

AGENDA

Meeting: Licensing Committee

Place: West Wiltshire Room - County Hall, Bythesea Road, Trowbridge

Date: Monday 2 December 2019

Time: 10.30 am

Please direct any enquiries on this Agenda to Lisa Pullin, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713015 or email committee@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Allison Bucknell

Cllr Trevor Carbin

Cllr Sue Evans

Cllr Jose Green (Vice-Chairman)

Cllr Mike Hewitt

Cllr Peter Hutton (Chairman)

Cllr George Jeans

Cllr Jim Lynch

Cllr Leo Randall

Cllr Pip Ridout

Cllr Ian Thorn

Cllr Peter Evans

Substitutes:

Cllr Clare Cape

Cllr Ernie Clark

Cllr Anna Cuthbert

Cllr Gavin Grant

Cllr Howard Greenman

Cllr Nick Murry

Cllr Steve Oldrieve

Cllr Stewart Palmen

Cllr James Sheppard

Cllr Graham Wright

Cllr Atiqul Hoque

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Public Participation

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

AGENDA

1 **Apologies/Substitutions/Membership Changes**

To receive any apologies and details of any substitutions.

To note any changes to Committee membership.

2 **Minutes** (*Pages 7 - 16*)

To confirm and sign the minutes of the meeting held on 2 September 2019, (copy attached).

3 **Chairman's Announcements**

To receive any announcements from the Chairman.

4 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on **Monday 25 November 2019** in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on **Wednesday 27 November 2019**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Minutes of the Licensing Sub Committees** (*Pages 17 - 70*)

To receive and sign the minutes of the following Licensing Sub Committees:

Northern Area Licensing

15/10/19 Application for a Premises Licence, Calne Town Football Club, Bremhill View, Calne

Southern Area Licensing

16/05/19 Application for Premises Licence, MRH Durrington, Larkhill Road, Durrington

03/07/19 Application for a Variation of a Premises Licence, Cholderton Rare Breeds Farm, Beacon House, Amesbury Road, Cholderton

Western Area Licensing

30/04/19 Application for a Review of a Premises Licence, Stowford Farm, Farleigh Road, Wingfield, Trowbridge

Classification of a Film

15/10/19 Classification of a Film – Marcello, Marcello

7 **Update from the Licensing Authority Working Group** (*Pages 71 - 78*)

The Committee will receive an update from the Licensing Authority Working Group which met on 11 November 2019. A copy of the notes from the meeting are attached.

8 **Performance Data for Taxi Licensing Service - October 2019** (*Pages 79 - 86*)

The Committee will be asked to consider and note the performance data for the Taxi Licensing Service for October 2019.

9 **Adoption of the National Register of Taxi Licence Revocations and Refusals (NR3)** (*Pages 87 - 152*)

The Committee will be asked to consider the adoption of the use of the National Register of Taxi Licensing Revocations and Refusals Database. The Officers report is attached.

10 **Dates of Future Committee Meetings**

Members are asked to note the future meetings of the Licensing Committee, all to commence at 10.30am:

2 March 2020
1 June 2020
7 September 2020
7 December 2020
1 March 2021.

11 **Urgent Items**

Any other items of business, which in the opinion of the Chairman, should be taken as a matter of urgency. Urgent items of a confidential nature may be considered under Part II of this agenda.

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LICENSING COMMITTEE

DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 2 SEPTEMBER 2019 AT WEST WILTSHIRE ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Trevor Carbin, Cllr Sue Evans, Cllr Jose Green (Vice-Chair), Cllr Mike Hewitt, Cllr Peter Hutton (Chairman), Cllr George Jeans, Cllr Leo Randall, Cllr Pip Ridout, Cllr Peter Evans and Cllr Atiquel Hoque (Substitute)

Also Present:

Carla Adkins (Public Protection Officer – Licensing), Danial Farr (Compliance Officer), Linda Holland (Licensing Manager), Jo Hulbert (Compliance Officer), Tom Ince (Compliance & Enforcement Team Leader), Sarah Marshall (Senior Solicitor), Lisa Pullin (Democratic Services Officer)

23 Apologies/Substitutions/Membership Changes

Apologies were received from Councillors Allison Bucknell, Jim Lynch and Ian Thorn and from Julie Anderson-Hill (Head of Culture and Operational Change). Councillor Atiquel Hoque was substitute for Councillor Bucknell.

24 Minutes

The minutes of the meeting held on 3 June 2019 were presented to the Committee.

Resolved:

That the minutes of the meeting held on 3 June 2019 be approved and signed as a correct record.

25 Chairman's Announcements

The Chairman, Councillor Peter Hutton made the following announcements:

Change to Agenda order

We will bring Agenda item 11 forward so that all items for the Licensing Team are together and the Officer is able to leave after that time.

Change of Cabinet Member

The Chair had met with Councillor Laura Mayes who is the new Cabinet Member for Adult Social Care, Public Health and Public Protection to make her aware of the remit of the Licensing Committee.

26 **Declarations of Interest**

Councillor Atiquel Hoque declared that his brother and cousin are both taxi drivers in Wiltshire.

27 **Public Participation**

No questions had been submitted to the Committee from the public prior to the meeting and no public were present at the meeting. Julia Hiystek, Local Democracy reporter for the Gazette & Herald and the Wiltshire Times was present at the meeting.

28 **Minutes of the Licensing Sub Committees**

Northern Area

20/05/19 Application for a Variation of a Premises Licence, in respect of The Old Lane, Lodge Road, Chippenham

Southern Area

31/05/19 Application by Wiltshire Police for a Review of the Premises Licence in respect of @Home, 5 Bridge Street, Salisbury

Resolved:

That the minutes of the meetings detailed above be approved and signed as correct records by the Chairman.

29 **Statement of Licensing Policy - Update**

Carla Adkins (Public Protection Officer – Licensing) referred to the report that was circulated with the Agenda which asked the Committee to note the consultation undertaken and subsequent amendments made to the Council's draft Statement of Licensing Policy. The following points below were highlighted:

- Consultation was carried out between 1 April and 7 August 2019, during which 17 responses were received from a mix of stakeholders and groups;
- The responses to the consultation were detailed in Appendix 2 to the report and there were three areas highlighted in blue which sought a Member view/recommendation on whether suggested changes should be made to the draft Statement of Licensing Policy;
- The first was in relation to Shadow Licences. As Shadow Licences are not referred to in the Section 182 guidance this had not been mentioned in the Policy although it was suggested that wording could be added with a query if a shadow licence was to be reviewed should the original licence be reviewed.

A Committee Member asked how prevalent Shadow Licences were in Wiltshire and it was reported to Committee that there were a handful in existence. It was suggested that it would perhaps be clearer if this wording was included within the Policy and agreed that legal advice should be sought following Committee. The Committee agreed that if Legal advice was to include a reference to Shadow Licences then it should be included in the Policy.

- A Town Council had requested that the timescale for the submission of an Event Management Plan for smaller scale events be reduced to 3 months (from 6 months);

A Committee Member asked for the view of the Licensing Manager. Linda Holland reported that six months allowed more time for appropriate arrangements to be made to ensure relevant infrastructure could be put in place for safe and successful events. The Committee agreed not to accept this amendment and to retain the current 6-month timescale.

- A Town Council had requested to amend the wording of the intention to use polycarbonate “glasses” rather than glass to address safety issues. It had been suggested that this be amended to “multi-use plastic”. The Committee agreed that this change should be made to the Policy;
- A few respondents to the consultation had questioned the application process but this was not able to be changes as it is set in legislation. Some felt that the Planning Department should be more involved. Officers confirmed that they are a statutory consultee, but they cannot be forced to make a response/representation when an application is received;
- A number of concerns relating to specific premises were raised and those had been dealt with outside of the consultation and they had been

reminded that this is a Wiltshire wide policy to cover all licensable venues; and

- The Policy would be now be amended and a final draft prepared to be presented to the next meeting of Council for approval.

The Chairman thanked Officers on behalf of the Committee for the work to produce the Statement of Licensing Policy.

Resolved:

- 1. That the Committee note the consultation undertaken and subsequent amendments now agreed by the Committee to be made to the Council's draft Statement of Licensing Policy.**
- 2. That the Licensing Committee commends the Statement of Licensing Policy under the Licensing Act 2003 to the Council for approval at its meeting on 26 November 2019.**

30 **Licensing Act 2003: Film Classification**

The Licensing Manager, Linda Holland referred to the report which sought the Committee's approval to agree a process and procedure to address requests for film classification in line with relevant legislation. The Licensing Manager highlighted the following:

- A request had been received by a local film society to classify a file which had not been age certified by the British Board of Classification (BBFC). The Council does not currently have a process or procedure to address such a request in line with relevant legislation and so this will need to be addressed;
- It was proposed that the procedure for the classification of films (attached as Appendix 1 to the report) be approved in order for Wiltshire as the Licensing Authority to be able to classify films that have not been classified through the BBFC system or where the Licensing Authority has been requested to classify a film that has already been classified by the BBFC under the following circumstances
 - a) Where at least three members of the Council give notice to the Head of Public Protection of their wish to call-in a film for classification by the licensing authority; or
 - b) Where a distributor of a film appeals a decision of the BBFC and requests that the licensing authority classifies the film.

Members requested that it be stipulated within the guidance that the delegation of the responsibility for film classification be to a Licensing Sub Committee of 3

members and the procedure be amended to state that all films to be classified by the Sub Committee should include English subtitles or provide an English script in order for members to determine the classification.

Resolved:

- 1. To approve the procedure as amended above by the Committee and a set out in Appendix 1 with film classification matters which are the responsibility of Wiltshire Council, as the Licensing Authority.**
- 2. To delegate the Licensing Authority's responsibility for film classification to a Licensing Sub Committee of 3 Members.**
- 3. To arrange the classification of a film following a request from Bradford-on-Avon Film Society to show a film in February 2020 that not does not have a British Board of Film Classification.**

31 **Update from the Licensing Authority Working Group**

Tom Ince (Compliance and Enforcement Team Leader) referred to the briefing note on the work of the Licensing Authority Working Group that had been circulated with the Agenda. The following points below were highlighted:

- The Working Group that was set up in May 2019 had pulled together a list of recommendations/areas to explore and these were being progressed;
- In relation to the fares/tariff structure, the Taxi Licensing Team met with trade representatives from all areas in June 2019 and advised them that the Council was committed to having one schedule of tariffs and fares across the whole County, but rather than impose this on drivers, the representatives were asked and agreed to survey all the drivers within their areas and put forward a proposal for any new tariff and fare structure for consideration. Representatives were advised that any new proposals would have to be agreed by the whole trade and which would be required to sign up to any revised proposal. A deadline of 10 December 2019 was set for this and a meeting is scheduled in September to track progress on this;
- The proposal to look at making CCTV a mandatory requirement for all taxis within Wiltshire has been explored but there are a number of legal issues regarding the ownership of the data collected. It would mean that the Council would be responsible for all the data and the management of said data, but the data would not be within its control. Officers have received legal advice that CCTV in taxis within Wiltshire would be considered to be best practice but is not mandatory;

- Uber is a big concern for Wiltshire as they are not licenced with Wiltshire and are therefore not subject to our licence requirements, although they can and do carry out journeys in Wiltshire. A briefing note for all Members on Uber to explain the situation would be circulated following the meeting;
- The National Anti-Fraud Network (NAFN) operates a National database of named taxi drivers who have had their licences refused, suspended or revoked and whilst Wiltshire Council is a member, the Taxi Licensing Team do not currently use the system, but it may be considered to be advantageous to do so. Currently driver data is not shared with any third party except for the Police in criminal cases. For the Taxi Team to be included in the NAFN approval would first need to be sought from the Licensing Committee to make changes to the council Driver and Operator Guidelines; and
- The Licensing Authority Working Group are arranging to meet again in early October 2019.

A Committee Member asked the public would be involved in the fare/tariff discussions. It was reported that at this stage it was just the trade being asked to put forward a proposal to the Taxi Licensing Team. The Committee Member felt that the public should be involved in discussions and that Salisbury in particular had a major problem with fare rates. Tom Ince reminded the Committee there is flexibility with the fares and the tariffs are the maximum rates that can be charged. Another Committee Member who had been involved with the Environment Select Late Night Taxi Fares Task Group reported that they found that it was the drivers who were causing the problems because they were not using the tariffs and patrons were using those taxis who offered to do the journey at a cheaper rate.

In relation to Uber, Tom Ince clarified that Uber had not to date applied to trade in Wiltshire and therefore any journeys carried out by Uber are not subject to the Councils checks and requirements on operators and drivers.

A Committee Member asked about the BTEC Level 2 qualification. It was reported that the current online training option is achieving 100% compliance but concerns have been raised as to whether some drivers are requesting others to complete the training on their behalf. The Council are currently looking into this with the possibility of providing an in-house training package of courses which would require drivers to personally attend the office for a half-day session as well as meeting with a representative from BTEC to assess its value. This would be reported on further at the next meeting.

The Licensing Authority Working Group is scheduled to meet on Monday 7 October and a further report of the group would be presented to the next meeting of the Licensing Committee on 2 December 2019.

Resolved:

- 1. That the update from the Licensing Authority Working Group be noted.**
- 2. That an update be provided to the Licensing Committee at their meeting on 2 December 2019.**

32 **Review of the Wiltshire Council Fit and Proper Person Policy for Hackney Carriage and Private Hire Licences**

Tom Ince (Compliance & Enforcement Team Leader) referred to the report which reviewed the Council's Fit and Proper Person Policy for Hackney Carriage and Private Hire Drivers. Tom highlighted the following:

- The current Fit and Proper Person (F&PP) Policy was last considered by the Licensing Committee in November 2010. A comprehensive review of the guidelines for determining the suitability of applications of Hackney Carriage and Private Hire Licences has been undertaken utilising current relevant guidance and it is now proposed to consolidate the two existing policies into one which is much more robust and gives more power to deal with areas of concern, alleviate any enforcement issues and drive up the required standards for Wiltshire; and
- The table on page 222 of the Agenda shows the key differences between the proposed and current F & PP policies which also show the increased times before a new licence can be reapplied, in line with DfT recommendations.

A Committee Member asked what checks we carry out for drivers. Tom Ince reported that the Taxi Licensing Team would carry out an enhanced DBS check and this would be updated every 3 years. The new Fit and Proper Person Policy would also require drivers to sign up to the DBS update service which would mean that their DBS status can be checked upon at any time.

When processing applications all the facts would be considered, and all available information would be used to inform the determination of the application.

A Committee Member questioned if the proposed policy was over zealous? It was reported that the proposed policy was in line with that of other licensing authorities and had taken into account the guidance from the Institute of Licensing. The Council is still awaiting the results of the national consultation carried out earlier this year and it was anticipated that with the adoption of the Fit and Proper Person Policy, Wiltshire would be ahead of other authorities.

Resolved:

That the Licensing Committee adopt the revised Fit and Proper Person Policy for Hackney Carriage and Private Hire Licences as set out in Appendix A. This will apply to all new applications and renewals that are received from 1 October 2019 and thereafter.

33 **Update on the Licensing Service**

Linda Holland (Licensing Manager) referred to the update on the Licensing Service that was circulated with the Agenda. The following was highlighted:

- Under the Animal Welfare regulations that were introduced in October 2018, all existing licences have now been inspected and the premises are given star ratings. This has been a major area of work for the team over the last year and as those who inspect need to be suitably qualified by October 2021 to carry out animal activity inspections three of the Licensing Officers attended a 5-day residential course in August and two more are due to attend in 2020;
- The Team had worked with the Immigration Service following concerns raised about employees who were working within the night time economy in situations that were not favourable to them;
- Two reviews of Premises Licences had been carried out; at hearings of the Licensing Sub Committee in 2019, both had lost their licences;
- A number of betting shops across the country were closing which was likely due to a loss of income as the maximum permitted stake for category B2 gaming machines had reduced from £100 to £2 from April 2019; and
- There were some impending changes within the Licensing Team Officers and details of the geographical areas covered by Officers would be provided to the Committee at the next meeting.

The Chairman wished for the Committee's thanks to be passed onto Officers for their work at supporting the festivals and large-scale events across the County.

A Committee Member asked about unlicensed dog breeders. The Licensing Manager confirmed that a dog can have up to three litters a year without the need for a licence. For all those that sell puppies and are licenced, they should advertise their licence numbers. There were 6 licensed dog breeders previously and this has now risen to 17. All puppies should be microchipped by the time they are 8 weeks old and should not be sold before they are 8 weeks and the mother of the puppies should be present at the time they are sold.

Lucy's Law is scheduled to come into force on 6 April 2020 which requires animals to be born and reared in a safe environment with their mother and to be sold from their place of birth. This legislation will help although there is a concern that it could drive the selling of puppies underground.

A Committee Member asked what sort of reception the implementation of the legislation had received? It was reported that on the whole it had been satisfactorily received and most premises were keen to comply in order to achieve a good star rating. Licensing Officers were currently undertaking unannounced inspection visits to all the high-risk premises that are 1 and 2 stars rated and on a few of these inspections issues and concerns are raised which in turn are leading to further enforcement such as warnings, suspensions and possible revocations.

The Licensing Manager reported that those in the trade are helpful in reporting to us concerns of possible unlicensed traders and the Press have been helpful with articles being published in relation to the this. The Committee expressed their view to be able to support the legislation and it was agreed that the Licensing Manager would produce a Briefing Note for Members towards the end of the year.

Resolved:

- 1. That the Licensing update be noted.**
- 2. That Linda Holland prepare a Briefing Note for Councillors on the Animal Welfare Regulations.**

34 **Dates of Future Committee Meetings**

Members noted the dates of future meetings of the Licensing Committee as detailed below, all to start at 10.30am

2 December 2019
2 March 2020.

35 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 - 11.40 am)

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services, direct line 01225 713015, e-mail lisa.pullin@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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Northern Area Licensing Sub Committee

**MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING
HELD ON 15 OCTOBER 2019 AT WILTSHIRE COUNCIL OFFICES, MONKTON
PARK, CHIPPENHAM SN15 1ER.**

Present:

Cllr Allison Bucknell, Cllr Peter Evans and Cllr Stewart Palmen

Also Present:

On behalf of the Applicant

Trudy East – Chair of Calne Town Football Club
Simon Gardner – Vice Chair of Calne Town Football Club

Those who made a relevant representation

None

Wiltshire Council

Sarah Marshall - Senior Solicitor
Jemma Price - Public Protection Officer – Licensing
Lisa Pullin - Democratic Services Officer

Also in attendance

Lesley Elvin – Wiltshire Council observer
Julia Hijstek – Local Democracy Reporter

14 **Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

Resolved:

To elect Councillor Allison Bucknell as Chairman for this meeting only.

15 **Apologies for Absence/Substitutions**

There were no apologies or substitutions.

16 **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the “Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications” (Pages 5 – 11 of the Agenda refers).

17 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

18 **Declarations of Interest**

There were no interests declared.

19 **Licensing Application**

Application by Calne Town Football Club Committee in respect of a Premises Licence at Calne Town Football Club, Bremhill View, Calne

Jemma Price (Public Protection Officer – Licensing) introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. Miss Price highlighted the following:

- This was an application for a Premises Licence. Following consultation with the Council’s Environmental Health Officer, the application was amended and sought to request the following licensable activities:
 - i) Films – outdoors. A maximum of 2 a year. Friday to Monday from 12:00 to 23:00hrs
 - ii) Live music/recorded music/performance of dance/anything of a similar description – outdoors. A maximum of 2 events per year with Regulated Entertainment. Friday to Monday from 12:00 to 23:00hrs
 - iii) Provision of late-night refreshment. Monday to Sunday from 23:00 to 23:30hrs
 - iv) Sale by retail of alcohol on sales. Monday to Sunday from 10:00 to 23:30hrs
- Two additional conditions were also agreed with the Applicant in relation to a Noise Management Plan and the maximum number of attendees permitted at any event. These conditions were in addition to those offered by the Applicant at Section M of the application form; and
- Six relevant representations were received from local residents in objection to the application. Their representations were made regarding concerns about public nuisance and crime and disorder.

In accordance with the procedure detailed in the agenda, the Applicant’s representatives were given the opportunity to address the Sub Committee.

Trudy East and Simon Gardner (Chair and Vice Chair of Calne Town Football Club) reported the following.

- The Club were not intending to be open every day, this was a blanket application to cover them for Saturday matches, evening matches or possible events on bank holidays. All the current Committee members work full time and do not have the capacity to be able to open/run the club 7 days a week. The Clubs priority is football and they would not want to do anything to damage the pitch;
- The Club is self-funding and currently their patrons leave the site to purchase alcoholic drinks from the two neighbouring clubs. The Club wishes to offer their own alcoholic refreshments to boost the income for the Club. The serving of alcohol (from a small hatch) was intended to be during half time of matches;
- This would not increase the traffic or footfall to the area as those spectators are already present, they are just not currently able to purchase alcohol from Calne Town Football Club and travel off site to purchase alcohol;
- The local residents appear to want to penalise them for what is happening in the local area with their concerns about public nuisance and possible crime and disorder – this application is simply to retain their patrons on site with an opportunity to purchase refreshments from them and increase the income stream for the Club;
- Possible charity fundraising events with music/and or an open-air cinema are planned in addition to serving alcohol at matches and these would be open to the community; and
- Mrs East (Chair) was intending to be the Designated Premises Supervisor the premises and had carried out the appropriate training.

The Sub Committee Members then asked the following questions of the Applicants:

Q How do your patrons enter the Club and how do you intend to control them not bringing in alcohol?

A Entry is via turnstiles and we will refuse entry if they are bringing in their own alcohol.

Q What security do you have in place?

A We don't have any security guards, but during our matches/events usually around 80% of our Committee members are on site dotted around. Usual attendance for matches is between 40 and 90 patrons so there are not large numbers. We use the North Star Club for hospitality following the matches.

Q Will you be using plastic glasses?

A Yes, it is an FA requirement that we use plastic/polycarbonate glasses and we will continue to decant all drinks.

None of the local residents that made a relevant representation were present at the meeting.

Simon Gardner on behalf of the Applicants wished to add in summation that Calne Town Council had commented that they were in support of their application and accordingly had renewed their lease of the grounds.

The Sub Committee then adjourned at 10:35am and retired with the Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Hearing reconvened at 10:50am.

Following the deliberations of the Sub Committee Members, it was

RESOLVED THAT:

The Northern Area Licensing Sub Committee resolved to GRANT the application for a Premises Licence for the activities and timings detailed below:

Licensable Activity	Timings	Days
<u>Provision of Regulated Entertainment</u> Films – Outdoors – Maximum of 2 a year Live music/recorded music/ performance of dance/anything of a similar description – Outdoors – Maximum of 2 events per year with Regulated Entertainment of this nature.	12:00 to 23:00hrs 12:00 to 23:00hrs	Friday to Monday Friday to Monday
Provision of late-night refreshment	23.00 to 23:30hrs	Monday to Sunday
Sale by retail of alcohol ON sales	10:00 to 23:30hrs	Monday to Sunday

Subject to the following conditions in addition to those offered by the Applicant in their application:

1. Noise Management Plan is to be submitted to and agreed by the Licensing Authority/Public Protection Environmental Control and Pollution Team at least 8 weeks prior to any event which includes regulated entertainment. Noise must be managed in accordance with the agreed Noise Management Plan.
2. The number of attendees permitted in any event to a maximum of 500 persons.
3. Only polycarbonate glasses are to be used at **all** times throughout the premises and all drinks to be decanted into polycarbonate or plastic receptacles for consumption on the premises.

Reasons

After taking into account the written representations on behalf of the Applicant and the oral submissions received on behalf of the Applicant at the hearing, the Sub Committee also considered the concerns raised in writing by those who made a relevant representation who were not present at the hearing. Those concerns related to the perceived public nuisance arising from increased footfall and noise on the premises and anticipated low level anti-social behaviour. The concerns raised about the impact of increased traffic and parking were not considered as these do not relate to the Licensing Objectives.

The Sub Committee noted that the Applicant wished to host community and charity events and to have flexibility as dates and times of events or football matches may be required to be re-arranged at short notice.

The Sub Committee noted that the premises are open air and turnstiles would be in operation to control entry and exit to the site.

The Sub Committee considered it appropriate to grant the application as applied for and subsequently amended and to include the two conditions concerning the submission of a Noise Management Plan and the number of attendees being restricted to a maximum of 500 persons as offered by the Applicant and a further condition requiring the use of polycarbonate glasses on the premises and continuing to decant all bottles/cans.

In reaching its decision the Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of the written decision. Any person has the right to request a Review of

the Licence, in accordance with the provisions of section 51 of the Licensing Act 2003

(Duration of meeting: 10.15 - 10.52 am)

The Officer who has produced these minutes is Lisa Pullin of Democratic Services, direct line 01225 713015 , e-mail committee@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

SOUTHERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 16 MAY 2019 AT THE ENTERPRISE NETWORK, (THE OLD FIRE STATION), SALT LANE, SALISBURY, SP1 1DU IN RESPECT OF AN NEW APPLICATION - DURRINGTON

Present:

Cllr Leo Randall, Cllr John Smale and Cllr Ian Thorn (Chairman)

Also Present:

Hannah Hould, Licensing Officer
Sarah Marshall, Senior Legal Officer
Esther Bisgrove, Legal Officer (Observing)
Lisa Moore, Democratic Services
Graham Wright, Relevant Representation
David Healing, Durrington TC (Observing)
Robert Botkai – Applicant’s Solicitor
Matt Fairbairn – Applicant’s Area Manager
Julia Corbett – Salisbury Journal & Wiltshire Times

1 Election of Chairman

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

Resolved:

To elect Councillor Ian Thorn as Chairman for this meeting only.

2 Apologies for Absence/Substitutions

3 Procedure for the Meeting

The Chairman explained the procedure to be followed at the hearing, as contained within the “Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications” (Pages 1 – 6 of the Agenda refers).

4 Chairman's Announcements

The Chairman gave details of the exits to be used in the event of an emergency.

5 **Declarations of Interest**

There were no interests declared.

6 **Licensing Application**

Application by Malthouse Ltd for a Premises Licence at MRH Durrington, Larkhill Road, Durrington, Salisbury, SP4 8DP.

The Licensing Officer, Hannah Hould introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

On 5th March 2019 an application for a new premises licence was received and accepted as a valid application.

The application was for Late night refreshment indoors and outdoors on Monday to Sunday from 23:00 – 05:00 hours, and Sale by retail of alcohol (Off Sales) on Monday to Sunday from 00:00 – 24:00 hours.

Details of two other licensed premises within the vicinity were provided.

During the consultation period one relevant representation was received from a local resident.

No representations had been received from a responsible authority.

In accordance with the procedure detailed in the agenda, the Applicant and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

It was clarified that the person who had made relevant representation was Mr Graham Wright, as a local resident of Durrington, and not in his capacity as local or ward Councillor. Accompanying him was Mr David Healing, a member of the Town Council, who was not speaking at the meeting.

Applicant

Key points raised by Robert Botkai and Matt Fairbairn of Malthouse Ltd on behalf of the Applicant were:

- The site was owned by MRH who had around 350 petrol stations. They merged with the Motorfuel Group and now had a combined empire of over 800 petrol stations, almost 150 of those were licensed 24hr stations. After MRH had merged with the Motorfuel Group senior members of staff (managers) were instructed to put in further applications for a further 160

sites held by the Company that either didn't have licenses or whose licences due to expire. In other licensing areas most of those applications for licences were approved with only those where residents objected proceeding to a hearing.

- They accept that even one objection results in a hearing unless that objection could be resolved and Mr Botkai did write to Mr Wright to see if the objection could be resolved but Mr Wright indicated that he did not wish to negotiate and hence the need for a hearing.
- Mr Wright spoke to Mr Botkai outside and stated that he would have no objection to the sale of alcohol during the hours of 0600 TO 2300 hrs but his only objection was to the night time hours after 2300 hrs . Currently the moment the garage operates 0600 TO 2300 hrs .
- The applicant applied for a 24hrs licence and it is important in their view to note that the officers, police, public health and fire, have not objected. If the Police did not object this shows that there had not been a history of nuisance at this site, otherwise they would have objected.
- The Government guidance states that shops should be able to sell alcohol during hours to match their trading hours. The Council's guidance (paragraph 6.3) also states that generally licence holders are able to sell alcohol for off sales (unless there are exceptional reasons) during the hours applied for. This would suggest that there would have to be exceptional circumstances to refuse the application.
- The Motorfuel Group have no imminent plans to increase the trading plans of the store. They are looking at where improvements can be made. Late night refreshment can cause some confusion but it is usually hot drinks and food to heat up perhaps and is all very low key (i.e. they are not going to turn into a fast food store). If the store is open through the night they would open a night pay window to serve and customers would not be able to enter the shop as the entrance door would be closed overnight.
- Through their applications, the Company regularly hear about the fear of terrible events that may occur if alcohol is served but what we see in practice those events are unlikely to occur but even if something of concern did arise, we would want residents to please contact us, so we can and will do something about it. If we did nothing, we know the failure to act would entail the matter being taken back to Committee for a review.
- One example was where there was a site with a 24h license, located next to a river and a particular group of people were using the store and drinking down by river. The neighbour contacted us, so the Company immediately changed the evening service hours for alcohol, with a gradual reintroduction whilst being monitored.

- The objector talks of a history of young people congregating but checks have been made and there have been no incidents here at all. It appears the concern is that the license would bring the potential for public nuisance at this location but if it does, he is welcome to contact us and we will do something about it.
- Any other concerns you have please let us know.

Questions from the Sub Committee;–

Cllr Smale – I am Ex military. There are local camps who may use this as a focal point to buy alcohol after 2300 hrs. Your statement has reduced my concerns as you will take action if any antisocial behaviour did arise. Will you keep it at 24hrs a day?

Applicant's response: The premises opens from 0600 TO 2300 hrs at the moment and they are not aware of any immediate plans to increase those hours. If there was investment in the future the Company may change the hours. Lots of petrol stations are closing around the country, those that do survive do have to become good shops and have investment.

Cllr Smale – So you are going for 24 hours to give flexibility

Applicant's response; Yes but there would need to be exceptional reasons. In reality it will be open 0600 TO 2300 hrs.

Cllr Thorn - You mentioned sustainability as a possible reason for increase in opening hours, how much of your income will come from fuel and how much from the shop?

Applicant's response : I do not have those figures as they are not relevant to the application. Petrol stations do rely heavily on the success of the shop.

Cllr Thorn – But you are making representations about the sustainability of the business.

Cllr Thorn – The plans before the Sub Committee show a Subway included, are you proposing a Subway?

Applicant's response : My understanding is, that if there as one, it would not be trading 24hrs. They are usually open 0700 to 2200 hrs (or 2100 hrs on a Sunday). The latest plan does not have a subway on site. We will have a costa coffee machine and pies and pasties which can be baked on site. We would need to put in a minor variation if the Company's plan was to have Subway on the premises.

Cllr Thorn – You mentioned that if you extend the trade beyond the current hours there is a hatch which would be used at night, instead of the door. Is that hatch already in place?

Applicant's response : Yes it is there now.

1. Questions from Mr Graham Wright who made the Representation; Is this a Malthouse Ltd application?
Applicant's response : Yes. Malthouse still exists.

2. You could be selling fuel between 2300 to 0500 hrs , at the same time you would potentially be selling coffee, hot food and alcohol as well, where will people park when they are drinking coffee?
Applicant's response : I do you not see this as a problem for people pulling up and parking? We are not the only station with 24hr, BP & M&S are all 24hr, there has not been any evidence of pulling onto forecourt to buy both.

3. You don't have specific parking facility for the customers who want to park for coffee.
Applicant's response : It is very unlikely that there would be enough trade at night for the car park to be overcrowded with parked vehicles. However if we found an issue we would deal with that.

4. The application says about the Subway, you did not spot that. On the plan submitted how many seating arrangements for people, as there seems a lot of spaces?
Applicant's response : I asked the Head Office about subway. The shop doors are not open at night and Subway usually does not open at night. There is a standard condition that can be applied that relates to the night sales, and night pay window that we would be happy with including. In addition, the coffee machine is inside but the consumption is off site. The shop entrance door will be closed to customers 0600 TO 2300 hrs .

5. Planning matter raised by Mr Wright and Cllr Thorn was informed by the Council's Solicitor that planning matters cannot be considered by the sub committee.

6. Your planned CCTV coverage, will that cover the shared forecourt of the Esso garage?
Applicant's response : We have a full digital CCTV system and the Police have confirmed that they are satisfied. We cannot cover someone else's premises.

I had a question on staff numbers, but as you have confirmed the serving hatch arrangement for nights, you have covered that. You plan to have adequate waste receptacles but what other actions are you taking?

Applicant's response : We do not want to provide lots of facilities on the forecourt to encourage customers to sit and consume what they have purchased. The bins are there to encourage waste handling. What else would you like us to do?

7. When I sent my objection in I made it clear that I was a resident. When the applicant made contact with me it was via my WC email and not my

personal email. So I was reluctant to engage. I have also been away for a week.

8. Appreciate you will enforce the under 25 rule. But there could be a situation where older people will buy drinks for people under age. What will you do to tackle that?

Applicant's response : These are called proxy sales, and the issue of that applies to us as much as it does to Tesco, part of the training of our staff is in proxy sales and how to be observant. However if an adult goes to purchase alcohol and takes it away and gives to someone else we cannot monitor that.

Relevant Representations

Key points raised by those who made a Relevant Representation – Mr Graham Wright were:

- I objected as a resident of Durrington, on the grounds of the proposed hours of 24hrs a day 365 days a year, when no other outlet can do the same in Durrington.
- This will bring potential for public nuisance and anti-social behaviour.
- There are associated public safety issue of having off sales 24hrs.
- The garage next door is secluded and would be an ideal place to have a drink and a chat.
- Common sense is that there should be a restriction on the licensing hours of sales of alcohol.
- With the suggestion of the Subway also open 24hrs.
- Durrington TC on behalf of residents had a public meeting to discuss the matter.
- Durrington TC made a rep and it was rejected.
- Complaints from residents do not exist as the garage is not currently open 24/7.
- There was a DPPO that was put in place some time ago. We have concerns with cars driving round the community.

Cllr questions

None.

Questions from the applicant.

None.

Summary

Mr Graham Wright – Relevant Representation

We hear from the applicant that they intend to maximise on business, have they considered the impact on sleepy Durrington village? Up until now it has been relatively safe. The village does not wish this application to be the reason for a recurrence of antisocial behaviour. Would it be sensible for their opening hours to run as the other licensing premises.

Robert Botkai – for the Applicant

Good to hear there have been no complaints with the current opening hours. No reference in the papers to a previous DPPO and we do not know the relevance of that. We would expect the Police to have made reference to crime and disorder and they have not done so. Good to hear the area is quiet and safe and we do not expect that to change if the license is granted. If any issues arise we would be happy for Mr Wright to contact us. We would investigate. During the 28-day consultation period I did try to make contact with Mr Wright, to make some assurances.

We ask for the license to be granted as applied for with the added condition of the night pay window as stated earlier. If there was a Subway it would have limited hours. Late night refreshment would be mainly hot drinks and snacks.

The Sub Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Senior Solicitor for the Council and the Democratic Services Officer.

The Sub Committee then retired to consider the application at 10.52am

The Hearing reconvened at 11.15

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

Brief legal advice was provided to the sub committee in relation to the wording of the condition concerning the entrance door being closed to customers between 2300 hrs and 0600 hrs to be applied to the License. There were no additional comments from the applicant's solicitor and Mr Wright.

The Sub Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

Resolved:

That the Application for a Premises Licence at MRH Durrington be granted as applied for and detailed below and subject to the conditions as listed:

Licensable Activity	Days	Timings
Late night refreshment	Monday-Sunday	23:00hrs-

(Indoors & Outdoors)		05:00hrs
Sale by retail of alcohol (OFF Sales)	Monday-Sunday	00:00hrs- 24:00hrs

Condition:

- 1. The entrance door to the shop will be closed to customer between 23:00hrs and 06:00hrs. Any sales between these hours will be made through the night payment window.**

Reasons:

The Sub-Committee have considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18) and the guidance issued under Section 182 of the Act.

The Sub-Committee have considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from the Applicant, and those that made relevant representations.

The Sub-Committee was mindful of the concerns expressed at the hearing, relating to an expectation of antisocial behaviour if the licence was granted. However it noted that there was no evidence of any historical antisocial behaviour associated with the premises in the past, and there had been no objections from the Responsible Authorities. The Panel also noted the assurance of the Applicant's representative to deal with any such incidents should they arise.

7 **Report**

8 **Appendix 1 - Application Form**

9 **Appendix 2 - Site Plan**

10 **Appendix 3 - Relevant representation**

11 **Appendix 4 - Location Plan**

(Duration of meeting: 10.00 - 11.25 am)

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Southern Area Licensing Sub Committee

DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 3 JULY 2019 AT THE ENTERPRISE NETWORK (OLD FIRE STATION), SALT LANE, SALISBURY, SP1 IN RESPECT OF A VARIATION HEARING - CHOLDERTON RARE BREEDS FARM BEACON HOUSE, AMESBURY ROAD, WILTSHIRE, SP4 0EW.

Present:

Cllr Trevor Carbin, Cllr Mike Hewitt and Cllr Leo Randall

Also Present:

Lisa Moore – Democratic Services Officer
Sarah Marshall – Senior Solicitor – Wiltshire Council
Esther Bisgrove – Solicitor - Wiltshire Council (Observer)
Hannah Hould – Licensing Officer Wiltshire Council
Chloe Hanson – Police Licensing Swindon
Sophie McConnell – License Holder
Sue Gibbins – Events Manager - Cholderton
Karen Lewis – Accounts Manager – Cholderton

1 Election of Chairman

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

Resolved:

To elect Councillor Trevor Carbin as Chairman for this meeting only.

2 Apologies for Absence/Substitutions

There were none.

3 Procedure for the Meeting

The Chairman explained the procedure to be followed at the hearing, as contained within the “Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications” (Pages 1 – 6 of the Agenda refers).

4 Chairman's Announcements

The Chairman gave details of the exits to be used in the event of an emergency.

5 **Declarations of Interest**

There were no interests declared.

6 **Licensing Application**

Application by Sophie McConnell of Cholderton Rare Breeds Farm for a Variation to the Premises Licence at Cholderton Rare Breeds Farm, Beacon House, Amesbury Road, Cholderton, Wiltshire, SP4 0EW

The Licensing Officer, Hannah Hould introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

On 8th June an application for a Variation was received and accepted as a valid application. Details of the Variation applied for were:

1. To vary the plans attached to the premises licence so as to extend the licensed area to cover the farm and vineyards in its entirety and to include a storage area; where alcohol will be appropriated to the contract in the case of internet sales.
2. To allow live music, recorded music and performance of dance to be held outdoors up to 15 times a year, as per the hours currently on the licence for indoor regulated entertainment. The licensing authority will be notified in writing 14 days prior to the event. Neighbours who reside on Amesbury Road will be notified in writing 14 days prior to the event.
3. To include additional conditions on the premises licence.

The Report was supported by Appendices 1 to 4 as follows:

Appendix 1 - Variation application form

Appendix 1a – Noise Management Plan

Appendix 2 – Current Premises License Appendix 3 – Location Plan Appendix 4 – Relevant Representations

There had been no objections from the Responsible Authorities.

Standard conditions are to be applied to internet sales.

Five relevant representations had been received from interested parties during the consultation period.

The License has been held by Miss McConnell since 15 April 2014.

The last recorded noise complaint was received in July 2017 which related to an event authorised by means of a Temporary Event Notice.

Those that made representations had mentioned noise disturbance, however had not made a noise complaint.

In accordance with the procedure detailed in the agenda, the Applicant, and those who had made a Relevant Representation were given the opportunity to address the Sub Committee. Those who had made a relevant Representation did not attend the Sub Committee.

Key points raised by Sophie McConnell (Licence Holder), Sue Gibbins (Events Coordinator) and Karen Lewis (Accounts Manager) of Cholderton Rare Breeds Farm were:

- The Vineyard was installed a few years ago to diversify the business. This in turn meant they now wished to extend the current licence. They have used Temporary Event Notices (TENs) until now but they wished to have some more events per year.
- One of the representations refers to firework displays, yet they have never had any fireworks. Since 2010 Ms McConnell has dealt with all complaints and they have never had a noise complaint. There have also never been any issues associated with drink driving.
- They recently held a family festival and invited the neighbours free of charge so they could see the type of events held. We have security as a precaution to give customers the peace of mind that the events are safe.
- They have seen no issues as a direct result of any event that has been ever held.
- They do not want to become a regular event holder for festivals with drum and bass or anything like that as they only want to plan one festival a year.
- Their events are ticketed, so they know how many people will come in advance. They also have higher priced tickets on the door to encourage people to buy in advance.
- They monitor the sound levels and have a device which is moved from the stage, to the perimeters and down the road to monitor the sound levels around the site.
- Their last event finished just before 23:00, and at 21:00 they went indoors, to lower the sound.
- They also use SIA badge security which also includes handbag checks of guests coming in. They also walk down the road and deliver letters to residents.

Councillors Questions

- Are there plans for fireworks?

Applicant's response: We have no interest in the fireworks at our events.

- With regards to outside music, how can you ensure the volume and noise will not travel?

- Applicant's response : The sound checks we do with the meter at various points through the evening. We make sure its miles below where it needs to be. If I walk down the road and its too loud I walk back and tell them to turn it down. We want to live with our neighbours in harmony.

The outside music may be more like an acoustic guitar or some jazz from a docking station. The kind of vibe for a vineyard tour. With only one festival a year.

- There was an event at Hudsons field over the weekend, I am 4.5 miles away, when the wind changes you could hear it. Are you able to adapt quickly if the situations change?
- Applicant's response : Yes we meet anyone coming to play at an event, and brief them that we monitor the sound levels and will ask for them to turn it down if too loud.
- You say a recent event was a roaring success, why do you need the variation?
- Applicant's response : Our car park has a limited capacity and would only be able to accommodate a set level. The TENs admit up to 499. With full staff and youth hostel there can be up to 100 people, so that limits us to 399 tickets. We want to have a lovely full field with a warm atmosphere.

To address some of the points from the representations, we fence off the areas we do not allow people to enter, during the events, such as the woodlands and animal areas. We were open to the public during the day, the farm closes for day visitors and within 15 minutes we opened at 6pm for the evening.

The band arrived at 4pm and were not there all day setting up. We want to welcome families and children.

- How did you come to the number of 15 events?
- Applicant's response : We had to distinguish as to what we actually want to do. I would say one festival event per year would be enough, due to the amount of preparation required. The rest would be outdoor vineyard tours, supper clubs and wine tastings. We would be happy to negotiate the numbers of events and reduce the 15 requested to ½ the amount. At the moment our current licence includes a field nearest to the neighbours, so we could hold festivals there if we currently wanted to. I would like to suggest that we could exclude that from the licensed area and move to the main farm. I was going to suggest that as a half way compromise. I have the plan here and I can mark on the plan the boundary.
- In your Noise Management Plan, you intended to keep everything away from the neighbours as you could, but your licensed area is right up to the neighbours, so that would be a reasonable compromise?

- Applicant's response : We would be happy to change the licensed area. A plan of the proposed new licensed area was shown to the Panel and Officers. A copy of that plan was submitted as new information.

Ms Hould noted that as part of the deregulations a premises can have an event with a live band as long as it has less than 499 people. Therefore, some events would fall outside of the licensing remit.

- The internet sales, was that just your own wine?

Applicant's response Yes we work with a vineyard in Portsmouth they process our grapes and send back the wine in bottles. We had 3000 bottles last year and felt we could sell those from our farm shop and café. We don't have a winery on site.

Closing submissions

Applicant:

We would always welcome the neighbours to come and speak to us we have the upmost respect for them. The business has been established as a farm attraction. Some of the people living nearby have bought their houses after the farm was there.

We are trying to keep the family business going by diversifying to other areas such as the vineyard.

We strive to have a family feel to all of our events.

We have met with Myra on the Parish Council, she advised that the neighbours had complained about an event, however it had turned out that the incident arose from the Stonehenge festival outpour of people coming on to or near the farm.

There was no attendance at the Sub-committee of those who made relevant representations.

The Sub Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Senior Solicitor for the Council and the Democratic Services Officer.

The Sub Committee then retired to consider the application at 10.40am

The Hearing reconvened at 11.15.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

No relevant legal advice was given to the sub committee.

Resolved:

The Southern Area Licensing Sub-Committee resolved to grant in part the Variation Application as applied with the following amendments and conditions:

1. To allow the performance of live music (1200 hrs to 2300 hrs Monday to Sunday), recorded music and dance indoors and outdoors 1000 hrs to 2300 hrs Monday to Sunday) for specific events subject to a maximum of 8 events per year, with the licensing authority and neighbours who reside on Amesbury Road being notified in writing 14 days prior to the event and a hotline number to be provided to such neighbours and the local authority 14 days prior to the event.
2. To vary the licensed area as per the plan submitted by the Applicant to the hearing and which will be attached to the Decision notice.
3. To include conditions i. to xiii. as set out in the variation application form on the premises licence, in respect of online sales of alcohol.

Reasons:

In reaching its decision the Sub-Committee considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18) and the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

The Sub-Committee considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from the Applicant, and the Applicant' representatives. There was no attendance by those persons who had made relevant representations.

The Sub-Committee was mindful of the concerns expressed in the written representations from the interested parties, as detailed in the agenda and also noted that there had been no objections from the Responsible Authorities.

The Sub-Committee also noted the proposal of the License holder to reduce the Licensable area as an effort to restrict any events to the parts of the site furthest away from nearby residential properties, in an effort to reduce concern raised about the noise disturbance.

- 7 **Appendix 1 - Variation application form**
- 8 **Appendix 1a - Noise Management Plan**
- 9 **Appendix 2 - Current premises license and plans**

- 10 **Appendix 3 - Local Plan**
- 11 **Appendix 4 - Relevant Representations**

(Duration of meeting: 10.00 - 11.30 am)

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WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 30 APRIL 2019 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE IN RESPECT OF AN APPLICATION FOR A REVIEW OF A PREMISES LICENCE - STOWFORD FARM, FARLEIGH ROAD, WINGFIELD, TROWBRIDGE

Present:

Cllr Allison Bucknell, Cllr Peter Hutton and Cllr Stewart Palmen

Also Present:

Wiltshire Council Officers

Mrs Carla Adkins (Public Protection Officer – Licensing)
Mrs Esther Bisgrove (Solicitor)
Miss Teresa Bray (Public Protection Officer – Licensing)
Mrs Linda Holland (Review Applicant - Licensing Authority)
Mrs Sarah Marshall (Senior Legal Adviser)
Mrs Lisa Pullin (Democratic Services Officer)
Mrs Jenny Thomson (Public Protection Manager – Food & Safety)

Premises Licence Holders on behalf of NR Events Limited

Mr Ian Lucas
Mr Nick Reed
Mr Euan Barker

Others in attendance

Mrs Julie Anderson-Hill (Head of Service – Waste & Environment and Culture and Operational Change)
Mr Jim Brewster (Democratic Services Officer)
Mr Kevin Fielding (Democratic Services Officer)
Mrs Julia Hiystek (Press)
Cllr Peter Evans (Substitute)

1 **Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

Resolved:

To elect Councillor Peter Hutton as Chairman for this meeting only.

2 Apologies for Absence/Substitutions

There were no apologies. Councillor Allison Bucknell had to leave the meeting just prior to 1.00pm (after the determination of the decision had been made) and Councillor Peter Evans was the substitute member in her place whilst the decision was then relayed to all parties.

3 Procedure for the Meeting

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 5 – 11 of the Agenda refers).

4 Chairman's Announcements

The Chairman gave details of the exits to be used in the event of an emergency.

5 Declarations of Interest

Councillor Peter Hutton declared that he is currently a Wiltshire Council representative who sits on the Dorset and Wiltshire Fire Authority but has had no prior involvement with any aspects of this review or any matters relating to this review so far as the Fire Authority are concerned.

6 Licensing Application

Application by Wiltshire Council Licensing Authority for a Review of a Premises Licence in respect of Trowbridge Festival, Stowford Manor Farm, Farleigh Road, Wingfield, Trowbridge

Miss Teresa Bray (Public Protection Officer – Licensing) presented her report which outlined the licensing objectives and the options the Sub Committee could take to meet these objectives. The history of the premises licence and the current licence was described alongside the grounds for its review. Miss Bray advised that one relevant representation had been received from Jenny Thomson on behalf of Wiltshire Council Public Protection Food and Safety Team.

Key points raised by Mrs Linda Holland, Designated Officer for Wiltshire Council Licensing Authority (Review Applicant), were:

- It is Wiltshire Councils expectation and wish to have events and festivals taking place that offer what the patrons require in relation to their diversity and audience engagement, however this must always be within a safe environment as is reasonably practicable for organisers to deliver;
- The Licensing Authority feel and will demonstrate why they felt that the Trowbridge Festival fell short of their responsibilities to ensure public safety and appropriate compliance at the event held over 19 to 23 July 2018 ('the 2018 Festival'). Whilst there was an Event Management Plan (EMP) in place for this event, the festival management did not pay heed to this legal document and did not have a robust management structure in place;
- The Premises Licence granted on 1 July 2018 has minimal conditions (other than the required mandatory conditions). The Public Safety condition (under Annex 2b) was not complied with as the event was not managed in compliance with the EMP and so this was a breach of the condition of the licence. This led to significant concerns in relation to public safety and the ability of those on site to manage any occurrence/incident;
- During the site visits that were carried out by officers in 2018 it was evident that a substantive number of points within the EMP were not complied – it was not clear as to whether this was a disregard for their EMP, or ill prepared and overwhelmed organisers along with a catalogue of errors:
- The Licensing Authority were concerned to note that there were plans to proceed with a 2019 Trowbridge Festival ('the 2019 Festival') – notwithstanding the evident disagreement between the two directors of Trowbridge Festival Limited. There had been no discussions prior to the Council's submission of the review application, as to how the organisers planned to address the failings that arose with the 2018 Festival.;
- The Licensing Authority feels that a six-month lead in time for an event of this scale is not unreasonable and would suggest that it is necessary to ensure all the infrastructure and personnel requirements are agreed and in place for any event;
- The Licensing Authority took the view that it was by luck rather than judgement, that no serious incidents took place at the event last year;
- The transfer of the Premises Licence to NR Events Ltd does not alleviate the concerns of the Licensing Authority. The transfer was to a company with at that time a sole director (Nick Reed) who was one of the directors from the previous company Trowbridge Festival Limited and the authority could see no evidence of directional change;

- The calling of a review of a Premises Licence is a rare occurrence – but holding a licence for any event includes: promoting the licensing objectives - not forgetting about the objectives or ignoring the objectives to concentrate on the nice parts of the organisation of the festival or event; and
- An application was received by the Licensing Authority on 28th May 2018 for a new festival at Stowford Farm, Wingfield with the event to be called Trowbridge Festival, there has been reference made to a Village Pump which has happened previously on this site, but this is a new event with new organisers.

Mrs Carla Adkins (Public Protection Officer – Licensing) was called as a witness on behalf of Wiltshire Council Licensing Authority to outline her first meeting with the event organisers and the rationale behind calling an Event Safety Advisory Group (ESAG). Mrs Adkins highlighted the following points;

- When we receive an application for a festival we complete an ESAG trigger form which scores the possible risks for public safety that there may be for any event. Because of the site's proximity to the road and river, the scores on the trigger form were high and an ESAG meeting was requested to the Licensing Manager. This would bring together the organisers of the event and all the Responsible Authorities to discuss the EMP and seek to put in place the measures needed to run a safe and successful event;
- I was asked by Mr Nick Reed to attend the site so that he could explain the event and show me what was planned etc. As I had to check that the official blue notices were correctly displayed at the site I agreed to this meeting on 30 May 2018; and
- Whilst on site on 30 May and Mr Reed gave me a copy of the plan of the site and I expressed concern that the area he was proposing for the cars/caravans/tents would not fit them all. I advised him to measure the field so that he would have an idea of capacity and what numbers would fit on site. I also asked Mr Reed about the "blue" route and how emergency vehicles would be able to get on and off site. A proactive approach was required to ensure the event could take place safely and avoid public nuisance. Mr Reed agreed to look at this. I advised him that an ESAG meeting had been requested and that the ESAG was a multi-agency non-statutory advisory group to enable organisers to work with authorities and the emergency services and he would have the chance to consider my concerns I had raised with him today before that meeting.

Mrs Linda Holland, Designated Officer for Wiltshire Council Licensing Authority (Review Applicant), then continued with her submission to the Sub Committee:

- The initial ESAG meeting with the organisers took place on 14 June 2018 which was only some 4 weeks prior to the event (due 19-23 July 2018). The reason this meeting was held so close to the event was because the Licensing Authority had only received an engagement with the organisers and the engagement had only commenced on 28 May 2018. Normally ESAG meetings are held months in advance of any event to ensure the organiser has time to take on board any advice or guidance given by Responsible Authorities;
- At the ESAG meeting we were advised that the plans were to bring back the family orientated music festival to its original site and they also considered the verbal submissions of the event organisers and the version of the EMP that was submitted for the meeting. You will note from the minutes of the ESAG (pages 141-145 of the Agenda pack) that there were a lot of questions from the Responsible Authorities and clear action points were highlighted with advice given to assist with the proactive management and risk of the event;
- The organisers were advised that events are for them to manage and deliver - it's not for the Responsible Authorities to take control of;
- At the time of the event in 2018 the ground was already tinder dry and the daily temperatures were extremely hot for England – the licensing authority would expect an organiser to be prepared for all expected weather conditions, whether this is extreme heat or wet/inclement weather.
- Normally an event/festival would only receive one visit from the Licensing Authority and occasionally from other Responsible Authorities, but this was not the case in relation to the Trowbridge Festival which required four site visits with the Licensing Team accompanied by a number of Agencies and Officers.

Mrs Carla Adkins (Public Protection Officer – Licensing) was called as a witness on behalf of Wiltshire Council Licensing Authority to outline the site visits that she carried out on 18, 19, 20 and 21 July 2018. Mrs Adkins highlighted in her evidence the following;

- I refer to my site visit notes (pages 149-152 of the Agenda pack). On Wednesday 18 July which was the day before the site was due to open to the public, I arrived at 1.30pm and met with Mr Nick Reed and Mr Colin Peel who walked me around the site. The crew had already set up camp in field one which was a mix of campervans, tents and vehicles. I was advised that disposable BBQ's would be used for cooking and I asked how these would be disposed of (bearing in mind that disposable BBQ's are not permitted at this festival) and at first, I was told that they would be put in the hedge and then that they would be thrown in a skip. I

noted that the site signage had not been put up and that there was a narrow path which would lead to the overflow parking field which was very dry. I was concerned that this would be very dangerous if a lit cigarette for example was dropped and that there appeared to be no lighting for a path that went along the river. I expressed my concerns to the organisers – particularly the use of disposable BBQ's, that the live-in vehicles, tents and cars were too close to each other and that the site did not appear to be ready in respect of signage and lighting etc;

- Following the site visit I contacted Mrs Linda Holland (Licensing Manager) and Mr Fred Nutley (Public Protection Officer – Health and Safety) to express my concerns, particularly about fire risk and we agreed that I should contact the Dorset and Wiltshire Fire and Rescue Service Fire Officer. It was agreed that we would all meet on site on Thursday 19 July at 2.30pm, but this was subsequently changed to 11am in view of the fact that the site was due to open to the public from 12 noon;
- On Thursday 19 July myself, Mrs Holland and Mr Rob Wallbridge (Fire Safety Inspector – Dorset & Wiltshire Fire and Rescue Service) met at the event site at 11am. Mr Wallbridge gave advice to the organisers about fire breaks. We noted that the public were on site before we arrived, and more were coming in whilst we were there (before 12 noon). Mr Peel appeared to be very stressed and the public/staff appeared to be confused as to where they should be pitching. Not all the stewards were on site – and not all stewards we spoke to had received a briefing – it was very chaotic;
- We also noted that there was no medical or fire provision. Mr Reed was unable to confirm when the arena was open to the public but said that they would be able to use the bar facilities. There was no road signage in place and Mr Peel said that this was because our visit was holding him up. As Mr Peel's demeanour was becoming aggressive we agreed we would let him carry on and find him later;
- On Friday 20 July myself and Mr Fred Nutley (Public Protection Officer – Health and Safety) noted that the signage on approach to the site had now been erected. We arrived on site at 10.15am and asked where the site office was and were told it was the ticket office. We noted that the ford was still open with no fencing – due to the hot weather the water in the ford would contain high levels of bacteria and we asked again for this to be fenced off;
- We were then approached by Mr Ian Lucas who had been asked by the event organisers the previous evening to take charge of the site as Mr Peel and Mr Reed had lost control of the site. We were advised that the road signs had only arrived on Friday and that more signs were due to be

erected and that the field across the road would be used as additional parking (this was not part of the original proposed site of the event);

- We carried on to the site office/ticket office and asked how many were on site and how many tickets had been sold. The EMP stated that 500 were expected to attend the event. We were told by Ms Jean Chatfield that 784 tickets had been sold so far. Mr Nutley asked about a log book and how many staff were on site. Ms Chatfield was unable to help with this and advised that Mr Reed and Mr Peel were dealing with staff. We felt that the management team did not know what was going on in relation to numbers and who was in charge of what;
- We then went to look at the campsite and noted that tents, cars, caravans and campervans were all mixed in together. The firefighting provision in the camping area consisted of less than half a plastic bucket of water and half a plastic bucket of sand. We advised Mr Lucas that the water and sand was insufficient, and he advised again that the field across the road would be used as parking and would be set up with a SIA either side of the road to assist with crossing and it would be lit. We noted that there was no drinking water or standpipe in an extra field that was being used for camping (not part of the EMP);
- We walked back to the swimming field and noted there were people in the river. When we returned to the path which had a sign saying 'no swimming' we noted there were no buckets here.
- In the second field we spoke to the cadets on Gate 2 to ask how many more people would be let into the field. They said that only about 3 more 2-man tents could fit in and that a new field was being prepared for campers, but they did not know when this would be ready;
- We then went back to the arena and spoke to the SIA staff (provided by Themis Security) and Mr Lucas and asked again about the logbook. Security informed us that someone called John was keeping a log of incidents on his laptop. We were told it was in the process of being created (11.55am) but this should have been set up when the crew were on site. We asked about the medical provision and we told that they were en route (11.55am). Mr King (Head of Themis Security) reported that he and his team were first aid qualified and could stand in, however we noted that there were no first aid kit/provisions;
- When we left the site, we noted that there was no signage to let people know there was a festival on or the need to slow down on the Bath to Trowbridge side of the road;
- We spoke to Ian Lucas about the lack of water in the third field and he said he was going to move people out of the field into another (field) and

I asked him 'are you sure' and people have pitched and settled in. Mr Lucas then said ok, maybe not.

- On Saturday 21 July 2018 myself, Mrs Holland and Mrs Jenny Thomson (Public Protection Manager – Food and Safety) arrived at the site at 8.45pm and parked in new day parking field which was an extremely dry maize field. Cars were parked in an orderly fashion and another field had been set up for camping (in addition to what was stated in the EMP). The fire provision was ½ bucket of water and sand. A water point was noted and lighting columns. High viz vests were being used but clothing for security was black trousers/t-shirts. We were assisted across the road by SIA staff and walked into the barn. No one was performing in there at that time and Mrs Thomson noted that there were holes in the floor by the fire exit;
- We then walked into the arena – no one was checking wristbands or entry into the arena from the ford side. We noted that a number of cars were parked in the arena. A sink that had needed to be connected to pipes still had not been connected and waste was still discharging onto the floor (*Mrs Thomson clarified that the means to connect the pipe up for waste to be taken away was there it just still had not been connected despite being raised on previous site visits*). More camper vans were arriving (into fields 1, 2 and 3) and there was still no water provision.

Mrs Linda Holland, Designated Officer for Wiltshire Council Licensing Authority (Review Applicant), then continued with her submission to the Sub Committee:

- I refer you to the points raised by Mr Wallbridge (Fire Safety Inspector) which was written confirmation of his concerns following his site visit on 19 July (page 153 of Agenda pack). I would say that it is rare for us to get a Fire Authority representative to attend a site visit and following this up in writing. We were concerned that he had to highlight issues to the event organisers on day 3 of their event and that in some cases still there was no adequate fire provision available;
- Following on from the site visits and the engagement at the event with the organisers a decision was taken by Officers to call an ESAG Debrief meeting, these are rare, and the authority usually only hold 1 or 2 of these a year. This meeting was held on 10 August 2018 and the notes which outline the seriousness of the concerns of the agencies can be found at pages 177 to 180 of the agenda pack;
- The Fire Authority were invited to the ESAG Debrief and in response emailed Responsible Authorities on 24 July (page 157 of the Agenda pack). From this you will see that following their issues and concerns at the 2018 event, they stated that unless they were fully satisfied that the failings would not be replicated at any future event, the Fire Authority would formally object to any future event taking place. On page 161 of

the Agenda pack you will see the expected firefighting provision for the event and the notes from Officers stating that there was no firefighting provision on site on 19 July 2018 (although customers and crew were both on site) and that sand and water were added but no fire extinguishers were present until 21 July 2018;

- The document on pages 159 – 167 was sent out prior to the ESAG Debrief meeting and it itemises the failures to comply with the EMP;
- Notably some of these were the failure to have a clear event HQ/main site office where records are collated, and actions controlled from. We found that there was poor management on site as the two site directors were in conflict – it was not clear who was in charge and both seemed to be working against each other with who was making decisions and what would have happened in an emergency;
- It took a long time to get hazardous areas fenced off and there was concern that caterers were accessing the water from the ford and then cooking (with lots of animal faecal matter visible);
- Medical provision was not clearly visible. When Officers did eventually find the medic on site we found it was one person sat in a grey vehicle (there should have been a minimum of 2 medics on site);
- The blue route (for emergency vehicles) was compromised, by the parking of vehicles and placing of tents/ caravans adjacent or egressing into the route;
- Mixed camping and parking witnessed which increases the fire hazard as there were incorrect fire separations, which would aid the spread of fire if one were to break out;
- Warning signage coming from the Bath direction about the festival was non-existent to warn on going traffic;
- The security logs presented at the ESAG debrief meeting (page 193 of the Agenda pack) were incorrectly dated – the event was from 19 July 2018 and they hold little information and actions taken;
- These concerns/failures together paint a picture of an event where the organisers were totally unprepared for what happened or didn't prepare adequately. The risk to the attendees was totally unacceptable and all matters were within the realms of the organisers to have sorted before the first person attended on site; There was no sign of a clear HQ. The photographs show the areas of non-compliance critical to the planning of and opening of the arena and site from the beginning. The event was more popular than the organisers had allowed for. The key is public

safety. The organisers were either unprepared or prepared inadequately. There was a risk of serious harm to attendees, let alone the staff on site. What would have happened in an emergency I do not know.

- The drone footage on pages 181 – 191 of the Agenda pack was submitted by the organisers at the ESAG debrief;
- The ESAG Debrief meeting was held on 10 August 2018 which is for organisers to walk through the event and give reasons why decisions were taken and for organisers to understand the level of concern of the authorities for the event and to emphasise the importance of planning for the event. However, we get to March 2019 before the Local Authority have any meaningful engagement with the festival organisers. On submission of the review application I was asked by NR Events Ltd to meet with Mr Reed and Mr Lucas. At this meeting I outlined the Local Authorities concerns and expectations and was advised by them that they were seeking changes to this year's event. To date nothing has been submitted formally or in writing and we have only received the document that has been presented to the hearing (Agenda Supplements 1 and 2);
- I advised Mr Reed and Mr Luas that a new EMP would be required, and a draft would need to be produced as soon as possible as time was of the essence, to allow it to be circulated to the Responsible Authorities. I see from the documents that they have submitted for the hearing that there was a suggestion that I would wish to delay this until after the hearing. I do not believe this to be the case as this would serve no purpose as the proposed changes could have alleviated some of the concerns the Responsible Authorities have;
- The Licensing Authority considers that the Licence Holder has failed to promote the licensing objectives of public safety, and that standards of management at the festival in 2018 were well below that, which are expected of a licence holder putting on a safe and secure event in Wiltshire;
- The Licence Holders have demonstrated their failure to understand the importance of good planning and confirming the site was ready, prior opening to the public raises, serious concerns with the Licensing Authority;
- There was little or no understanding initially of the expectations of the Responsible Authorities regarding matters to be addressed and the need for urgency to sort issues out, rather a belligerence toward the Licensing Officers for getting in the way;

- The management witnessed was poor and there was no comprehension of the structure needed to run even a small-scale event, hence Mr Lucas' sudden involvement;
- Whilst recognising there have been changes made the confidence has been eroded and similar failings/issues must not be permitted to happen;
- There is nothing within the two documents supplied by the organisers (Agenda Supplements 1 and 2) that address the overarching concerns of the Licensing Authority, around management, risk management and reliance on one individual;
- Whilst the organisers have recognised the failings of last year, it wasn't just about two individuals - there were many other individuals on site who could have addressed the issues at an early point;
- The Licensing Authority was presented with various versions of a detailed EMP for the 2018 event, but this is no good if the organisers have no means to comply or willingness to ensure public safety is at the front of the event rather than an afterthought with all concentration being on the arena and artists than on the patrons and their safety;
- To date no revised EMP has been produced to support any changes that may be taking place. The Premises Licence was granted subject to the EMP being approved by the Licensing Authority and as such that will not be the case if the same one is submitted without significant amendments;
- The Licensing Authority therefore has no confidence that the festival organisers will comply with any further conditions or amendments to their licence and believes there are no further steps that could be taken, apart from revocation of the Premises Licence.

Questions were asked of Mrs Holland (Review Applicant) by the Sub Committee members as follows:

Q To clarify – a relevant representation in support of the review application has only been received by the Wiltshire Council Public Safety Team – no other Responsible Authorities have made a representation?

A Yes that is correct.

Q An application for a Premises Licence was received on 28 May 2018 for an event to be held in July 2018?

A Yes.

Q The ESAG Debrief meeting was held on 10 August 2018 – have you heard from the event organisers since that date?

A We only heard from the event organisers in relation to the transfer of the Premises Licence.

Q There has been no discussion or reference to any of the points raised at the ESAG Debrief?

A No.

The Premises Licence holder did not have any questions for the Review Applicant (Mrs Holland).

Key points raised by Mrs Jenny Thomson (Public Protection Manager – Food and Safety, Wiltshire Council) who had made a relevant representation were:

- I was formerly an Environmental Health Officer and have a background in festival safety. I am familiar with the Stowford Farm site and was aware of the Fringe Festival on this site and when it moved to Westbury;
- I take no pleasure in making this representation which identifies a catalogue of failings in respect of public safety. Fortunately, as far as we are aware these did not result in actual harm, but they had significant potential to do so and it was apparent that there was huge reliance on one individual to step in to try to resolve matters;
- The submissions made by the festival organisers in Agenda Supplement 1 make reference to the discord between the organisers, however any event relies on a team to pull it off and lack of cohesion between teams are likely to be as much of a failing;
- All the matters of concern identified by the Responsible Authorities could and should have been foreseen. The detailed EMP implied an awareness of potential hazards and risks but in reality, it appeared that these were words on paper and there was a failure to implement the necessary controls. In my view there was huge reliance on the past of experience of Mr Lucas who was brought in to try and salvage the situation;
- The Sub Committee have received my representation on pages 199-200 of the Agenda pack which is a list of the failings I am aware of and the notes and photographs provided by Mrs Adkins illustrate the matters of concern very well;
- In respect of the submissions made by the Licence Holders in Agenda Supplements 1 and 2, they now appear to fully acknowledge the failings. However, I remain concerned that the proposed management structure places huge emphasis again on the abilities and decision making of Mr Lucas. I feel that the organisers need to recognise that they need a very

clear strategic management team who are able to take a strategic overview both during set up, the event and breakdown - I would suggest a gold, silver and bronze command structure for example;

- I have worked with Mr Lucas at past Village Pump events on this Stowford site and I know he is very capable, but he does tend to run himself ragged as an active participant, taking personal responsibility for resolution of issues;
- I also have a concern that many of the named persons in the Agenda Supplement 2 were also involved in last year's festival and were named in the 2018 EMP. I feel that there must be a collective responsibility for what happened last year;
- We recognise that the Licence Holders wish to recreate this well-loved festival in its original setting, but it must be recognised that before moving to Westbury, the site, organisation and infrastructure had eventually grown significantly larger than it is now, and that part of the Festival was operated on land over the border into Mendip District Council area;
- There have always been Local Authority concerns about the access from the busy main road, the public safety and health concerns involving the river and the possibility of flood; and
- The level of input is indicative of the very real concern we have about this festival's operation. It would be unusual for the Food & Safety Team Manager to attend a site visit these days for an event of this size but having had prior knowledge of the site and previous festivals there I wanted to see for myself the matters that had been flagged up to me by Licensing and Safety colleagues.

There were no questions for Mrs Thomson by the Sub Committee or any parties to the hearing.

The Premises Licence Holders were then given the opportunity to address the Sub Committee. Mr Nick Reed (Director of NR Events), Mr Ian Lucas (Director of NR Events and Chair) and Mr Euan Baker (Bar Manager) were present at the meeting.

Mr Lucas in his evidence highlighted the following below:

- The Trowbridge Festival finished in 2011 and came to an end at the Stowford site, it then moved to Westbury and I was not involved. Last year it was decided that it would return to Trowbridge and I was called in to help. We got through the event. We accept there were issues and things were not as I would have organised them, there were

inexperienced teams involved but I got them through the 2018 event, did what I could and fortunately there were no injuries;

- We did go quiet after the 2018 event and we asked Mr Colin Peel to move away from the festival and we set up the new company NR Events Ltd. For quickness we set up with Mr Nick Reed as sole director and then got others on board. We needed people with experience. Some people have come out of retirement to help us and we have secured additional land on the same side of the road at the Stowford site as we recognised that we needed to make more provision;
- We acknowledge that the Event Management Plan is a live document that is fundamental to the event and it is ready for production following the outcome of today. I fully understand the document as I wrote it. At the 2018 event the EMP was based on previous plans and had been cut and pasted. We will ensure that there is full training for all staff and stewards on the implications of the EMP.

Mr Nick Reed then addressed the Sub Committee and, in his evidence, highlighted the following:

- The new company (NR Events Ltd) was set up and we were fully aware of the accountability;
- There has been a complete overhaul of the ticketing system. Our customers will have to purchase a tent pass and a vehicle pass so that we know what is due to come onto the site. By using the additional land, we can safely manage the entering process of the festival;
- Last year the numbers expected were based on previous experience and we had originally anticipated that we would apply for a Temporary Event Notice, but we sold more tickets, there was no control and people just descended onto the ground. We realised we would have to apply for a Premises Licence;
- I have been involved in Festivals for many years. We only expected 300 attendees (i.e. low numbers) which is why the application came in late.
- This year we will ensure that none of the blue routes are blocked. We have added a field for parking and pitches will be allocated sizes that have been measured out. Day tickets for the event will only go on sale if there are any left. We are now able to monitor the tickets sales as live data (live reporting of numbers) and we can halt ticket sales if needed as a failsafe;

- Ian is working on the EMP and is ready to submit – we had said that we would submit before the next ESAG meeting, but a date for this had not been fixed in light of this review hearing;
- Changes from last year means there will be a site Headquarters this time. The foundation of the festival is to plan all contingencies. Extra jobs roles have been brought in and we have experienced people coming back in to help us. We have increased the crew to deal with the pitches; here will be staff training via an online system which will be in relation to the EMP and they will have to sign acceptance of the EMP before they arrive on site.

Mr Ian Lucas then addressed the Sub Committee and, in his evidence, highlighted the following:

- There was confusion last year with security and the control of the Headquarters. The EMP will contain the site headquarters contact with job roles including a site manager and more experienced people will also be named in the new EMP.
- When I have previously run the event, I had used fire extinguishers – not buckets of sand and I did not understand why buckets of sand had been used. Extinguishers would be available at this year's event;
- We admit we were not prepared for water provision last year and had to get standpipes for the extra patrons;
- Fairleigh Hungerford swimming club is a private swimming club and some differences of opinion had arisen concerning the use of the swimming field
- We are aware that a 3rd party were advertising the 2019 event as being for 2000 people and this is certainly not the case – we have contacted them in relation to this.

Questions were asked of the Premises Licence Holders by the Sub Committee members:

Q Thank you for recognising that there were issues last year, I am concerned about your lack of engagement, staff training and managerial ability and the capacity numbers for the event. Different maximum attendance numbers have been mentioned "700", could get "2000". Could you confirm your maximum numbers?

A We will limit numbers to 800 based on our EMP and we will know how many tickets holders are on site.

Q How do you intend to manage people that just turn up on the day?

A If we don't have any day tickets available to sell we will use social media to communicate this. If we reach capacity, we will have to turn people away and say the Festival is full on social media. If we work to that number (800) we will need provision for security and toilets for that numbers, so we will need to be able to redirect people away.

Q Do you accept that you need to know your numbers so that you can "manage" the event at a certain level?

A Yes. We have local cadets – Air Cadets - who help us with the car parking of our customers and we have paid Stewards and SIA Security staff to also assist.

Q You said you had managed to run a safe event historically.

A Prior to last year's event yes it was.

Q When the festival was previously held on this site as the Trowbridge Pump, how many people used to attend?

A 5000 but that site also used Mendip land.

Mrs Jenny Thomson (Public Protection Manager) clarified that previously the licensable area had also gone over in the land covered by Mendip District Council.

Q So you are used to dealing with a festival of 5000 people?

A Yes, I have experience with dealing with 5000.

Q When did you start to sell tickets for the 2019 event?

A On the date that the request to transfer the Premises Licence was submitted.

Q You decided to sell tickets even though you have not submitted a revised EMP for agreement by the Responsible Authorities?

A We had drafted the EMP and we were working on it.

Q My concern is that you have sold tickets for an event before agreement on the EMP, bearing in mind the serious issues that were raised at the 2018 event with unprecedented Officer site visits, a damning ESAG Debrief and you were extremely lucky that nothing bad happened last year. If we revoke this Premises Licence this Local Authority will get it in the neck for the event being cancelled but it is our duty to ensure a safe

event, but you have done nothing until now to tell us how you are going to achieve this.

A I had two informal conversations with Carla (one of the Licensing Officers).

Q The transfer of the licence from one person to another is irrelevant – it is about addressing the very serious points raised by the fire service, about how badly run the previous year's event was but you still went ahead without authority from the fire service or the blue lights (emergency services).

A We felt we were moving away from the Trowbridge Festival to a new experience.

Q From the August debrief to now you have not sought to formally rectify the issues apart from a document for the review hearing. The online training system is in the management plan but you have not agreed the EMP yet.

A Will go hand in hand as soon as we get the EMP signed

Q You have mentioned an on-line training system – how will this work?

A We have worked to progress the staff training this year and as soon as the EMP is signed off we can roll this training out to staff as a package.

Q How do you check they have received the training?

A We will check our records and if our staff have not completed the training they will not be able to start their shift working for us. We have James our tech guy who is in charge of training who is working on this and there will be iPads on site on the day if anyone hasn't already done the training.

Q If someone turns up without training and you have insufficient numbers (of staff) what will you do?

A I will have tablets (ipads) on site.

Q How many staff and volunteers were there last year? How many people can buy a ticket?

A 800. There will be 100 crew and stage management and air cadets. There will be 700 saleable tickets to purchase, 100 tickets will be given free to stewards to use when they are not working and 100 for staff and crew – so 900.

- Q How will you manage if all 700 tickets are sold before the event – will you sell more?
- A No – we will not be selling day tickets if all tickets are sold out and we will use signage to indicate that the camp is full.
- Q If you staff have not completed their training before they are due to start work on the day, I would not recommend that they complete it on the day.
- A We will encourage all training to be completed before the event and only mop up training will be needed.
- Q Will adequate provision of water/standpipes and fire extinguishers be factored in the EMP?
- A I cannot understand why fire extinguishers were not used last year but they will be this year.
- Q Is this all booked?
- A Yes.
- Q Without EMP words how do we know that fire extinguishers will be in place? Have you got them all as there is not much time. How much time is spent on safety aspects of this event and not just the bands?
- A Since the Festival last year we did it between ourselves. The booking of bands is different from this (safety aspects). Mr Reed deals with the bands and I focus on the operation and site build.
- Q What is the capacity of the event – you said about 800 – is this plus crew?
- A Mr Lucas said it will be 800 plus crew (the crew will be less than 100).
- Q You detail in the documents you have submitted (Agenda Supplements 1 and 2) the team structure, but was is the size of the teams/roles, how many will there be? We need the EMP in good time and you need to ensure clear signage. These are the numbers which will appear in the revised EMP? How many people will be on site? The EMP needs a timeline and it is difficult to evaluate this?
- A We have brought in an Operations and Site man and he will schedule in all the jobs so that we know what needs to be done and this will be in the EMP.
- Q So the scheduling will be in the EMP?

- Q On page 141- the numbers last year were 600 plus volunteers. How many volunteers will be on site compared to last year? There seems to be grey areas of capacity – how many people can buy a ticket?
- A 800 – there will be 100 stewards, 700 saleable tickets, 100 crew/stage managers/air cadets and artists so a total of 900.
- Q No – more than 700, that is your limit. How will you manage if all 700 tickets are sold before the event – will you sell more?
- A We will not be selling day tickets if all the tickets are sold out and we will use signage to indicate that the camp is full.
- Q So the road signage will say camp is full.
- Q If your staff have not completed their training before they are due to start work on the day, I would not recommend that they complete it on the day.
- A We will encourage all training to be completed before the event and only mop up training will be needed.

Questions were asked of Premises Licence Holders by Mrs Thomson (Public Protection Manager - Responsible Authority);

- Q I am concerned that experienced team members from last year are returning. There is a collective responsibility here as a number of named people were involved last year. How many of the team are new for this year? It seems 9 – 10 were involved last year.
- A Will is coming back, Jerry is back. We have a car park and campsite manager – we didn't have this last year. Site operations were not involved last year.
- Q Are we looking at a sea change – lots of these names were in the EMP last year and should have been responsible as you are for last year. I am not confident.
- A The car parking and operations were not involved in last year's festival. Both have experienced dealing with Stowford at 5000 capacity.
- Q In the event something happens – what is the strategic command?
- A The Duty Manager and Senior Manager. Mr Reed plus Mr Lucas who is strategic.

Q Are you confident you have a strategic command system, and everyone knows what is expected of them?

A Yes

Q Within your ticket capacity, have you considered the pitch size?

A We have measured the provision for large and small pitch sizes.

Q The de-brief gave clear direction about recognition of what the event intends to be – a small contained festival or is it a festival that you want to grow? Need clarity of what it intends to be.

A A reunion festival.

Q It is a venue and event which people have enjoyed in the past. Absolute clarity is needed on scale and scope - what it intends to become because it is a limited capacity site.

Q Are you clear you have addressed all the issues from the Council and the Fire authority?

A Sub Committee Member asked the Premises Licence Holders the following question:

Q Can you confidently say that you can address all the issues raised by the Responsible Authorities?

A Yes.

Question asked of Premises Licence Holders by Mrs Holland (Review Applicant – Licensing Authority);

Q Have you measured the site and are confident it will all fit?

A Yes. Caravans and motorhomes in land at the bottom will have facilities

Q The access to the arena through the swing field to the arena - so the whole area will be fenced again?

A Yes and lighting.

Q The site was not big enough and there is no clarity on numbers.

A Sub Committee member reported that the festival website said that all large pitches had now sold out.

Q You need to recognise what the event intends to be and have clarity about its scale and scope. Is it a small event or a festival to grow?

A We see this as a reunion event and we accept that we need to be clear.

Q Disappointing that the sale of tickets went ahead. I enjoyed reading your documents (Agenda Supplements 1 and 2), however they do not fill me with confidence.

Mrs Holland (Review Applicant - Licensing Authority) made the following points in summation:

- The Licensing Authority has outlined the history of the last year's event and serious failings that have led us to this point, including the reasons why the authority fully believes that the licence should be revoked due to the failings of the organisers to deliver a safe and secure event, breaching the licence and not promoting the objective of public safety;
- We are now in the same position we were in last year, just one month earlier. Advice was given to the organisers and not heeded. An EMP was produced last year but not complied with;
- Whilst recognising the changes that have been proposed by this year's organisers the licensing authority is struggling to believe anything will be different. If the Sub Committee members consider that with the evidence in front of them the Premises Licence Holders will comply going forward, then they may want to consider a number of additional conditions.

Mrs Thomson (Public Protection Manager – Responsible Authority) did not wish to make any points in summation.

The Premises Licence Holders made the following points in summation:

- We fully acknowledge the issues with last year's festival that have been raised and we have taken the necessary steps raised by all the Responsible Authorities;
- We welcome the feedback and strive to work closely with staff and third parties; and
- We will look at the conditions suggested by Mrs Holland and are willing to support these conditions.

The Sub Committee then adjourned at 12.35 and retired with the Council's Solicitor and the Democratic Services Officer to make a decision on the application for the revocation of the Premises Licence.

The Hearing reconvened at 13.00. It was noted that whilst Councillor Allison Bucknell had taken part in the decision, she was not present whilst the decision was announced to the hearing participants and Councillor Peter Evans was the substitute member for this brief conclusion of the hearing.

Following the deliberations of the Sub Committee Members, the Council's Solicitor made a statement that no material legal advice was given in the closed session:

Following the deliberations of the Sub Committee Members, it was

Resolved:

The decision of the Western Area Licensing Sub Committee is that the Premises Licence LN/000014610 in respect of Stowford Farm, Farleigh Road, Wingfield, Trowbridge held by NR Events Ltd be revoked.

Reasons for the Decision

The Sub Committee determined that the Licence Holder had failed to comply with its obligations in respect of the following licensing objectives: -

- Public safety

The Sub Committee also found that the Licence Holder had failed, within the required timescales, to comply with one of the conditions of the Premises Licence as set out below;

Public Safety

- Event to be managed in compliance with the Event Management Plan (policy and procedures) as approved by Licensing Authority

In reaching its decision, the Sub Committee took account of the representations that had been made on behalf of the Review Applicant, the Public Protection Officer (Licensing), the Public Protection Manager (Food and Safety), the Premises Licence Holder, Mr N Reed of NR Events Limited, Mr I Lucas Chair of NR Events Ltd and Mr E Barker, Bar Manager. This included all the written representations contained within the Agenda and the two Agenda Supplements and the oral evidence given at the hearing. The Sub Committee also considered and took account of the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

The Sub Committee also considered the four licensing objectives; the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm and also took into account the relevant provisions of the Licensing Act 2003 and determined that the

Licence Holder had failed to comply with the obligations in respect of the licensing objective of Public Safety and that the Licence Holder and the premises was undermining one of the four licensing objectives – namely public safety.

Reasons

Whilst the Sub Committee acknowledged the intent of the Licence holder who on paper had made strides towards addressing the issues of public safety unfortunately the Sub Committee did not have confidence that the 2019 Festival event would be run in a safe manner promoting the licensing objective of public safety. Nor did the Sub Committee have confidence of the Festival's Organisational Management Team's ability to put this in place in time for the Festival in July 2019 given to date no updated Event Management Plan addressing the public safety issues had yet been provided to the Licensing Authority for the 2019 Festival.

Review Application

The Review application was made by the Licensing Authority on 13 March 2019 in relation to the following licensing objective: -

- Public safety

Following advertisement of the Review a relevant representation was received from the Public Protection Manager (Food and Safety), in relation to public safety.

The Sub Committee heard evidence from the Review Applicant (Wiltshire Council's Licensing Manager), the Public Protection Officer – Licensing (who had prepared the report to the Sub Committee), the Public Protection Officer – Licensing (who was called as a witness by the Review Applicant) and the Public Protection Manager (Food and Safety) who made a relevant representation and from the License Holder and Chair and Bar Manager of NR Events Ltd (in response) that;

- **No up to date Event Management Plan for the 2019 Festival had been provided to the Licensing Authority to address the public safety issues raised by Responsible Authorities during site visits which had taken place on 18, 19, 20 and 21 July 2018 and in the Event Safety Advisory Group De-brief which took place after the Festival on 10 August 2018.**

The Licence Holder in response stated that an updated Event Management Plan ('EMP') has been prepared for the next Event Safety Advisory Group ('ESAG') meeting. The delay due in part to issues having arisen between the Licence Holder and the Director of Trowbridge

Festival Ltd who was involved with the 2018 Trowbridge Festival ('2018 Festival') in 2018.

- **At the 2018 Festival there was a failure to implement parts of the 2018 EMP.**

This was acknowledged by the Licence Holder who confirmed in response that an updated EMP for the 2019 Festival had been prepared and would be submitted at the next ESAG meeting.

- **At the 2018 Festival there was insufficient fire provision and limited fire equipment on site and evidence of use of disposable BBQs. A fire safety representative from Dorset and Wiltshire Fire and Rescue Service attended on site and raised concerns and gave advice. There was insufficient spacing between tents and a mixture of tents, caravans and parked vehicles in one of the overflow fields. An overflow field did not have a water supply.**

This was acknowledged by the Licence Holder in response. The Chair of NR Events Ltd confirmed fire extinguishers had been obtained for the 2019 Festival. The 2018 Festival was successful with higher than expected attendance and the Licence Holder confirmed that the parking generally and pitching of tents and caravans would be properly managed for the 2019 Festival. Access to additional land had been obtained for the 2019 Festival. All fields where camping taking place would have access to a water supply.

- **At the hearing the Licence Holder and Chair of NR Events were not able to clarify with certainty the maximum proposed capacity of the 2019 Festival to the Sub Committee. One website had stated the 2019 Festival would have a capacity of 2000, but the Licence Holder had stated in the hearing the proposed capacity would be 800 or 900 (public, stewards and volunteers). The Sub Committee were concerned that there was no clarity on the strategy if 2000 people turned up to attend the Festival. The Sub Committee were also concerned about the risks to the public arising from the Licence Holder and Management Team not having clarity knowing the numbers attending the 2019 Festival attending on site at any given time. At the 2018 Festival wrist bands worn by Officers from the Licensing Authority attending on site (and not in Council uniform) were not checked.**

The Licence Holder accepted that certainty of the numbers attending the 2019 Festival and a strategy for turning the public away if capacity was reached during the 2019 Festival was necessary. A new ticket system would be used for the 2019 Festival and they would ensure the entrances to the Festival were staffed at all times. Day tickets would not be sold unless insufficient tickets sold in advance.

- **There was no clearly defined Headquarters at the 2018 Festival and confusion on the roles of staff and stewards. The Sub Committee were concerned about the short period of time between the date of this hearing and the 2019 Festival and whether this time was sufficient to address the issues arising from the 2018 Festival.**

This was acknowledged by the Licence Holder. The current Chair of NR Events was brought in as 'duty manager' for the 2018 Festival but on site was asked to step up to Site Management. For the 2019 Festival, changes to the Management Team had been made and the Chair would have a more strategic role. There would be a clear Headquarters on site. The Licence Holder felt there was sufficient time to address the issues arising from the 2018 Festival.

In view of the evidence heard, the Sub Committee concluded that they had no confidence in the ability of the Licence Holder to adequately address its failings in respect of the licensing objective of public safety. The Sub Committee also concluded that the imposition of additional licence conditions, or the temporary suspension of the Licence would not result in the required improvements and that revocation of the licence was the only practical option and was one which was both proportionate and necessary to meet the licensing objective of public safety.

Conclusions

The Sub Committee acknowledged the intent of the Licence Holder making strides toward addressing the issues of public safety arising from the 2018 Festival, unfortunately the Sub Committee did not have confidence in the ability of the Licence Holder or the Festival's Organisational Management Team to put these in place in time for the Trowbridge Festival 2019 ('2019 Festival') taking place in July 2019 in a safe manner promoting the licensing objective of public safety. In particular, the Sub Committee noted that to date no updated Event Management Plan addressing the public safety issues had yet been provided to the Licensing Authority for the 2019 Festival.

Options and Decision

The Sub Committee considered the options available to it (including imposition of further conditions or a period of suspension to allow time to address the issues) however because of the now short period of time between the date of the hearing and the 2019 Festival the Sub Committee did not feel there was sufficient time to put in place the necessary requirements to ensure the 2019 Festival was a safe event.

The Sub Committee therefore concluded, on the basis of the evidence presented, that revocation of the licence was the only option available and that

such revocation was reasonable, proportionate and necessary to promote the licensing objectives.

The Applicants were informed that any appeal must be made to a Magistrates' Court within 21 days of the date of notification of the decision.

(Duration of meeting: 10.40 am - 1.05 pm)

The Officer who has produced these minutes is Lisa Pullin , of Democratic Services, direct line 01225 713015 , e-mail committee@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

Licensing Sub Committee - Classification of Films

**MINUTES OF THE LICENSING SUB COMMITTEE - CLASSIFICATION OF FILMS
MEETING HELD ON 15 OCTOBER 2019 AT COMMITTEE ROOM A - COUNCIL
OFFICES, MONKTON PARK, CHIPPENHAM SN15 1ER.**

Present:

Cllr Allison Bucknell, Cllr Peter Evans and Cllr Stewart Palmen

Also Present:

Linda Holland (Licensing Manager, Sarah Marshall (Senior Solicitor) and Lisa Pullin, (Democratic Services Officer)

1 Election of Chairman

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

Resolved:

To elect Councillor Allison Bucknell as Chairman for this meeting only.

2 Declarations of Interest

There were no declarations of interest.

3 Meeting Procedure

The Chairman explained the procedure to be followed at the hearing, as contained within the "Hearing Procedure Summary – Classification of Films" (Page 5 of the Agenda refers).

4 Consideration of Exclusion of the Press and Public

The Sub Committee were in agreement that the press and public be excluded from the meeting during consideration of Agenda item 5 and duly

Resolved:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Minute Number 5 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 6b of Part I of Schedule 12A to the Act and the public

interest in withholding the information outweighs the public interest in disclosing the information to the public.

5 **Classification of a Film**

Linda Holland (Licensing Manager) explained to the Sub Committee that a request had been received from Bradford-on-Avon Film Society to classify the film “Marcello, Marcello” which has been distributed around Europe but has never been put on release in the United Kingdom and so has not been given age certification by the British Board of Film Classification (BBFC).

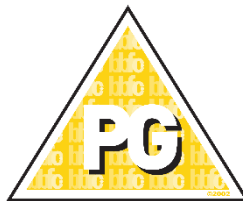
The Sub Committee Members present asked why the film needed to be classified to be shown in the United Kingdom. Mrs Holland reported that as the film was intended to be shown to a public audience for a charge then the film must be classified.

The film was then shown to the Sub Committee Members with English subtitles.

At the end of the film viewing the Licensing Sub Committee:

Resolved:

That in relation to the film, “Marcello, Marcello”, to grant the film a PG classification for any public viewing in Wiltshire.



Reasons

Having viewed the film “Marcello, Marcello” in Part II private session on 15 October 2019, the Sub Committee took into account the British Board of Film Classification (UK) (BBFC) classification guidelines and unanimously agreed that the content should be subject to a PG parental guidance classification. The Sub Committee noted that the film, which was a romantic comedy, contained only mild violence justified by its context and there was a brief reference to nudity with no sexual context. There was no glamorisation of weapons such as guns, nor any focus on anti-social behaviour or drugs or discriminatory language or behaviour and only minimal use of mild bad language (which was in context). There were no frightening sequences and no prolonged situations where the characters are in danger.

In reaching its decision the Sub Committee also took into account the relevant provisions of the Licensing Act 2003 and the Council’s agreed procedure for the classification of films which was approved in September 2019.

(Duration of meeting: 11.30 am - 1.10 pm)

The Officer who has produced these minutes is Lisa Pullin of Democratic Services,
direct line 01225 713015 , e-mail committee@wiltshire.gov.uk

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Licensing Authority Working Group

NOTES OF THE LICENSING AUTHORITY WORKING GROUP MEETING HELD ON 11 NOVEMBER 2019 AT WEST WILTSHIRE ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Ernie Clark, Cllr Peter Hutton and Cllr Pip Ridout

Also Present:

Julie Anderson-Hill (Head of Culture and Operational Change), Tom Ince (Principal Compliance Officer) and Lisa Pullin (Democratic Services Officer)

13 Apologies

Apologies were received from Councillor Allison Bucknell.

14 Notes from Last Meeting

The minutes of the meeting of the working group held on 22 May 2019 were agreed.

Cllr Hutton referred to page 5 of the minutes where it stated that “Uber vehicles are not allowed to advertise the fact that they are Uber vehicles in Wiltshire as they are not licensed here”. He had seen vehicles with Uber on in Wiltshire. Tom Ince (Principal Compliance Officer) reported that Wiltshire operators know that they are not permitted to do this. Enforcement Officers can act if this is reported to them, photographic evidence would be needed to pursue this.

15 Update on Fares and Tariff Proposals from the Industry

Tom Ince (Principal Compliance Officer) reported that there had been a meeting with taxi trade representatives in early October 2019. We had asked the trade to come up with proposals for a revised tariff by 10 December 2019 and we arranged this meeting to check on their progress of this.

Our proposal to the trade was met with some aggression and we think it may be difficult to get buy in from to a single proposal. The Council is aware that a representative from the north has been working hard on this and there were also responses from the east and south. There was no west representative present at the October meeting, but we have since had a conversation with a representative from the west.

The general consensus so far is that they may wish to remove tariff 3 or only use it on certain days e.g. Christmas, etc. We have booked a further meeting for the taxi trade representatives to use a room at Kennet House on 25 November for them to meet up and thrash out a proposal.

The Chairman asked how this would be agreed? Officers reported that any proposal that is put forward would need to be agreed by a majority of the trade. If they cannot come up with an agreed proposal, then Council Officers would have to come up with a proposal to move it forward. It was accepted that there would be differing opinions, but it was believed that the majority wish to keep the rest of the tariff the same. Officers had considered if there was a need to have tariffs 4 and 5 which relate to large vehicles, as it was perceived that a larger vehicle would always cost more to run (which may not be the case in all larger vehicles). Officers had carried out research into this and they are not convinced that there is always an increased cost for a larger vehicle. Officers would prefer the trade to come up with a proposal that is best for them and meets their needs.

Julie Anderson-Hill (Head of Culture and Operational Change) reported that the feedback they were getting from the Salisbury area in particular is extremely negative and that Officers were doing that they could to work with them to improve this. Julie had been invited to attend a Purple Flag event in Salisbury at which they were very hostile. She had also been invited to another event which she would do if it was after the trade meeting on 25 November as before then there will be nothing to report to them.

Because of the timings of that trade meeting and the next Licensing Committee (2 December 2019) Officers would seek to provide a verbal update on progress made in relation to taxi tariff proposals.

Councillors asked about consultation. Officers reported that they believed that any changes to the tariff would be subject to statutory consultation. It was hoped that recommendations could be presented to the March meeting of the Licensing Committee. It was questioned whether approval is just needed from Licensing Committee or if this then has to go on to full Council. Lisa Pullin agreed to check this and report back to Officers and working group members.

Resolved:

- 1. That the working group note the update on the fares and tariff proposals from the trade representatives.**
- 2. Receive a verbal update on progress of proposals at the meeting of Licensing Committee on 2 December 2019.**
- 3. Receive confirmation from Lisa Pullin on the process needed to agree any changes to the taxi tariff after legal advice is sought.**

16 National Refusals and Revocations Database

Tom Ince reported to the working group that they were planning to bring a report to the December meeting of Licensing Committee which sought to give them the relevant information to make an informed decision on whether the Council should introduce the use of the National Register of Taxi Licensing Revocations and Refusals (NR3).

The draft report was attached to the Agenda and those present were informed that the Council was already a member of the National Anti-Fraud Network (a nationally recognised scheme) (NAFN) and they host the NR3 element that would give us access to check if a driver has had a previous revocation or refusal of a licence.

Whilst at present an enhanced DBS check is carried out on drivers, we rely on applicants disclosing information about any previous revocations or refusals. If we adopt use of this database, we would be able to check this information and add information ourselves if we revoke or refuse an application so other authorities are able to check too.

The draft report has raised some questions from colleagues in the Governance team and a response was still awaited from Legal.

If this were to proceed and be approved the team would need to update their literature and privacy notices, etc as it would be a change in the way that driver's data is used.

As there are a lot of surrounding counties to Wiltshire it is likely that drivers could apply to Wiltshire if they have had problems/bans in other Counties.

Resolved:

That the Working Group support the plans to join the National Register of Taxi Licensing Revocations and Refusals (NR3) and agree that this report should progress for approval to the Licensing Committee on 2 December 2019.

17 Taxi Enforcement Plan

Tom Ince reported that once of the criticisms they receive when they have discussions with the trade and the public is the lack of enforcement by the team. This has been taken on board and to address this a proactive enforcement plan has been put in place.

From 15 October a Markets Officer has been "borrowed" for 2-3 days a week to assist with the licensing element, this has allowed the Compliance Officers to implement a structured enforcement plan. They have attended in specific areas when issues had been reported (Warminster and Salisbury, Amesbury and

Devizes). This has received positive feedback from industry so far. In the past where we have not had the capacity to carry out regular enforcement we acknowledge that some drivers may have got into some bad habits.

102 driver inspections have been carried out on the ranks. Identified issues have been ID badges not being worn, drivers smoking or vaping in vehicles, and leaving vehicles unattended.

132 vehicle inspections have picked up 38 different infringements which has resulted in 13 drivers being issued penalty points.

7 vehicles improvement notices have been issued. They will need to get these issued rectified or their licences will be revoked. Drivers are supposed to report damage to us, for example they may have had a minor bump which has not necessarily needed a major report but there is a resulting sharp edge or example.

If drivers accumulate 12 penalty points in a rolling 12-month period, they would be called in for a licence review. The licence is not automatically revoked or suspended.

There are concerns with a large operator from Warminster and they have been called in for a meeting as Officers are not convinced they are fit and proper. There is a formal process to go through to review licences etc.

The Chairman asked if this had been/would be reported as a good news story. Officers reported that they were planning to do press coverage on it with details of what their enforcement had achieved e.g. "we have caught out x, we have stopped this and done this". Working Group members asked for there to be a comment from Local Ward Members (not just the Cabinet Member) as it could be the case the Local Members have been working on this for a long time and their names would be recognised more by the local residents than the Cabinet Member (Bridget Wayman).

Tom reported that they currently had a social media account for fly tipping but there were plans to extend this to other areas within their remit, including taxis.

Officers were planning to go out during an evening to carry out enforcement in locations in Wiltshire and would also include a Fly tipping Enforcement Officer. Officers would also be able to report any other identified issues to colleagues e.g. Licensing.

Working Group members asked if there was a link with the Highways Team so that there were aware in advance of any changes/road closures etc that would affect taxi ranks etc. Julie Anderson-Hill (Head of Culture and Operational Change) reported that they are linking in with the road closure procedure so that they are kept informed.

Julie reported that whilst they are pleased to report the benefits of the enforcement that they had carried out, they had only been able to do this by utilising an Officer from another team and that there were plans to restructure the team to allow this to continue and it was hoped that this would receive the support of the Licensing Committee. Capacity has been able to be released from the Markets Team as Markets are being devolved to Town Councils and so they had taken the opportunity to use their staffing resources better and utilise the Officer time to carry out the enforcement which is a statutory function.

Resolved:

That the Working Group note the update on the enforcement activity carried out and support plans to ensure that this continues.

18 **Taxi Licensing Team Structure**

Tom Ince reported that he and Julie Anderson-Hill reported that plans were afoot to restructure the Taxi Licensing? Team and it was proposed that the team be split to become Officers who are responsible for the admin function and those that carry out enforcement.

The Working Group members fully supported this approach and suggested that this be raised with the Licensing Committee for their endorsement to assist with budget requirements etc.

Resolved:

That the Working Group note that the Taxi Licensing Team be restructured and that they fully support these proposed plans in principal.

19 **CCTV in Taxis - Swindon Borough Council's Position**

The Chairman reported that he had heard on the radio that Swindon Borough Council were going to make CCTV in taxis a mandatory requirement and that he had asked Officers to investigate this, bearing in mind the advice that we had received from our Legal Team that there were many issues around this and that they could only recommend that this be "best practice".

Tom Ince reported that he had contacted Officers at Swindon but had not received a response. Tom had since heard that the CCTV in taxis was a recommended scheme and thinks that his email had raised issues with them and they had changed their stance.

Tom would try again to make contact with Swindon BC Officers. The biggest issue with CCTV is that if it was mandatory (the Council) would legally be the Data Controllers of data that we are not in control of. Tom believed that there had been opposition to the scheme in Swindon.

It was unknown how many taxis currently had CCTV. A Working Group member asked if the use of CCTV was part of an application and if it was stated as desirable to have it. Tom reported that CCTV is on the guideline list but was not currently stated as desirable/essential. Officers planned to wait and see what national guidance is issued as part of the consultation feedback and consider the position after that time.

Resolved:

That the Working Group note the update on CCTV in taxis.

20 **Review of Monthly Performance Data for Service - September 2019**

Tom Ince referred to the September 2019 performance data for the service that had been circulated with the Agenda.

In the year to date the team had processed 969 licence requests which was up 53% on the same period in 2018. The increase in volume was primarily due to the introduction of 3 yearly licences in 2015/16 which were now coming around for renewal. Two new team members had been appointed following the resignation of both assistants, training these new team members had increased pressure on the team during a busy period. Performance was still not quite where it should be, but as previously reported there was good work being carried out on enforcement. They were slightly behind expected timescales when responding to emails and when the additional resource is lessened (due to Officer sickness/leave) then there is a delay on admin.

Tom felt that the team had achieved well especially in this exceptionally busy time. Because of the tail off of the 3-year renewal cycle it was anticipated that next year would be slightly quieter and this would give the opportunity for Officers to work on other projects that are in background. There were plans to look at automating their processes and give drivers the opportunity to “self-serve”.

A Working Group member asked if we flag to drivers when their licences are due for renewal. Tom reported that they do email drivers as a reminder. Some are very proactive in seeking the renewal and some leave it to the last minute and then struggle as there can be a 2-week waiting time for an appointment to renew and they are not allowed to be on the road without a licence.

There were currently 1042 drivers and 937 vehicles licenced.

Officers asked the Working Group for their views on the value of the data to them. Officers reported that the analysis of the data enabled them to see trends so that they are able to predict and apply resources when needed.

Members agreed that the data was useful and recommended that it should be shared with the Licensing Committee.

Officers reported that the analysis of the data enabled them to see trends so that they are able to predict and apply resources when needed.

It was suggested that the wording on page 24 of the agenda – paragraph 3.0 – Enforcement actions be amended to state that a driver “may” be suspended if they reach 12 points in a rolling 12-month period.

Resolved:

That the Licensing Team Performance Data for October 2019 be presented at the meeting of Licensing Committee on 2 December 2019.

21 **General Update**

The Chairman wished to thank Officers for all of their great work to implement changes to enhance the service.

The Chairman asked if the plan to issue a “star rating” for taxi providers had progressed? Officers reported that this was still in development and that they are considering ways in which this system could be implemented, and how it would work with admin staff support. Hoping to find a way that is the least burden to implement and maintain.

The Chairman asked for an update on the proposed introduction of an English test as part of the application process. Officers reported that they were looking at different providers. It was noted that Transport for London had introduced a scheme in March 2018 but that this had been suspended this year as there had been a challenge of it. Officers would like to implement an English test for drivers but planned now to wait until Central Government respond following the earlier national consultation they carried out as they may give advice on how this should be implemented.

The Chairman asked for an update on the introduction of mandatory safeguarding training and how we would ensure that it is carried out by drivers and not someone else on their behalf. Officers reported that this was still ongoing. They would be thinking about how it could work logistically and would be working with Organisational Development to progress this.

The Chairman asked for an update on establishing a process for safeguarding adults in taxis. Officers reported that they were working with colleagues in legal, HR and adult social care to look at the process to follow when there is an incident in a taxi with a vulnerable adult. There is a clear process to report to the MASH if there is an incident with a young person but not yet with adults.

Resolved:

That the update be noted.

22 **Date and Time of the Next Meeting**

The next meeting would be arranged for January 2020 once the route for approving a possibly revised taxi tariff was confirmed. We would then be able to schedule this in to fit in with Licensing Committee timetable etc.

Resolved:

That the next meeting of the Licensing Authority Working Group be arranged for January 2020 by Lisa Pullin.

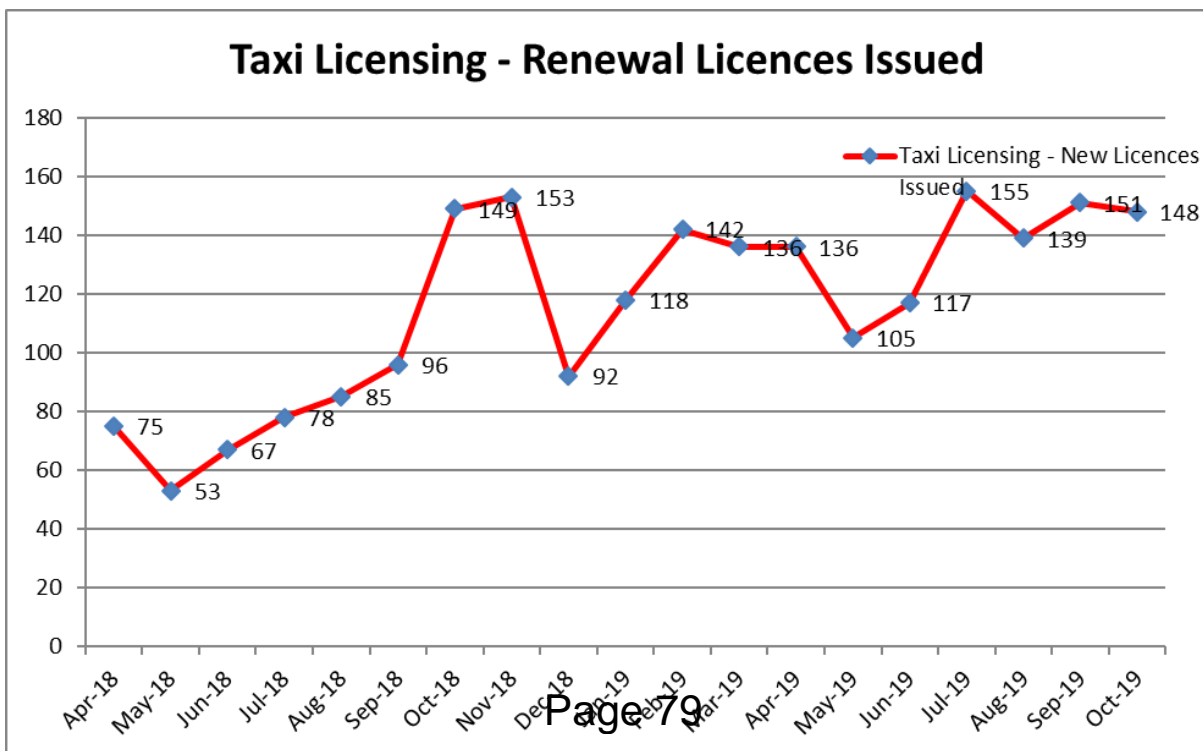
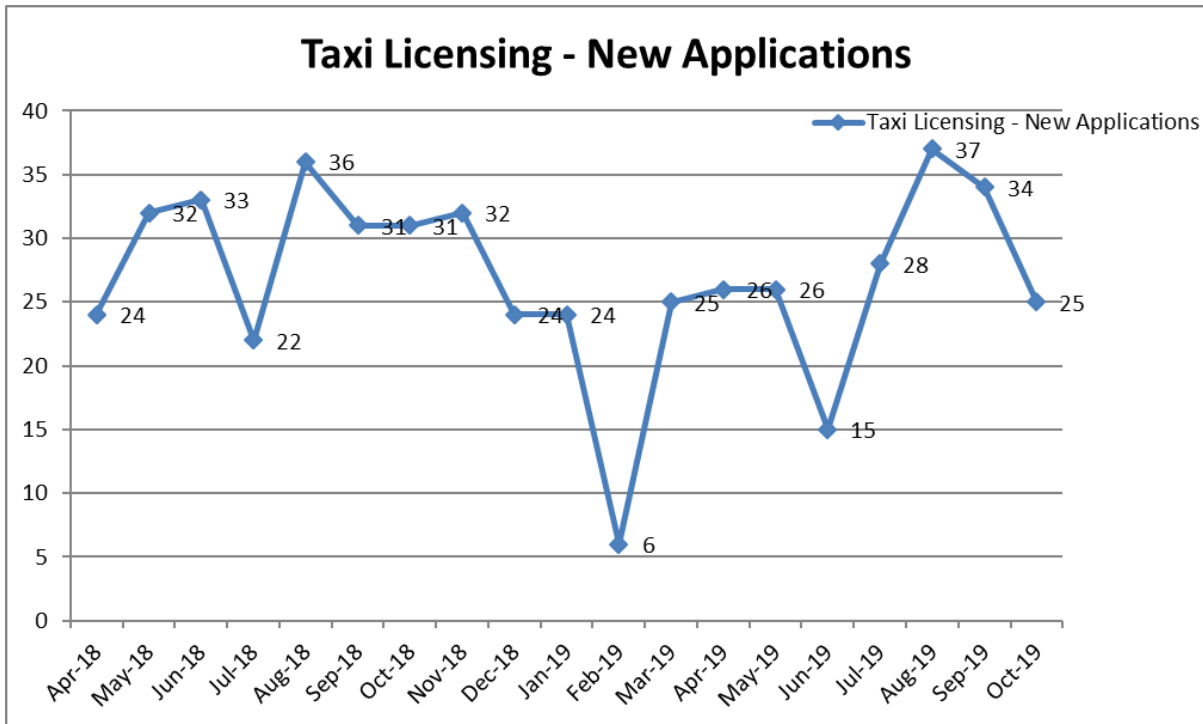
(Duration of meeting: 11.00 - 11.55 am)

The Officer who has produced these minutes is Lisa Pullin, of Democratic & Members' Services, direct line 01225 713015, e-mail committee@wiltshire.gov.uk

Monthly Taxi Licensing Report – October 2019

1.0 Licensed Drivers

During October 2019, 25 new drivers were licensed and 148 existing drivers had their licences renewed, this is significantly above average levels over the last 2 years. The number of new driver applications was down 6 or 19% on October 2018 (31) and the level of renewals was down 1 or 0.5% on October 2018 (149). This work is currently being achieved with two new team members who are undergoing training. YTD the team have processed 1,142 licence requests up 330 or 41% on the same period in 2018 during which the team processed 812 licence requests. The increase in volume is primarily due to the introduction of the 3 yearly licence in 2015/16 which are now coming around for renewal. Volumes for the team are anticipated to be high for the rest of 2019.



In the longer term we will show a cumulative graph as well to compare volumes last year to this year.

Figure 2 below shows the total number of licensed hackney carriage drivers in Wiltshire and their location.

The total number of licensed hackney carriage drivers at the end of October 2019 was 866, down 8 on the previous month. 184 were licensed in the North area, 108 in the East, 328 in the South and 246 in the West.

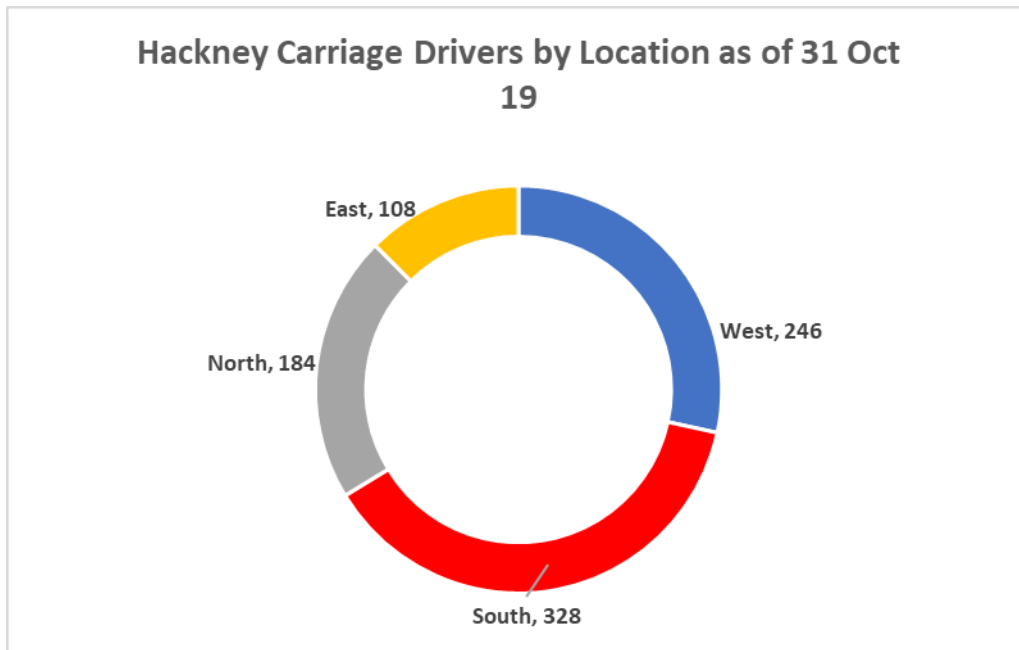
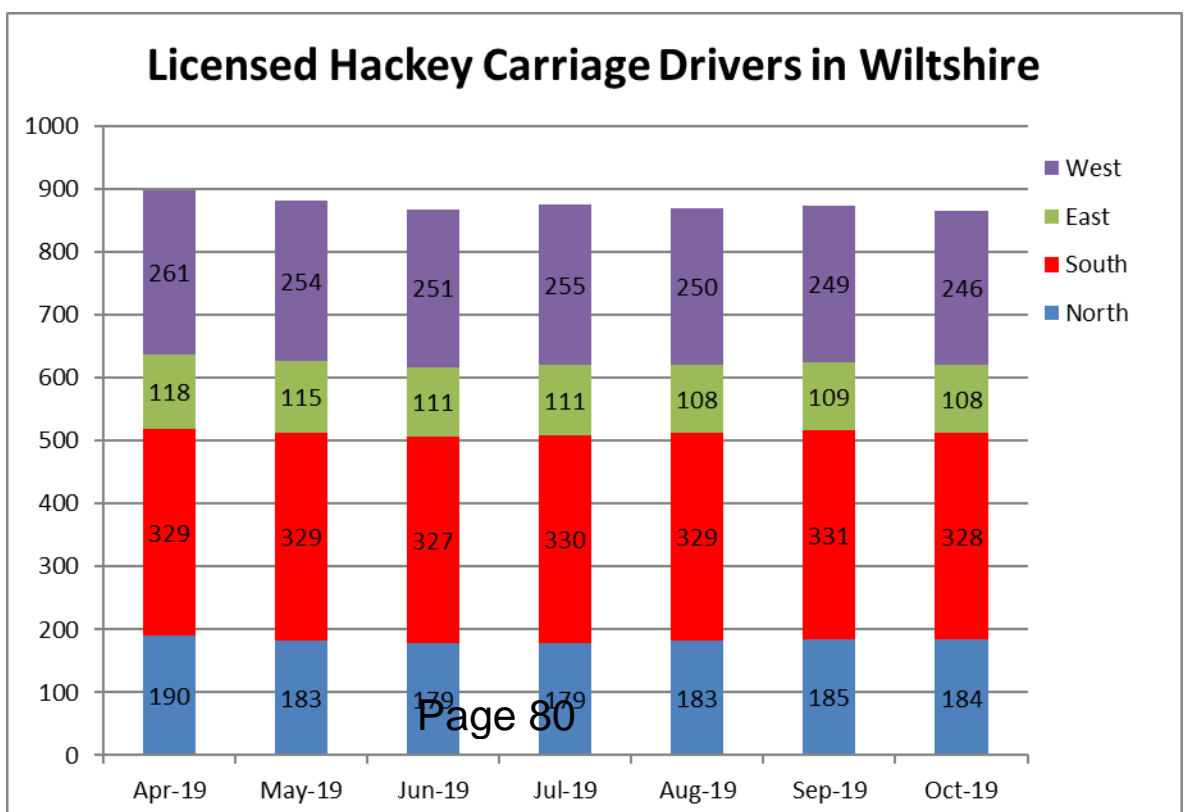


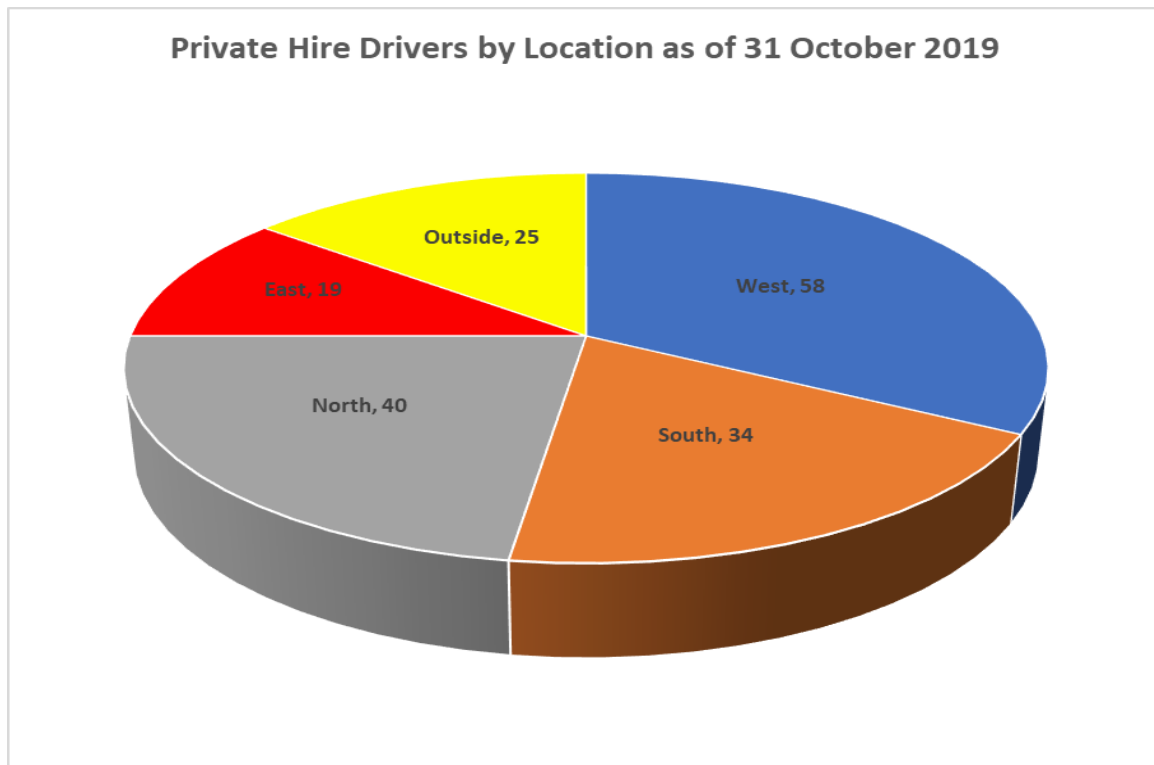
Fig.2

The graph below shows the monthly variation in hackney carriage driver numbers during 2019/20. All areas saw a fall in licensed hackney carriage drivers, the West fell by 3, the East 1, North 1 and the South 3



The team also license private hire only drivers, these totalled 176 as at the end of October 2019, up 5 on the previous month, bringing the total number of drivers licensed to 1042, a reduction of 3 over the month.

Private Hire drivers are not restricted by zone and can take bookings for anywhere in the Country if they wish. It is interesting to note that we have more private hire drivers living outside of the county than in the east of the county. For information the area in which the private hire drivers are registered is as follows;



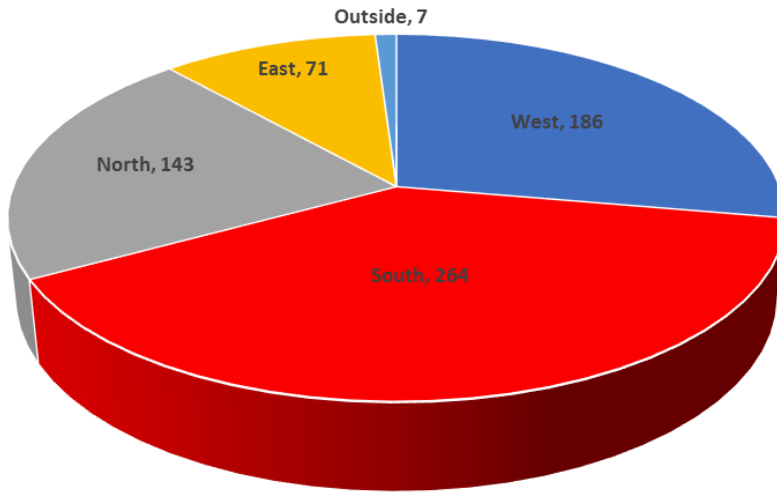
The report will include a column graph of total driver numbers to show trends once more data is built up.

2.0 Licensed Vehicles

At the end of October 2019 the taxi licensing team licensed a total of 937 vehicles, up 12 on the previous month. The vehicle split is as follows, 671 hackney carriage vehicles, up 7 on the previous month and 266, private hire vehicles, up 5 on the previous month. Of the 937 vehicles licensed 12.2% or 114 vehicles are wheelchair accessible, up 5 on the previous month. A graph will be included to show the trend in WAVs as more data is collected.

The chart below shows the location split of all hackney carriage vehicles.

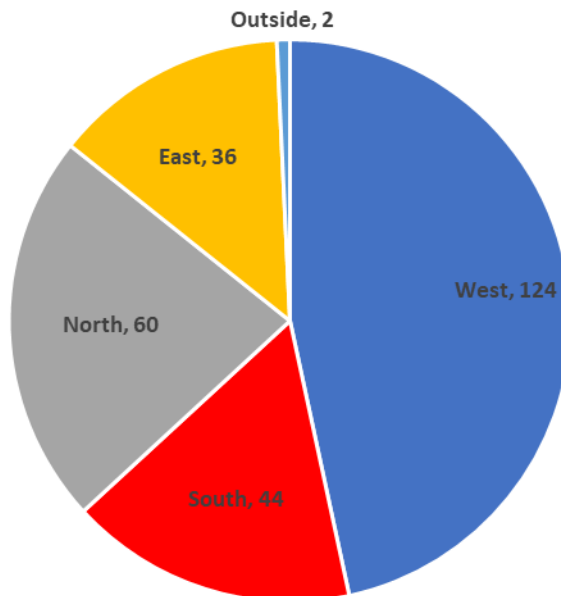
Hackney Carriage Vehicles by Location 31 Oct 19



The team also license private hire only vehicles, as advised above these totalled 266 as of the end of October 2019.

Private Hire drivers are not restricted by zone and can take bookings for anywhere in the Country if they wish. For information the area in which the private hire vehicles are registered is as follows;

Private Hire Vehicles by Location 31 Oct 19



3.0 Enforcement actions

The team commenced a proactive enforcement plan on 15 October 2019 ensuring we have a visible presence on the rank. In the first 3 weeks officers undertook 102 driver inspections, 132 vehicle inspections, witnessed 38 infringements of the Council's guidelines and issued penalty points 13 times, a large % of the 20 penalty points issued during the month. This is the highest monthly total ever. The team also issued 7 vehicles with improvement notices.

The taxi licensing team issued 13 drivers and 7 vehicles with penalty points during October 2019. Points were issued for the reasons shown below.

Vehicles - 7

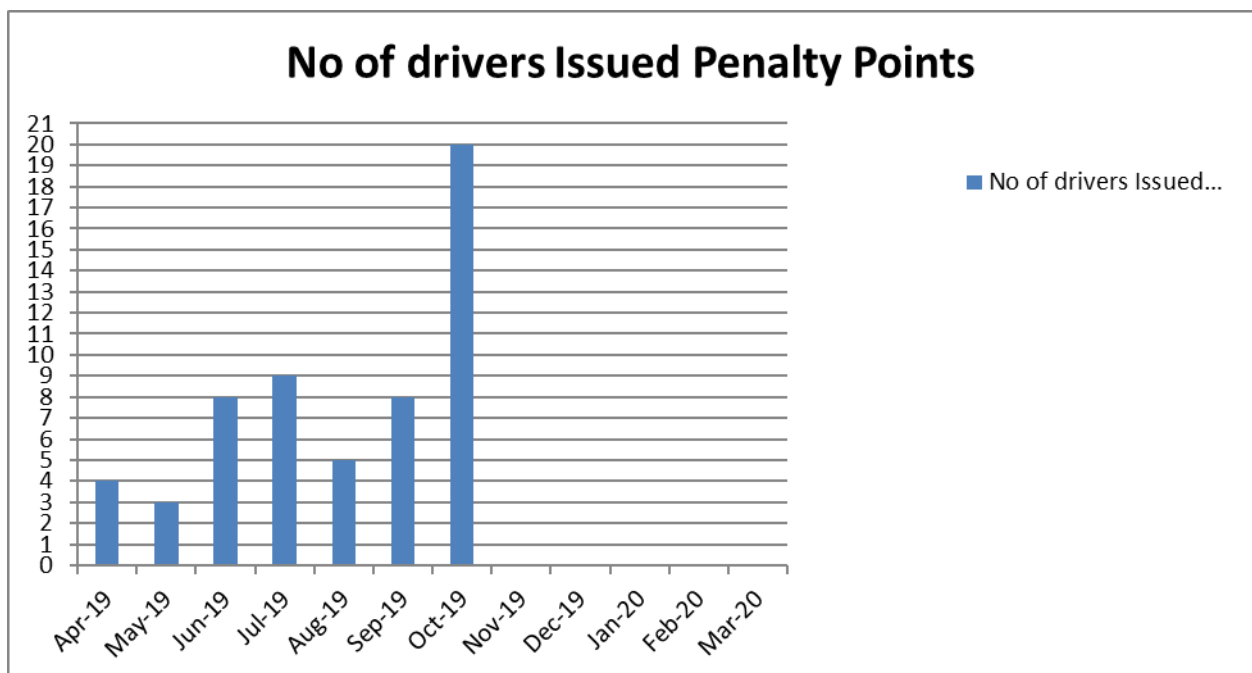
- 3 – Unsatisfactory parking
- 2 – Failure to return plates
- 1 – Failure to display roof sign
- 1 – Failure to display plate

Drivers – 13

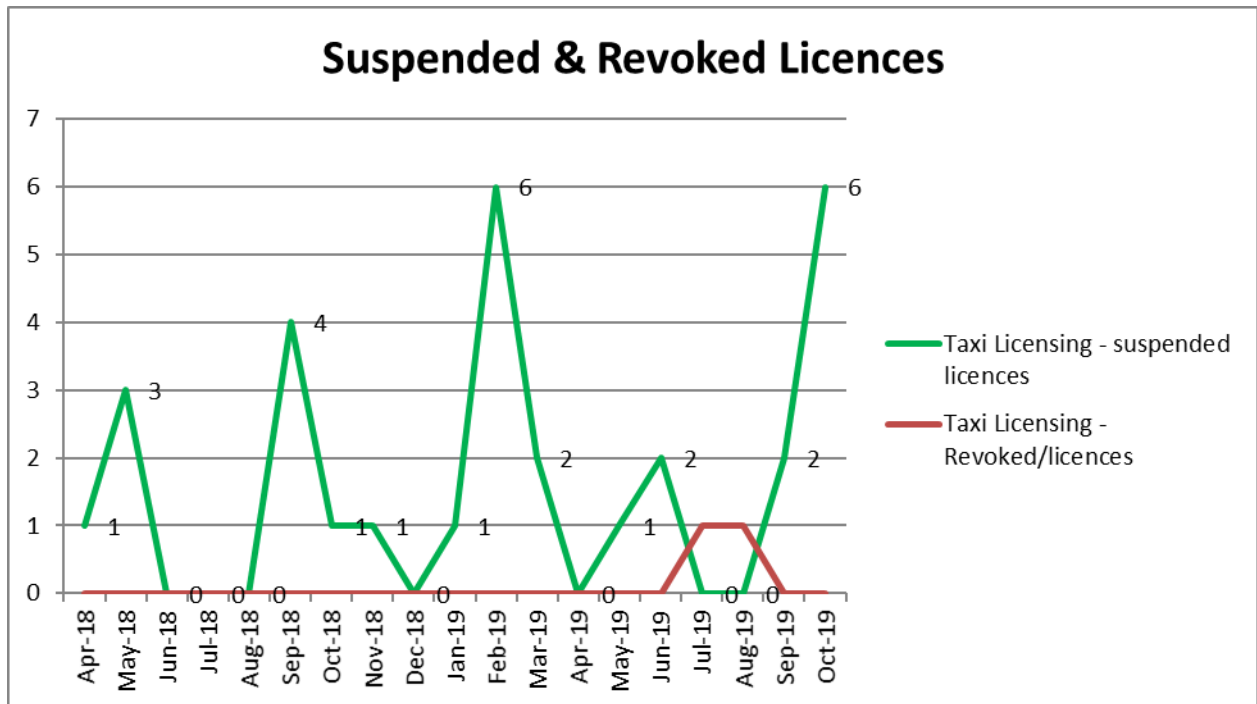
- 5 – Unsatisfactory behaviour
- 2 – Failure to be with vehicle
- 2 – Failure to notify DVLA points
- 1 – Failure to display roof sign
- 1 – Plying in a private hire vehicle
- 1 – Failure to display plate correctly
- 1 – Smoking/vaping in vehicle

The Council operates an internal penalty points scheme under which a driver may be suspended if they reach 12 points in a rolling 12 month period.

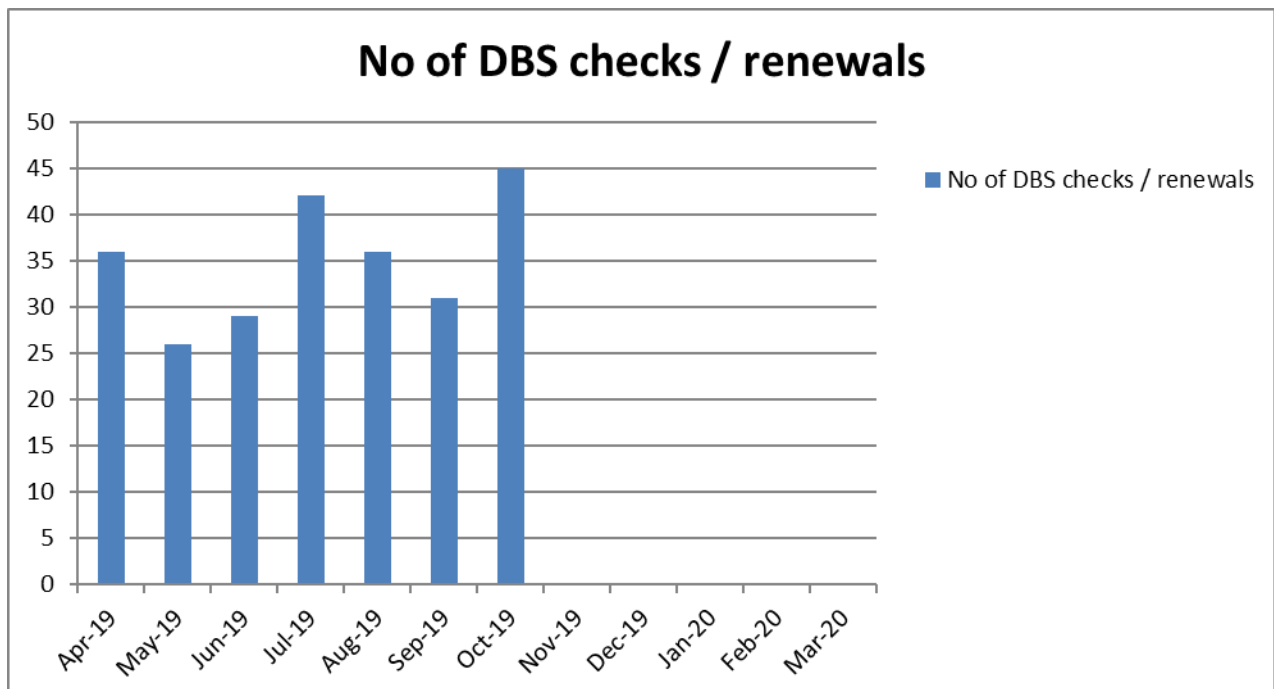
The graph below shows a trend of increased enforcement as the team effectively manage our driver database.



The Team suspended six drivers licences during October, the highest monthly total since February 2019.



The team also completed 45 DBS checks during October 2019, the highest monthly total this year.



The team have delivered an updated, more robust, fit and proper person policy which was approved by the Councils Licensing Committee on 02 September 2019. The new policy came into effect on 01 October 2019 and has taken into account guidance from the Institute of Licensing and also reflects the recommendations proposed in the recent central government consultation on improving safeguarding with the taxi industry which closed on 22 April 2019.

The team continue to work on updated driver and vehicle guidelines in line with the above policy which will further enhance standards within Wiltshire for the benefit of service users and the industry in general. The team are also active participants in the Licensing Authority Working Group and a number of initiatives are currently being worked on as a result of the group, examples of these include a review of the Council's fares and tariffs, a review of the Council's taxi licensing fees, implementation of English tests and new safeguarding training as well as evaluating the impact of making CCTV mandatory in taxis and the implementation of a recognised driver qualification.

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Wiltshire Council

Licensing Committee

02 December 2019

Subject: Adoption of the National Register of Taxi Licence Revocations and Refusals (NR3)

Cabinet Member: Councillor Bridget Wayman – Highways, Transport & Waste

Councillor Laura Mayes – Adult Social Care, Public Health and Public Protection

Key Decision: No

Executive Summary

Wiltshire Council has a statutory responsibility under the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and the Transport Act 1985 to licence the hackney carriage and private hire services. Under this legislation the council shall not grant a hackney carriage driver, private hire driver or private hire operator's licence unless it is satisfied that the applicant is a 'Fit and Proper Person ('FPP')'.

The determination of an application for a licence is assessed against the (FPP) criteria and is regularly reviewed during the life of a licence. For example, when evidence is obtained that suggests that a licensed individual is not a fit and proper person the licensing authority is entitled to suspend, revoke or refuse to renew a licence.

Wiltshire Council's application form requires applicants to confirm if they are licensed by another local authority or if they have had a licence revoked. This ensures individuals who have had a licence revoked by another authority do not simply come to Wiltshire and secure a licence.

At present, if drivers do not disclose information about a previous revocation or refusal of a licence, it is difficult for a licensing authority to find this information out. Therefore, vital intelligence about an applicant's past behaviour has the potential to be missed and an individual may be able to get a new licence in Wiltshire or another LA area, despite having had their licence revoked elsewhere. High profile instances of this happening have undermined public confidence in the safety of hackney carriages and PHVs, and left licensing authorities open to criticism for something that is currently very difficult for them to control.

In response to this issue, the Local Government Association (LGA) has now developed a national register of hackney carriage and PHV driver licence refusals and revocations, the 'National Register of Refusals and Revocations' or NR3. The register allows licensing authorities to record details of where a hackney carriage or PHV drivers' licence has been refused or revoked, and allows licensing authorities to check new applicants against the register. This

prevents people found to be not fit and proper in one area from securing a licence elsewhere through deception and non-disclosure. For the avoidance of doubt, NR3 does not extend to vehicle or operator licensing decisions, only drivers.

Under the data protection principles and General Data Protection Regulation 2018 ('GDPR') Wiltshire Council would be the data controller in relation to the processing of personal data in regard to NR3. This includes uploading information to NR3, consulting NR3, and disclosing or receiving information about individuals listed on NR3. The Taxi Licensing team have consulted the Information Governance and Legal teams to ensure they are taking the necessary steps to comply with data protection and other laws in regard to NR3.

Wiltshire Council is currently a member of the National Anti-Fraud Network ('NAFN') which hosts NR3. Access to NR3 is only available to NAFN members who sign up specifically to the NR3 element of the NAFN database which is provided access via a dedicated portal.

Proposal

It is proposed that the Licensing Committee, considers and approves adopting Wiltshire Council's use of the National Register of Taxi Licence Revocations and Refusals (NR3) database as set out in option 2 at the end of the report.

If approved this policy change will apply to all new applications and renewals that are received from 01 January 2020 and thereafter.

Reasons for Proposal

- To ensure the safety of the travelling public in Wiltshire, by raising the standard required for hackney carriage and private hire licence holders
- To allow the Council greater scrutiny over driver and operator applications.
- To safeguard communities, vulnerable adults and children
- To safeguard against the risk of child sexual exploitation

Parvis Khansari
Director, Highways, Transport & Waste

Adoption of the National Register of Taxi Licence Revocations and Refusals (NR3)

1.0 Purpose of Report

- 1.1 To provide Wiltshire Council's Licensing Committee with the relevant information to make an informed decision on the proposed adoption of the National Register of Taxi Licence Revocations & Refusals (NR3).

2.0 Background

- 2.1 Wiltshire Council has a statutory responsibility under the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and the Transport Act 1985 to licence the hackney carriage and private hire service. Under this legislation the council shall not grant a hackney carriage driver, private hire driver or private hire operator's licence unless it is satisfied that the applicant is a 'Fit and Proper Person' ('FPP'). The FPP test concerns character, likelihood of conduct of bad behaviour, health, driving skills, ability, local knowledge including knowledge of the duties and obligations placed in law including a council's licence conditions placed upon a driver.
- 2.2 Wiltshire Council's application form asks applicants if they are licensed by another authority or if they have had a licence revoked to help prevent individuals who have had a licence revoked by one authority from simply coming to Wiltshire and securing a licence. The determination of an application for a licence is assessed against the FPP test and is regularly reviewed during the lifetime of a licence.
- 2.3 At present, if drivers do not disclose information about a previous revocation or refusal of a licence, it is difficult for a licensing authority to find this information out. This means that vital intelligence about an applicant's past behaviour is potentially being missed and an individual might be able to get a new licence in Wiltshire or another area, despite having their licence revoked elsewhere.
- 2.4 In response to this issue, the Local Government Association (LGA) has developed a national register of hackney carriage and PHV driver licence refusals and revocations, the 'National Register of Refusals and Revocations' or NR3. The register allows licensing authorities to record details of where a hackney carriage or PHV drivers' licence has been refused or revoked and allows licensing authorities to check new applicants against the register. This prevents people found to be not fit and proper in one area from securing a licence somewhere else through deception and non-disclosure
- 2.5 NR3 does not extend to vehicle or operator licensing decisions.

- 2.6 Under then data protection principles and GDPR Wiltshire Council would be data controllers in relation to its processing of personal data in connection with NR3, including in relation to uploading information to NR3, consulting NR3, and disclosing or receiving information about individuals who appear on NR3.
- 2.7 The National Anti-Fraud Network hosts NR3, access to NR3 is only available to NAFN members, Wiltshire Council is a member. Members sign up specifically to the NR3 element of the NAFN database and are provided access via a dedicated portal.
- 2.8 The register does not record data on the suspension of licences.
- 2.9 Subscribing to the register will require Wiltshire Council to sign up to data sharing and data processing agreements with NAFN, these outline the steps the Council must take to ensure compliance with GDPR, and the Data Protection Act 2018. These documents are included as Appendix C.
- 2.10 Adoption of the database represents a fundamental change in the way the Council uses driver and operator data. The data is only currently shared with the Police for criminal investigations and the National Fraud Initiative.
- 2.11 Wiltshire Council will be responsible for adding its own data to the register. The only other functionality the Council would have would be a search facility to review driver's history.
- 2.12 Data will be kept on the register for 25 years and the taxi licensing team would need to ensure this is reflected in its data retention schedule policies. The relevant schedule is attached as Appendix D.
- 2.13 Local authorities are requested to upload historical data going back 25 years, Wiltshire Council does not have this data readily available but can supply 5 year's data. Before any historical data is uploaded the Council is required to write to the driver stating that their data will be uploaded. Drivers will be informed about the purposes of the data processing, the legal basis for it and their various rights to object.
- 2.14 Adopting the register will place a requirement on the Council to inform all applicants of the existence of NR3 and that it will be checked during the application process. The driver must be informed that their personal data will be placed on the register if at any time their licence is revoked. A privacy information notice will be provided to applicants when they apply to cover our data protection obligations.
- 2.15 To comply with GDPR the Council must make a clear written record of all information received from the register. If the Council wishes to share data with another authority after a request, it must ensure appropriate data sharing agreements are in place.
- 2.16 The Council's driver and operator guidelines have been updated to reflect the use of NR3.

3.0 Relevance to the Council's Business Plan

3.1 The process of controlling and licensing hackney carriage and private hire licensees assists the council in achieving a number of the outcomes in the Business Plan 2017-2027. Adoption of the revocation and refusal register would assist these outcomes by:

- **Growing the economy** - increased confidence in hackney carriage and private hire licensees which may drive up the number of users in Wiltshire ensuring that the public utilise this transport means and access good services
- **Building strong communities** - That all members of the public feel safe and the most vulnerable can access services with confidence.
- **Protecting those who are most vulnerable** - ensuring that the council has robust checks in place to manage licensed individuals which will ensure that vulnerable persons are protected when using hackney carriage and private hire services
- **Demonstrating an innovative and effective council** – the council has undertaken work to introduce NR3 as part of the taxi licensing process ahead of the DfT's announcement on its consultation on increased checks. Taking such advice from the Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades document which is produced by the LGA in partnership with the National Association of Licensing And Enforcement Officers ('NALEO'), LGA and the Lawyers in Local Government ('LLG'). Making decisions that are robust, open, inclusive, flexible and responsive maintains the safeguarding of communities, vulnerable adults, children and safeguarding against child sexual exploitation.

4.0 Main Considerations for the Council

4.1 Licensing authorities must have the appropriate privacy notices and data protection processes and policies in place to implement. The LGA guidance attached as Appendix A. provides example templates for authorities to use in each case. The taxi licensing team have drafted all required privacy notices and subject information statements and updated the relevant forms, these have been reviewed by the Council's Legal and Information Governance ('IG') Teams. The IG team have suggested minor amendments to the policies.

4.2 A policy/process statement will be required on how the Council reacts to and deals with requests for data from other authorities following their searches. A policy has been drafted by the taxi licensing team and mirrors the suggested policy supplied with the official NR3 guidance, the policy is included as Appendix B. The policy has been reviewed by the Councils IG / Legal and will be implemented on 01 January 2020.

4.3 Wiltshire Council takes safeguarding responsibilities in the protection of vulnerable people seriously. It has long been recognised in case law that the hackney carriage and private hire licensees are in a unique position of trust with vulnerable members of the public; as such the potential for

unscrupulous activity must be mitigated with robust and clear policies and checks on drivers and operators.

- 4.4 There may be applicants who have been revoked by another authority, this should not automatically prevent them from holding a license in Wiltshire. Each individual case must be assessed on its own merits. 4.5 All new applicants since 2018 will be checked against the NR3 database, existing drivers will be checked upon licence renewal.

5.0 Safeguarding Implications

- 5.1 When assessing applications for all hackney carriage and private hire licences, a failure to have the appropriate checks relating to the application of the 'Fit and Proper Person' test and other considerations of character leaves children and vulnerable people at risk.
- 5.2 The new requirement to check the refusal and revocation database provides the Council with greater powers to refuse or revoke licences should a licensed individual not report such details. Adoption of the register allows the council to manage existing drivers and operators in a more robust manner. It provides the council with greater powers to establish if an individual is a (FPP) and if required to revoke their licence for inappropriate behaviour.

6.0 Public Health implications

- 6.1 A robust policy helps guard against the risk that residents, especially children and vulnerable people, are not safe when travelling by hackney carriage or private hire vehicles.

7.0 Corporate Procurement implications

- 7.1 There are no direct procurement implications arising from this report.

8.0 Environmental and Climate Change Considerations

- 8.1 There are no environmental or climate change considerations arising from this report.

9.0 Equalities Impact of the Proposal

- 9.1 The impact of these proposals is assessed as 'medium' against the council's statutory responsibilities. The adoption of NR3 relating to determining the suitability of applicants and licensees will ensure a fair and consistent approach across Wiltshire and other local authority areas.

10.0 Risk Assessment

Risks officers consider may arise if the proposed decision and related work is not taken:

- 10.1 Drivers revoked by another authority for serious reasons being given a licence in Wiltshire if the information is not divulged as part of the application process.

- 10.2 Members of the public would not receive the best possible protection from potential harm; there would be a greater risk of unsuitable people obtaining a licence issued by Wiltshire Council.
- 10.3 The overriding principle of licensing is the protection of members of the public. Failure to adopt NR3 will increase the likelihood that an unsuitable applicant will be able to obtain a licence from Wiltshire Council.
- 10.6 Hackney carriage and private hire drivers hold a position of trust within society and the new check reduces the chances of an unsuitable person obtaining a licence, abusing their position, exploiting vulnerable passengers or causing physical, emotional or financial harm to service users.

Risks that may arise if the proposed decision is taken and actions to mitigate these risks

- 10.7 There may be existing licensees that would not be considered suitable should they have not disclosed information as part of the application process. If this was the case the current licence holder would be considered on a case by case basis to ensure a balance between fairness to the individual and the protection of the public.
- 10.8 There may be a legal challenge if existing licenses are not renewed due to the proposed check, where they have been previously cleared under the 2010 policies. This may result in damage to the council's reputation but any risk to reputation would be outweighed by the clear and robust revised policy to ensure that all drivers, proprietors and operators operate within the new guidance for safeguarding formally put in place to protect the public.
- 10.9 There is a risk that not all existing licence holders would be aware of the adoption of the new check. If approved the new policy will be published on the council's web site and communicated to the hackney carriage and private hire licensees, through the Hackney Carriage and Private Hire Newsletter, the Local Authority Working Group and individual correspondence with all licensees.

11.0 Financial Implications

- 11.1 The adoption of an additional check is expected to reduce the likelihood of legal challenge to the council's licensing committee, thereby avoiding the legal costs of dealing with challenges.
- 11.2 There are no additional costs associated with the implementation of this revised policy as the Council is already a member of NAFN. Wiltshire Council pays a membership fee to NAFN of £1500 per year. The checks will be completed by the existing resource within the Taxi Licensing Compliance Team.

12.0 Legal Implications

12.1 Approval of the use of the register will reduce the risk of a legal challenge by a driver or third party to the licensing process. The use of the register check is best practice against which any application for a licence can be considered. There are clear benefits for both the council and applicants in having guidelines that are consistent with those operated by other local authorities.

13.0 Options for consideration and approval

13.1 There are two options are considered and detailed below:

Option 1

To continue as the Council has previously and rely solely on the applicants to ensure that all data relevant to revocations is disclosed.

The benefits of this option include:

- No additional work will be required
- No new process for the Taxi Licensing team to learn
- No additional process for licensees to understand

The risks of this option include

- Potential for negative press exposure
- The Council could inadvertently license unsuitable applicants
- The public could potentially be put at risk

Option 2

To accept the proposal laid out in this report, join NR3 as recommended by DfT.

The benefits of this option include:

- Increased confidence and certainty that all potential licensees have been checked in accordance with more stringent policies for suitability to hold a licence so ensuring additional protections for the safety of the travelling public including vulnerable users and children are in place.
- Meeting the standards set out in the DfT - Taxi and Private Hire Vehicle Licensing: Protecting Users consultation version from February 2019.
- Joining NR3 will align the Council with the majority of other local authorities in England & Wales.

The risks of this option include:

- Additional obligations arising from being the data controller for NR3 data
- The additional resources which may be required to ensure that applicants and existing licensed drivers are aware and understand the new process.

14.0 Conclusions

- 14.1 To ensure the safety of the public the Council is required to perform checks regarding the safety and suitability of licensees. These checks form the Fit & Proper person test. Checks of the NR3 database will form part of the Fit & Proper test.
- 14.2 Should the Council decide to implement the use of NR3, this will give officers additional information on which to base their decisions. Information disclosed in conjunction with information included in the Disclosure and Barring Service will allow officers to ensure decisions are made in the best interests of the Wiltshire public.
- 14.4 It is therefore proposed that the council adopts the additional check of the National Refusal and Revocation Register (NR3) for hackney carriage and private hire licences.
This will ensure the safeguarding of children, vulnerable adults and the general public by adoption of the updated (FPP) policy.

Parvis Khansari
Director, Highways & Waste

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19 November 2019

The following unpublished documents have been relied on in the preparation of this report:

Appendices

Appendix A: LGA Guidance on adopting the National Register of Taxi Licence Revocations and Refusals (NR3)

Appendix B: Wiltshire Council policy for data requests from other Licensing Authorities.

Appendix C: NAFN Data Sharing agreements

Appendix D: Taxi Licensing data retention policies.

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Guidance on adopting the National Register of Taxi Licence Revocations & Refusals (NR3)

Contents

1. Background
2. Objective of NR3
3. Voluntary disclosure of previous licensing history
4. NR3 - an overview
 - 4.1. Accessing the register
 - 4.2. Register functionality
 - 4.3. Historic data migration
5. Updating licensing processes and procedures
 - 5.1. Informing applicants of the NR3 register
 - 5.2. Adding details of a refusal or revocation
 - 5.3. Checking the register as part of the application and renewal process
 - 5.4. Acting on detailed disclosures
6. Complying with data protection requirements
 - 6.1. Updating the licensing policy, application forms and guidance
 - 6.2. Making existing licensees aware

Annex A – guidance on amendments to policies and forms

Annex B – suggested notification to existing licensees of NR3

Annex C - suggested notification to former licence holders or applicants whose details will be entered onto NR3

Annex D – Suggested template policy relating to requests for information, disclosure of information, and use of information as a result of an entry on NR3, including template disclosure form

1. Background

Licensing Authorities are required to satisfy themselves that those holding hackney carriage and Private Hire Vehicle (PHV) driver licences¹ are 'fit and proper' to do so. This is done firstly during the determination of an application for a licence, and then at any time during the currency of a licence. For example when evidence is obtained that suggests that a licensed individual is not a fit and proper person the licensing authority is entitled to suspend, revoke or refuse to renew a licence.

The process of assessing whether an applicant or licensee is 'fit and proper' may vary between authorities but there is widespread consensus on the need to increase consistency and set national minimum standards for the fit and proper test at a suitably high level. This would help prevent individuals who have had a licence revoked by one authority from simply going to another area and securing a licence - assuming the second authority was aware of the earlier revocation.

At the moment, if drivers do not disclose information about a previous revocation or refusal of a licence, there is often no way for a licensing authority to find this information out. This means that vital intelligence about an applicant's past behaviour is being missed and an individual might be able to get a new licence in another area, despite having their licence revoked elsewhere. High profile instances of this happening have undermined public confidence in the safety of hackney carriages and PHVs, and left licensing authorities open to criticism for something that is currently very difficult for them to control.

In response to this issue, the Local Government Association (LGA) has commissioned the development of a national register of hackney carriage and PHV driver licence refusals and revocations, the 'National Register of Refusals and Revocations' or NR3. The new register will allow licensing authorities to record details of where a hackney carriage or PHV drivers' licence has been refused or revoked, and allow licensing authorities to check new applicants against the register. This should help to prevent people found to be not fit and proper in one area from securing a licence somewhere else through deception and non-disclosure. For the avoidance of doubt, NR3 does not extend to vehicle or operator licensing decisions.

This guidance note provides information on the steps that licensing authorities should take to ensure that they have the necessary supporting procedures in place to make use of the register. Specific user guidance and training materials on using the register will be published separately.

Important

Licensing authorities will be data controllers in relation to their processing of personal data in connection with NR3, including in relation to uploading information to NR3, consulting NR3, and disclosing or receiving information about individuals who appear on NR3. Licensing authorities are therefore strongly advised to work closely with their information governance and legal teams to assure themselves that they are taking the necessary steps to comply with data protection and other laws in regard to NR3.

¹ Throughout this document, this term includes dual or combined Hackney / PHV licences.

2. Objective of NR3

The simple objective of the national register is to ensure that authorities are able to take properly informed decisions on whether an applicant is fit and proper, in the knowledge that another authority has previously reached a negative view on the same applicant. This will be achieved by providing a mechanism for licensing authorities to be able to check whether an individual has had a licence refused or revoked. Whenever a licensing authority processes a new application for a hackney carriage/PHV driver's licence, or for a renewal, it should check the register at a suitably early stage of the process to confirm whether the applicant was subject to a previous licensing decision that they should be aware of.

Every application must always be considered on its own merits. A licensing authority must not fetter its decision-making, or appear to have simply relied upon the previous decision of another authority. The purpose of the register is not to mean that an applicant who has been refused a licence on one occasion will always be refused.

However, it will always be relevant for an authority to consider a previous refusal or revocation, and the reasons for that decision. That previous decision may in many cases warrant significant weight to be given to it. Licensing authorities will wish to think carefully about taking a different view to an earlier decision. Depending on the nature and context of the earlier decision, they may require strong and new evidence to support a different view, having regard to the representations of the applicant. Any authority will wish to have proper respect for the decision of a previous authority, having regard to the fact that a driver had the right of appeal to the Magistrates' Court against a decision which was wrong or flawed. Without this approach, the objectives of safeguarding and consistency – and the reputation of local government – will be undermined.

The register will not record suspensions of drivers' licences. This is for the following reasons:

- i. any suspension that was later lifted because the original information was false or unsubstantiated would have to be removed from the register, but any search during the period that the information remained in the register might prejudice a subsequent application
- ii. suspension should not be used as an interim step pending revocation. If the matter is serious enough to warrant a driver being prevented from driving, revocation should be the action taken²; and
- iii. where a suspension period is imposed as a short-term punishment for minor transgression, this should not influence a subsequent decision, as further serious non-compliance should lead to revocation³. Accordingly any pattern of unacceptable behaviour should be identified by revocations or refusals to renew, rather than by a recurring pattern of suspensions.

For these reasons, no records of suspension should be included, including migration of historic records relating to suspension.

² See *R (on the application of Singh) v Cardiff City Council (Admin)*, [2013] LLR 108 and *Reigate & Banstead Borough Council v Pawlowski* [2018] R.T.R. 10

³ Suspension as a punishment is permissible – see *R (on the application of Singh) v Cardiff City Council* [2013] LLR 108

3. Voluntary disclosure of previous licensing history

NR3 provides a mechanism for sharing information about an individual's previous licensing history if they have had a licence revoked or an application for one refused. Most licensing authorities already ask applicants to indicate on their application forms whether they have previously had a licence revoked or refused. With the introduction of NR3, authorities should ensure that the request for this information is clearly set out on the application form and accompanying guidance notes. Where an applicant fails to volunteer information that has been clearly requested but which is subsequently identified through NR3, this may in itself raise questions about the applicant's integrity and status as a fit and proper person.

4. NR3 - an overview

4.1. Accessing the register

The national register is hosted by the National Anti-Fraud Network (NAFN). Access to the register is only available to members of NAFN. Licensing authorities are encouraged to join up to NAFN and recover the cost of this through their taxi licence fees. NAFN can be contacted by email on general@nafn.gov.uk.

NAFN members will need to sign up specifically to the NR3 element of the NAFN database, which will allow access to the dedicated portal. This is a relatively straightforward process and can be done by contacting NAFN.

A relevant officer will need to be designated as a single point of contact (SPOC) as part of the registration process. Authorities which already use the NAFN system will already have an existing SPOC in place (or potentially multiple SPOCs for different areas of functionality), so consideration will need to be given to the interaction between existing NAFN contacts and the new NR3 functionality.

Once set up on the register, other officers will be able to create user accounts which will allow them to submit data or search the register, but these accounts will need to be verified/ approved by the SPOC. Consideration should be given to the number of officers that need to be set up with user accounts to enable them to use the register to search / input information.

Subscribing to the national register will require local authorities to sign up to data sharing and data processing agreements with NAFN. These agreements outline the necessary steps the authority will need to take to ensure compliance and will cover requirements under both the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA).

4.2. Register functionality

The register has two basic elements of functionality; it enables authorities to record details of relevant drivers, and it enables them to undertake searches of the data held in the register.

Licensing authorities will be responsible for adding basic details of drivers who have had a licence revoked or an application for one refused. The intention is that when a licensing authority receives an application for a licence or a renewal, the applicant's details will be checked on the register to confirm that there is no record of them having being revoked or refused elsewhere.

Details contained on the register will be limited to information that will help to identify an individual to a certain degree of accuracy, but will not give a reason or explanation of why an action was taken. It will be up to individual authorities to follow up on any searches which come back with a match with the appropriate licensing authority, whose contact details will be included in the search result.

Details will be kept on the register for a period of 25 years, and local authorities will therefore need to ensure that their own information governance policies reflect this. The register has been developed to support public safety through the potential sharing of information that is relevant to consideration of whether an individual is a fit and proper person to hold a taxi licence. There will be instances where the basis for an individual's licence being revoked or refused is sufficiently serious as to remain relevant to a future taxi licence application however far in advance it is submitted; for example, where it concerns an issue of sexual misconduct in relation to a passenger. The data retention period for the register has therefore been set to reflect the potential gravity of some revocations and refusals, and the need for this information to be shared. However, as set out later in this document and in the supporting policy at Annex D, any information to be shared between authorities outside of the register must be shared on a proportionate and time limited basis, in accordance with the authority's policy for doing so. If an authority did not take a case specific approach but chose to share all data over the full retention period, this would be likely to be disproportionate and therefore unlawful.

Authorities will need to ensure that their information governance policies are updated to make reference to the NR3 retention period, the associated retention period for supporting taxi licence data, and the rationale for it.

4.3. Historic data migration

The first step once subscription to the register has been completed is to populate the register with historic data of licence revocations and refusals. To do this, licensing authorities will need to submit historic data via CSV file to NAFN. NAFN have provided a standard template to use to submit data.

The majority of licensing authorities will use an electronic licensing system, and therefore will be able to obtain extracts from their licensing systems which can then be cut and pasted into the spreadsheet. However, if authorities use a manual system to issue licenses, they will need to manually fill out the spreadsheet.

In order to comply with data protection law, there must be a point beyond which historic data will not be uploaded. It is difficult to determine what that should be. However as the retention period for data on the register is 25 years, this appears to an appropriate period. Accordingly no historic data more than 25 years old should be uploaded to the register. It is important to note here that the 25-year data retention period begins at the point at which a licence was refused or revoked, rather than the date when the data was uploaded to the register.

Crucially, it is vital to ensure that any historic data which is uploaded by a licensing authority has not been retained in contravention of that authority's own retention policy. It is accepted that this may lead to differing ages of historic data being uploaded, but that is unavoidable to ensure compliance with data protection law.

Before any historic data is uploaded, the authority must write to those individuals who the data concerns stating that the data will be uploaded at a future date, which should be a

period of not less than 28 days. Individuals should be informed about the purposes of the data processing, the legal basis for it, and their various rights to object in regard to this.

Although the letters do not specifically need to invite representations about the proposal, any representations that are made in that period should be considered by the authority and data should only be uploaded where the authority feels that it is fair and appropriate to do so. This will not prevent historic data being uploaded, but will ensure that where data is held which may be uploaded, there is an opportunity for the authority to reconsider whether that is the correct action to take. A template letter for contacting former licence holders is attached at Annex C.

Once historic data has been submitted, any new revocations or refusals will need to be entered onto the NAFN register portal by a licensing officer as and when decisions are taken.

5. Updating licensing processes and procedures

Using the register will necessitate some key changes to the way applications and renewals are processed and information recorded.

5.1. Informing applicants of the NR3 register

Applicants must be informed of the existence of the NR3 register and that it will be consulted in connection with their application (and subsequent applications to renew licences).

They must also be informed that their personal data will be placed on the register if at any time their licence is revoked or renewal is refused.

Licensing authorities in receipt of applications must ensure that applicants are given the contact details of the data protection officer for the licensing authority, contact details for NAFN, and are advised of the fact that the information can be retained for up to 25 years (which is the retention period) and the fact they have a right to lodge a complaint with the Information Commissioner, together with the contact details for the Information Commissioner. It is suggested that this information is included in the privacy information provided to individuals when they apply for a licence. This is discussed further in 6.1.

5.2. Adding details of a refusal or revocation

When an application for a licence is refused, or an existing licence is revoked, authorities will need to enter this information onto NR3. It will be important to ensure that authorities only enter refusals that have genuinely been considered and refused; NR3 is not intended to capture details of incomplete applications which an authority does not process. The key point is that a decision has been taken because there is evidence that an individual is not a fit and proper person to hold a licence.

Entering this information will be a simple and quick step, as only a limited amount of information will be added to the register: the individual's details; the date of the decision; the date it takes effect; and the decision taken – but not the reason for the decision.

Several authorities have reported that individuals who have had a licence revoked have previously moved very quickly to try to gain a licence elsewhere. It will therefore be important that authorities are prompt in adding the details of refusals or revocations to the register, so

that the information is available in the event that an individual does seek to secure a licence from another authority.

Authorities should ensure that they include the entries onto NR3 in their authority wide records of their data processing activities.

5.3. Checking the register as part of the application and renewal process

The second process change will relate to applications for hackney carriage/ PHV driver licences. Licensing authorities will also wish to check the register when they undertake licence renewals; firstly to confirm any historic information that may have been added in respect of one of their licensees, but also because it is possible that some drivers may hold more than one licence, and could therefore have one revoked in another area.⁴

This in itself is a two-stage process: stage one is the checking of the register; stage two is making a request to the authority that uploaded the information to the register for details of the revocation or refusal.

Once signed up to the register, licensing authorities will need to ensure that they check the details of new applicants on the register, to identify whether they have a previous licensing history (which may or may not have been disclosed on an application). Individual authorities will need to determine the appropriate point in their application process at which to check the register; however, it is suggested that this is done at a very early stage so that the authority can process the application with the knowledge of any previous history, if the applicant has one.

Guidance on using the register will set out the search parameters that authorities can use. It has been recognised throughout the process that individuals may use different names or provide different details to different authorities - perhaps in an attempt to avoid association with any previous issues – and searches should therefore take this into account.

If a search of the register does not indicate that an applicant has any previous history the authority should be aware of, then the authority should continue to process the application as normal. A negative search result will not, of course, mean that the applicant is a fit and proper person; that will be for the authority to assess in the usual way.

If a search does indicate a possible match on the register, then the authority will need to move on to stage two and seek further information. The register will indicate which authority has entered a possible match, and provide contact details for that authority.

It is suggested that an authority seeking information from another authority about an entry on the register should make a request in writing for the information on which the decision recorded in the register was based (a suggested form is included at the end of Annex D). Authorities are encouraged to respond to such requests as soon as possible, and ideally within 10 working days of receiving a request.

⁴ The growth of app-based models and sub-contracting changes introduced by the Deregulation Act have both facilitated increased 'out of area' working, and may therefore make it less likely that in the future, under the existing framework, a driver would hold more than one licence.

The sharing between licensing authorities of this more detailed data - which may often involve the processing of special category personal data⁵ - is not included within the data processing and data sharing agreements governing use of the register itself. Any authority which shares information in response to a request, and any authority which receives information having made a request, must have in place a clear and published policy which governs its approach to the circumstances in which it will share, receive and use information of this type. It must be recognised that information will not be shared following every request. The authority that receives the request must consider whether it is actually proportionate to share this information, and ensure that disclosures are not arbitrary. This must also be detailed in their policy document. Having such a policy is a requirement of data protection law, Article 8 of the European Convention on Human Rights and of public law.

If such a policy is in place which properly differentiates between circumstances, both authorities will be entitled to rely on processing conditions under Article 6(1)(e) and, in cases of special category data, Articles 9 and 10 GDPR⁶. Licensing authorities will need to satisfy themselves that they have followed the appropriate processes in sharing this more detailed data.

The authority that receives the request must consider what information, if any, to reveal to the requesting authority. This is not intended to undermine the effects of the register: it is essential to ensure that disclosures are compatible with the Data Protection Act, the General Data Protection Regulations, and the Human Rights Act. In making its decision the authority must consider the nature and seriousness of the conduct which led to the revocation or refusal to renew, and the time that has elapsed since the decision was made.

This will require not only a clear published policy, but also a decision-maker who has sufficient training and knowledge of the requirements to enable him/her to make an informed decision regarding disclosure.

It is suggested that where the time that has elapsed since the revocation or failure to renew exceeds the time limits relating to the particular conduct that are contained in the Institute of Licensing's "Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades"⁷, serious consideration should be given as to whether or not the information should be revealed.

A suggested template policy is attached at Annex D.

To ensure compliance with article 30 of the GDPR, the authority must maintain a clear written record of every disclosure made following a search of the register. This should be a separate document, and it is not sufficient to simply mark an existing register of licences.

⁵ Special category personal data is sensitive data that could reveal someone's racial or ethnic origin, political opinions, religious beliefs, trade union membership, and data concerning health or sex life.

⁶ Found in Parts 1, 2 and 3 of the DPA 2018.

⁷

[https://cplresourcestorage.blob.core.windows.net/documents/226798_Guidance%20on%20Suitability%20ONLINE%20PDF%20\(2\).pdf?sv=2013-08-15&sr=b&sig=sLMffzDNvtMihhMQ2xu1vOIUEQbD1n05TTY%2BrDTv9UM%3D&st=2018-07-17T14%3A28%3A32Z&se=2018-07-17T14%3A34%3A32Z&sp=r](https://cplresourcestorage.blob.core.windows.net/documents/226798_Guidance%20on%20Suitability%20ONLINE%20PDF%20(2).pdf?sv=2013-08-15&sr=b&sig=sLMffzDNvtMihhMQ2xu1vOIUEQbD1n05TTY%2BrDTv9UM%3D&st=2018-07-17T14%3A28%3A32Z&se=2018-07-17T14%3A34%3A32Z&sp=r)

The document must include the fact that disclosure was made, but not specify the contents of that disclosure.

5.4. Acting on detailed disclosures

The licensing authority that receives a disclosure under stage two must then act upon it. As detailed above, the information may warrant significant weight being attached to it, but it is vital authorities do not use evidence of a previous refusal or revocation as the sole basis for their current decision.

To ensure compliance with article 30 of the GDPR, the authority must maintain a clear written record of the action that is taken following the receipt of information from the register. This should be a separate document, and it is not sufficient to simply mark an existing register of licences.

6. Complying with data protection requirements

Licensing authorities will need to ensure that any individuals whose data is uploaded or entered onto NR3 is made aware of this: it is a legal requirement that data subjects must be made aware of the collection, storage and use of their personal data via a privacy notice.

In relation to NR3, the following details must be included in a privacy notice:

- The name and contact details of the licensing authority.
- The contact details of the authority's data protection officer.
- The purpose of the processing.
- The lawful basis for the processing.
- The recipients or categories of recipients of the personal data.
- The retention periods for the personal data.
- The rights available to individuals in respect of the processing.
- The right to lodge a complaint with a supervisory authority.

For current licensees or applicants, authorities should ensure that information about NR3 is included in:

- licensing policies
- application forms
- correspondence to named individuals that confirms that a licence has been revoked, or that an application for a licence has been refused.

These should fulfil the requirements for privacy notices, and suggested wording is provided in Annexes A and B.

Authorities will also need to ensure that they inform individuals in respect of whom a historic decision has been entered onto the register. Again, this correspondence should fulfil the legal requirements for privacy notices, and the LGA has developed a template letter that licensing authorities may wish to use for this purpose (Annex C).

Individuals whose details are contained on the register may submit a 'subject access request' (SAR) seeking copies of their details from the register at any point. **Full details of the process, mechanism and suggested point of contact for submitting a SAR must therefore be included within each local authority's policy, and also contained within application forms and supporting documentation when a licence is issued.** Should a SAR be received by an individual licensing authority, it should be dealt with as per the relevant authority's process. Licensing authorities, as the data controller, will need to liaise with NAFN, as the data processor, to fulfil SARs.

Licensing authorities will need to ensure that anyone whose details are included on NR3 is aware of their rights in relation to their data. In addition to the right to being informed, under the Data Protection Act, data subjects may have other rights in relation to the processing of their data. Various of these rights will apply in relation to the NR3, including: the right to object, the right to request access to data; the right to rectification or erasure of data, and the right to restrict processing of data.

It is important to note that although data subjects have the right to make these requests, the licensing authority does not have to agree to them. The fact that NR3 has been deemed necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller makes it very unlikely that an authority would agree to these rights, other than the rights to access individual data on the NR3 and the rectification of data where an error has been made. However, authorities will need to respond to these requests within thirty days, setting out their decision.

6.1. Updating the licensing policy, application forms and guidance

Licensing authorities will therefore need to update their hackney carriage / PHV licensing policies to reflect the use of the register and the new processes arising from it, including that relevant information on the register will in future be part of the process for assessing licence applications and whether an individual is a fit and proper person.

Authorities will similarly need to update their application forms and related paperwork (such as guidance notes) to make it clear that:

- all applicants will have their details checked against the register, and any relevant information taken into account in assessing the application
- where an application is refused, or where a licence is granted but subsequently revoked, this information will be entered into the register.

These statements should provide assurance that this information will be processed in accordance with the DPA and GDPR. Suggested forms of words are included at Annex A.

Where an authority decides to refuse or revoke a hackney carriage / PHV licence (the first authority), the decision notice should refer to the authority's earlier notification in guidance and on application forms that the decision will be entered onto NR3. It should also make clear that if the individual makes an application to another licensing authority (the second authority) for a drivers' licence at a later date, the second authority will check the register, and the details of the refusal or revocation may be provided to them by the first authority, in line with their policy for disclosing information.

6.2. Making existing licensees aware

As well as new applicants, you will also need to make existing licensees aware of the fact that the authority has signed up to the register, and that if their licence is subsequently revoked or not renewed, this will be recorded. A suggested form of words is included at Annex B.

Annex A – guidance on amendments to policies and forms

Authorities will need to update their application forms and related paperwork (such as guidance notes) to make it clear that:

- all applicants will have their details checked against the register, and any relevant information taken into account in assessing the application
- where an application is refused, or where a licence is granted but subsequently revoked, this information will be entered into the register.

The statements included in forms and guidance should provide assurance that this information will be processed in accordance with the DPA and GDPR. Critically, it should also make clear that there is a lawful basis for processing the data, which is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Where an authority decides to refuse or revoke a hackney carriage / PHV licence, the decision notice should refer to the authority's earlier notification in guidance and on application forms that the decision will now be entered onto the national register.

I. Suggested form of additional wording for licensing policy document and application paperwork

The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence

Therefore:

- Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new licence or licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

The information recorded on NR3 itself will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken

- date of decision
- date decision effective

Information will be retained on NR3 for a period of 25 years.

This is a mandatory part of [applying for] [being granted], a hackney carriage / PHV driver licence. The authority has a published policy on the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it. You can read that policy at [link / set out separately].

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint/>

II. Suggested form of additional wording for decision letter concerning refusal of an application

In accordance with [insert appropriate reference to policy document or application paperwork explaining membership and implications of NR3], the decision to refuse your application will be entered onto the National Register of Taxi Licence Refusals and Revocations (NR3). The information entered onto NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken (but not the reason for it)
- date of decision
- the date the decision took effect.

This information will be processed and shared in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR), and is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Recording this information on NR3 does not mean that you will be automatically prevented from securing a licence in future, but is intended simply to ensure that licensing authorities are able to access your full licensing history should you make further licence applications elsewhere. Information will be held on the register for 25 years. If during that time another authority requests further details relating to this decision because you have applied to it for a licence, we may provide our reasons for the refusal of this application, in accordance with our policy at [details/link].

You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office.

III. Suggested form of additional wording for decision letter concerning revocation

In accordance with [insert appropriate reference to policy document / application paperwork / letter to existing licence holders explaining membership and implications of NR3], the decision to revoke your licence will be entered onto the National Register of Refusals and Revocations (NR3). The information entered onto NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken (but not the reason for it)
- date of decision
- the date the decision took effect.

This information will be processed and shared in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR), and is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Recording this information on NR3 does not mean that you will be automatically prevented from securing a licence, but is intended simply to ensure that licensing authorities are able to access your full licensing history should you make further licence applications elsewhere. Information will be held on the register for 25 years. If during that time another authority requests further details relating to this decision because you have applied to it for a licence, we will provide our reasons for the revocation of this licence in accordance with our policy at [details/link].

You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office.

Annex B – suggested notification to existing licensees of NR3

To all hackney carriage / PHV / dual [combined] licence holders

Dear licensee

National Register of Taxi Licence Refusals and Revocations

I am writing to make you aware of a new initiative which X authority is involved in to help strengthen hackney carriage/ Private Hire Vehicle (PHV) licensing for the benefit of both passengers and responsible hackney carriage and PHV drivers.

As you may be aware, the Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Taxi Licence Refusals and Revocations (NR3). The register will be hosted by the National Anti-Fraud Network (NAFN). The intention of this is to prevent drivers who have had a hackney carriage or PHV licence revoked or an application for one refused, going to another authority to dishonestly secure a licence by failing to disclose their previous licensing history.

Instances of drivers doing this in the past have undermined public confidence in the hackney carriage and PHV trade and licensing authorities. The purpose of the NR3 initiative is therefore to provide a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or PHV licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the taxi trade, safety groups and charities, the Department for Transport and by licensing authorities.

From [insert date], this authority will begin using the NR3. This means that from that point:

- Applications for new hackney carriage/PHV licences and for renewals will be checked on the NR3.
- Where an existing licence is revoked or an application for renewal or a new licence is refused, this will be recorded on NR3.

This authority, and other licensing authorities, will also be adding historic information on refusals and revocations of licences to the register. Historic data will not go back beyond the retention period of 25 years. Any relevant data entered onto NR3 which relates to existing licence holders may be considered as part of future renewal processes.

The information recorded on NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- the date of the decision
- the date decision was effective

Information will be retained on NR3 for 25 years.

Where an applicant's details are flagged on NR3 during a search, this will be followed up separately between the authorities. Any such request in relation to your record will be responded to in accordance with the authority's published policy at [details/link]. Licensing authorities will still be required to consider each application on its own merits, but the introduction of NR3 will help ensure that they are able to do so on the basis of all the information that is relevant to an application.

All data processing and sharing undertaken by this authority on the NR3, and with individual authorities in regard to entries on the NR3 will be undertaken in accordance with the Data Protection Act (DPA) and the General Data Protection Regulations (GDPR). The legal basis for processing this information is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details].

You always have the right to make a complaint to the Information Commissioner's Office.

Yours sincerely

Licensing authority

Frequently asked questions

Why has the register been set up?

NR3 has been developed to improve public safety and confidence in hackney carriage and PHV licensing. There have been numerous high profile cases where drivers who have been refused licences or had a licence revoked in one area have gone to another area and received a licence in that area by failing to disclose their previous history. This undermines public safety, if there are legitimate reasons why a licence was refused or revoked, and damages confidence in the hackney carriage / PHV licensing regime and trade. This is why the initiative has been widely supported by reputable drivers and firms, as it will provide a mechanism for ensuring information about refusals and revocations can be shared between all licensing authorities in a safe and secure way, removing this potential loophole.

How will the register work – what information will be recorded?

When an authority revokes a licence, or refuses an application for one, it will record this information on NR3. The information recorded will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective

Licensing authorities will then search the register when they are processing new applications or renewals. Where an authority finds a match for their applicant on NR3, it will contact the licensing authority that recorded the entry to seek more information, which, if shared, will then be used to help reach a decision on the application.

Will I automatically be refused a licence if I am on the register?

No. Licensing authorities are legally required to consider each licence application on its own merits, and cannot refuse an application simply because an applicant may be recorded on NR3. The purpose of NR3 is to ensure that authorities have the full information necessary to help them reach a decision on whether an individual is fit and proper. If circumstances have materially changed since the decision that has been recorded on NR3, it may be appropriate for another authority to award a licence.

What if my licence is suspended?

Suspensions of licences will not be recorded on NR3. This is because suspension should be used as either a short-term punishment or to overcome a short-term situation (e.g. driving or medical issues). Where a driver is no longer considered to be a fit and proper person to hold a licence, the licence should be revoked.

Can I find out if my details are on the NR3?

Individuals whose details are added to NR3 will be notified of this at the point at which they are advised of the decision to refuse or revoke a licence.

Outside of these times, an individual can make a subject access request (SAR) for any of their personal data held on NR3. The 'data controller' in respect of this data is this licensing authority, to whom a SAR should be submitted in the first instance. As the 'data processor', that is the organisation storing the data, the National Anti-Fraud Network will fulfil this request. Similarly, the exercise of any other rights provided under data protection legislation should be made to this authority in the first instance.

How long will details be held on NR3 for?

Data will be retained on the register to help licensing authorities fulfil their statutory duty to be satisfied that a person is a fit and proper person to hold a taxi or PHV licence. These duties are set out under sections 51, 59 and 61 of the Local Government (Miscellaneous Provisions) Act 1976; sections 13, 16 and 17 of the Private Hire Vehicles (London) Act 1998; section 3 of the Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003; sections 25 and 30 of the London Cab Order 1934; sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. In accordance with this purpose, data will remain on NR3 for 25 years.

Annex C - suggested notification to former licence holders or applicants whose details will be entered onto NR3

Dear XXX

National Register of Refusals and Revocations

I am writing to make you aware of a new initiative which X authority is involved in to help strengthen hackney carriage / Private Hire Vehicle (PHV) licensing for the benefit of both passengers and responsible hackney carriage and PHV drivers.

The Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Refusals and Revocations (NR3). The register will be hosted by the National Anti-Fraud Network (NAFN). The intention of this is to prevent drivers who have had a hackney carriage or PHV licence revoked or an application for one refused, going to another authority to dishonestly secure a licence by failing to disclose their previous licensing history.

Instances of drivers doing this in the past have undermined public confidence in both the hackney carriage and PHV trade and licensing authorities. The purpose of the NR3 initiative is therefore to provide a mechanism for licensing authorities to share details of individuals who have had a taxi or PHV licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the hackney carriage and PHV trade, safety groups and charities, the Department for Transport and by licensing authorities.

From [insert date], this authority will begin using the NR3. This means that from that point:

- applications for new hackney carriage/PHV licences and for renewals will be checked on the NR3
- where an existing licence is revoked, or an application for renewal or a new licence is refused, this will be recorded on NR3.

This authority, and other licensing authorities, will also be adding historic information on refusals and revocations of licences to the register. Historic data will not go back beyond the retention period of [25 years / the authority's own data retention period]. As part of this process, it is intended that the details of your previous [licence revocation / refusal] will be added to the register in 28 days' time.

The information recorded on NR3 in respect of your case is limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective.

Information will be retained on NR3 for 25 years.

Where an applicant's details are flagged on NR3 during a search, this will be followed up separately between the authorities. Any such request in relation to your record will be responded to in accordance with the authority's published policy at [details/link].

Licensing authorities will still be required to consider each application on its own merits, but the introduction of NR3 will help ensure that they are able to do so on the basis of all the information that is relevant to an application.

All data processing and sharing undertaken by this authority on the NR3, and with individual authorities in regard to entries on the NR3 will be undertaken in accordance with the Data Protection Act (DPA) and the General Data Protection Regulations (GDPR). The legal basis for processing this information is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office.

Yours sincerely

Licensing authority

Frequently asked questions

Why has the register been set up?

NR3 has been developed to improve public safety and confidence in taxi and PHV licensing. There have been numerous high profile cases where drivers who have been refused licences or had a licence revoked in one area have gone to another area and received a licence in another area by failing to disclose their previous history. This undermines public safety, if there are legitimate reasons why a licence was refused or revoked, and damages confidence in the hackney carriage / PHV licensing regime and trade. This is why the initiative has been widely supported by reputable drivers and firms, as it will provide a mechanism for ensuring information about refusals and revocations can be shared between all licensing authorities in a safe and secure way, removing this potential loophole.

How will the register work – what information will be recorded?

When an authority revokes a licence, or refuses an application for one, it will record this information on NR3. The information recorded will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective.

Licensing authorities will then search the register when they are processing new applications or renewals. Where an authority finds a match for their applicant on NR3, it will contact the licensing authority that recorded the entry to seek more information, which, if shared, will then be used to help reach a decision on the application.

Will I automatically be refused a licence if I am on the register?

No. Licensing authorities are legally required to consider each licence application on its own merits, and cannot refuse an application simply because an applicant may be recorded on NR3. The purpose of NR3 is to ensure that authorities have the full information necessary to help them reach a decision on whether an individual is fit and proper. If circumstances have materially changed since the decision that has been recorded on NR3, it may be appropriate for another authority to award a licence.

Can I find out if my details are on the NR3?

Individuals whose details are added to NR3 will be notified of this at the point at which they are advised of the decision to refuse or revoke a licence.

Outside of these times, an individual can make a subject access request (SAR) for any of their personal data held on NR3. The 'data controller' in respect of this data is this licensing authority, to whom a SAR should be submitted in the first instance. As the 'data processor', that is the organization storing the data, the National Anti-Fraud Network will fulfil this request. Similarly, the exercise of any other rights provided under data protection legislation should be made to this authority in writing in the first instance.

How long will details be held on NR3 for?

Data will be retained on the register to help licensing authorities fulfil their statutory duty to be satisfied that a person is a fit and proper person to hold a taxi or PHV licence. These duties are set out under sections 51, 59 and 61 of the Local Government (Miscellaneous Provisions) Act 1976; sections 13, 16 and 17 of the Private Hire Vehicles (London) Act 1998; section 3 of the Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003; sections 25 and 30 of the London Cab Order 1934; sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. In accordance with this purpose, data will remain on NR3 for 25 years.

Annex D – Suggested template policy relating to requests for information, disclosure of information, and use of information as a result of an entry on NR3

Once an authority has signed up to the NR3, it is able to search the register when an application is received for a new drivers licence, or to renew an existing drivers licence. In this annex, the searching authority is referred to as ‘the second authority.’

If a match is found, then a request can be made to the authority that entered the information onto the NR3 (in this annex, this authority is referred to as ‘the first authority’) asking for more details of the revocation or refusal of a drivers’ licence by the first authority.

The first authority can then provide information to the second authority, enabling the second authority to take the earlier action into account and make an informed decision as to whether or not the licence should be granted or renewed.

To comply with the Data Protection Act, the General Data Protection Regulations, and the Human Rights Act, it is essential that the first authority which provides information about entries on the NR3 register, and the second authority that requests and receives such information, have a clear policy detailing how and when such information will be requested, provided, and how any information provided can then be used.

This is a suggested policy to address those situations. As each authority that signs up to the NR3 may at some point be both the first authority and the second authority for the purposes of this policy, the policy is drafted as a chronological progression through the process an authority may work through as either the first or second authority.

Policy for Council/TfL in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3

In this policy, the 'first authority' refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

I. Overarching principles

This policy covers the use that this authority [Council/TfL] will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers' licence⁸. This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past.

This authority [Council/TfL] has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, this authority [Council/TfL] will make a search of the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application⁹.

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case

⁸ Throughout this policy reference is made to 'taxi drivers licence.' This generic term covers a hackney carriage drivers licence, a private hire drivers licence and a combined/dual licence.

⁹ The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

stated¹⁰. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined¹¹.

The data will be held securely in accordance with this authority's [Council/TfL] general policy on the secure retention of personal data [which is available at...]. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's [Council/TfL] general policy on the erasure and destruction of personal data (which is available at....).

¹⁰ Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the Crown Court (see The Criminal Procedure Rules R35.2). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

¹¹ Decisions of the local authority, magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when leave has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim first arose" (see The Civil Procedure Rules R54.5). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

II. Making a request for further information regarding an entry on NR3¹²

When an application is made to this authority [Council/TfL] for the grant of a new, or renewal of, a taxi driver's licence, this authority [Council/TfL] will check the NR3.

This authority [Council/TfL] will make and then retain a clear written record¹³ of every search that is made of the register. This will detail:

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- the results of the search; and
- the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If this authority [Council/TfL] discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of this authority's [Council/TfL] data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at appendix 1 of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

¹² This section of the template policy relates to the submission of a request by the second authority.

¹³ This can be electronic, rather than "pen and paper" hard copy.

III. Responding to a request made for further information regarding an entry on NR3¹⁴

When this authority [Council/TfL] receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years¹⁵.

This authority [Council/TfL] will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.

This authority [Council/TfL] will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If this authority [Council/TfL] is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed¹⁶. This will be determined by an officer who has been trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but this authority [Council/TfL] (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

This authority [Council/TfL] will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within the Institute of Licensing's "*Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades*"¹⁷ [or own policy if this differs]. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

Any information about convictions will be shared in accordance with this policy under part 2 of scheduled 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

¹⁴ This section of the template policy relates to the handling by the first authority of a request for information by the second authority.

¹⁵ This record can be combined with the written record of the action taken as a result of the request.

¹⁶ If the 1st authority is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of the 1st authority and the 2nd authority.

¹⁷ Available at

<https://www.instituteoflicensing.org/NewsJobsArticle.aspx?NewsID=11318&NewsOrJob=news>

The officer will record what action was taken and why. This authority [Council/TfL] will make and then retain a clear written record¹⁸ of every decision that is made as a result of a request from another authority. This will detail:

- the date the request was received
- how the data protection impact assessment was conducted and its conclusions
- the name or names searched
- whether any information was provided
- if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- how and when the decision (and any information) was communicated to the requesting authority.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

¹⁸ This can be electronic, rather than “pen and paper” hard copy.

IV. Using any information obtained as a result of a request to another authority

When this authority [Council/TfL] receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications [insert reference to the [Council/TfL]'s policy for determining applications].

This authority [Council/TfL] will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this authority [Council/TfL] will make in relation to the application.

Appendix 1 - information disclosure form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

(For completion by requestor authority)

Name of licensing authority requesting information:

Requestor authority reference number:

Name of licensing authority from which information is sought:

Name of individual in respect of whom the request is made:

Decision in respect of which the request is made: Refusal / revocation

Other details for this record:

Address:

Driving licence #:

NI #:

Reference number:

Declaration by requesting authority:

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi / PHV licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV licences, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request is attached to this document/can be accessed at ??.

Signed:

Name:

Position:

Date.....

(For completion by providing authority)

Further information to support the decision recorded on NR3 in respect of the above named individual

Declaration by providing authority

The authority hereby confirms that it has conducted a data protection impact assessment.

It also confirms that the information above is accurate, and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / PHV licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements

Signed:

Name:

Position:

Date:

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NR3 Policy document

Policy for Wiltshire Council in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3

In this policy, the 'first authority' refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

I. Overarching principles

This policy covers the use that Wiltshire Council will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers' licence⁸. This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past.

Wiltshire Council has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, we will make a search of the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application⁹.

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case

⁸ Throughout this policy reference is made to 'taxi drivers licence.' This generic term covers a hackney carriage drivers licence, a private hire drivers licence and a combined/dual licence.

⁹ The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified. Stated

¹⁰ Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined¹¹. The data will be held securely in accordance with this authority's [Council/TfL] general policy on the secure retention of personal data [which is available at...]. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's [Council/TfL] general policy on the erasure and destruction of personal data (which is available at...).

¹⁰ Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court all the Crown Court (see The Criminal Procedure Rules R35.2). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

¹¹ Decisions of the local authority, magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when leave has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim 1st arose" (see The Civil Procedure Rules R54.5). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

II. Making a request for further information regarding an entry on NR3

When an application is made to Wiltshire Council for the grant of a new, or renewal of, a taxi driver's licence, this authority will check the NR3.

We will make and then retain a clear written record¹³ of every search that is made of the register. This will detail:

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- the results of the search; and
- the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If Wiltshire Council discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of this authority's data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at appendix 1 of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

¹² This section of the template policy relates to the submission of a request by the second authority.

¹³ This can be electronic, rather than "pen and paper" hard copy.

III. Responding to a request made for further information regarding an entry on NR3

When Wiltshire Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years¹⁵.

We will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.

Wiltshire Council will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If Wiltshire Council is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed¹⁶. This will be determined by an officer who has been trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but Wiltshire Council (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

This authority will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within the Institute of Licensing's "*Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades*"¹⁷ Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

Any information about convictions will be shared in accordance with this policy under part 2 of scheduled 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

¹⁴ This section of the template policy relates to the handling by the first authority of a request for information by the second authority.

¹⁵ This record can be combined with the written record of the action taken as a result of the request.

¹⁶ If the 1st authority is not satisfied that the 2nd authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of the 1st authority and the 2nd authority.

¹⁷ Available at <https://www.instituteoflicensing.org/NewsJobsArticle.aspx?NewsID=11318&NewsOrJob=news>

The officer will record what action was taken and why. Wiltshire Council will make and then retain a clear written record¹⁸ of every decision that is made as a result of a request from another authority. This will detail:

- the date the request was received
- how the data protection impact assessment was conducted and its conclusions
- the name or names searched
- whether any information was provided
- if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and

- how and when the decision (and any information) was communicated to the requesting authority.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

18 This can be electronic, rather than “pen and paper” hard copy.

IV. Using any information obtained as a result of a request to another authority

When Wiltshire Council receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers’ licence. This will be in accordance with the usual process for determining applications; assessment will take place against Wiltshire Councils fit & proper person policy and the Wiltshire Council guidelines for taxis and private hire. Wiltshire Council will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that Wiltshire Council will make in relation to the application.



DATA PROCESSING AGREEMENT IN RELATION TO NATIONAL REGISTER OF HACKNEY AND PRIVATE HIRE VEHICLES (PHV) REVOCATIONS AND REFUSALS (NR3)

Between

**TAMESIDE METROPOLITAN BOROUGH COUNCIL,
HOST AUTHORITY FOR NAFN DATA AND INTELLIGENCE SERVICES (“NAFN”)**

and

[ENTER NAME OF LICENSING AUTHORITY]

This Agreement details roles and responsibilities of NAFN and the signatory licensing authorities who agree to use the National Register of Hackney and PHV Revocations and Refusals (The Register) when undertaking activities under sections 51, 59 and 61 Local Government (Miscellaneous Provisions) Act 1976, sections 13, 16 and 17 Private Hire Vehicles (London) Act 1998, section 3 Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003, sections 25 and 30 London Cab Order 1934., sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. The licensing authority through its SPoC is required to positively affirm through the Register the acceptance of the terms and conditions contained in this Agreement.

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THIS AGREEMENT is dated the date the member SPoC affirms acceptance of its terms and conditions through SiD.

PARTIES

- (1) **TAMESIDE METROPOLITAN BOROUGH COUNCIL**, Host Authority for NAFN Data and Intelligence Services whose principal office is at Council Offices, Dukinfield Town Hall, King Street, Dukinfield, Tameside SK16 4LA (NAFN).
- (2) **THE LICENSING AUTHORITY** employing the SPoC has positively affirmed on behalf of the Licensing Authority acceptance of this Agreement through The Register. (“the Licensing Authority”)

BACKGROUND

- (A) NAFN is a not for profit, unincorporated body formed by its members to provide services which support their work in the protection of the public interest. NAFN staff are employees of a Host Authority.
- (B) The Licensing of hackney and private hire vehicles, drivers and operators is an obligation of local authorities in England and Wales under the Local Government (Miscellaneous Provisions) Act 1976. The licensing of taxi and private hire vehicles, drivers and operators in London is an obligation of Transport for London (TfL) under the Greater London Authority Act 1999 and the Metropolitan Public Carriage Act 1869. Licensing authorities are required to operate a robust licensing regime which ensures that fare-paying members of the public are carried comfortably and safely in vehicles which are suitable and roadworthy by drivers who are trustworthy and responsible and whom a licensing authority is satisfied is a ‘fit and proper person’ to hold a hackney or PHV drivers’ licence.
- (C) NAFN has agreed to host The Register on behalf of licensing authorities into which the licensing authority has agreed to supply information when undertaking activities under sections 51, 59 and 61 Local Government (Miscellaneous Provisions) Act 1976, sections 13, 16 and 17 Private Hire Vehicles (London) Act 1998, section 3 Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003, sections 25 and 30 London Cab Order 1934., sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. For the purposes of this agreement the Council, as host authority for NAFN, is the **Data Processor**.
- (D) The licensing authority in common with other licensing authorities to whom the aforementioned provisions apply have agreed to enter into the arrangement referred to in (c) above upon the following terms as a means of sharing information to assist in the granting of, revocation and refusal of a hackney or PHV drivers’ licence. For the purposes of this agreement the Licensing Authority is the **Data Controller**

AGREED TERMS

1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this agreement.

Agreement: this Agreement, which is a free-standing document.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Commencement Date: has the meaning given at the beginning of the Agreement.

Confidential Information: all confidential information (however recorded or preserved) disclosed by a party or its employees, officers, representatives, advisers or subcontractors involved in the provision or receipt of the Services who need to know the confidential information in question (**Representatives**) to the other party and that party's Representatives in connection with this agreement, which is either labelled as such or else which should reasonably be considered as confidential because of its nature and the manner of its disclosure.

Data: any data or information, in whatever form, including images, still and moving, and sound recordings, the provision of which comprises the Services (wholly or in part), including any personal data.

General Instructions: to host The Register on behalf of Licensing Authorities to facilitate the Licensing Authority to input Licensing Authority Data to fulfil the Purpose.

Host Authority: Tameside Metropolitan Borough Council

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Licensing Authority: any Public Authority, including Transport for London (TfL) which is responsible for carrying out functions in its area relating to the determination of applications for Hackney and Private Hire drivers' licences and the revocation of such licences.

Licensing Authority Data: the Data supplied by the Licensing Authority to NAFN comprising the Licensing Authority Data (PD) and the Licensing Authority Data (NPD).

Licensing Authority Data (NPD): all Data comprised in the Licensing Authority Data from time to time other than the Licensing Authority Data (PD).

Licensing Authority Data (PD): the personal data comprised in the Licensing Authority Data from time to time.

NAFN: National Anti-Fraud Network which operates under the style or title of NAFN Data and Intelligence Services a not for profit, unincorporated body formed by its members and

hosted by the Host Authority to provide services which support members work in the protection of the public interest

Normal Business Hours: 9.00 am to 5.00 pm GMT on a Business Day.

Privacy and Data Protection Requirements: the Data Protection Act 2018, the General Data Protection Regulation (Regulation (EU) 2016/679), all applicable laws and regulations in force or which may come into force relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or any other supervisory authority, and the equivalent of any of the foregoing in any relevant jurisdiction.

Processed Data: any Licensing Authority Data that has been processed.

Purpose: to assist when undertaking activities under sections 51, 59 and 61 Local Government (Miscellaneous Provisions) Act 1976, sections 13, 16 and 17 Private Hire Vehicles (London) Act 1998, section 3 Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003, sections 25 and 30 London Cab Order 1934, sections 9 and 19 Plymouth City Council Act 1975 and section 46 Town Police Clauses Act 1847.

Relevant Data: the Licensing Authority Data and the Processed Data.

Security Breach: any security breach relating to:

- (a) the Licensing Authority Data (PD) reasonably determined by NAFN to be sufficiently serious or substantial to justify notification to the Information Commissioner or other relevant supervisory authority in accordance with the Privacy and Data Protection Requirements; or
- (b) the Licensing Authority Data (NPD) reasonably determined by NAFN to be sufficiently serious or substantial to give rise to a material risk of litigation by third parties affected by the breach.

Security Feature: any security feature, including any key, PIN, password, token or smartcard.

Services: the hosting of The Register to enable the sharing of information between Licensing Authorities to assist in the granting of, revocation and refusal of a hackney carriage or PHV drivers' licence

Specific Instructions: instructions meeting the criteria set out in *clause 4.1*.

SPoC: the person appointed by each party pursuant to clause 3.22.

Term: the period commencing on the Commencement Date and ending in accordance with clause 12.2 to 3.

The Register: The National Register of Hackney and PHV Revocations and Refusals hosted and maintained by NAFN on behalf of Licensing Authorities consisting of information relating to hackney and PHV drivers' licences that have been revoked and/or refused.

- 1.2 Data subject, personal data, processing and appropriate technical and organisational measures shall bear the meanings given to those terms respectively in the Data Protection Act 2018 or by any other legislation in force from time to time.

- 1.3 Clause and paragraph headings shall not affect the interpretation of this Agreement.
- 1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes fax and email.
- 1.11 Any words following the terms **including, include, in particular** or **for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

2. CONSIDERATION

- 2.1 In consideration of the mutual undertakings herein set out and in consideration also of the payment of £10.00 (ten pounds) by each party the receipt of which is hereby acknowledged, NAFN will provide the Services for the duration of this Agreement.

3. CONNECTION

- 3.1 NAFN shall as soon as practicable after the Commencement Date use reasonable efforts to enable the Licensing Authority to access The Register.
- 3.2 Each party shall appoint a single point of contact (SPoC) who will work together to reach an agreement with regards to any issues arising from this Agreement. The points of contact for each of the parties are:
- (a) Mark Astley - Head of NAFN Data and Intelligence Services – Telephone Number: - 0161 342 3662 – Email:- mark.astley@nafn.gov.uk on behalf of NAFN

- (b) The SPoC for the Licensing Authority that is party to this agreement and as is listed on the NAFN website.

4. SERVICES

- 4.1 NAFN shall not act on any specific instructions given by the Licensing Authority from time to time during the Term unless they are:
 - (a) in writing; and
 - (b) given by the SPoC.
- 4.2 NAFN shall process the Licensing Authority Data for the Purpose only and in compliance with the Licensing Authority's instructions from time to time, which may be:
 - (a) Specific Instructions; or
 - (b) General Instructions.
- 4.3 The Licensing Authority acknowledges that NAFN is under no duty to investigate the completeness, accuracy or sufficiency of any Specific Instructions or the Licensing Authority Data.

5. AUDIT

- 5.1 NAFN shall keep at its normal place of business detailed, accurate and up-to-date records relating to the processing of the Relevant Data by NAFN and to the measures taken under clause 10.2(a), including the permissioning and control of the Relevant Data, and books of account (**Records**).
- 5.2 NAFN shall permit the Licensing Authority and its third-party representatives, on reasonable notice during Normal Business Hours, but without notice in case of any reasonably suspected breach of this clause 5, to:
 - (a) gain access to, and take copies of, the Licensing Authority Data and the Processed Data held at NAFN's premises; and
 - (b) inspect The Register and facilities and equipment,for the purpose of auditing NAFN's compliance with its obligations under this Agreement. Such audit rights may be exercised only once in any calendar year during the Term.
- 5.3 NAFN shall give all necessary assistance to the conduct of such audits during the Term.
- 5.4 Audit access by any third party representative of the Licensing Authority shall be subject to such representative agreeing confidentiality obligations equivalent to those in clause 6 in respect of the information obtained, provided that all information obtained may be disclosed to the Licensing Authority.

6. CONFIDENTIALITY

- 6.1 NAFN acknowledges that the Licensing Authority's Confidential Information includes any Licensing Authority Data.
- 6.2 The term Confidential Information does not include any information that:
- (a) is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause 6);
 - (b) was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
 - (c) was, is, or becomes, available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party;
 - (d) was known to the receiving party before the information was disclosed to it by the disclosing party;
 - (e) the parties agree in writing is not confidential or may be disclosed; or
 - (f) is developed by or for the receiving party independently of the information disclosed by the disclosing party.
- 6.3 Each party shall keep the other party's Confidential Information confidential and shall not:
- (a) use any Confidential Information except for the Purpose; or
 - (b) disclose any Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 6.
- 6.4 A party may disclose the other party's Confidential Information to those of its Representatives who need to know that Confidential Information for the Purpose, provided that:
- (a) it informs those Representatives of the confidential nature of the Confidential Information before disclosure; and
 - (b) at all times, it is responsible for the Representatives' compliance with the confidentiality obligations set out in this clause 6.
- 6.5 A party may disclose Confidential Information to the extent required by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, as far as it is legally permitted to do so, it gives the other party as much notice of the disclosure as possible.
- 6.6 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information, other than those expressly stated in this agreement, are granted to the other party, or are to be implied from this Agreement.

6.7 The provisions of this clause 6 shall continue to apply after termination of this Agreement.

7. SECURITY AND PASSWORDS

7.1 NAFN shall ensure that the Relevant Data is kept secure by using the Security Features and in an encrypted form, and shall use all reasonable security practices and systems applicable to the use of the Relevant Data to prevent, and take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution of the Relevant Data.

7.2 Where NAFN uses Security Features in relation to the Services (wholly or in part), the Security Features must, unless NAFN notifies the Licensing Authority otherwise, be kept confidential and not lent, shared, transferred or otherwise misused by the Licensing Authority.

7.3 If either party:

- (a) becomes aware of any unauthorised or unlawful processing of any Relevant Data or that any Relevant Data is lost or destroyed or has become damaged, corrupted or unusable;
- (b) becomes aware of any Security Breach; or
- (c) learns or suspects that any Security Feature has been revealed to or obtained by any unauthorised person,

that party shall, at its own expense, promptly notify the other party and fully co-operate with the other party to remedy the issue as soon as reasonably practicable.

7.4 NAFN may change Security Features on notice to the Licensing Authority with immediate effect for security reasons.

7.5 NAFN shall take reasonable precautions to preserve the integrity of any Relevant Data processed by it and to prevent any corruption or loss of such Relevant Data.

7.6 NAFN shall make a back-up copy of the Relevant Data and record the copy on media from which the Relevant Data can be reloaded in the event of any corruption or loss of the Relevant Data.

7.7 If any Relevant Data is lost or corrupted, NAFN's obligation under clause 7.6 shall be the Licensing Authority's exclusive right and remedy against NAFN in respect of such loss or corruption.

8. NAFN'S OBLIGATIONS

8.1 NAFN shall:

- (a) only make copies of the Licensing Authority Data to the extent reasonably necessary for the Purpose (which, for clarity, includes back-up, mirroring (and similar availability enhancement techniques), security, disaster recovery and testing of the Licensing Authority Data);
- (b) not extract, re-utilise, use, exploit, redistribute, re-disseminate, copy or store the Licensing Authority Data other than for the Purpose; and
- (c) not do anything that may materially damage the reputation of the Licensing Authority.

8.2 NAFN shall take reasonable steps to ensure the reliability of all its employees who have access to the Licensing Authority Data.

8.3 NAFN shall not engage another processor without prior specific or general written authorisation of the Licensing Authority. In the case of general written authorisation, NAFN shall inform the Licensing Authority of any intended changes concerning the addition or replacement of other processors, thereby giving the Licensing Authority the opportunity to object to such changes

9. INTELLECTUAL PROPERTY RIGHTS

9.1 NAFN acknowledges that:

- (a) all Intellectual Property Rights in the Licensing Authority Data are and will remain the property of the Licensing Authority or its licensors, as the case may be; and
- (b) it shall have no rights in or to the Licensing Authority Data other than the right to use it for the Purpose in accordance with this agreement.

10. WARRANTIES

10.1 Each party warrants to the other that it will process the Licensing Authority Data in compliance with the Privacy and Data Protection Requirements.

10.2 NAFN warrants and represents that it will:

- (a) having regard to the state of technological development and the cost of implementing any measures, take appropriate technical and organisational measures against the unauthorised or unlawful processing of Licensing Authority Data and against the accidental loss or destruction of, or damage to, Licensing Authority Data to ensure a level of security appropriate to:
 - (i) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
 - (ii) the nature of the Data to be protected
- (b) take reasonable steps to ensure compliance with those measures; and
- (c) discharge its obligations under this agreement with all due skill, care and diligence.

- 10.3 The Licensing Authority warrants and represents that:
- (a) it is not aware of any circumstances likely to give rise to breach of any of the Privacy and Data Protection Requirements in the future (including any Security Breach);
 - (b) NAFN is entitled to process the Licensing Authority Data for the Purpose and such use will comply with all Privacy and Data Protection Requirements;
 - (c) all Licensing Authority Data is necessary, accurate and up-to-date; and
 - (d) it is registered with all relevant data protection authorities to process all Licensing Authority Data for the Purpose.
- 10.4 Except as expressly stated in this Agreement, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.
- 10.5 Without limiting the effect of clause 10.4, NAFN does not warrant that the Processed Data:
- (a) is or are accurate, complete, reliable, secure, useful, fit for purpose or timely;
 - (b) has or have been tested for use by the Licensing Authority or any third party; or
 - (c) will be suitable for or be capable of being used by the Licensing Authority or any third party.

11. LIMITATION OF LIABILITY

- 11.1 Neither party excludes or limits liability to the other party for:
- (a) fraud or fraudulent misrepresentation;
 - (b) death or personal injury caused by negligence;
 - (c) any matter for which it would be unlawful for the parties to exclude liability.
- 11.2 Subject to clause 11.1, NAFN shall not in any circumstances be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:
- (a) any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;
 - (b) any loss or corruption (whether direct or indirect) of Data or information (other than as is provided in the Privacy and Data Protection Requirements);
 - (c) loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or
 - (d) any loss or liability (whether direct or indirect) under or in relation to any other contract.
- 11.3 Clause 11.2 shall not prevent claims, which fall within the scope of clause 11.4, for:

- (a) direct financial loss that are not excluded under any of the categories set out in clause 11.2(a) to clause 11.2(d); or
- (b) tangible property or physical damage.

11.4 Subject to clause 11.1, NAFN's total aggregate liability in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement or any collateral contract shall in all circumstances be limited to £50,000.

11.5 The Licensing authority shall indemnify NAFN against all claims, liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by NAFN arising out of or in connection with the processing of the Licensing Authority Data under this Agreement, except to the extent that the claims against NAFN have arisen out of or in connection with any negligence or wilful default of NAFN or any breach by NAFN of the warranties in clause 10.2. For clarity, claims against NAFN shall include any claim or action claiming that the provision, receipt or use of the Licensing Authority Data (NPD) (wholly or in part) infringes any UK Intellectual Property Right of a third party.

11.6 The Licensing Authority acknowledges that:

- (a) NAFN is reliant on the Licensing Authority for direction as to the extent to which NAFN is entitled to use and process the Licensing Authority Data; and
- (b) Claims against NAFN include any claim or action brought by a data subject arising from any action or omission by NAFN, to the extent that such action or omission resulted directly or indirectly from the Licensing Authority's instructions.

11.7 If any third party makes a claim against NAFN, or notifies an intention to make a claim, NAFN shall:

- (a) give written notice of the claim to the Licensing Authority as soon as reasonably practicable;
- (b) not make any admission of liability in relation to the claim without the prior written consent of the Licensing Authority;
- (c) at the Licensing Authority's request and expense, allow the Licensing Authority to conduct the defence of the claim including settlement; and
- (d) at the Licensing Authority's expense, co-operate and assist to a reasonable extent with the Licensing Authority's defence of the claim.

12. TERM AND TERMINATION

- 12.1 This Agreement shall commence on the Commencement Date and shall terminate in accordance with this clause 12.
- 12.2 Without affecting any other right or remedy available to it, either Party may terminate this Agreement with immediate effect by giving written notice to the other Party if the other Party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 5 Business Days after being notified in writing to do so.
- 12.3 Each Party has the right to terminate this Agreement upon service of notice giving no less than 1 months' notice to the other Party.
- 12.4 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.
- 12.5 Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.
- 12.6 On any termination of this Agreement:
- (a) each party shall as soon as reasonably practicable return or destroy (as directed in writing by the other party) all Data, information, software, and other materials provided to it by the other party in connection with this Agreement including all materials containing or based on the other party's Confidential Information, except for one copy that it may use for audit purposes only, and subject to the confidentiality obligations in clause 6 and except, in the case of the Licensing Authority only, for all Processed Data delivered up to the date of termination and accounted for under clause 5;
 - (b) if the Licensing Authority elects for destruction rather than return of the materials under clause 12.6(a), NAFN shall as soon as reasonably practicable ensure that all Relevant Data is deleted from The Register; and
- 12.7 If the Licensing Authority elects for return rather than destruction of the materials under clause 12.6(a) and NAFN receives, no later than ten days after the effective date of the termination, a written request for the delivery to the Licensing Authority of the most recent back-up of the Licensing Authority Data, NAFN shall use reasonable commercial efforts to fulfil such request within 30 days of its receipt. If the Licensing Authority makes no such election within that ten-day period, NAFN may destroy or otherwise dispose of any of the Licensing Authority Data in its possession.
- 12.8 Each party shall provide written confirmation of compliance with clause 12.6(a) and, in the case of NAFN only, clause 12.6(b) (in the form of a letter signed by its (Head of NAFN Data

and Intelligence Services) no later than 20 Business Days after termination of this agreement.

- 12.9 If a party is required or requested by any law, regulation, or government or regulatory body to retain any documents or materials that it would otherwise be required to return or destroy under clause 6, it shall notify the other party in writing of that retention, giving details of the documents or materials that it must retain. That party shall not be in breach of clause 12.66 with respect to the retained documents or materials, but clause 6 shall continue to apply to them.

13. FORCE MAJEURE

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if that delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 1 month, the party not affected may terminate this Agreement by giving 5 Business Days written notice to the affected party.

14. ASSIGNMENT

- 14.1 This Agreement is personal to the Licensing Authority and it shall not assign any of its rights and obligations under this Agreement without the prior written consent of NAFN (which is not to be unreasonably withheld or delayed).
- 14.2 NAFN may authorise a third party (Subcontractor) to process the Licensing authority Data (PD) provided that the Subcontractor's contract:
- (a) is on terms that are substantially the same as those set out in this Agreement; and
 - (b) terminates automatically on termination of this Agreement for any reason.

15. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

16. RIGHTS AND REMEDIES

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

17. NOTICE

- 17.1 Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to the SPoCs and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (b) sent by email to the SPoC.
- 17.2 Any notice or communication shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
 - (c) if sent by or email, at 9.00 am on the next Business Day after transmission.
- 17.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

18. ENTIRE AGREEMENT

- 18.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 18.2 Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 18.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

19. VARIATION

Except as expressly provided in this Agreement, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

20. SEVERANCE

- 20.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it

valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

- 20.2 If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

21. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

22. THIRD-PARTY RIGHTS

- 22.1 A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- 22.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

23. GOVERNING LAW

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

24. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

IMPORTANT: There is currently a legal hold on the destruction of records relating to the care of children and these records should not be destroyed until the hold has been lifted.

Retention Schedule

Need a retention policy added or changed or have any other questions? Contact recordsmanagement@wiltshire.gov.uk

Ref	Service Area	Business	Task	Record	Trigger Point	Years	Months	Permanent?	Disposition Action	Basis of retention period decision	Notes/comments/queries	Owner/approved by	
	Waste & Environment	Fleet Compliance Team	Hackney carriage/private hire driver Licences	App form	Expiry of licence		1		Destroy				
	Waste & Environment	Fleet Compliance Team		Medical form	Expiry of licence		1		Destroy				
	Waste & Environment	Fleet Compliance Team		Fit & proper RA info	Expiry of licence		1		Destroy				
	Waste & Environment	Fleet Compliance Team		Driving assessments	Expiry of licence		1		Destroy				
	Waste & Environment	Fleet Compliance Team		DVLA Checks	Expiry of licence		1		Destroy				
	Waste & Environment	Fleet Compliance Team		Knowledge Tests	Expiry of licence		1		Destroy				
	Waste & Environment	Fleet Compliance Team		Certificate of good conduct	Expiry of licence		1		Destroy				
	Waste & Environment	Fleet Compliance Team		Immigration Checks	Expiry of licence		1		Destroy				
	Waste & Environment	Fleet Compliance Team		Photograph	Expiry of licence		1		Destroy				
	Waste & Environment	Fleet Compliance Team		Hackney carriage/private hire vehicle licences	App form	Expiry of licence		1		Destroy			
	Waste & Environment	Fleet Compliance Team			Inspection form	Expiry of licence		1		Destroy			
	Waste & Environment	Fleet Compliance Team			Fit & Proper RA Info	Expiry of licence		1		Destroy			
	Waste & Environment	Fleet Compliance Team		Private hire operators licences	App form	Expiry of licence		1		Destroy			
	Waste & Environment	Fleet Compliance Team			Fit & Proper RA Info	Expiry of licence		1		Destroy			
	Waste & Environment	Fleet Compliance Team	Immigration Checks		Expiry of licence		1		Destroy				
	Waste & Environment	Fleet Compliance Team	Complaints/correspondance		Date of action		6		Destroy				
	Waste & Environment	Fleet Compliance Team	Enforcement files/tapes/letters		Date of action		6		Destroy				
	Waste & Environment	Fleet Compliance Team	National Taxi Licensing Refusals & Revocation Database	Driver details and disclosure of if revoked or refused.	Date of action		25		Remove Data from NR3	Retention period is defined by the National Anti Fraud Network (NAFN)			

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