hackney Carriage/Private Hire vehicle in the Bath and North East Somerset area, subject to the conditions attached hereto and a satisfactory police check and DVLA check as appropriate"*. Despite reminder letters sent to him by the Licensing office on the 16th June and 5th July, he has failed to provide the certificate. Members noted that the DBS certificate was issued to Mr J M O on 10th March.

Mr J M O simply confirmed what he had put in his statement and apologised for the inconvenience caused. He confirmed he is now settled and on top of his affairs. He assured members that the DBS check would come back clear.

Members noted that Mr J M O was first granted a licence in 1998 and that there had been no complaints against him regarding his previous conduct or behaviour. Having heard Mr J M O's representations Members are satisfied that this was a genuine

oversight on the part of the licensee, which he has sought to rectify without delay upon learning of it. On balance Members find that Mr J M O continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence but issue him with a stern warning to keep on top of his affairs. Members noted that if any caution or conviction is revealed on the DBS check, Mr J M O would be referred back to the Committee.

48 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR R G W

The applicant confirmed that he had received and understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report and circulated a DBS certificate in respect of Mr RGW, a statement from him and a reference given on his behalf. The hearing was adjourned to allow Members time to study these documents.

After the hearing was reconvened, the applicant said that he did not wish to make a statement. He also did not wish to make a closing statement.

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

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.

Members had to decide whether the applicant was a fit and proper person to hold a licence taking into account all the circumstances.

Members took account of the applicant's written statement, reference and his oral representations and balanced these against the information disclosed on his DBS certificate.

The applicant simply referred to his written statement and had nothing further to add.

Members found the matters were historic and had taken place when Mr R G W was a juvenile. Members noted that the applicant had remained conviction free for the period anticipated in the policy. For these reasons they therefore find him a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

49 RETURN TO OPEN SESSION

The Sub-Committee returned to open session.

50 LICENSING PROCEDURE

Members noted the procedure to be followed for the next item of business.

51 APPLICATION FOR A PREMISES LICENCE FOR THE EARL, 8-10 MANVERS STREET, BATH BA1 1JQ

Applicant: IV League Ltd, represented by Christopher Bromley (DPS and Manager)

Other Persons: Anthony Williams and Charlotte Gibson.

The parties indicated that they had received and understood the procedure to be followed for this hearing.

The Public Protection Officer (Licensing) presented the report.

Members noted that:

- (i) this was an application for a new premises licence to replace an existing premises licence, in order to extend the licensed area of the premises to include an outdoors roof terrace;
- (ii) the premises was situated in the Cumulative Impact Area and that therefore there was a rebuttable presumption that the application should be refused, unless the applicant could demonstrate that the operation of the premises would not add significantly to the cumulative impact already being experienced;
- (iii) the Public Protection Officer clarified typographical errors at paragraph 5.2 of the report regarding the opening hours for licensable activities permitted under the current licence, viz. the current starting hour for the Performance of Recorded Music (indoors only), Other Entertainment within the Act (indoors only) and the opening hour should be 08:00 on Mondays to Saturdays, not 10:00, and the terminal hour for the Performance of Recorded Music (indoors only) on Sundays should be 22:30, not 02:00. The Public Protection Officer circulated a copy of the report showing the revisions to the typographical errors, to all persons present at the hearing;
- (iv) by the provisions of the Deregulation Act 2015 no licence permission was required for any playing of recorded music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on the premises, provided that the audience does not exceed 500;
- (v) Other Persons had made representations relating to the licensing objective of the prevention of public nuisance;
- (vi) there had been no representations from the Responsible Authorities.

Mr Bromley stated the case for the applicant. He explained that the reason for the application was to allow alcohol to be served from a 'shed' on the outside roof terrace. This had been done for two years, until he had been advised recently that this was not permitted under the current premises licence. He would be content for the hours for regulated activities on the terrace to be reduced from the hours currently applying to the rest of the premises. There had been a bar on the terrace

since 2008. The terrace had been a derelict roof top, but had been converted into a seating area with benches and canopies over it. The terrace was used as a smoking area, and the extent of cover had had to be reduced to allow it to be legally employed for this purpose. He addressed the licensing objectives.

Public safety

A bar on the terrace allows the movement of people within the premises to be controlled. Without it there would be only one point of sale, and there would be a continuous movement of people up and down the stairs to and from a bar on a lower floor.

Crime and disorder

There is digital CCTV, which covers the terrace and the bar. The terrace area is lit at night, so CCTV images are clear. There are two SIA-registered door staff, one posted at the front door of the premises and one on the terrace. The doorman at the end of the terrace checks the number of patrons entering and leaving the area, and ensures that the capacity limit of the premises is not breached.

Public nuisance

Recently more seating had been installed on the terrace with the aim of eliminating the “stand-up culture” and creating a more relaxed environment. The covering on the terrace had been reduced to allow it to continue to be used as a smoking area, so customers did not have to go out into the street to smoke. Suspended sound absorbing panels have been installed within the tent on the terrace in order to contain noise, and Sunday terrace parties have been discontinued because they were too noisy. The SIA-registered doorman posted on the terrace ensured that noise was kept down and that there was no football-match-style chanting by customers.

Protection of children from harm

A Challenge 21 policy is applied and everyone has to produce ID at the door.

In conclusion he said that the premises did not need as many hours as were allowed under the current licence. They would never dream of opening at 08:00; they opened at 19:00 and had done so for the past three years. The outside area was popular with customers and improved the flow of people within the building.

The Senior Legal Adviser advised Members that as the premises are in the Cumulative Impact Area, the onus was on the applicant to show that the operation of the premises would not add significantly to the cumulative impact already being experienced. Mr Bromley responded that nothing would change in relation to the impact of the premises except that the shed would become a bar.

In response to questions from Members Mr Bromley stated:

- When he began work at the premises there was always a large crowd of smokers in the street at the rear; keeping them inside the premises by using the terrace as a smoking area reduced nuisance for neighbours.

- Bank holiday music events for which Temporary Event Notices had been obtained in the past were now held at another venue. The money made from these events was not worth the disturbance they caused to neighbours. There is background music on the terrace, the volume of which is limited by a noise limiter. When there are more than 50 people on the terrace the music cannot be heard; it really is just background music. No other entertainment takes place on the terrace.
- He had applied for the same hours as were on the present licence because he had been advised by Licensing to do so. In fact the full hours permitted were not needed and not used. He thought it might give neighbours reassurance if the hours were reduced.
- A “club night” is when the night club downstairs opens. Currently this is the busiest time and takes place on Mondays, Thursdays, Fridays and Saturdays in university term time. When the students were on vacation, usually May to mid-September, quiet club nights for about 250 people take place on a Friday and Saturday.
- The terrace will not be used to increase the capacity of the club. There are two venues, the club, which has a capacity limit of 550, and the The Second Bridge Night Club, which has a separate premises licence. This application does not change that.
- He had inherited a situation in which 700 people came to the two premises in an evening. He did his best to control noise, but the use of security staff, shutting doors, sound proofing, not using the outside bar on certain days of the week and so on.
- When he began working at the premises his biggest challenge was managing the queue of customers outside. On a busy night there could be 400 people in a single queue outside the front of the premises. He had introduced a system whereby customers could sign up to come to the premises on a particular night. These people, sometimes 350, originally queued at the front. The queuing point for them was then moved to the rear. A couple of additional queues were established at the front, with one extending round the side, so that there were now only 20 people queuing at the front of the club and 150 queuing down the side. People still tried to enter the club even when the capacity limit had been reached and they had to be managed as well. Customers were now admitted through four different entrances, which prevented the formation of one huge queue at the front.
- there would be no band, DJ or live music on the terrace.
- the club was shut on bank holidays and Sundays.

The Other Persons stated their cases.

Mr Williams said he owned two flats in 12 Manvers Street, which he rented out. He feared that his tenants might leave because of the noise emanating from The Earl, about which they had complained.

Miss Gibson said that she commuted between Bath and London. She had lived in her present flat near The Earl since April. There was noise disturbance from the street at two sides of her flat from people queueing outside The Earl. She only had single-glazed windows but had invested in a triple-glazed window at a cost of £1,500 for her bedroom. Her sleep was disturbed by the noise from customers of The Earl. She was concerned that the more people on the terrace, the greater the noise disturbance would be. She had to get up at 5.30am every day to go to London. She thought that the opening hours of the premises on weekdays should be reduced so that residents near the premises could go to bed at 22:30 and get a good night's sleep. There were people queueing in the street outside her flat most nights except Sunday. She had spoken to Mr Bromley the previous week, and appreciated the work he was doing to reduce noise, such as putting rubber feet on barriers and so on. However, sometimes when she came home she could not get in her front door because of the queues. She felt that the queues needed to be managed better, and that the doormen needed to be better at keeping customers quiet. Other residents were moving out because of the noise. She hoped that it was possible to reach a compromise to reduce opening hours on Sundays to Thursdays. She thought the club needed to be more sensitive to the community around it and little more responsible.

The Chair advised Miss Gibson that today's hearing was not a review of the current premises licence and that it was not possible for the Sub-Committee unilaterally to reduce the hours currently granted to the premises.

The Senior Legal Adviser endorsed the fact that this was not a review of the current premises licence but was a new premises licence application, although the new application should be taken in its proper context. Miss Gibson accepted that this was not a review of the current licence.

Members viewed a video posted on Facebook by a member of staff at The Earl, which Miss Gibson had provided in conjunction with her written representations annexed to the report. The video had been cited in a representation from an Other Person as well, as evidence of the level of disturbance that could arise from the premises. All persons present at the hearing were given the opportunity to view the video. Miss Gibson indicated that she had already viewed it as did Mr Bromley. Mr Bromley was invited to comment on the video. He said that the event shown was a terrace party with live music held under a Temporary Event Notice on a bank holiday in May. He had decided to terminate that event at 22:30. There would be no such events in future. Among other things he did not wish to work on bank holidays or Sundays any longer. He would be quite happy to agree to a condition prohibiting such events on the terrace in the future.

The parties were invited to sum up.

Miss Gibson acknowledged that the new premises licence application essentially related to the extension to the premises to include the outside area but she said there were a number of problems relating to the premises that needed to be looked at even if not in the forum of the Licensing Sub-Committee. She and Mr Bromley

were in regular contact about how the situation could be managed. She hoped that Members would understand the impact on residents.

Mr Bromley said that the only reason for the application was the desire to be able to serve alcohol on the terrace. Nothing else was being changed. He believed that the provision of the bar was an essential measure to allow him to manage the flow of people in the premises. He would continue to have discussions with Miss Gibson.

The hearing was adjourned and Members moved into private session in order to deliberate. The hearing was reconvened so that clarification could be sought from the applicant about the terminal hour for the supply of alcohol on the outside terrace, the terminal hour for supply of alcohol in general vis-à-vis the opening hours for the premises and the capacity of the premises (in connection with the provision of the Deregulation Act 2015 relating to the need for authorisation for the playing of recorded music). Mr Bromley indicated that he was willing to offer condition that supply of alcohol would not take place from the bar on the outside terrace should be after 00:00 (midnight). In terms of the supply of alcohol elsewhere in the premises, he indicated that he would be happy for the terminal hour to be at 01:30 Mondays to Saturday and the premises closing time at 02:00. Mr Bromley indicated that there were never more than 300 people in the premises on any night

Following a further adjournment, the Sub-Committee **RESOLVED** to grant the application for the reasons and subject to the conditions detailed below.

Decision and reasons

Members have today determined an application for a new premises licence for The Earl, 8-10 Manvers Street, 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 that they must only do what is appropriate and proportionate in the promotion of the licensing objectives based on the information put before them. Members noted that the application should be considered on its own merits and that the premises are within the Cumulative Impact Area. Accordingly there is a presumption that such applications should be refused unless the applicant demonstrates that they are unlikely to add significantly to the Cumulative Impact already experienced.

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

Members noted that there had been no representations from Responsible Authorities.

The Applicant

The applicant indicated that The Earl benefits from an existing premises licence but has submitted the new premises licence application as they wish to extend the extent of their licensed premises to include the outside area and an external bar.

The applicant noted that they are not seeking to extend the hours for the licensable activities and are in fact, proposing a reduction.

The applicant offered a condition that there will be no regulated entertainment in the outside area and confirmed this includes live or recorded amplified music. He also indicated that there will be no sale of alcohol from the external bar on Tuesdays, Wednesdays and Sundays and offered a condition that there will be no sales of alcohol from the external bar beyond midnight. He further indicated that so far as the sale of alcohol in general, was concerned he would be content to reduce that to 1.30am.

In the event that the new premises licence is granted, they would surrender their existing licence.

The applicant addressed Members on the steps taken to ensure that the extension to the premises licence would not add to the cumulative impact experienced in the area of the premises.

Interested Parties

The Interested Parties objected to the application on the grounds of the prevention of public nuisance licensing objective. It was felt that if the licence was granted for the outside area, there would be an increase in noise levels emanating from inebriated people at the terrace and this would further disturb and upset residents in the vicinity. This was in addition to an increase in issues with regards to littering and rubbish related to the patrons of the premises.

Concerns were also expressed regarding the exacerbation of the current queuing system which exists at the premises. Interested Parties were particularly concerned by the public nuisance that would be caused to them during the working week, if the outdoor terrace was used for licensable activities.

Members

Members are aware that the premises are located in the Cumulative Impact Area and consequently there was an onus on the applicant to show that the operation of the premises will not add to the cumulative impact already being experienced. Members were satisfied that the applicant has shown that the proposed extension to the use of the outside area for the sale of alcohol would not add significantly to the cumulative impact being experienced since this would not result in a significant increase in the number of persons using the premises, including the terrace, and due to the revised hours sought for the sale of alcohol.

In reaching their decision Members noted that in relation to paragraph 9.42 of the Statutory Guidance their determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Members considered the premises were likely to have an effect on the licensing objective of prevention of public nuisance however they felt that conditions would be effective in the promotion of this licensing objective.

Accordingly members resolved to approve the application subject to:

- changes to the hours for supply of alcohol as offered by the applicant, and
- changes to the hours for recorded music in accordance with the Deregulation Act, and
- with conditions consistent with the operating schedule subject to minor amendments offered by the applicant, and
- an additional condition regarding sale of alcohol on the terrace which was offered by the applicant

all of which is specified below; and the mandatory conditions.

Changes to hours for licensable activities as follows:

Recorded Music (indoors)

Mondays to Fridays 23:00 – 01:30 the following morning

Saturdays 23:00 – 01:30 the following morning

Sundays N/A

From normal activity start time on New Year's Eve until normal activity start time on New Year's Day

Supply of Alcohol (on and off premises)

Mondays to Saturdays 12:00 – 01:30 the following morning

Sundays 12:00 – 22:30

From normal activity start time on New Year's Eve until normal activity start time on New Year's Day

The **amendment to a condition on the operating schedule** and offered by the applicant is as follows:

"No regulated entertainment shall take place in the outside area" shall be changed to "No regulated entertainment shall place in the outside area and for the avoidance of doubt, this includes live or recorded amplified music".

Additional condition offered by the applicant

There shall be no supply of alcohol from the bar in the outside area of the premises after midnight from Monday to Sunday inclusive. This is subject to the condition on the operating schedule that there will be no supply of alcohol at all from the outside area bar on Tuesdays, Wednesdays and Sundays.

Members took the view that the additional conditions offered by the Applicant were appropriate and proportionate in promoting the prevention of public nuisance.

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

The meeting ended at 1.04 pm

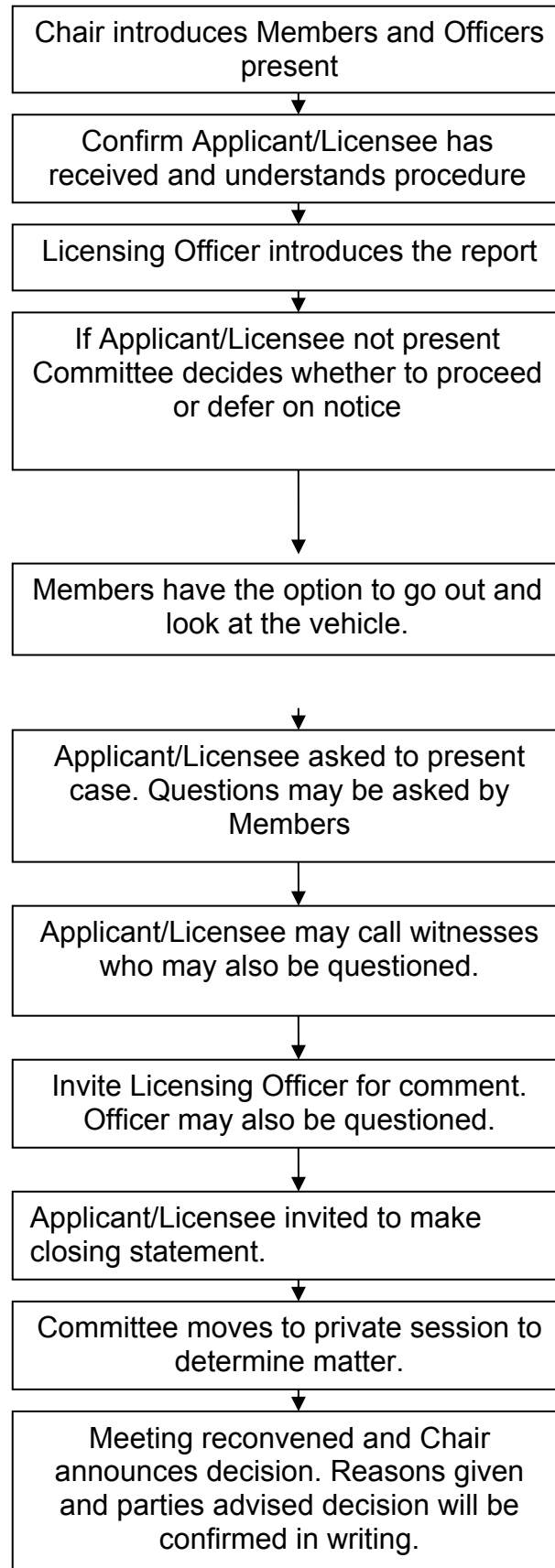
Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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**LICENSING SUB-COMMITTEE
HACKNEY CARRIAGE (TAXI) AND
PRIVATE HIRE PROPRIETORS LICENCE PROCEDURE**



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**Licensing Sub-Committee
Hackney Carriage and Private Hire
Proprietors' Hearing Procedure**

1. The Chair will introduce Members of the Committee, introduce the Officers present, explain the procedure to be followed and ensure those present have received and understood that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Committee.
3. Members inspect the vehicle.
4. The Applicant (or his/her representative) present their case, may call witnesses and may be questioned by the Committee and other parties.
5. Interested parties present their case, may call witnesses and may be questioned by the Committee and other parties.
6. The Chair will invite the Licensing Officer to comment. If an Officer makes comment they may be questioned.
7. Interested parties will be invited to make a closing statement.
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 it be necessary, supplementary questions limited to clarification purposes.
- Parties will be allowed an equal amount of time to present their cases. Whilst time limits are at the discretion of the Chair, 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 any person behaving in a disruptive manner leave the hearing and refuse that person to return, or only to return subject to conditions. An excluded person however is entitled to submit the information they would have been entitled to present had they not been required to leave.
 - 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 on the grounds set out in the Local Government Act 1972 Schedule 12 (a). In those circumstances reasons for such decisions will be given.
 - If any person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing in order that reasonable adjustments can be made.

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Licensing Sub-Committee	
MEETING DATE:	Thursday 3 rd November 2016	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A PRIVATE HIRE VEHICLE – Mr J W	
WARD:	ALL	
OPEN PUBLIC SESSION		
<p>List of attachments to this report:</p> <p>Annex A – Application Form.</p> <p>Annex B – Standard Private Hire Vehicle Licence Conditions.</p> <p>Annex C – Applicants Business Model/Vehicle Specifications</p> <p>Annex D - Policy on Hackney Carriage and Private Hire Licensing Standards.</p>		

1 THE ISSUE

- 1.1 This report invites the Licensing Sub-Committee to consider whether or not a three wheeled vehicle is suitable in type, size and design to be licensed as a private hire vehicle.
- 1.2 The policy adopted by the Council requires each application be dealt with on its own merits and where applications fall outside the general policy they should be referred to the Licensing Sub-Committee for determination.
- 1.3 The policy adopted by the Council requires that the engine size of the vehicle shall be at least 1400cc and allows standard conditions to be attached to the grant of a private hire vehicle licence in B&NES. The vehicle for which permission is being sought does not comply with the required minimum engine size and cannot comply with certain other requirements of the standard private hire license conditions

2 RECOMMENDATION

- 2.1 That the Sub-Committee determine the issue and that should the licence be granted it be subject to the standard Private Hire conditions with the caveat “where appropriate”, and the additional conditions offered by the applicant.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 There are no resource implications arising from this report. The costs of processing licences are covered by the fees charged. The fee for this application was £126 which is non-refundable in the event of the application being unsuccessful.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 Section 80 of the Local Government (Miscellaneous Provisions) Act 1976 defines a private hire vehicle as 'a motor vehicle constructed or adapted to seat [fewer than nine passengers], other than a hackney carriage or public service vehicle [or a London cab] [or tramcar], which is provided for hire with the services of a driver for the purpose of carrying passengers.

- 4.2 Section 48 (1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a Private Hire Vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied –

(a) that the vehicle is-

- (i) suitable in type, size and design for use as a private hire vehicle,
- (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage,
- (iii) in a suitable mechanical condition,
- (iv) safe, and
- (v) comfortable.

- 4.3 Section 48 (2) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates.

- 4.4 Section 48 (7) of the Local Government (Miscellaneous Provisions) Act 1976 provides that any person aggrieved by the refusal of a district council to grant a vehicle licence under this section or by any conditions specified in such a licence, may appeal to a magistrates court.

- 4.5 In January 2014 the Council's Licensing Committee adopted the current policy on Hackney Carriage and Private Hire Licensing Standards –Drivers, Vehicles and Operators. (The Policy is produced at Annex D).

- 4.6 In January 2014 the Council's Licensing Committee adopted a set of standard licence conditions applicable to all Private Hire vehicle licenses issued in Bath & North East Somerset. (The conditions are produced at Annex B)

5 THE REPORT

- 5.1 Mr Walker applied for the grant of a Private Hire vehicle licence on the 8th August 2016. (A copy of the application form is produced at Annex C).
- 5.2 The application is for a Piaggio Ape City 200 three wheeled vehicle, which is a motorised tricycle with no doors and powered by a 200cc engine.
- 5.3 The proposed vehicle does not comply with the standard licence conditions attached to the grant of a Private Hire licence in the area of Bath & North East Somerset Council.
- 5.4 The standard conditions require that "*The engine size of a Private Hire vehicle is normally 1400cc*". This application is for a vehicle with an engine size of 200cc.
- 5.5 The standard conditions require that "*The vehicle must be fitted with a right hand drive and shall have a minimum of four doors*". This application is for a vehicle controlled by handlebars which has no doors.
- 5.6 The standard conditions require that "*Vehicles shall comply with the European Community M1 type approval for passenger carrying vehicles. The definition category of M1 type approval is any motor vehicle with at least four wheels designed and constructed for the carriage of passengers*". This is compliant with the EC Whole Vehicle Type Approval process. This application is for a vehicle with three wheels which is manufactured in India for the carriage of passengers. Such vehicles do not undergo any type approval process similar to the European Community type approval for passenger carrying before being imported into the UK.
- 5.7 The EC Whole Vehicle Type Approval (ECWVTA) is based around a framework and subordinate EC instruments and provides for the approval of whole vehicles, in addition to vehicle systems and separate components. This certification is accepted throughout the EU without the need for further testing until a standard is updated or a vehicle design changes.
- 5.8 The European approval scheme is based on the concept of 'type approval' and put simply; this process provides a mechanism for ensuring that vehicles meet relevant environmental, safety and security standards. As it is not practical to test every single vehicle made, one production vehicle is tested as being representative of the 'type'. A number of performance requirements will apply to a given vehicle type ranging from tyres through to exhaust emissions and braking systems. To ensure a consistent approach, the test methodology is outlined in the relevant EC Directive / Regulation or UN Regulation and the tests are carried out at an appropriate facility.
- 5.9 A system of mandatory European Community Whole Vehicle Type Approval (ECWVTA) has been in place for motorcycles for a number of years. However as the proposed vehicle is manufactured in India it has not been "type approved" for use on UK roads.

- 5.10 The proposed vehicle is imported into the UK and is then “modified” by the importer who installs seatbelts to the required UK standards.
- 5.11 Once the required seatbelts have been installed the vehicle then is put through the Motorcycle Single Vehicle Approval (MSVA) type approval process which is specifically for vehicles that do not have EC type approval due to being manufactured for use in non EU markets. The MSVA scheme ensures that any proposed vehicle complies with UK British law.
- 5.12 The proposed vehicle has obtained MSVA approval.
- 5.13 The standard conditions require that “*A roof sign as prescribed by the Council shall be fitted to the vehicle at all times whilst hired or available for hire*” Due to the fabric construction of the vehicle canopy it would not be possible for the proposed vehicle to display a roof sign.
- 5.14 Mr Walker has submitted a full business proposal along with suggested additional conditions, a statement from the vehicle importer and information on the MSVA scheme. (This documentation is produced at Annex C).
- 5.15 The vehicle will be available for inspection by Members on the day of the meeting.

6 RATIONALE

- 6.1 Each application for a licence will be considered on its own merits and in line with the current Policy on Hackney Carriage and Private Hire Licensing Standards. This application is for a Private Hire vehicle licence in respect of a vehicle which cannot comply with the standard licence conditions attached to the grant of a Private Hire vehicle licence in B&NES. Consequently, this matter is referred to the Licensing Sub Committee for consideration.

7 OTHER OPTIONS CONSIDERED

- 7.1 None

8 CONSULTATION

- 8.1 The Council's Monitoring Officer (Head of Legal and Democratic Services and Council Solicitor) and Section 151 Officer (Divisional Director - Finance) and Information Governance Officer have had the opportunity to input to this report and have cleared it for publication.

9 RISK MANAGEMENT

- 9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	John Dowding 01225 477689
Background papers	Licensing File
Please contact the report author if you need to access this report in an alternative format	

ANNEX A

**Bath & North East
Somerset Council**

Local Government (Miscellaneous Provisions) Act 1976

APPLICATION FOR PRIVATE HIRE VEHICLE LICENCE

(1) Full name No.15 Great Pulteney / Jonathan Walker
 Address 15 Great Pulteney Street
Bath. Post Code BA2 4BS
 Telephone No. (01225) 807015

Hereby make application to the Bath and North East Somerset Council for a Private Hire Vehicle Licence in respect of:-

Make PIASSIO Model APE CITY 200 Colour BLACK Reg.No. -
 Passengers 3 Doors 4 ENTRANCES CC 200
1 BOOT
 Year of Manufacture 2015 Plate No. (if applicable) - Below
MBX 0002C FTE 093705

Of which I am the *(Sole Proprietor) *(Part Proprietor with)

Name Mr. Ian Taylor.
 Address 7 Lansdowne Terrace Malvern Road Cheltenham
 Post Code GL50 2JT Telephone No 01242 530203

- (2) Is the vehicle fitted with a taximeter YES NO
 (3) Is the vehicle wheelchair accessible YES NO

I/WE undertake, if granted a Private Hire Vehicle Licence, to ensure that this vehicle when used for private hire purpose, is adequately insured at all times and complies with the Local Government (Miscellaneous Provisions) Act 1976 and the conditions laid down by Bath and North East Somerset Council.

I understand that in order to operate my own vehicle I will require an Operator's Licence unless I work for or with a Licensed Operator. (Operator means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle.)

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I/We declare that to the best of my knowledge and belief, the answers given overleaf are true. If a licence is granted I/We undertake to comply with conditions attached to the grant of the licence.

(6) I understand that any Licence obtained by false declaration may be suspended Or revoked by the Council.

Usual signature of applicant Ian Taylor Date 8/8/16

Applicants are advised that to make a false statement or omit any information from this application is a criminal offence.

(7) Please produce:-	(1) Current insurance certificate which must cover the vehicle for hire and reward.
	(2) Vehicle Registration document.
	(3) MOT Certificate for all vehicles over one year old when licensed.
	(4) Vehicle Inspection Sheet (Issued By Authorised Garage)
	(5) Certificate Of Meter Compliance (If Taximeter Fitted)
	(6) 2012/ 2013 Total Fees Payable including roof sign on new application: £394 (New Application.) £127 (Vehicle Substitution) £256 (Annual Licence Renewal)
Please present all documents in person to:-	Bath and North East Somerset Council Licensing Taxi Licensing Office Locksbrook Road Bath BA1 3EL Tel 01225 477689

POSTAL APPLICATIONS WILL NOT BE ACCEPTED.

APPEALS PROCEDURE

(1) Any person aggrieved by:-

- (a) the refusal of the District Council to grant a licence under Local Government (Miscellaneous Provisions) Act 1976 or
- (b) any conditions attached to the grant of a vehicle licence -

may appeal to the Magistrate's Court

(2) Appeals must be brought within 21 days.

(3) A further right of appeal lies to the Crown Court from the Magistrate's Court.

This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form within this authority for the prevention and detection of fraud. It may also share this information with other bodies administering or in receipt of public funds solely for these purposes.

For further information see;

<http://www.bathnes.gov.uk/BathNES/councilanddemocracy/dataprotectionandfreedomofinformation/nfi.htm> or contact the Information and Governance Team, Guildhall, High St, Bath BA1 5AW. Email information_governance@bathnes.gov.uk

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PRIVATE HIRE VEHICLE LICENCE GENERAL CONDITIONS

These conditions are based on the law currently in force.

INTERPRETATION

In these conditions:

"The Council" means Bath & North East Somerset Council.

"Authorised Officer" means an officer of the Council authorised in writing by the Council for the purpose of these conditions.

"Private Hire Vehicle" has the same meaning as defined in section 80 of the Local Government (Miscellaneous Provisions) Act 1976 Part II.

"Licence Plate" means the plate issued by the Council for the purpose of identifying the vehicle as a Private Hire vehicle licensed by the Council.

"Proprietor" includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement.

"Vehicle" means the Private Hire vehicle in respect of which this licence is issued.

VEHICLE SPECIFICATIONS.

The vehicle may not be of a design or appearance so as to lead any person to believe that the vehicle is a Hackney Carriage and therefore available for immediate hire.

The engine size of the vehicle shall normally be at least 1400cc.

The vehicle shall normally be less than 5 years old when first licensed by the Council. Any vehicle presented for licensing which is older than 5 years at the date of application will be referred to the relevant Council Licensing Sub-Committee for determination.

Vehicles that have dented or damaged bodywork are unsuitable for licensing.

A licensed vehicle which becomes 10 years old may be subject to a review of suitability to continue in service. Vehicles that are considered to be unfit for service will be referred to the relevant Council Licensing Sub Committee for a final decision as to suitability to continue to be licensed as a Private Hire vehicle. Factors that may render a licensed vehicle unfit may include (but not be limited to) general condition of exterior and interior, such as accident damage, rust, poor paintwork; ripped, torn or stained interior carpets, seats and trims; a history of failing an MOT test or Council Vehicle Inspection. The Vehicle Operator Services Agency (VOSA) MOT database and the individual vehicle licensing file will be used to ascertain this data for individual vehicles.

A current M.O.T. certificate is required on all vehicles over 1 year old at the time of application for a Private Hire vehicle licence. This is in addition to the Council's vehicle inspection test carried out as part of the application process. The proprietor

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shall produce to the Licensing Section a new M.O.T certificate within seven working days of the expiry of the current certificate.

The vehicle must be fitted with a right-hand drive and shall have a minimum of four doors. At least three of these doors must be accessible for passengers to enter and exit the vehicle without the need to move, adjust, or climb over any seating.

All passenger seats must allow not less than 406mm (16in) per passenger along the narrowest part of the seat. In addition the leg room between rows of seats should allow for a minimum 255mm (10in).

TYPE APPROVAL

Vehicles shall comply with the European Community M1 type approval for passenger carrying vehicles. The definition of category M1 type approval is any motor vehicle with at least four wheels designed and constructed for the carriage of passengers.

Vehicles that have been originally classified as complying with M1 type approval but have undergone modifications or conversions since original manufacture will be considered suitable provided they are presented with the relevant Individual Vehicle Approval (IVA) or Single Vehicle Approval (SVA) certificate issued by the VOSA.

Any vehicle submitted for licensing originally given European Community N type approval will be considered unfit for the purpose and will not be licensable as a Private Hire vehicle. The definition of category N type approval is any motor vehicle with at least four wheels designed and constructed for the carriage of goods.

STRETCH LIMOUSINES

Stretch limousines may be licensed as a Private Hire vehicle provided that the vehicle is either a standard production model, or alternatively the vehicle has been stretched as part of a recognised programme approved by the original vehicle manufacturer. American limousines must have been approved under the Qualified Vehicle Modifier (QVM) programme for Ford/Lincoln or the Cadillac Master Coachbuilder (CMC) program for Cadillac vehicles. Limousines will only be licensed if the vehicle seating capacity does not exceed eight passengers in total.

A current IVA certificate issued by the VOSA in respect of the prospective stretched limousine must be submitted on application for a Private Hire vehicle licence. Imported Stretch Limousines may be left hand drive.

Any supply of alcohol intended in the course of a limousine hiring is only permissible if the relevant premises licenses have been obtained, under the Licensing Act 2003, where applicable.

ALTERNATIVE FUELS

Any conversion of a Private Hire vehicle to run on Liquid Petroleum Gas, any alternative fuel or combination of fuels must be carried out by a fully qualified and certified installation engineer. A certificate of installation must be produced to the Licensing Section before the vehicle can be used for the purpose of hire and reward.

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SATELITE GPS NAVIGATION SYSTEMS

At no time shall any satellite navigation system be situated within the swept area of the windscreen of a licensed vehicle.

TINTED GLASS WINDOWS

DIY window tint film kits are not permissible.

Tinted glass windows are permissible provided that they are only those supplied as standard by the original vehicle manufacturer and comply with current vehicle Construction and Use Regulations.

LICENCE RENEWALS

A Private Hire vehicle licence must be renewed annually and the renewal applied for prior to the expiration of the current licence. A licence will only be issued following a satisfactory vehicle inspection and measured mile taximeter test if applicable.

Where the licence cannot be renewed due to mechanical failure of the vehicle the proprietor shall notify the Licensing Section in writing that the renewal application will be delayed and he may, with the consent of an Authorised Officer submit an application for renewal of the licence after the expiry date, and the renewal fee in force at that time will be payable.

THIRD PARTY ADVERTISING

Discreet third party advertising will be permitted on the front door panels of vehicles, subject to the written consent of the Council.

COMPANY LIVERIES

Company liveries will be permitted provided that the only lettering displayed on the vehicle is the name, telephone number and website address of the Private Hire Company. No other wording is permitted. The words "TAXI" and "CABS" are prohibited from use as part of a livery on a Private Hire vehicle.

Applications for company liveries must be submitted in writing to the Licensing Section and the design must be authorised by the Licensing Section before the livery is used. Any liveries which are considered unacceptable by the Licensing Section will be referred to the relevant Council Licensing Sub Committee for determination.

Liveries are not permitted on any of the vehicles side, front or rear windows.

No reflective materials should be used in the lettering, graphics or background materials.

The name of the operating company and telephone number is permitted to be displayed on the windscreen of the vehicle. Such a sign must be of the "sunvisor" type, and must not exceed 330mm x 228mm (13in x 9in).

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ROOF SIGNS

A Roof sign as prescribed by the Council shall be fitted to the vehicle at all times whilst hired or available for hire. The roof sign shall be fitted along the length of the vehicle's roof. Illumination of the roof sign is not permitted.

Roof signs may be removed for vehicles travelling on long journeys involving motorways but should be replaced on exiting the motorway.

PRIVATE HIRE PLATES

When a Private Hire Licence is issued and on payment of a 'plate deposit' the Council will issue a Private Hire plate. There shall be marked on the Private Hire plates the number of the licence for the Private Hire vehicle, the registration number of the vehicle, manufacturer and model of the vehicle, date of expiry of the licence and the number of persons that may be carried. The number of passengers that may be carried by a Private Hire vehicle is determined by the type of vehicle and is stated on the licence plates. In any event the maximum number is eight.

At all times, there shall be affixed to the rear of the exterior of the vehicle and the front exterior of the vehicle, the Private Hire plates provided by the Council.

An interior plate provided by the Council shall be fixed to the inside of the Private Hire vehicle so as to be plainly visible to any passenger.

The plates shall be at all times clearly visible and maintained in a clean, tidy and legible condition. It is not permissible to alter the size of the issued licence plate by trimming or cutting.

No other plates, fittings, signs or printed matter shall be displayed on the exterior or interior of the vehicle without the approval of an Authorised Officer of the Council or unless required by these conditions. At no time shall the word "TAXI" or "CAB" be used or any other wording leading any person to believe that the vehicle is a Hackney Carriage.

The licence plates shall remain the property of the Council and shall be returned to the Council on expiry, or within seven days of the notice of suspension, revocation or refusal to renew the vehicle licence having been served on the proprietor. The plate deposit shall be refunded upon the plates being returned to the Council.

EXECUTIVE HIRE/CHAUFFEUR HIRE

Exemptions from the requirement to display standard identification plates and roof signs will only be granted to vehicles that are exclusively supplied by an Operator for Executive Chauffeur hire on a full time basis and are not fitted with a taximeter.

Executive Chauffeur Hire Vehicles will be required to display an identification disc on the interior of both the front windscreen and rear window so as to be plainly visible. There shall be marked on the Private Hire disc the number of the licence for the Private Hire vehicle, the registration number of the vehicle, date of expiry of the licence and the number of persons that may be carried.

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Executive Chauffeur vehicles will be required to display an Interior identification plate issued by the Council and such plate shall be mounted so as to be plainly visible to any passenger travelling in the vehicle.

SELLING OR SUBSTITUTING A VEHICLE

Any vehicle substituted for the vehicle in respect of which this licence is issued must be authorised by the Council. A vehicle substitution fee will be payable.

Any vehicle proprietor who sells a licensed Private Hire vehicle must notify the Council in writing within fourteen days of the sale specifying the name and address of the new owner and the date of sale.

TAXIMETERS

If the Private Hire vehicle is fitted with a taximeter:

The taximeter will be programmed with the authorised tariff as set by the licensed Private Hire operator. No other tariff shall be permitted.

All tariffs shall be clock calendar controlled.

The word "FARE" shall be printed on the face of the taximeter in plain letters.

The taximeter shall be positioned so as to be clearly and easily visible at all times to any person conveyed in the Private Hire vehicle.

The taximeter shall be sealed in such a way that it shall not be practicable for any person to tamper with the taximeter except by breaking, damaging or permanently displacing the seals.

The taximeter must be sealed by an Authorised Officer of the Council.

The vehicle shall not be used for hire or reward unless the taximeter is properly sealed.

In the event of an emergency requiring an authorised taximeter dealer to break the taximeter seal, the vehicle may be used for hire and reward providing the driver is in possession of a certificate from the dealer indicating why the seal was broken and the date the seal was broken. In any event the taximeter is to be re-sealed within three working days of the date of the notice.

All taximeters must be capable of being sealed by permanent lead or plastic seals. Paper seals are not suitable for use. Existing meters that are not capable of authorised sealing methods should be replaced no later than twelve months from the date these conditions come into force.

All taximeters must be clock calendar controlled. Existing taximeters that are not capable of being clock calendar controlled should be replaced no later than twelve months from the date these conditions come into force.

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FARECARD

If the vehicle is fitted with a taximeter a current table of fares as set by the Private Hire Operator shall be carried the interior of the vehicle at all times and shall be made available to any person being conveyed in the Private Hire vehicle on request.

CLOSE CIRCUIT TELEVISION (CCTV)

CCTV will only be permitted for use within the vehicle subject to the written consent of the Council's Licensing Section.

If an approved CCTV system is fitted, a sign must be displayed in the interior of the vehicle, plainly visible to passengers stating "CCTV in Operation". Similar signs shall be displayed on the exterior of the vehicle to warn prospective customers of the use of CCTV in the vehicle.

The use of dummy CCTV equipment is permissible subject to the written consent of the Council.

Any signs indicating that CCTV is in operation must be approved by the Councils Licensing Section.

It shall be the vehicle proprietor's responsibility to ensure that he/she is fully aware of the provisions of the Data Protection Act 1988, and fully complies with the relevant requirements of the Act and the CCTV Code of Practice published by the Information Commissioners Office.

SMOKING

The Smoke free legislation under the Health Act 2006 which came into effect on 1st July 2007, makes smoking a criminal offence in a licensed private hire vehicle. Smoking is prohibited at all times including when the vehicle is not being used for hire and reward or the driver is off duty. It is the vehicle proprietor's responsibility to ensure that the legislation is complied with at all times and to ensure that any licensed drivers permitted to drive the vehicle are fully aware of the law.

PROPRIETORS RESPONSIBILITIES

Every proprietor of a Private Hire vehicle shall:

- (a) ensure that all windows and window handles are maintained in good repair and condition and operate correctly.
- (b) keep the seats properly cushioned and covered, and ensure that they are kept free from unsightly repairs stains and burns.
- (c) provide proper and sufficient accommodation for luggage and a means of securing such luggage
- (d) provide and maintain an electric light in the interior of the vehicle for use of any person entering or alighting from the vehicle
- (e) carry a spare wheel and tyre and suitable tools for the replacement of damaged or punctured tyres. If the vehicle is fitted with an LPG conversion and there is

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no room for a spare wheel, then an alternative method of re inflating a punctured tyre must be carried. (It is acceptable not to carry a spare wheel if the vehicle is not fitted with a spare wheel as standard manufacturers' equipment and is provided with a suitable means of emergency puncture repair).

- (f) carry a fire extinguisher with a valid expiration date readily available for use. The fire extinguisher must comply with the requirements relating to fire extinguishing appliances for use in public service vehicles, which may include dry powder type
- (g) keep the vehicle properly painted in one of the manufacturer's standard range of colours
- (h) keep the interior and exterior of the vehicle in a clean and tidy condition and all body work should be sound and reasonably well maintained, free from major dents and other distortions/damage. Any repairs and cosmetic improvements must be of professional quality and a good paint match achieved
- (i) Carry a full set of replacement bulbs, to include headlight, taillights, sidelights and indicators. (vehicles fitted with Xenon and LED lighting systems are excluded from this requirement, but should carry standard replacement bulbs if appropriate)

The vehicle shall display in both rear passenger door windows a discreet sticker advising passengers that seatbelts should be worn.

The vehicle shall display a "No Smoking" sign so as to be plainly visible to anyone entering the vehicle.

The vehicle shall be fitted with sufficient seat belts to correspond with the seating capacity of the vehicle.

Where the vehicle is an estate car a rack must be fitted to prevent luggage entering the passenger compartment during an emergency stop.

INSURANCE

The vehicle proprietor shall ensure that a valid certificate of insurance, which complies with the requirements of the road traffic legislation currently in force, is kept in respect of each driver of the Private Hire vehicle and in relation to its use as a Private Hire vehicle. On being required to do so by an Authorised Officer of the Council or constable the certificate of insurance shall be produced for examination.

The proprietor shall produce a new insurance certificate or cover note within seven days of the expiry of the current certificate, or cover note.

Named drivers included on the insurance certificate must hold a Private Hire driver's licence issued by the Council. Certificates will not be accepted if they include named drivers that are not the holder of a Private Hire driver's licence issued by the Council.

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VEHICLE INSPECTIONS

The proprietor shall permit an Authorised Officer of the Council or constable to inspect the vehicle at all reasonable times, and where an Authorised Officer or constable is not satisfied with the condition of the vehicle for use as a Private Hire vehicle the vehicle licence may be suspended until such time as an Authorised Officer or constable is so satisfied.

Without prejudice to the provisions of the conditions set out above, the proprietor of a Private Hire vehicle shall present the vehicle for inspection at such time and at such place within the area of Bath and North East Somerset Council as is specified in written notice in writing served upon the proprietor by the Council.

ACCIDENTS & ALTERATIONS

The proprietor of a Private Hire vehicle shall report to the Licensing Section of the Council any accident to any such vehicle within 72 hours of the occurrence in accordance with the Local Government (Miscellaneous Provisions) Act 1976. Any damage to the Private Hire vehicle must be repaired as soon as is practicable. The Authorised Officer of the Council may require the Private Hire vehicle to be presented for a formal mechanical inspection at the licensee's expense after completion of the repairs.

The proprietor of a Private Hire vehicle shall report to the Licensing Section of the Council, any material alteration in the design of the vehicle (either to the machinery or construction of the body) as soon as practicable, and the Authorised Officer of the Council may require the vehicle to be presented for an inspection.

CHANGE OF ADDRESS

The proprietor or part proprietor of the vehicle shall;

- within seven days of any change of address during the period of the licence disclose to the Council the details of the change in writing.

PENALTY POINT SCHEME

Breach of any of these conditions may be enforced by the Penalty Point scheme as shown on the attached table.

SUSPENSION, REVOCATION OR REFUSAL TO RENEW LICENCE

The Private Hire vehicle licence may be suspended, revoked or not renewed by the Council on any of the following grounds:-

- a) that the vehicle is unfit for use as a Private Hire vehicle
- b) any offence under or non-compliance with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976, on the part of the vehicle proprietor or driver
- c) any other reasonable cause.

The Licence may be immediately suspended where an Authorised Officer is not satisfied as to the fitness of the vehicle or its taximeter where fitted, the provisions of section 68 of the Local Government (Miscellaneous Provisions) Act 1976 apply.

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MISCELLANEOUS

The vehicle proprietor is required to be familiar with the Council's requirements for Private Hire vehicles, and to ensure that these are complied with and that any driver of the vehicle is made aware of his/her responsibilities.

If the vehicle proprietor permits or employs any other person to drive the vehicle as a Private Hire vehicle he shall, before that person commences to drive the vehicle, cause the driver to deliver to the vehicle proprietor, the Private Hire vehicle drivers licence for retention, until such time as the driver ceases to be permitted or employed to drive the vehicle, or any other vehicle of his.

SERVICE OF NOTICES

Any notice required to be served by the Council under this licence, or under any of the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976, shall be deemed to have been properly served if served personally on him/her, or sent by pre-paid post to or left at the last known address of the holder of the licence.

GENERAL

Any person who:

- (a) wilfully obstructs an Authorised Officer or constable acting, in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976
- (b) without reasonable excuse fails to comply with any of the requirements properly made to him by such officer or constable in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976
- (c) without reasonable cause fails to give such an officer or constable any other assistance or information which he may require for the performance of his functions in pursuance of Part II of the Local Government (Miscellaneous Provisions) Act 1976

shall be guilty of an offence.

These conditions shall apply to Private Hire vehicles licensed by Bath & North East Somerset Council.

The Council reserves the right to waive any requirements of these conditions at its absolute discretion.

The Council reserves the right to amend or add to any of the foregoing conditions and notice thereof will be served on all licensees.

July 2013

ANNEX B

Penalty Points Scheme Relating to Private Hire Vehicles

Offence	Points	Person Responsible
Carrying more passengers than specified in licence for vehicle	6	Driver
Licensed vehicle failing to display exterior plates	6/Stop Notice	Driver/Proprietor
Failing to have current insurance certificate	6/Stop Notice	Driver/Proprietor
Failing to have current MOT certificate	6/Stop Notice	Driver/Proprietor
Tyres, windscreen wipers/washers, exhaust, lights, reflectors, spare wheel and tyre, brakes, not maintained in good condition	4 6 points each defect or Stop Notice	Driver/Proprietor
No tools to change spare wheel and tyre, or defective or unsuitable tools / no spare bulbs	4/Stop Notice	Driver/Proprietor
No fire extinguisher/fire extinguisher not in good working order/not of correct type	4/Stop Notice	Driver/Proprietor
Vehicle displaying signs not authorised	4/Stop Notice	Proprietor
Vehicle failing to display compulsory roof sign	4/Stop Notice	Driver/Proprietor
Dirty interior/exterior of vehicle	4/Stop Notice	Driver/Proprietor
Failing to report accident within 72 hours	4	Proprietor
Failing to produce insurance certificate or MOT certificate on expiry of certificate.	4	Proprietor
Interior comment plate missing/not visible to passengers	3	Driver/Proprietor
Any breach of condition not specified above	1 – 4	Driver/Proprietor
Unauthorised CCTV System	Stop Notice	Proprietor
METERS (IF FITTED)	Points	Person Responsible
Taximeter not sealed or seal broken	6/Stop Notice	Driver/Proprietor
Taximeter not displaying current operators tariff	4/Stop Notice	Driver/Proprietor
Taximeter obscured visible to passengers	4 Stop Notice	Driver/Proprietor

ANNEX B

Where 12 or more points are issued to a Driver/Proprietor/Operator within any period of 1 year, a report will be submitted to the relevant Council Licensing Sub Committee with a view to the suspension, revocation or refusal to renew such a licence.

I, the undersigned certify that the preceding conditions and penalty point scheme have been fully explained to me and that I fully understand them. I further certify that I agree to abide by and be bound by the conditions and penalty point scheme.

Signed

Full Name.....

Date

Witness signed

Full Name.....

Date

ANNEX C

BATH AND NORTH EAST SOMERSET COUNCIL: APPLICATION FOR PRIVATE HIRE VEHICLE LICENCE FOR MOTORISED TRICYCLE / TUK TUK

STATEMENT OF: Jonathan Walker

CAPACITY: Managing Director for No.15 Great Pulteney Street

This statement is true to the best of my knowledge and belief

INTRODUCTION

I have been in the hotel business for 34 years. I have worked as a Hotel General Manager, Area Director, Operations Director and Director of Hotel Performance and Operations Support for Europe (in this role I was responsible for licensing for 65 hotels in the UK).

I have recently joined the group of hotels owned by Ian and Christa Taylor. I will be responsible for the opening and management of the new hotel due to open later this year on Great Pulteney Street and have a wider support role in relation to the licensing operations of the other hotels in the group, the Abbey Hotel and Villa Magdala. This includes overseeing the group's policies and procedures and the implementation of these across the hotels.

INTENDED USE OF PRIVATE HIRE VEHICLE LICENCE

We have applied for a private hire vehicle licence for a 'Tuk Tuk', a form of motorised tricycle (the "Vehicle") to operate alongside and support our hotel business. The Vehicle will be representing the hotels and therefore must be a professional and courteous service (we will require our drivers to wear a contemporary liveried uniform, with a cap). Safety will be a priority as set out further below.

We would like to operate the Vehicle for the purposes of collecting and dropping off hotel guests; transporting people between our hotels, for example to use spa facilities at No.15 Great Pulteney Street, or the Allium restaurant at the Abbey Hotel; and for providing tours of Bath.

The Vehicle will not operate to pick up members of the general public from the roadside in the manner of a traditional taxi/ private hire vehicle. Only pre-booked journeys will be permitted and the Vehicle will operate in the City of Bath only (we will not offer airport pick-ups, for example). There will be no taximeter fitted to the vehicle. Standard fares made known to passengers in advance will be charged dependent on the journey-type.

We hope that this service will be a unique feature of our hotels in Bath, will help to promote our business and will offer convenience and 'something different' to our guests / visitors to Bath. We would like the service to start when our new hotel on Great Pulteney Street opens, which we expect to be late November 2016.

If the vehicle licence is granted, we will make the required application for an Operator licence. We will, of course, be required to comply with the conditions which apply to all private hire operators, including requirements to maintain public and employees' liability insurance; to maintain booking records, vehicle records and driver's records for at least 12 months; and to ensure a prompt, efficient and reliable service.

SAFETY OF VEHICLE

The safety of the Vehicle and of our customers is an absolute priority to us. We have reserved a specific Tuk Tuk with "tukshop", a company in Eastleigh, Hampshire. The Vehicle has MSVA approval

014-3361-8544/1/EUROPE

ANNEX C

and a copy of the MSVA Certificate is attached to the statement of Steve Webb of tukshop. MSVA approval is the pre-registration approval which applies to motorised tricycles, including Tuk Tuks, under the Motorcycle Single Vehicle Approval Scheme. Steve Webb of tukshop, will be attending the hearing and has provided a separate statement dealing with the specifications of the Vehicle.

Should the application be granted, we will proceed with purchasing the Vehicle and will arrange for all required insurance and registration documents. Once in use, the Vehicle will be checked regularly by a senior member of the Kaleidoscope team for tyre pressure, oil, water and seatbelt fittings. Seatbelt fittings, lights and tyre pressure will be checked daily when the vehicle is in use; oil and water will be checked weekly. The checks will be recorded and records will be retained for at least 12 months. The Vehicle will also be checked by an independent garage every 6 months.

We propose a number of special conditions be attached to the licence, as set out in Annex A of this Statement. These include requirements for seat belts and maintenance of the Vehicle. These conditions would apply in addition to the Council's relevant standard private hire vehicle licence general conditions, including standard conditions in relation to smoking, insurance, vehicle inspections, accidents and alterations.

Attached to the statement of Steve Webb are photographs of similar vehicles, showing the exterior and interior of the Tuk Tuk. I have asked tukshop to bring the Vehicle to Bath on the date of the hearing, to enable the Sub-Committee to view the Vehicle in person.

DRIVER OF VEHICLE

If this application is granted, we will employ a dedicated driver/ drivers for the Vehicle. Any driver will, of course, be required to be a licensed private hire driver. We hope to appoint a Bathonian, with strong local knowledge and good social skills.

We will only employ drivers who are 21 or over and have at least 3 years' driving experience. We will provide bespoke training to drivers, including health and safety training; driving training sessions in a car to check and observe overall awareness (this training will be carried out by a reputable driving training company on induction and annually thereafter); and internal training on the company's policies and procedures in relation to use of the Vehicle (for example, use of seatbelts, requirements for under 16s to be accompanied, guest courtesy, guest safety briefings and radius restrictions). Internal training will be undertaken on induction and six-monthly thereafter. All drivers will be required to have an annual eye test, the cost of which will be met by the company.

The driver will, of course, be required to comply with the conditions associated with the private hire driver licence, in addition to the requirements of the company.

Jonathan Walker

Dated: 22 September 21 September 2016

Annex A: Draft Special Conditions

ANNEX C

Annex A

KALEIDOSCOPE

APPLICATION FOR PRIVATE HIRE VEHICLE LICENCE

DRAFT SPECIAL CONDITIONS FOR LICENSING OF MOTORISED TRICYCLE / TUK TUK (THE "VEHICLE")

- 1 The licensed vehicle must be approved by the Department of Transport under the Motorcycle Single Vehicle Approval (MSVA) Scheme and a Minister's Approval Certificate and V5C must be issued in respect of the Vehicle.
- 2 The licence holder must conduct a Passenger Risk Assessment for approval by the Senior Public Protection Officer at Bath and North East Somerset Council and every driver of the Vehicle shall be supplied with a copy of the Risk Assessment Statement before any private hire journey commences.
- 3 All passengers must be given a safety briefing from a licensed driver immediately before the commencement of any journey.
- 4 No more than three passengers shall be carried in the rear of the Vehicle at any time.
- 5 Any passenger under the age of 16 years must be accompanied by a responsible adult.
- 6 The Vehicle must be maintained in a sound, mechanical and structural condition at all times and comply with any relevant legislation that applies to the construction and use of motorised tricycles, including the Road Vehicles (Construction and Use) Regulations 1986 and the Road Vehicles Lighting Regulations 1989.
- 7 The condition, fixing and routing or positioning of electric cables and fittings, if any, must be such that there is no risk of electrical fire or other incident.
- 8 The vehicle must be provided with an audible warning device such as a bell or a horn.
- 9 Any internal linings of the Vehicle must be sound, clean and not liable to damage or soil passengers clothing or luggage and the floor will be provided with a carpet, mat or other suitable, non-slip floor covering which is sound and clean.
- 10 The seats are properly cushioned and covered by a water resistant material and the covers are in a sound and clean condition which may be easily cleaned and dried.
- 11 Seat belts must be fitted to all passenger seats before the vehicle is used as a private hire vehicle. The seat belts shall be readily accessible for use by all passengers and must be maintained in a safe condition at all times.
- 12 No changes to the approved vehicle specification, design, condition or appearance of the vehicle may be carried out without the prior approval of the Council.
- 13 The proprietor of the vehicle shall at the request of an authorised officer produce for inspection a valid insurance certificate covering private hire use.
- 14 The Vehicle shall not be used in City Centre pedestrian areas or access only streets.

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ANNEX C

BATH AND NORTH EAST SOMERSET COUNCIL: APPLICATION FOR PRIVATE HIRE VEHICLE LICENCE FOR MOTORISED TRICYCLE / TUK TUK

STATEMENT OF: Steve Webb

CAPACITY: Proprietor of tukshop

This statement is true to the best of my knowledge and belief

I have been operating tukshop since 2003. Tukshop provides tuk tuks for various uses, including: transportation and vending of goods such as ice creams and pizzas; promotional purposes; events, such as weddings; personal use; and the carrying of passengers. We have over ten years' experience of event work where safety is of prime importance, ranging from film premieres, film and tv work, to transport, in Cities all over the UK, including Northern Ireland.

Kaleidoscope have reserved a tuk tuk suitable for the carrying of passengers in connection with their proposed hotel operation; and have asked me to attend the hearing for the private hire vehicle licence to provide any details required in relation to the vehicle specifications.

Tuk tuks are motorised tricycles. The Tuk Tuk which we will supply to Kaleidoscope is made by Piaggio. We are an authorised dealer and import the vehicles for sale and distribution. The vehicles are constructed in Baramati, India (where Piaggio also assemble all Vespa 125cc engines). They are built for the purposes of public transport and the only modification we make is the installation of seatbelts to the required UK standards (using EU type approved seatbelts). I attach a brochure detailing the specifications of the vehicle, including engine details and dimensions, at Annex A.

Motorcycle Single Vehicle Approval (MSVA) is required for vehicles which do not have EC type approval because they have been constructed for non-European markets. The tuk tuk to be supplied to Kaleidoscope has already obtained MSVA approval and a copy of the Certificate is attached to this statement as Annex B. A Minister's Approval Certificate will be issued on registration.

I attach a Guide to the MSVA Scheme from the Vehicle & Operator Services Agency (VoSA) as Annex C. The Guide explains that MSVA checks vehicles constructed for non-European Economic Area markets, comply with British law. The purpose of the scheme is to ensure that vehicles have been designed and constructed to modern safety and environmental standards before they can be used on public roads.

The vehicles are inspected by the Driver and Vehicle Standards Agency at an approved test station before the MSVA Certificate is issued. There are many checks that are made a part of this procedure and we have put nearly 100 vehicles through this test since 2003. We will provide the driver appointed by Kaleidoscope with full training in the safe operation of driving the tuk tuk.

Steve Webb

Dated: 21 September 2016

Annex A: Tuk Tuk Brochure

Annex B: Copy MSVA Certificate

Annex C: VoSA Guide to MSVA Scheme

Annex D: Photographs of Tuk Tuk

014-3362-1150/1/EUROPE



Ab Har *apé* Bolega

apé Chalta Hai To Desh Chalta Hai!



apé City



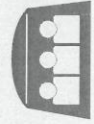
Highest
Mileage



Highest
Gradeability*



Highest Power
& Torque



Highest
Space

*Condition Apply

Technical Parameters

Engine	No. of Cylinders (Nos)	1
	Displacement (CC)	197
	Max. Power (KW @ rpm)	7.6 @ 5000
	Max. Torque (Nm @ rpm)	16.28 @ 3000
Clutch	Type	Multi Disc Wet Type
Gear Box	Type	Constant Mesh
	No. of Gears	4 Forward, 1 reverse
Brakes	Type	Hydraulically actuated
	Front	Drum
	Rear	Drum
Wheels & Tyre	Tyre Size	4.0 X 8 4/6 PR
Dimensions	Wheel Base (mm)	1920
	Overall Width (mm)	1335
	Overall Height (mm)	1820
	Overall Length (mm)	2700
	Min. Ground Clearance (mm)	160
Other Information	Battery Rating (Ah)	35
	Fuel Tank Capacity (Ltr./Kgs)	10.5 Ltr.
	Turning Circle Dia. (Mtr.)	5.7
	Seating Capacity (D+Pass)	D+3
Weights	GVW (Kgs)	670
	Kerb Weight (Kgs)	365
Performance	Max Speed (kmph)	60
	Gradeability (%)	18%



Low Maintenance Flexible Coupling



Smooth Start With Auto Decompression System



Spacious Luggage Compartment



Low Maintenance Vehicle



Authorised Dealer:

www.tukshop.biz
mrsteve@tukshop.biz
+44 7973 261747

PIAGGIO VEHICLES PRIVATE LIMITED

The illustrations may show accessories and items of optional equipment which are not part of standard specifications. Piaggio Ltd reserves the right to change and vary the design, technical details and specifications without prior notice.

ANNEX C

the Motor Cycles Etc. (Single Vehicle Approval) Regulations 2003

Vehicle & Operator Services Agency

The Vehicle Identification Number:

MBX0002CFTE091499

Having been examined under Section 58 of the Road Traffic Act 1988, it is hereby certified that on the date of the examination this vehicle complied with the relevant requirements prescribed under Section 54 of the Road Traffic Act 1988.

Make: **PIAGGIO**

Model: **PIAGGIO CITY**

Power to Weight Ratio: **0.02 kW per kg**

Fuel Type: **PETROL** Engine Capacity: **200cc**

Seating Capacity: **FOUR**

DVLA Model Code: **NA**

Seat Belts, Number Fitted: **THREE (REAR)**

Date of issue: **MAY 20TH 2016**
In Words (Sixteen)

Serial Number: **AA 057356**

Design Weights:

Axle 1: **NA**

Axle 2: **NA**

Gross Weight: **NA**

Train Weight: **NA**

Unladen Weight: **362** kg

NOTE: In the case of a goods vehicle the design weights shown are also the plated weights.

Name of Vehicle Examiner: **A. BAKER-MORE**

Station Location: **140099 Southampton**

Signed by Authority of Secretary of State: **[Signature]**

Authentication Stamp: **[Stamp]**

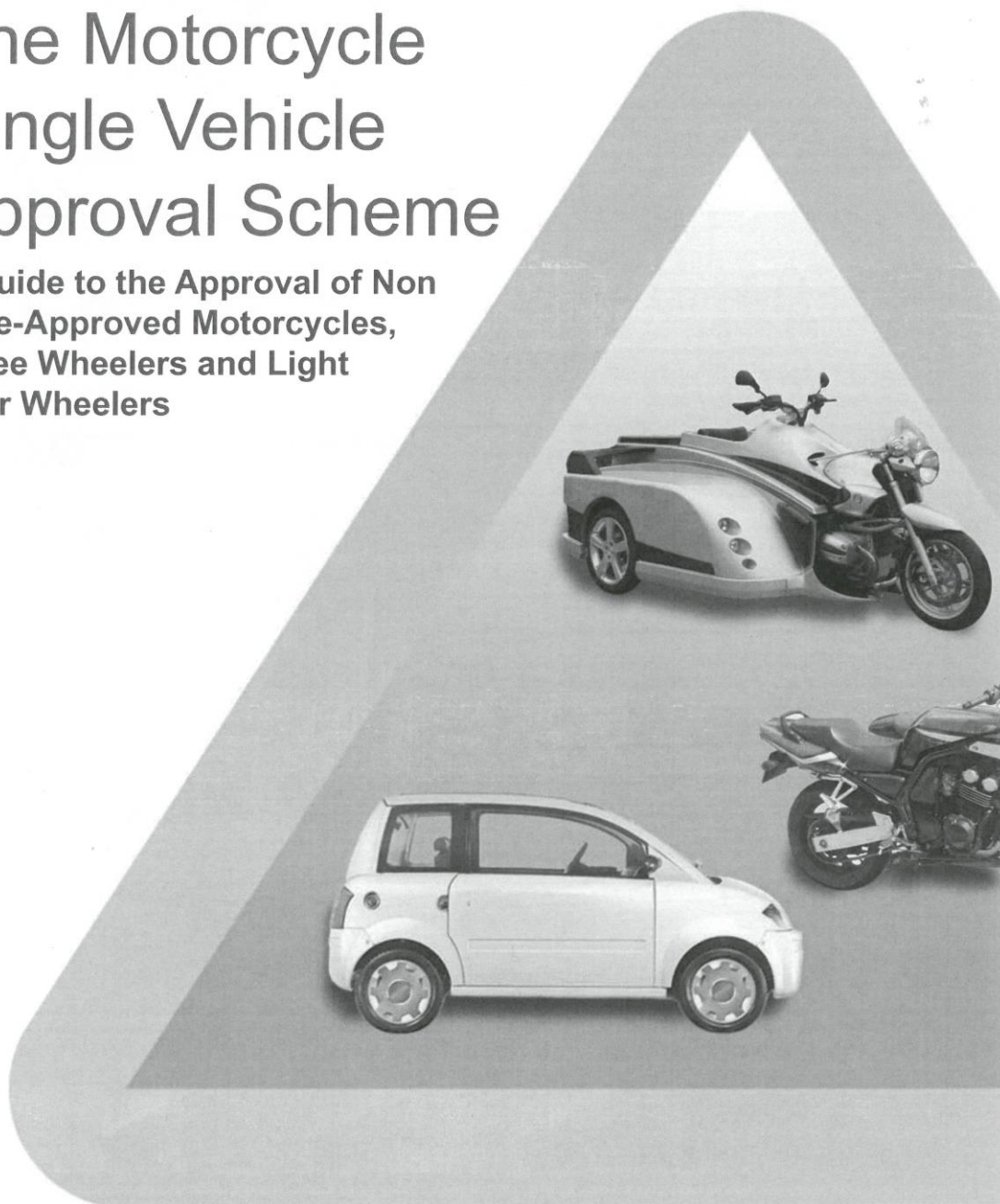


Vehicle & Operator
Services Agency

GUIDE

The Motorcycle Single Vehicle Approval Scheme

A Guide to the Approval of Non
Type-Approved Motorcycles,
Three Wheelers and Light
Four Wheelers



 Saving lives, safer roads, cutting crime, protecting the environment

THE MOTORCYCLE SINGLE VEHICLE APPROVAL (MSVA) SCHEME

What is the Motorcycle Single Vehicle Approval Scheme?

The Motorcycle Single Vehicle Approval (MSVA) scheme is a pre-registration inspection for mopeds, motorcycles, three wheelers and quadricycles that have not been type-approved to European standards. The main purpose of the scheme is to ensure that these vehicles have been designed and constructed to modern safety and environmental standards before they can be used on public roads. The scheme entered into force on the 08 August 2003.

Why do we need MSVA?

MSVA checks that vehicles constructed for non-European Economic Area markets comply with British law. Even vehicles outwardly similar to European-specification models, but intended for other markets, can often be unsuitable for use in Britain without at least some modification. (For further information on importing a vehicle see the Department's leaflet PI5 'How to Import your Vehicle into Great Britain'). MSVA recognises certain non-European technical standards as acceptable alternatives to the MSVA requirements.

MSVA also checks that the construction of amateur-built vehicles, rebuilt vehicles and vehicles using parts from a previously registered vehicle meet modern safety and environmental standards. It also provides an alternative to type approval for vehicles manufactured in very low volume.

What vehicles are within the scope of MSVA?

- (a) two wheeled mopeds and motorcycles,
- (b) three wheeled vehicles, and;
- (c) light four wheeled vehicles.

Will MSVA affect you?

Generally, your vehicle will need to be approved under the MSVA scheme and issued with a Minister's Approval Certificate (MAC) if it is up to 10 years old and is not covered by EC type approval (or similar national approval from another European Economic Area Member State that is equivalent to the technical requirements of GB Single Vehicle Approval).

MSVA will be applied to the following :

- ▶ an amateur built vehicle
- ▶ a vehicle manufactured in very low volume
- ▶ a vehicle manufactured using parts of a registered vehicle
- ▶ a rebuilt vehicle (mandatory if first licensing and registration required)
- ▶ an imported vehicle without type approval.

The above categories are defined in Appendix 1.

DVLA may also require radically altered vehicles and rebuilt vehicles to be examined.

ANNEX C

Recognition of foreign single approvals

If your vehicle has been singly approved by another EEA Member State to standards **equivalent to** those of British MSVA, it is eligible for a Ministers Approval Certificate on that basis. You must provide evidence of the **actual standards** to which the vehicle was tested by or on behalf of the authorities in question.

What is tested?

Most of the items inspected in the MSVA scheme are those that are tested when manufacturers apply for type-approval of mass-produced vehicles. The following table lists the items inspected.

Item	Mopeds	Three wheeled mopeds and light quadricycles	Motorcycles	Tricycles and quadricycles
Radio interference suppression (spark ignition engine)	X	X	X	X
Speedometers	X	X	X	X
Wipers and washers (vehicles with 3 or more wheels with a body and a windscreen)		X		X
Audible warning	X	X	X	X
Defrosting and demisting (vehicles with 3 or more wheels with a body and a windscreen)		X		X
Tyres	X	X	X	X
Glazing in windscreens and other windows (vehicles with 3 or more wheels with a body and a windscreen)		X		X
General vehicle construction	X	X	X	X
Noise and silencers	X	X	X	X
Devices to prevent unauthorised use			X	X
Handholds (two wheeled vehicles only)	X		X	
Stands (two wheeled vehicles only)	X		X	
External projections for bodied vehicles		X		X
External projections for un-bodied vehicles	X	X	X	X
Rear view mirrors for un-bodied vehicles	X	X	X	X
Rear view mirrors for bodied vehicles		X		X

ANNEX C

Item	Mopeds	Three wheeled mopeds and light quadricycles	Motorcycles	Tricycles and quadricycles
Lighting and signalling	X	X	X	X
Seat belts for three and four wheeled vehicles		X(*)		X
Seat belt anchorages for three and four wheeled vehicles		X(*)		X
Installation of seat belts in three or four wheeled vehicles		X		X
Registration plate space	X	X	X	X
Masses and dimensions	X	X	X	X
Gaseous exhaust emissions		X	X	X
Smoke emissions	X	X	X	X
Brakes	X	X	X	X
Anti-tampering measures (mopeds and motorcycles less than 125cc and a power not exceeding 11kW).	X		X	
Plate for goods vehicles		X		X

*Three wheel mopeds and light quadricycles with an unladen mass not more than 250 kg are exempt from this requirement.

How are the vehicles tested?

MSVA

For MSVA, all the inspections are undertaken at selected testing stations operated by the Vehicle and Operator Services Agency (VOSA), an executive agency of The Department for Transport. These tests can also be conducted by VOSA Examiners at "designated premises" if certain conditions are met. Please contact VOSA on the **National Number** for further information - **0300 123 9000**.

Although virtually all of the items tested are those in European Type Approval they are not tested in the same way. To keep the fee to a level affordable by individuals, the examiner will conduct an engineering assessment. This check will be in the form of either visual inspection or a simple test on the vehicle to ensure that it complies with the regulations.

The examination will be limited to parts of the vehicle which can be readily seen without dismantling. However, the presenter may be asked to open lockable compartments and remove engine covers, inspection/access panels, trims or carpeting. This is to allow access to items subject to examination. Consequently, because vehicles are inspected individually, the tests are not destructive or damaging in any way.

A Minister's Approval Certificate (MAC) under MSVA is issued when the examiner is satisfied that the vehicle would meet the requirements of the regulations in relation to the design and construction of the vehicle. Unlike the MOT, the examination is not primarily concerned with vehicle condition (although poor condition may make it impossible to assess whether some construction requirements are met).

MSVA Inspection Manual

Full details of what and how it is tested is described in the Vehicle and Operator Service Agency's MSVA Inspection Manual. This can be downloaded at: <http://www.dft.gov.uk/vosa/publications/manualsandguides/vehicletestingmanualsandguides.htm>

What does the MSVA test cost?

MSVA TEST and APPEAL FEES as at 3rd May 2009

Vehicle Type	Normal £	Out of Hours (Supplement) £
Low power moped	55.00	24.00
Retest	17.00	
Two wheelers	85.00	24.00
Retest	17.00	
Three and four wheelers	104.00	24.00
Retest	17.00	
Replacement Certificate	12.00	
Cancelled test application (without giving 3 working days notice)	Full test fee appropriate to the cancelled vehicle	

How do I apply for a test?

Application forms are available to download from either www.gov.uk/vehicle-approval/motorcycle-single-vehicle-approval or www.dft.gov.uk/vosa/forms/vehicletestforms/vehicletestforms.htm#P111_2723. They can also be obtained from DVLA Local Offices and from Offices of the Vehicle and Operator Services Agency. You should send completed applications to the most convenient test station.

The test stations conducting MSVA are listed at Appendix 2. (If you are importing large numbers of vehicles, you might wish to arrange for them to be inspected at other Designated Premises. Please contact the Vehicle and Operator Services Agency for information about the equipment needed and other arrangements.)

You will be asked to provide certain technical details in relation to the vehicle e.g. maximum speed and power of the vehicle and certain weights. This may be obtained by reference to the manufacturer's vehicle handbook or from the manufacturer or his agent. The Vehicle and Operator Services Agency may check stated design weights against certain criteria to ensure that they are appropriate. Any documentary evidence of the standards to which the vehicle was originally approved will always be helpful.

Once the correctly completed application form has been returned along with the correct fee, you will be sent a notice stating the time and place of the test. The test, where possible, will be held at the Vehicle and Operator Services Agency test station which you have selected.

If your vehicle does not have a manufacturer's Vehicle Identification Number (VIN) stamped on the chassis, you will have to apply to your local DVLA Local Office for one to be assigned before the MSVA inspection is conducted. DVLA Local Office officials may wish to inspect the vehicle as a check that it is not stolen.

ANNEX C

You will be allowed to travel (within Great Britain) to and from the test station without the vehicle having been registered and licensed, and, if necessary, to and from a garage or other place where modifications are done to enable compliance with the requirements. You are responsible for ensuring that you have insurance cover and that the vehicle complies with the requirements of the Road Vehicles (Construction & Use) Regulations and the Road Vehicles Lighting Regulations when driven to and from the test location. Otherwise, driving or keeping an unregistered vehicle on a public road is an offence.

Conditions relating to the presentation of vehicles for test

The examination of a vehicle may be refused for any of the following reasons :

- ▶ the vehicle is not submitted for examination at the appropriate time and place appointed,
- ▶ the fee has not been paid,
- ▶ the vehicle cannot be driven or has insufficient fuel or oil to enable the test to be completed,
- ▶ the vehicle is presented in a dangerous or such a dirty condition that the test cannot be carried out,
- ▶ a load or items on the vehicle are not secured or removed as required,
- ▶ a proper examination cannot be carried out because any door, tailgate, boot lid, engine cover, fuel cap or other device designed to be readily opened cannot be opened,
- ▶ the condition of the vehicle (in the opinion of the examiner) is such that a proper examination of the vehicle would involve a danger of injury to any person or damage to the vehicle or any other property,
- ▶ the vehicle does not display, permanently, in an accessible position and readily legible, the required vehicle identification number, or
- ▶ the driver does not remain in the vehicle or its vicinity and operate the controls, etc. as requested.

Afterwards

Once your vehicle has successfully passed the MSVA test you will be given a Minister's Approval Certificate (MAC). With a MAC you will be able to apply to DVLA to get your vehicle licensed and registered.

If your vehicle fails the MSVA, you will be allowed to take your vehicle away for repairs and modification. You will then have to re-apply to the Vehicle and Operator Services Agency for a retest.

As mentioned earlier, the vehicle user will remain responsible for ensuring that the vehicle continues to comply with all relevant "Construction and Use" Regulations and Lighting Regulation requirements. However, for vehicles which have been issued with a MAC under MSVA, several existing requirements are relaxed. For instance, vehicles will not need to be fitted with European type-approved components such as lamps, mirrors, seat-belts and glazing, if they remain fitted with the same components as when inspected at MSVA - these having been assessed as providing an equivalent level of safety.

Appeals

If your vehicle fails MSVA and you are aggrieved by the decision, you can appeal for a re-test by an independent assessor. You must make your appeal within 14 days of the original decision. The fee for the re-test will be the same as that paid for the original test.

Further Information

If you need any advice on the policy of the MSVA scheme please contact :

Department for Transport

Transport Technology and Standards 6
Zone 2/06
Great Minster House
76 Marsham St
LONDON
SW1P 4DR

 Tel: 020 7944 2078

 Email: TTS.enquiries@dft.gsi.gov.uk

 Fax: 020 7944 2069

 Website: www.gov.uk/dft

For general enquiries and information on the test procedure and technical standards, please contact :

The Vehicle and Operator Services Agency

Ellipse
Padley Road
Swansea
SA1 8AN

 Tel: 0300 123 9000

 Email: enquiries@vosa.gov.uk

 Fax: 01792 454313

 Website: www.dft.gov.uk/vosa

To apply to get your vehicle licensed and registered or to make an application for a Vehicle Identification Number (if one is not presently stamped on the chassis) you will have to contact your local DVLA Local Office.


DVLA

Local Office Network Enquiry Service

 Tel: 0870 850 0007

 Email: vehicles.dvla@gtnet.gov.uk

 Fax: 0870 850 1285

 Website: www.dft.gov.uk/dvla

APPENDIX 1

Vehicle Definitions

Note : *The Motor Cycles Etc. (Single Vehicle Approval) Regulations 2003 (SI 2003/1959) should be consulted for precise legal definitions.*

Amateur-built vehicle is one constructed or assembled for your own personal use, where:

- ▶ the construction or assembly or a substantial part of it has been carried out by you or other persons acting on your behalf; and,
- ▶ a substantial part of the construction or assembly was carried out by you or other persons not involved in a business in the course of which motor vehicles are normally constructed or assembled.

Vehicle manufactured using parts of a registered vehicle is where:

- ▶ it is constructed or assembled by a person carrying on a business in the course of which motor vehicles are normally constructed or assembled;
- ▶ it is equipped with an engine which has previously been used as the engine of another vehicle which had been registered under the Vehicle Excise and Registration Act 1994 or any earlier Act relating to the registration of mechanically propelled vehicles; and,
- ▶ it is equipped with one or more of the following components taken from the same vehicle as the engine: - chassis; body; suspension; an axle; transmission; or steering assembly.

Rebuilt vehicle is a vehicle to which the Secretary of State is required to assign a Vehicle Identification Number and which has been rebuilt using a replacement chassis or body of the same design and construction as that of the original vehicle and which -

- ▶ was supplied for the purpose without having been previously used, or
- ▶ previously formed part of a registered vehicle.

Low powered moped is a 2 or 3 wheeled vehicle with pedals, auxiliary propulsion not exceeding 1kW and a maximum design speed of not more than 25 km/h.

Moped is a 2 or 3 wheeled vehicle with a maximum design speed of not more than 45 km/h.

Motorcycle is a 2-wheeled vehicle with or without a sidecar, fitted with an engine having a cylinder capacity of more than 50 cm³ if of the internal combustion type, and/or having a maximum design speed of more than 45 km/h.

Motor tricycle is a vehicle with 3 symmetrically arranged wheels fitted with an engine having a cylinder capacity of more than 50 cm³ if of the internal combustion type and/or a maximum design speed of more than 45 km/h.

Quadricycle is a 4 wheeled vehicle of which there are two classes:

(i) light quadricycles whose unladen mass is not more than 350kg, not including the mass of the batteries in case of electric vehicles, whose maximum design speed is not more than 45km/h. These vehicles shall be considered to be mopeds and shall fulfil the technical requirements applicable to 3 wheeled mopeds; and,

(ii) quadricycles other than those in (i), whose unladen mass is not more than 400kg (550kg for vehicles intended for carrying goods), not including the mass of batteries in the case of electric vehicles, and whose maximum net engine power does not exceed 15kW. These vehicles shall be considered to be motor tricycles and must fulfil the technical requirements applicable to motor tricycles.

APPENDIX 2

THE MSVA SCHEME IS BEING RUN AT THE FOLLOWING MOTORCYCLE SINGLE VEHICLE APPROVAL TEST STATIONS :

SCOTLAND

Aberdeen: Cloverhill Road, Bridge of Don Industrial Estate, AB23 8FE (2 wheeled vehicles only)
Glasgow: Crosshill Road, Bishopbriggs, Glasgow, G64 2QA

NORTHERN ENGLAND

Beverley: Oldbeck Road, Off Grovehill Road, East Yorkshire, HU17 0JW
Carlisle: Brunthill Road, Kingstown Industrial Estate, Carlisle, Cumbria CA3 0EH
Liverpool: Stopgate Lane, Simonswood, Liverpool, L33 4YA (2-wheeled vehicles only)
Manchester North (Chadderton): Broadway Business Park, Broadgate, Chadderton, Oldham, OL9 9XA
Newcastle-Upon-Tyne: Sandy Lane, Gosforth, NE3 5HB

MIDLANDS

Birmingham: Unit 10, Elmdon Trading Estate, Birmingham, B37 7HE (2-wheeled vehicles only)
Derby: Belmore Way, Alvaston, Derby, DE21 7AY

LONDON

Watford: Unit B, Caxton Court, Caxton Way, Watford, WD18 8RH (2-wheeled vehicles only)
Yeading: Cygnet Way, Willow Tree Lane, Yeading, Hayes, Middlesex, UB4 9BS (3-4 wheeled vehicles only)

EASTERN ENGLAND

Norwich: Jupiter Road, Hellesden, Norwich, NR6 6SS
Leighton Buzzard: Stanbridge Road, Bedfordshire, LU7 8QG

SOUTHERN ENGLAND

Chelmsford: Widford Industrial Estate, Chelmsford, Essex, CM1 3AE (2 and 4 wheeled vehicles only)
Gillingham: Ambley Road, Gillingham, Kent, ME8 0SJ
Southampton (Northam): Centurion Industrial Estate, Bitterne Road West, Southampton, SO18 1UB.

SOUTH WEST ENGLAND

Bristol (Avonmouth): Merebank Road, Avonmouth, Bristol, BS11 8AQ
Exeter: Grace Road, Marsh Barton Trading Estate, Devon, EX2 8PU

WALES

Cardiff: School Road, Miskin, Pontyclun, Mid Glamorgan, CF72 8YR

ANNEX C

VOSA/SVA/2317/APR12

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for corporate information
www.dft.gov.uk/vosa

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ANNEX C

Annex D: Photographs

External – Front/ overview:



External: Headlamps and Windscreen Wipers



External: Front Wheel



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ANNEX C

External: Side View



Internal: Passenger Seats



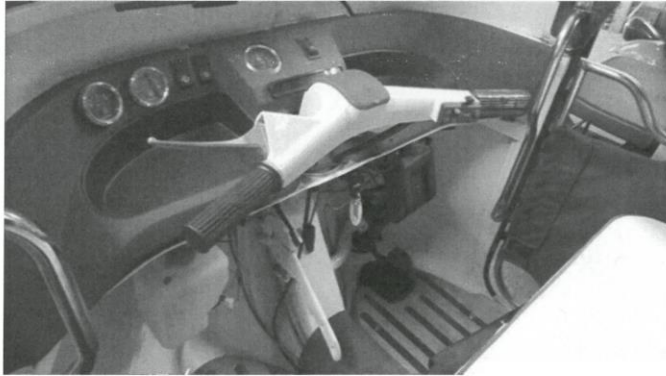
Internal: Driver position



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ANNEX D

Internal: Dashboard



Internal: Luggage Space



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**POLICY ON HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING
STANDARDS - DRIVERS, VEHICLES AND OPERATORS**

The following policy sets out the context within which Hackney Carriage and Private Hire vehicles operate and outlines the standards required by the Council for Hackney Carriage and Private Hire vehicles, driver and operators:

1. Each application for a licence will be treated on its own merits. Where however, applications fall outside this Policy they will be referred to the relevant Licensing Sub-Committee for consideration.
2. The district of Bath and North East Somerset is zoned, for the purpose of Hackney Carriage licensing, into the two areas: Bath (zone 1) and North East Somerset (zone 2).
3. Bath & North East Somerset Council regulate the number of Hackney Carriage Proprietors Licences it issues in Bath (zone 1). When the Council determines any application for new hackney Carriage Proprietors Licence it will do so having regard to the recommendations of an independent Unmet Demand Survey. All such applications shall be determined by the relevant Licensing Sub-Committee.
4. An Unmet Demand Survey (for zone 1) will be carried out at regular intervals and no more than three years will elapse between each survey.
5. That any new Hackney Carriage Proprietors licenses issued in zone 1 in light of the results of a survey will be issued on condition that the vehicle is fully accessible and has side loading capability. To be deemed fully accessible a vehicle shall cater for a range of disabilities for example visual, aural and ambulant disabilities. Any replacement vehicle shall be to the same or higher specification.
6. That all vehicles, including new ones, shall be visually and mechanically inspected prior to being licensed and thereafter mechanically inspected on an annual basis at garages approved by the Licensing Officer.
7. That all vehicles will normally be less than five years old when first licensed.
8. That the engine size of vehicles to be licensed shall be at least 1400cc
9. That only roof signs approved by the Licensing Officer are permitted on the vehicle. Hackney Carriage signs shall be fitted across the width of the vehicle and Private Hire signs shall be fitted along the length of the vehicle.
10. That the vehicle licence plates are issued annually and display the registration number of the vehicle, licence number, number of seats, colour of vehicle, date of expiry of licence and make of vehicle.
11. That the vehicle licence plates remain the property of the Council and shall be returned to the Council in the event that the vehicle is no longer used for Hackney Carriage or Private Hire work or the licence expires.
12. That Hackney Carriage vehicle licenses are renewed annually and expire on the 31st May.

13. That Private Hire vehicle licenses are renewed annually and expire on the 31st October.
14. That Hackney Carriage and Private Hire Driver's licenses are renewed annually and expire on the 28th February.
15. That an Operator's licence is issued for a maximum five year period, and shall expire on the 30th September.
16. The Council reserves the right to issue licenses for a lessor period should it see fit.
17. That all Drivers' licenses are issued as joint Hackney Carriage/Private Hire licences.
18. That the following checks are carried out on all new applications and that a licence will not be issued until all the relevant documents are presented and are correct:

Operators Licences; receipt of a satisfactory application form, 3 references, Disclosure & Barring Services check and the appropriate fee.

Vehicle Licenses; receipt of satisfactory application form, vehicle registration document, insurance for hire and reward (public for Hackney Carriages and private for Private Hire), MOT certificate for all vehicles over 1 year old, Inspection Certificate, Meter Test Certificate, (where applicable) and the appropriate fee.

Driver's Licences; receipt of a satisfactory application form, birth certificate, Group 2 Vocational Driver Medical Certificate, check with the DVLA as to motoring offences, check with the Disclosure & Barring Services, 3 references, and the appropriate fee.

All non UK applicants will be required to produce original and certified translations of birth certificate, driving history, and certificate of good conduct or similar check of criminal convictions. All documents must have been obtained in the month prior to the application being submitted. Photocopies or scans of documents will not be accepted.

In order to be licensed as a Hackney Carriage or Private Hire driver, an applicant must hold a full driving licence issued in the United Kingdom, (UK) the European Community (EC), one of the other countries listed in the European Economic Area (EEA) or an exchangeable licence as defined in s108 of the Road Traffic Act 1988 and provide a certified and translated driving history from the country of issue.

From 1st January 2014 the Council will require all current Hackney Carriage and Private Hire drivers who currently hold an EC/EEA or exchangeable driving licence to have a UK DVLA issued Driving Licence.

An individual with an EC/EEA or exchangeable driving licence making an application for a Hackney Carriage or Private Hire drivers licence on or after the 1st January 2014 shall obtain a UK DVLA Driving Licence prior to the Hackney Carriage/Private Hire Drivers Licence being issued.

If a licensed driver cannot obtain a UK Driving Licence before their existing Hackney Carriage or Private Hire drivers licence expires the new licence will be issued on the condition that a UK Driving Licence is obtained and produced to the Council within three months.

ANNEX D

All non UK, EC/EEA, exchangeable licence holders will be required to submit their original EC/EEA driving licence on application for a Hackney Carriage/Private Hire driver's licence.

19. That all applicants for combined Hackney Carriage/Private Hire driver's licence have held a UK full driving licence (or an EU equivalent or exchangeable driver's licence) for a minimum of three years, and must normally have attained the age of 21.
20. All new applicants for a combined Hackney Carriage/Private Hire Drivers Licence must have completed a Bath & North East Somerset Council Drivers Assessment Course training prior to submitting an application for a combined Hackney Carriage/Private Hire Drivers Licence. This course will be completed at the expense of the applicant and a certificate of completion must be produced at the time of application.
21. That all driver's submit a Group 2 Vocational Driver Medical Certificate, on the prescribed form, on first application and on the first application after the 45th birthday and every 5 years thereafter until the age of 65 and every year thereafter. If so required the applicant shall, whether or not medical evidence is presented by the applicant, submit to an examination by a Council appointed Medical/Occupational Health professional to assess the applicant's fitness to drive a licensed vehicle.
22. That all new applicants for a combined Hackney Carriage/Private Hire drivers licence produce to the Council the original Enhanced Disclosure & Barring Services Certificate obtained as part of the application process. This Certificate must be produced to the Council no later than 30 days from the date of the certificate. Applicants who are unable or unwilling to produce the certificate within 30 day of issue will have their applications referred to the relevant Council Sub-Committee for determination.
23. That all holders of a combined Hackney Carriage/Private Hire drivers licenses will be subject to an Enhanced Disclosure & Barring Service check every three years from the date of the first licence issued. It shall be the responsibility of the Licensee to ensure that they are registered with the Disclosure & Barring Service's online checking service and to keep the registration current as long as they continue to hold a combined Hackney Carriage/Private Hire drivers licence issued by the Council.
24. Renewal applications will be delayed for existing Licensees if at the time of a renewal application for a combined Hackney Carriage/Private Hire drivers licence the Council is unable to check the status of the last Disclosure & Barring Service Certificate issued in respect of the applicant using the online checking facility, due to the applicant not being registered with the Disclosure and Barring Service. If an online check is not available due to the applicant not being registered a new Enhanced Disclosure & Barring Service Certificate will need to be obtained by the applicant prior to a licence being issued. No licence will be issued until the applicant produces the valid Enhanced Certificate to the Licensing Office.
25. That all new applicants for combined Hackney Carriage/Private Hire driver's licences undergo a local area knowledge test which will include questions on the law pertaining to licensed vehicles and drivers, local licensing conditions and the highway code and will include a practical route test taken in a vehicle supplied by the applicant. Applicants who fail any part of the knowledge test may retake the knowledge test, however, should the applicant fail a second test a minimum period of three months shall elapse before a third test can be

ANNEX D

taken. Applicants who fail the knowledge test three times will have their application terminated and any refundable portion of the fee refunded. Any applicant who has failed the test for a third time may not reapply for a driver's licence until a period of not less than 12 months has elapsed, whereupon they may submit a new application.

26. That all Operators, Private Hire Driver and Vehicle licenses issued by Council are subject to a penalty point scheme as detailed in the section below.
27. That all Hackney Carriage Driver licenses issued by the Council are subject to byelaws made by the Council.

That any application which falls outside of this Policy, which includes applications for driver's licences from applicants where criminal convictions, formal cautions or fixed penalty notices are disclosed, or have been "objected to," is referred to the relevant Licensing Sub Committee for determination.

November 2013

PENALTY POINT SCHEME

Introduction

1. Licensed Vehicles, Driver's and Operators are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, and conditions attached to a licence by the Council.
2. The primary objective of the penalty point scheme is to improve levels of compliance and help improve the standards, safety and protection of the travelling public.
3. The penalty point scheme works in conjunction with other enforcement options. It provides a formalised stepped enforcement plan designed to record incidences of bad behaviour so as to ascertain whether the licensee continues to be a fit and proper person to hold a licence. It does not prejudice the Council's ability to take other actions.
4. Penalty points remain on a licence for a period of twelve months from date of imposition. As older points become spent by passage of time they are excluded from the running total recorded on a licence.

Issue of Penalty Points

1. Where concerns about a licensee's conduct or the condition of the vehicle are brought to the Council's attention or the Council becomes aware that a Licensee has committed an offence, been given a formal caution, received a Fixed Penalty Notice, breached the conditions of the licence or is the subject of a complaint the Licensee will be asked to attend the Council offices for an interview, with the vehicle if appropriate. Once investigations are completed, letters will be sent out detailing the outcome of the investigation and a permanent record kept on the licensing file. The outcome of the investigation may result in one or more of the following: the Officer may take no further action, issue a formal warning, attach penalty points, issue a s68 Local Government (Miscellaneous Provisions) Act 1976 stop notice, issue prosecution proceedings and or refer the matter to the relevant Licensing Committee for the consideration of a warning as to future conduct, suspension, revocation or refusal to renew a licence.
2. Where a licensee accumulates more than 12 penalty points in any twelve month period, the matter will be referred to the relevant Licensing Committee for determination as to a licensee's fitness to continue to be licensed. The Committee may issue a warning, suspend, revoke or refuse to renew a licence in accordance with this Policy depending on the individual circumstances. The determination will take into account all the circumstance including previous conduct of the licensee.
3. Penalty points issued to a licensee will be confirmed in writing within 14 days of the decision to issue points.
4. The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws or regulations.

Any disputes regarding the issuing of penalty points will be referred to the Service Manager who will have the discretion to award a greater or lesser number of points than is displayed on the tariff, if the complaint or breach is upheld. Licensees shall have twenty one days from the date of issue of penalty points to appeal against the decision. An appeal must be made in writing.

POLICY RELATING TO PREVIOUS CONVICTIONS, CAUTIONS, AND FIXED PENALTY NOTICES IN RELATION TO FITNESS TO HOLD LICENCES

Introduction

Each application will be determined on its own merits bearing in mind all the circumstances of the application.

Hackney Carriage and Private Hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that a conviction is never spent and can therefore be taken into consideration in the determination of an application.

In terms of this policy any reference to conviction includes formal police cautions and fixed penalty notices issued by a police constable, whether for driving or any other offence.

This policy shall apply to all new applicants and any application by a current holder for a renewal of a licence. Any reference to an applicant shall also mean any person currently holding a combined Hackney Carriage/ Private Hire driver's licence, or Private Hire Operator's licence.

The Council must be satisfied that all those it licenses are fit and proper persons. A criminal record check is an important tool in the fit and proper person assessment process. This policy gives guidance on the extent to which an applicant's criminal and driving records can be used when assessing an applicant's/licensee's fitness to hold a licence issued by the Council. The policy also sets out the minimum period of time the Council expects an applicant to remain free from conviction, caution or fixed penalty notice before he/she may be considered fit and proper.

The policy will apply in the following situations: when a criminal record check discloses an applicant has received any conviction or caution. When the Council is informed that a licensee has received any conviction, caution or fixed penalty notice and when a subsequent criminal record check discloses a conviction or caution has been obtained during the period of an existing licence.

Applications from applicants disclosing an history of offending showing convictions and or formal police cautions falling within or outside of this policy will be referred to the relevant Licensing Sub-Committee for determination.

General Policy

1. Each case will be decided on its own merits. Although an applicant may have convictions falling within the guidance set out in this policy, the Council may depart from this policy having had regard to the full facts of the case and having taken account of any mitigating or other circumstances put forward by the applicant. Should the Council depart from this policy it will give reasons for so doing.

2. An applicant with convictions is not permanently barred from obtaining a licence but would be expected to have remained free of conviction for the period of time set out in this policy. However, the overriding consideration in determining whether or not to grant a licence will be the protection of the public.
3. Where any conviction has resulted in a term of imprisonment, the time periods set out in this policy run from the date of conviction.
4. Notwithstanding the periods set out below, during which an applicant is expected to remain free from conviction, the nature, seriousness, frequency of offending and any mitigating circumstances put forward will always be taken into consideration when determining whether an applicant is a fit and proper person to hold a licence.
5. Bath & North East Somerset Council will expect that an applicant will not -
 - (a) have been convicted of three or more minor motoring offences during the previous three years;
 - (b) have been convicted of a serious motoring offence during the previous five years;
 - (c) have been refused or had revoked by the Traffic Commissioners an HGV or PSV Licence within the previous three years.
 - (d) have been cautioned by the police for an offence during the previous two years;
 - (e) have been convicted of an offence during the previous three years;
 - (f) have been convicted of a serious offence for five years
 - (g) have been convicted of a sexual offence within the previous five years;
6. A serious view will be taken of any conviction occurring whilst the person holds a current licence.

A serious view will be taken of any conviction obtained by a licensee whilst he or she is acting in the course of their employment as a licensed Driver or Operator.
7. Where there is evidence suggesting that the safety of the travelling public is at risk and it is in the interests of public safety a driver's licence may be suspended immediately by an authorised officer. The matter will then be referred to the appropriate Committee for consideration. Immediate suspension should be expected in any case involving assault or involving indecency of any description.
8. The above examples are not exhaustive and the Council may depart from this policy in exceptional circumstances if it is just and reasonable to do so. Should the Council depart from this policy it will give reasons for so doing.

9. The following examples may afford a general guide on the action to be taken where convictions or police cautions are revealed:—

Sexual Offences

Drivers of licensed vehicles frequently carry lone children, women and vulnerable persons. Applicants with convictions for sexual offences or convictions of a sexual nature must show a period of at least 5 years free of conviction before their application can be considered.

A conviction for a sexual offence or of a sexual nature will be viewed seriously. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

An application from an applicant who is the subject of a notification requirement or notification order under the Sexual Offences Act 2003 shall be referred to the relevant Licensing Sub-Committee for determination.

Where there is more than one conviction for this type of offence a period of 10 years should elapse before an application is considered. Any such application shall be referred to the relevant Licensing Sub-Committee.

An application from a current licensee with one such conviction or where the offence occurred whilst acting in the course of their employment as a Council licensee shall be referred to the relevant Licensing Sub-Committee for determination.

Drug Offences

Any conviction involving the misuse of drugs will be viewed seriously. An applicant with such a conviction will be expected to show at least 3 years free of conviction before being considered for the grant of a licence. Where a course of rehabilitation has been ordered or undertaken an applicant will be expected to show a period of at least 5 years free of conviction before being considered for the grant of a licence.

Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

An application from a current licensee with one such conviction or where the offence occurred whilst acting in the course of their employment as a licensee shall be referred to the relevant Licensing Sub-Committee for determination.

Violence Against the Person

Drivers are often placed in confrontational situations with their passengers. It is important that they have the ability to deal with such situations in a calm and polite manner.

Where an applicant has a conviction for an offence of violence against the person such as wounding with intent, grievous bodily harm or assault occasioning actual bodily harm they should have remained free from conviction for a period of 5 years. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

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Where an applicant has a conviction for an offence such as assault or common assault they should have remained free from conviction for a period of 3 years. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

An application from a current licensee with one such conviction or where the offence occurred whilst acting in the course of their employment as a Council licensee shall be referred to the relevant Licensing Sub-Committee for determination.

Dishonesty

Licensed drivers are in a position of trust. They often carry unaccompanied goods and are aware of empty properties, for example after taking its occupant to the airport or railway station. Moreover, it is comparatively easy for an unscrupulous driver to exaggerate a fare by taking an unusual route or demand more than the legal fare as overseas/out of town visitors are often unfamiliar with a city's layout and or confused by the change in currency becoming "fair game." For these reasons the honesty of an individual is of paramount importance when determining the grant of a licence.

Where an applicant has a conviction for offences involving an element of dishonesty they should have remained free from conviction for a period of 3 - 5 years. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

An application from a current licensee with one such conviction, or where the offence occurred whilst acting in the course of their employment under a Council licence, shall be referred to the relevant Licensing Sub-Committee for determination.

Intoxication Through Drink or Drugs

An isolated conviction for an offence aggravated by drink or drugs should not necessarily preclude the grant of a licence although the Council must be satisfied that it was an isolated occurrence.

Should, however, an applicant have more than one conviction for an offence aggravated by drink or drugs, particularly if close together and within the preceding three years, the Council will take a more serious view of the matter.

If there is any history of alcoholism or drug addiction, or a suggestion that the applicant has been or is in recovery from such an addiction, then a period of 5 years should have elapsed since the last conviction for an offence aggravated by drink or drugs.

An application from a current licensee with such convictions, or where the offence occurred whilst acting in the course of their employment under a Council licence, shall be referred to the relevant Licensing Sub-Committee for determination.

If so required the applicant shall, whether or not medical evidence is presented by the applicant, submit to an examination by a Council appointed

Medical/Occupational Health professional to assess the applicant's fitness to drive a licensed vehicle.

Traffic Offences

A serious view will be taken of convictions of driving or being in charge of a motor vehicle while under the influence of drink or drugs

Where an applicant has been convicted of a serious motoring offence, for example driving or being in charge of a motor vehicle while under the influence of drink or drugs, dangerous driving, failing to stop or report an accident then a period of 5 years should have elapsed since the last conviction. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

Where an applicant has been convicted of more than one serious motoring offence in the preceding 5 years grave concerns will arise about the applicant's fitness to be licensed and the Council would expect a period of 5 years should have elapsed since the last conviction. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

Where the applicant was ordered to re-sit a driving test or an extended driving test after disqualification, the period of 5 years should have elapsed since the last conviction and any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

An application from a current licensee with one serious motoring conviction or where the offence occurred whilst acting in the course of their employment as a licensee shall be referred to the relevant Licensing Sub-Committee for determination.

Applications will not normally be entertained from applicants who have more than one previous conviction for driving with excess alcohol, especially where they have been ordered by the court to undertake any form of rehabilitation. Any application in these circumstances will be referred to the relevant Licensing Sub-Committee for determination.

Where an applicant has been convicted of minor traffic offences, for example obstruction, parking or speeding offences, which are dealt with by way of driver awareness courses, fixed penalty notices, fine and or endorsement this will not normally be a bar to the grant of a licence provided there have not been more than 3 offences within the three years immediately preceding the application. Any application disclosing such offences will be referred to the relevant Licensing Sub-Committee for determination.

Where sufficient penalty points have been endorsed on an applicant's driving licence requiring a period of disqualification from holding or obtaining a driving licence the Council would expect a period of at least six months should have elapsed since the restoration of the combined Hackney Carriage/Private Hire driving licence.

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