

Licensing Sub-Committee

Date: Thursday, 14th September, 2017
Time: 10.00 am
Venue: Kaposvar Room - Guildhall, Bath

Councillors: Les Kew, Deirdre Horstmann and Caroline Roberts

Chief Executive and other appropriate officers
Press and Public



NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

Paper copies are available for inspection at the **Public Access points:-** Reception: Civic Centre - Keynsham, Guildhall - Bath, The Hollies - Midsomer Norton. Bath Central and Midsomer Norton public libraries.

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

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.

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4. **Public Speaking at Meetings**

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. They may also ask a question to which a written answer will be given. **Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.** Further details of the scheme:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

5. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are signposted. Arrangements are in place for the safe evacuation of disabled people.

6. **Supplementary information for meetings**

Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

Licensing Sub-Committee - Thursday, 14th September, 2017

at 10.00 am in the Kaposvar Room - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

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

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

3. DECLARATIONS OF INTEREST

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

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

(b) The nature of their interest.

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

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

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

5. MINUTES OF THE MEETING OF 17 AUGUST 2017 (Pages 5 - 18)

6. TAXI PROPRIETOR'S PROCEDURE (Pages 19 - 22)

The Chair will, if required, explain the procedure.

7. CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A PRIVATE HIRE VEHICLE (Pages 23 - 50)

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, 17th August, 2017, 10.00 am

Councillors: Les Kew (Chair), Deirdre Horstmann and Caroline Roberts

Officers in attendance: Carrie-Ann Evans (Deputy Team Leader (Barrister)), John Dowding (Senior Public Protection Officer), Ian Nash (Public Protection Officer (Licensing)) and Andrew Tapper (Public Protection Officer)

12 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

13 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

14 DECLARATIONS OF INTEREST

There were none.

15 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

16 MINUTES OF 6TH JULY 2017

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

17 TAXI PROCEDURE

The Chair drew attention to the procedure to be followed for agenda items 8 and 9.

18 EXCLUSION OF THE PUBLIC

The Committee having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, **RESOLVED** that the public should be excluded from the meeting for the following two items of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act, as amended.

19 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR D A H

Mr D A H confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer summarised the report and circulated a DBS certificate in respect of Mr D A H, a printout of his DVLA record and a written

statement submitted by him. The meeting was adjourned to allow Members time to study these documents.

After the meeting was reconvened, Mr D A H made a statement and was questioned by Members. He made a closing statement.

Following a further adjournment the Sub-Committee **RESOLVED** that Mr D A H was a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence, subject to the satisfactory completion of required tests. Authority was delegated to the Public Protection Officer accordingly.

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 or not the applicant was a fit and proper person to hold a licence considering all relevant circumstances.

Members took account of the applicant's written statement, oral representations and balanced these against the information disclosed by Disclosure and Barring Service and DVLA checks.

The applicant indicated that his previous caution arose out of situation where he was protecting his family. In relation to the speeding convictions these were not obtained whilst he was acting as a BANES licensed driver and were unfortunate incidents where he was wrong about the speed limits that were in force and had thought he was driving within the limits. He also indicated that he was being put under pressure by his former employer to return from jobs quickly.

Members noted that Mr D A H's caution was from 2011 and was not therefore, caught by the policy; he had been caution free for the period anticipated in the Policy. In relation to the speeding convictions, Members noted that the Policy expects applicants will not have been convicted of three or more minor motoring offences during the previous three years however, Members also noted that they may depart from the 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.

In this case Members found that the speeding convictions were not obtained whilst Mr D A H was acting as a BANES licensed driver. Whilst Members take a dim view of motoring convictions, they were satisfied having heard from Mr D A H that he has learnt his lesson and would have to take extra care with his driving given that he has a number of DVLA penalty points hanging over him.

Accordingly, Members found Mr D A H is a fit and proper person to hold a Combined Hackney Carriage/Private Hire Driver's Licence.

Authority delegated to the Public Protection Officer to grant the licence subject to satisfactory completion of the required tests.

20 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR M A S

Mr M A S confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer pointed out that the title of the report was incorrect and should be "Consideration of Conviction obtained". He summarised the report and circulated a printout of Mr M A S's DVLA record which had been obtained that morning. The meeting was adjourned to allow Members time to study this document.

After the meeting was reconvened, Mr M A S made a statement and was questioned by Members. He made a closing statement.

Following a further adjournment the Sub-Committee **RESOLVED** that Mr M A S continued to be a fit and proper person to hold a Combined Hackney Carriage/Private Hire Driver's Licence, but issued a warning as to his future conduct.

Reasons

Members have had to determine what action, if any, to take against the holder of a Combined Hackney Carriage/Private Hire Driver's Licence who it seemed had received three speeding convictions within a three year period. 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 or not the licensee was a fit and proper person to continue to hold a licence considering all relevant circumstances.

Members took account of the licensee's oral representations and balanced these against the information disclosed by the DVLA checks.

The licensee indicated that in relation to the speeding convictions he was only aware of having received two and had six DVLA penalty points on his licence. In relation to the complaint regarding his conduct he held his hands up for that and apologised for his wrongdoing.

Members noted that Mr M A S had received a written warning from BANES in February of this year for text messages that he had sent related to a contract he had been engaged in. In relation to the speeding convictions, Members found having considered an up to date DVLA print and oral representations from the licensee that on balance there only seem to be two motoring convictions on his DVLA licence and was not therefore, caught by the Policy. Members noted that Mr M A S had complied with the conditions of his licence by notifying the Council of a speeding conviction.

Accordingly, in all the circumstances Members found Mr M A S is a fit and proper person to continue to hold a Combined Hackney Carriage/Private Hire Driver's Licence but warned him to take care with his conduct whilst dealing with customers and in relation to speed limits.

21 RETURN TO PUBLIC SESSION

The Sub-Committee returned to public session.

22 LICENCE REVIEW PROCEDURE

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

23 APPLICATION FOR REVIEW OF A PREMISES LICENSE FOR RISING SUN, CHURCH STREET, PENSFORD, BRISTOL BS39 4AQ

Applicant for Review: Mr Kenneth Jones

Other Parties: Cllr Liz Richardson and Mr Stephen Thier

License Holder: Joanna Drury, accompanied by her husband Mike Radford

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

The Public Protection Officer summarised the report. The Sub-Committee noted that the grounds for the review were the alleged undermining of the licensing objectives of the Prevention of Public Nuisance and the Prevention of Crime and Disorder. Two representations in support of the review and 102 representations in support of the premises had been received from Other Persons. There had been no representations from the Responsible Authorities. The Sub-Committee was invited to determine the application.

The Applicant for Review stated his case. He said that he was speaking on behalf of his wife and himself. Contrary to remarks made on social media by misinformed people, he did not wish the premises to lose its licence and be closed. However, the Rising Sun was a source of noise nuisance, which was impacting adversely on his wife and himself. People had moved away or had been deterred from purchasing property in the vicinity of the premises because of the noise. For three years he had requested the license holder and her husband in person and by telephone to close windows and doors when noisy events were taking place, or when amplified music was played. They had either ignored his requests, or had only closed doors and windows for a short period before reverting to the previous practice. New sash windows had been installed in about 2014, which had resulted in an increase in noise nuisance. The license holder appeared to have no regard or respect for those living in nearby properties. The volume of amplified music should be monitored and controlled. On one occasion the license holder told residents that the Environmental Health Team had advised that they should keep their own doors and windows shut, rather than the Rising Sun. This was unacceptable. Not even the application for a review had caused any change of behaviour at the Rising Sun; the previous day all the windows of the Rising Sun had been open. A wide variety of noise nuisance emanated from the premises. Some events, such as quiz nights, were accompanied by loud shouting and cheering. Sometimes he and his wife had to wear ear plugs in order to be able to sleep. They were also often woken by early-morning deliveries and waste collection vehicles, sometimes as early as 5.30am. These vehicles sometimes parked immediately outside his property and blocked the road, so that other vehicles had to mount the pavement causing damage to his property. On occasions customers coming from the pub had used his garden wall and front

window sills as a table for their drinks. Because he had no response to his requests to the licence holder, he had had no option but to apply for a review of the licence. He did not wish to affect the profitability of the business, but requested that conditions be imposed that mitigated the impact of activities at the premises on the health and wellbeing of wife and himself and on other residents.

The applicant for review was questioned by members.

Q: What activities had been taking place the previous day when the windows had been open?

A: Just ordinary pub activities, which were producing noise. People raising their voices. A loud general hum.

Q: You object to that kind of noise?

A: Yes, when it comes right into my front room, because the doors and windows of the Rising Sun are open. Activities like quiz nights give rise to noise nuisance.

Q: What kind of damage occurs to your property?

A: It's not the pub's fault. It's the result of the dray vehicle parking in the road. This forces other vehicles to mount the pavement right next to our bedroom window. Fire tenders have been stuck on the pavement near my property.

Other Persons stated their cases.

Cllr Liz Richardson made a statement on behalf of Cllr Paul May, the Ward Councillor for Publow and Whitchurch. Cllr May wished to support the continuance of the premises licence. He had received many expressions of support for the premises from members of the public. He believed that it is well-run establishment. It is recognised as being part of the community it serves. This review application had been discussed at the most recent parish council meeting of the 10th July, at which both the applicant for review and the licence holder had been present. The Parish Council agreed that the pub is now a great asset to the village and support its position in the community. It was suggested that the Parish Council support individually as residents of the Parish.

Cllr Richardson then made her own statement. She said that had resided within walking distance of the premises for just under six years. At the time she had moved in, the premises had been under different ownership and had been a very different establishment from what it is now. It had previously been rather grotty, to understate the situation. Jo Drury and her husband had really turned it round. It was now a thriving local rural business. As can be seen from the representations, it enjoys a high level of support from the local community. Many of the representations make very positive comments about the licence holders. The business had grown hugely under Jo and Mike's management, which shows the level of support from the community. When they took over, Jo worked in the kitchen and Mike served at the bar. Now the Rising Sun employs seventeen local people, not all full time. They have done this without impacting on the other three pubs in the area. She had never heard a bad word about the licence holder. She believed that it is a well-run pub. It is very friendly and offers excellent food, which they aim to source sustainably from the local area. It is not just a business; Jo and Mike are involved in the wider community. The Rising Sun is their family home, the place where they have chosen to live and raise their children. Events held at the premises are focussed on families having a nice

time. They hold a monthly supper club, to which people come from far and wide. There are two grounds for this review. As for public nuisance, pubs are made or lost by their licence holders. When they thrive they attract more customers, when they don't customers drift away and they can ultimately close and change use. This is a thriving pub and has many customers, mostly happy people enjoying recreation. Surely public nuisance only occurs if noise levels are excessive and there appears to be no evidence that that is the case. The pub is no different from others in having deliveries and waste collections. Like many other rural pubs it is in the centre of a village with cottages all around it. As in many villages there are activities in the pub garden. As far as crime and disorder is concerned, the Responsible Authorities have made no representations to this application. She concluded by requesting that no change be made to the premises licence.

Steve Thier stated his case. He said that he had been a customer of the premises for over thirty years. He said he wished to pay tribute to the value and enrichment that Jo and Mike had brought to the pub. The previous owner of the Rising Sun had been past pension age, and had not been particularly interested in continuing to invest in it. The Rising Sun had always been important as a community centre. It was now very family friendly, and he and his partner took their children there. He had never seen any unreasonable behaviour at the premises, or heard threatening language or anything loud or outrageous. He had attended a quiz night about a month ago, at which there were a total of about twenty people. It had been run by the local tennis club, with all proceeds going to charity, as was the usually the case with quiz nights. Several times he had to ask the quiz master, who was sat a few feet away, to repeat the question, as he could not hear him. He was unable to understand the assertions made about unreasonable disturbance from the premises. There were wide benefits to the community from the operation of the premises. Locally-sourced food products were used in the kitchen. Local breweries were used to supply beer. Jo and others had invested a lot of time in tidying up the footpath by the river to improve access in the village. He urged the Sub-Committee not to change the premises licence.

In response to a question from the Chair, Mr Thier said that twenty people was a typical attendance at a quiz night.

The Applicant for Review asked about amplified sound at the quiz night. Mr Thier said that a small microphone was used. In reply to a further question he said that he had never witnessed an event at which the windows and doors had been fully open.

The License Holder stated her case. With the agreement of the applicant for review and permission of Members she submitted a petition on behalf of the premises and a map of Pensford showing the location of the Rising Sign and of the homes of the applicant for review and other residents copies of which are attached as appendices to these minutes. She was not permitted to submit a number of photographs in evidence. She then read from a prepared statement, which addressed each of the points made in the application for review.

1. Loud Music in Garden and Inside the Premises

We have four types of music. There is background music inside the premises played during opening hours, which is kept at a low level. Generally there is no music in the garden. Secondly, we have music for one-off social events, such as wedding receptions. The first wedding reception was in 2013, when the music finished at

00:30 and at 00:00 for the next two. A neighbour complained about noise from the first event, so we agreed to finish earlier in future. No complaints were received about the next two wedding receptions. Thirdly, we have music at community events, which are free to attend and are generally held on a Bank Holiday weekend. Live music was played at this year's New Year's Eve event until 01:00, despite which Mr Jones informed me at mediation that none of our music events this year had disturbed him. Finally, we have a late afternoon music session on the last Sunday of each month. This is often acoustic music. These sessions take place in the pub usually between 17:00 till 19:00 and we have not had any complaints about them. It is difficult to comment further on the allegations without specific examples. The Council advises Applicants for Review to complete and submit a log report, but none has been provided.

2. Loud Voices shouting, jeering and swearing

I strongly reject this allegation. I have two young children and we live directly above the pub and I would not allow such behaviour. Occasionally customers do shout and swear, but either I or my staff address this directly with the customer at the time. We give a warning the first time, and if the behaviour continues or recurs, the customer is asked to leave the premises. Again no specific examples have been provided by the Applicant for Review.

3 Delivery Vehicles arriving as early as 06:30

Delivery vehicles do sometimes arrive early, typically to supply fresh fish and fruit, which are delivered 3-4 times a week. We have asked suppliers if they can change the delivery time, but they cannot do so, because we are the first drop on their routes. We also ask that drops be made to rear of the premises, but this is often impossible because of the difficult access. The Post Office/village shop and a café are not far from the Applicant for Review's home, and they also have deliveries outside of usual business hours. There is also a main road to the rear of the Applicant for Review's home, which starts to get busy at this time of day.

4. Waste Collection and recycling Vehicles picking up as early as 05:30

When I set up the contract with the waste removal company, I asked them not to remove waste before 09:00. I have emails in which I subsequently repeated this request. Early morning collections are also sometimes made from the Miners Coffee Shop. I was awoken at 06:15 on 14th August 2017 by a waste collection from the Coffee Shop.

5. Dray Deliveries can block the Road forcing Vehicles to mount the pavement, causing damage to the Applicant for Review's Property

I have photos showing that vehicles are able to pass the dray delivery without mounting the pavement. The road directly outside the Rising Sun is the widest part of Church Street. I have accepted Amazon deliveries for the Applicant for Review, and the delivery vehicles can park in the same way as the dray deliveries, so I am puzzled that he singles out the dray deliveries for comment. I am not aware of damage to his property and no evidence has been provided of this. Any decisions to drive on pavements are made by the driver of the vehicle.

6. We have not responded to requests from the Applicant for Review to close windows to contain noise

The Applicant for Review has spoken to my husband and myself on various occasions, but it is not true that we have not taken action in response to his requests. While he has sometimes been somewhat aggressive, it is important to us to try to keep our neighbours as happy as possible. We want to be comfortable in our own home, and we want our neighbours to be our customers. I have asked him how we could address his complaints, and he has asked us to have our windows and doors shut when music is being played. We did this for the next event, and yet he still complained about loud music. We kept our windows shut, but he had his open. At no time before this review had he or his wife approached us about their suffering discomfort on a 'near daily basis'.

7. The Mediation Meeting

I do not understand how his statement about this is related to any of the licensing objectives. I requested my husband to attend this meeting as he is a fellow director of the business. Mr Jones said at the meeting that on Christmas Eve he had been woken by someone knocking at the door and swearing, and, assuming it was my husband, he had called the Police. In fact it was Mr Jones' son-in-law who had been swearing. At the meeting Mr Jones said that at the review he would ask for restrictions on delivery and waste collection times, for a noise limiter to be put on for all outdoor music events, and for doors and windows to be kept closed when the pub is busy. But then Mr Jones explained that it is the "general noise" emitted when the pub is busy which is actually the subject of his grievance. We asked when he was last disturbed by our outdoor music, and he said this had been August Bank Holiday 2016. Since then we have four more events, none of which have disturbed him.

8. Applicant for Review said he would draft some conditions to be proposed at the Review

I have received no suggested conditions from him. He said he would propose conditions that would not have a serious impact on the pub's profitability. I submit that the profitability of the Rising Sun has no relevance to the Review or the licensing objectives. Mr Jones told me that he thought that stopping music earlier than midnight would not affect trade. I do not agree; we would be uncompetitive if we could not hold events at times that other venues do.

In reply to a question from the Applicant for Review the Licence Holder stated that, unlike most pubs, the Rising Sun does not have a beer cellar. This was filled in with concrete in about 1968. The beer storage area, which generates a lot of heat, is directly behind the bar room. The premises are also bordered by a stream, so there are no windows at the back of the public area. It gets very warm in the pub, so windows have to be opened to keep customers cool. They had examined the possibility of air conditioning, but the expense would be huge. It would have to be installed at the front of the pub and planning permission for this would be unlikely in a Conservation Area. The restored sash windows have been provided for the comfort of customers.

Members put questions to the License Holder.

Q: What type of background music is played at the premises?

A: Mostly folk and pop.

Q: What kind of music do you have in the garden?

A: For special events we have one or two bands playing pop music, not rock music. The bands would be amplified.

Q: What restrictions do you put on wedding events?

A: We have a wedding a week next Saturday. They are an older couple and they were happy to book it knowing that the music would finish at 22:00.

Q: How about a young couple?

A: We would stop the music at 00:00 (midnight).

Q: Would that be a disco?

A: The first one we held had a disco. We received complaints and have not had a disco since. The two after that were bands, which ceased at 00:00. Bands don't blare it out like a DJ. All music in the garden is provided by folk bands, and might be acoustic or amplified.

Q: How often has music been performed till 01:00 as permitted by the licence?

A: Never.

Q: Have you ever been contacted by Environmental Health about noise?

A: We did receive a letter from an Environmental Health Officer about an event which went on into the early hours of a Sunday morning, but this did not take place at the Rising Sun. We had been mistakenly blamed for a 21st birthday celebration taking place in a neighbour's garden.

Q: When are windows opened and when are they kept closed?

A: July was a lot cooler than May and June. When we had the conciliation meeting, it was admitted that no disturbance had been heard in the last couple of weeks. This was because it had been cooler and the windows had not been open so much. It can get very warm when twenty people are inside the pub. We open the windows a little, and the customers open them fully to get comfortable. We open the windows in the morning to allow fresh air, and perhaps the noise of the vacuum cleaner can be heard from outside. In September and October the windows are not open half so much.

The Licence Holder summed up. She submitted that the Applicant for Review had failed to supply details about specific examples of disturbance, which made it difficult for her to respond. A number of the points he had made could not be linked to the licensing objectives. She was not aware that he had made any specific proposals to address his concerns. She was extremely grateful for the many expressions of support she had received from the community. She drew attention to a representation of support from a neighbour with which the Rising Sun shared a party wall. She also submitted that the claim by one of the Other Persons that he had left the village because of noise from the premises was untrue, as he visited the premises daily until his departure. She also drew attention to the representation from Mr Gardner, the former licensee of the Rising Sun, which states that no complaints

about disturbance at the premises had been received until the Applicant for Review took up residence in the village. She requested the Sub-Committee to note the absence of representations from the Responsible Authorities. She said that she took her responsibilities as a licence holder very seriously. The Rising Sun was not just a livelihood, it was also a home. She requested that her premises licence be left as it was.

The Other persons did not wish to sum up their cases.

The Applicant for Review said that the opening of the sash windows at the premises was having a serious effect on his wife's and his own health. Noise was sometimes constant from 14:00 until the windows and doors were shut. Sometimes he and his wife stayed elsewhere when an event was to be held. He requested that the volume of music at the premises be reduced a little and doors and windows kept shut.

Following an adjournment the Sub-Committee **RESOLVED** to take no action in respect of this application.

Reasons

Members have had to determine an application by Mr Kenneth Jones for a review of The Rising Sun, Church Street, Pensford's premises licence. In doing so they took account of the Licensing Act 2003, Statutory Guidance, the Council's Statement of Licensing Policy and Human Rights Act 1998.

Members are aware that the proper approach under Licensing is to be reluctant to regulate in the absence of information that the Licensing Objectives raised are being undermined. Further, that they must only do what is appropriate and proportionate in the promotion of the Objectives.

The Applicant

Mr Jones applied for the review of the premises licence on the grounds of the prevention of crime and disorder and the prevention of public nuisance. Reasons cited included, very loud music being played in the gardens and inside the premises beyond midnight, loud voices shouting, jeering and swearing emanating from the premises on a near daily basis. Delivery vehicles arriving as early at 6.30am and waste and recycling collections picking up as early at 5.30am. Dray deliveries blocking the road forcing vehicles to mount the pavement to pass which is causing damage to his property.

Mr Jones stated however, that he was not suggesting a revocation of the licence and did not wish to affect the profitability of the premises.

The Other Persons

Councillor Liz Richardson and Mr Thier spoke in support of the premises. Councillor Richardson described the premises as very well run and said that the licence holders should be applauded. She expressed the view that she could not see how public nuisance was made out, and noted that there had been no representations from Responsible Authorities in relation to crime and disorder. Mr Thier described how he takes his family and children to the pub and what a valued community asset it is.

The Licensee

Ms Drury as Licence Holder responded to each of the 8 points made in Mr Jones' application for the review. She asserted that as Licence Holders they act to promote the licensing objectives and do not breach the terms of their licence. She noted that Mr Jones does not provide clear evidence of specific examples of how the premises are undermining the licensing objectives of prevention of public nuisance and prevention of crime and disorder. Ms Drury explained that as premises Licence Holders they do all they can to be considerate to their neighbours and have made arrangements so as to cause the least disruption possible with deliveries and waste collections. Ms Drury asserted that a number of alleged incidents referred to by Mr Jones could not be linked to her premises and that there are a number of other businesses in close proximity to the pub. Ms Drury did not accept that there was anti-social behaviour as described by Mr Jones and questioned how she could run a successful business if such behaviour was allowed to take place.

Ms Drury asked Members not to make any changes to their licence.

Members

Members were careful to take into account only relevant representations and to disregard irrelevant representations. With the consent of Mr Jones they allowed the petition in support of the premises and a location plan to be introduced as additional information at the hearing. Mr Jones had sight of the petition in advance of the hearing. Ms Drury sought to introduce photographs as additional information however Mr Jones did not consent to their introduction and they were not therefore, taken into account.

Members carefully balanced the representations made by the Applicant Mr Jones, the representations in support of the review application, the representations of the Licence Holder and Other Persons.

Members noted that there were no representations from Responsible Authorities.

Members noted that following changes made to the Licensing Act 2003 by deregulation legislation, no licence is required for live music and amplified music up until 2300 hours, in certain circumstances.

Members noted that there were 102 written representations from Other Persons in support of the premises. Within these representations the landlady and landlord were stated to be professional, conscientious and highly regarded. They were noted to be intolerant of drunken, loud and abusive behaviour. The premises were described as well run; not noisy or troublesome but instead a valued and a vibrant community asset. Other Persons stated that any music is concluded at times within the terms of the licence and often, well before the time permitted by the licence.

Having weighed in the balance the written and oral representations before them Members found that the Licensing Objectives of Prevention of Public Nuisance and Prevention of Crime and Disorder were not being undermined. Accordingly members have decided to take no steps on the review.

24 TABLES AND CHAIRS PROCEDURE

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

25 APPLICATION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT CAFFE NERO, 11 OLD BOND STREET, BATH BA1 1BP

Neither the applicant nor the objector was present. The objector had indicated that he would not be in attendance. Members heard from the Senior Public Protection Officer that the applicant had been notified of the hearing and had provided written representations in support of the application. Members considered whether or not they should proceed in the absence of the applicant and were satisfied that there was be no prejudice in doing so, as she was made aware of the hearing and had put her case in writing.

The Senior Public Protection Officer summarised the report and provided Members with a copy of the written representations from the applicant, which had been copied to the objector in advance of the hearing. This is attached as an Appendix.

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

Reasons

Members have had to determine an application to place 3 tables along with appropriate seating on the highway to the front of the premises at 11 Old Bond Street, Bath. In doing so they took account of the Highways Act 1980 and the Human Rights Act 1998 and balanced the representations from the objector against the application and its background.

In reaching a determination members had to decide whether the application was likely to obstruct the free passage of pedestrians, cause a public nuisance in highway terms or be a hazard in its real sense.

Members considered whether or not they should proceed in the absence of the applicant however, they were satisfied that they had received notice of the hearing, following which they had submitted written representations in respect of their application. The objector had indicated they would not be in attendance and had been sent a copy of the applicant's written representations. Whilst Members did not hear oral representations on behalf of the applicant or objector they took into account their written representations.

Members noted that there were no objections to the application from the highways authority.

Members noted that the conditions of the permit sought would address the concerns raised by the objector and in the event that those were not complied with, section 115K of the Highways Act 1980 makes provision for enforcing such non-compliance.

Members decided to grant the permit as proposed on the basis that they did not find that the application was likely to obstruct the free passage of pedestrians, cause a public nuisance in highways terms or be a hazard in its real sense.

Authority is delegated to the Public Protection Officer to issue the permit subject to the standard terms and conditions.

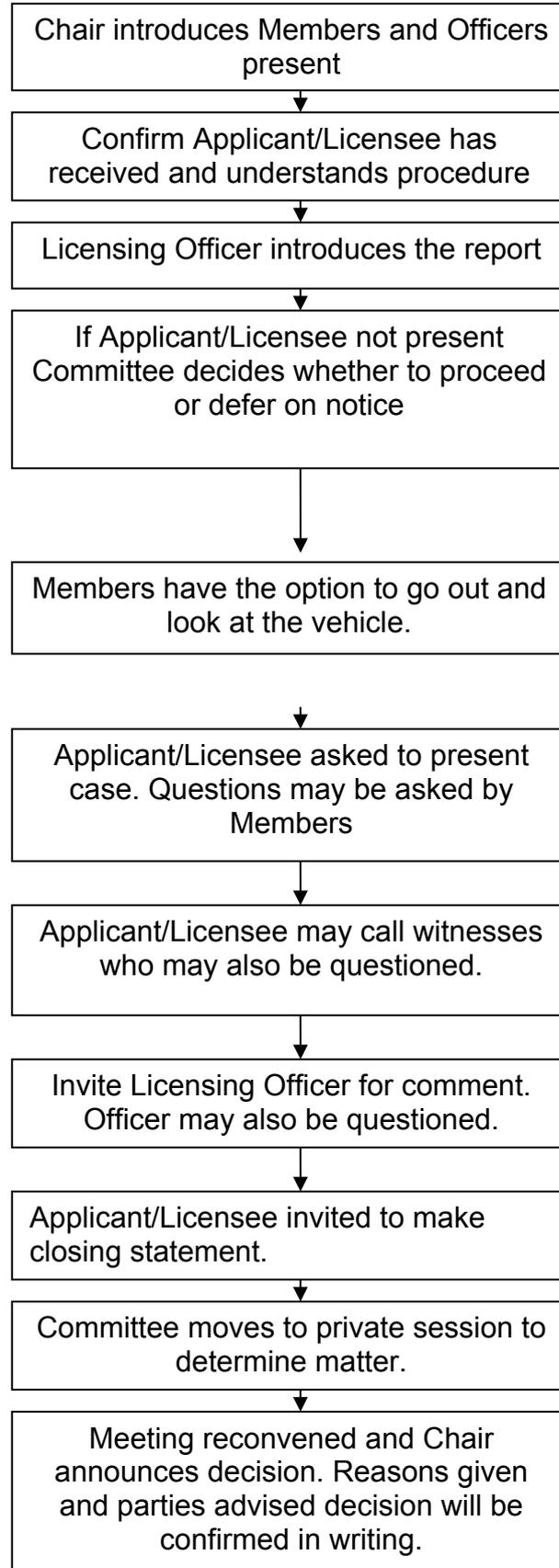
The meeting ended at 1.17 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

**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 14th September 2017	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A PRIVATE HIRE VEHICLE – Mr PB	
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 - 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 vehicle that is over 5 years old is suitable 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 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 the application will be referred to the relevant Council Licensing Sub-Committee for determination.

2 RECOMMENDATION

- 2.1 That the Sub-Committee determine the issue.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 There are no resource implications arising from this report.

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 Buckland applied for the grant of a Private Hire vehicle licence on the 16th August 2017. (A copy of the application form is produced at Annex A).
- 5.2 The application is for a Peugeot Partner which was first registered on the 22nd June 2012. At the time of application the vehicle was 5 years and two months old.
- 5.3 The current policy on Hackney Carriage and Private Hire Licensing Standards – Drivers, Vehicles and Operators states “*That all vehicles will normally be less than five years old when first licensed*”.
- 5.4 The standard conditions attached to the grant of a Private Hire Vehicle licence state “*The vehicle shall normally be five 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*”.
- 5.5 The vehicle is fully compliant in every other respect with the standard Private Hire licence conditions and has passed a licensed vehicle mechanical compliance check at an authorised garage on the 16th August 2017.
- 5.6 Mr Buckland bought the vehicle in good faith. However he was unaware the five year age limit was applicable from the date of first registration of the vehicle with the DVLA.
- 5.7 Mr Buckland believed that as the vehicle was first registered in 2012 then the vehicle would be within the five years old criteria.
- 5.8 The vehicle will be available at the meeting should Members require to inspect the vehicle themselves.

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 Paul Buckland
Address 11 Ludlow Close Frome
Somerset Post Code BA11 2ES
Telephone No. 01373 670006

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

Make Pugeot Model Partner Colour Silver Reg.No. SF12 LUY
Passengers 4 Doors 5 CC 1560

Year of Manufacture 2012 Plate No. (if applicable) 261

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

Name _____
Address _____
Post Code _____ Telephone No _____

- (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 prescribed 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. (Operate means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle.)

NAME OF LICENSED OPERATOR Abbey Taxis

ANNEX A

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 P. Beckford Date 16-8-17
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) 2016/ 2017 Total Fees Payable including roof sign on new application: £332 (New Application.) £100 (Vehicle Substitution) £203 (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

ANNEX B

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

ANNEX B

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.

ANNEX B

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).

ANNEX B

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.

ANNEX B

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

ANNEX B

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.

ANNEX B

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

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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

**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.

ANNEX C

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 lesser 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 Licences; 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 C

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

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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.

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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.

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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.

ANNEX C

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.

ANNEX C

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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 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

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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.