

AGENDA

Meeting: Licensing Committee

Place: [Click here to view the online meeting](#)

Date: Monday 7 September 2020

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 George Jeans
Cllr Trevor Carbin	Cllr Jim Lynch
Cllr Sue Evans	Cllr Pip Ridout
Cllr Jose Green (Vice-Chairman)	Cllr Ian Thorn
Cllr Mike Hewitt	Cllr Peter Evans
Cllr Peter Hutton (Chairman)	Cllr Kevin Daley

Substitutes:

Cllr Clare Cape	Cllr Steve Oldrieve
Cllr Ernie Clark	Cllr Stewart Palmen
Cllr Anna Cuthbert	Cllr James Sheppard
Cllr Gavin Grant	Cllr Graham Wright
Cllr Howard Greenman	Cllr Atiqul Hoque
Cllr Nick Murry	

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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 - 30*)

To confirm and sign the minutes of the meeting held on 2 December 2019 and the extraordinary meeting held on 27 January 2020 (copies 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. During the ongoing Covid-19 situation the Council is operating revised procedures and the public are able participate in meetings online after registering with the officer named on this agenda, and in accordance with the deadlines below.

[Guidance on how to participate in this meeting online.](#)

Statements

Members of the public who wish to submit a statement in relation to an item on this agenda should submit this is electronically to the officer named on this agenda **no later than 5pm on Wednesday 2 September.**

State whom the statement is from (including if representing another person or organisation), state points clearly and be readable aloud in approximately 3 minutes. Up to three speakers are allowed for each item on the agenda.

Questions

Those wishing to ask questions are required to give notice of any such questions electronically to the officer named on the front of this agenda no later than **5pm on Friday 28 August** 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 2 September.**

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 members prior to

the meeting and made available at the meeting and on the Council's website; they will be taken as read at the meeting.

6 **Minutes of the Licensing Sub Committees** (*Pages 31 - 60*)

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

Eastern Area Licensing

15/01/20 Application for a Review of a Premises Licence – Tale of Spice,
9 North Street, Pewsey

Northern Area Licensing

15/01/20 Application for a Review of a Premises Licence – Tale of Spice,
Malmesbury Road Chippenham

7 **Presentation - Wiltshire Police Licensing Team**

Sergeant Leighton Williams and Martin O'Neill (Wiltshire Police Licensing Officer) have been invited to attend the meeting to provide an update on behalf of the Police Licensing Team to the Committee and will also give details of the current structure, partnership working and new initiatives.

8 **Presentation - Gambling Awareness Support Service**

Lizzie Kingsbury (Project Worker Gambling Support Service - South West) has been invited to the Committee to give details of the national Citizens Advice Gambling Support Service. They have been commissioned by GambleAware to deliver the national Citizens Advice Gambling Support Service (GSS).

9 **Briefing Note - Taxi Licensing Line Management Responsibilities** (*Pages 61 - 64*)

Tom Ince (Principal Compliance Officer) has prepared a briefing note to update the Licensing Committee on the new management responsibilities, reporting lines and team structure for the Taxi Licensing service.

10 **Briefing Note - Proposed Changes for Taxi Tariff Schedule for Hackney Carriages** (*Pages 65 - 68*)

Tom Ince (Principal Compliance Officer) has prepared a briefing note to update the Licensing Committee on the latest position in relation to implementing a new schedule of tariffs and fees for hackney carriages in Wiltshire.

11 **Dates of Future Committee Meetings**

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

1 December 2020
1 March 2021.

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 DECEMBER 2019 AT WEST WILTSHIRE ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Allison Bucknell, Cllr Trevor Carbin, Cllr Sue Evans, Cllr Jose Green (Vice-Chairman), Cllr Peter Hutton (Chairman), Cllr Pip Ridout, Cllr Ian Thorn and Cllr Peter Evans

Also Present:

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

Members of the Public Present:

Brendan Jeynes, Robert Martin-Logue, and Robin McGowan

36 Apologies/Substitutions/Membership Changes

Apologies were received from Councillors Cllrs George Jeans, Mike Hewitt, Jim Lynch and Leo Randall. There were no changes to the membership.

37 Minutes

The minutes of the meeting held on 2 September 2019 were presented to the Committee.

Resolved:

That the minutes of the meeting held on 2 September 2019 be approved and signed as a correct record.

38 Chairman's Announcements

The Chairman, Councillor Peter Hutton made the following announcements:

Minutes silence

The Committee would be observing the Council's one-minute silence at 11am to reflect on the recent London Bridge attacks.

Statement of Licensing Policy

The revised Statement of Licensing Policy was approved by Council at their meeting on 26 November 2019.

Licensing Sub Committees – Reserve Member arrangements

At a recent Democratic Services Team meeting, the use of a 4th "reserve" Member for Licensing Sub Committees and School Transport Appeal hearings was discussed. It had been usual practice to ask for a 4th Panel Member to attend the briefing and hearing in case of unforeseen circumstances on the day of the hearing as there had previously been problems with Members being a 'no show' meaning the hearing could not go ahead until another Member was arranged or the hearing would have to be re-arranged. This problem had not occurred now for some time.

The Dem Services Team have now agreed that the new process would mean that a 4th Member would be asked to keep their diary free and be on call for a hearing in case they were needed but did not have to attend the meeting unless they were called upon. The Democratic Service Officer would make contact with the 3 Panel Members (email and/or phone) the day before the hearing to be confident that they were still able to attend and be reminded of times and location. The three Panel Members would be advised when the hearing was being set up that needed to inform us as soon as possible if they couldn't make the hearing as it would not be able to go ahead without 3 Members.

39 **Declarations of Interest**

There were no declarations of interest.

40 **Public Participation**

No questions had been submitted to the Committee from the public prior to the meeting. There were three members of the public present who wished to make statements in relation to the ensuing discussions for taxi tariffs and provision, particularly in Salisbury.

Statement from Mr Robert Martin-Logue

I work in the city as part of the late-night economy – I am part of a security team and Pubwatch and Purple Flag.

We have had a few issues with the taxi prices in Salisbury. We rely on taxis to be proactive and to get people home safely. We get complaints reported to us and I am aware that 3 young Royal Welsh soldiers couldn't get a taxi back to

Tidworth for less than £120. They were then taking the decision to walk home instead. We don't want this to be an option and are very concerned about the potential for accidents with people walking home instead. Are we really penny pinching for sake of lives?

I have compared the cost of taxi journeys and one elsewhere in Portsmouth was a 2.5-mile journey costing £13 whilst a one-way journey of 4 miles in Salisbury cost £27.50. These are both cities with a student life and it is concerning that we are ramping up price and forcing people to make decision about travel home and in some cases deciding to walk. Salisbury are looking to rebuild the city after the Novichok attacks – we have young women choosing to walk home. Another example is that a taxi journey was refused as it was too short and was told by a taxi driver that it was not worth it.

I have certain concerns for our young people in city – I work with young people and I know money is tight. Some of our staff are young and they struggle to get home – it can cost them 2 hours of their wages to be taken home. We can ask taxis to limit their prices, but another issue is the availability of taxis working. We urge you to consider your grandchildren how are they getting home at night – they are walking dark roads for sake of money to travel home – we are not comparable to any other city – I am very concerned about the safety of young people at weekends.

The Chairman commented that the taxi trade is a business and it is up to them whether they accept a journey. The Council are undertaking more enforcement to ensure that the drivers are compliant. The transport in the city is not just the sole duty of taxis. We have discussed with the Salisbury BID and would welcome to work with the military to see if they could assist with the provision of transport for the late-night economy. Many of the points the speaker has raised will be updated/responded to by Officers later in the meeting.

Statement from Brendan Jeynes

I am a representative on Pubwatch and been working in the late-night economy for nearly 30 years. The tariffs changed a few years ago and we have seen the impact. The biggest impact is on the local economy. On a Thursday we used to have 10/15 taxis now we are down to 1. It is disproportionate to what is going on in other cities. We seem to hike our prices up more than anyone else. Taxi drivers themselves are saying it is disproportionate.

I saw two Inspectors last Thursday and there was one taxi outside – there were not enough taxi drivers to talk to!! This has affected the whole of evening economy – a few bars have closed. We have reduced our staff from 6/7 door staff down to 1. We used to have 600/700 people coming in that we rely on but there is no point employing staff if there are no customers. We are arguing that taxis should be the same as the others and not charging more – it is affecting my business. The taxis are not earning so there is no justification why there is a hike to tariff 3. This was the first time I have seen Inspectors in Salisbury in 22

years. I approached them and informed them that it was a waste of time to come out on a Thursday. They said they will come back at a later date. I feel there are a lot of unscrupulous drivers charging too much and there should be a way for people to complain.

The Chairman commented to the speaker that the tariffs in Salisbury hadn't changed and it was in 2015 when the other areas in Wiltshire came up to the tariffs charged by Salisbury. At that time there were others that wanted to the tariff prices to go up more. Taxi operators make business decisions and the use of the tariff is purely for the rank – if they are not on rank driver can chose/agree what to do a trip for.

Statement from Robin McGowan

I represent businesses in the city centre. The taxi trade is not represented by the BID and we work to improve the future of town centres and impact of vibrancy. We make a lot of effort and work into improving the evening economy. The traditional 9-5 day is shifting, and we are working with the Wiltshire Council Economic Development Team following the massive impact the Novichok incident had on the night time businesses in Salisbury. The challenge is how to engage in BID to get correct information as to impact on business and how they get home – does it deter coming out? Lot of desire to support military basing but concern not being spent in County.

The Chairman commented that Wiltshire Council are committed to the taxi trade and want to work with you in Salisbury! He thanked the three gentlemen for attending and for their statements.

41 Minutes of the Licensing Sub Committees

Northern Area

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

Southern Area

16/05/19 Application for a 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

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

Resolved:

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

42 Update from the Licensing Authority Working Group

Tom Ince (Principal Compliance Officer) reported that one of the key objectives of the Licensing Authority Working Group was to review fares and tariffs and this process was started in June 2019 when the Council challenged the trade to come up with a proposal that could be adopted across Wiltshire. This gave the opportunity for the trade to input as businesses. It is important that the Council is aware that the tariffs will need to be viable to operators. It was made clear that the trade would need to come up with a tariff that is fit for purpose by 6 December 2019.

Officers met with the trade again in October to check on progress and at that meeting there was some common agreement at that point to relax the use of Tariff 3 and extending Tariff 2. In order to pull together a formal proposal in November Officers offered to facilitate a meeting at Council offices in order for the trade to meet and thrash out a proposal. That meeting was held last week at which we received one formal proposal from a representative of one area, but Officers have not yet received anything from the other 3 areas. Officers intend to send details to the trade and extend the deadline to the end of the year to then enable a proposal to be drafted in the new year and put out to formal consultation.

Julie Anderson-Hill (Head of Culture and Operational Change) reported that the team had been working with the trade for a considerable time and she had been invited to the Salisbury Purple Flag event and was keen to understand the trades concerns and anxiety and views that were being shared. The very small taxi service team have been working hard and have found that the Salisbury taxi trade appear to be very separate to the audience Officers was talking to at the Purple Flag event. Officers have considered whether there is an opportunity to engage with the Salisbury Taxi Trade direct and to encourage them to attend the Taxi trade meetings and be the voice for Salisbury as the feedback does not appear to be coming from Salisbury trade representatives.

A Committee Member acknowledged that there are multiple things going on in Salisbury, but that this Committee's primary objective is to ensure that all Wiltshire taxis are licenced and are safe for customers. They noted the criticism in relation to the numbers of taxis in operation, but the Council were not able to

make them go to certain places where others might feel there is a need. The Member felt that there were separating things going on and that they were not all in the remit of the Committee. Public transport and its funding are an issue and that is a bigger piece of work to be done about transport generally. There is the risk that if the fees/tariffs are too low businesses will not be able to operate and there will be no taxis available. They suggested that alternatives be discussed with the Passenger Transport Team.

Tom Ince reported that his team has a monthly meeting with the Passenger Transport Team to ensure any changes made that impact licensing and the taxi provision for the County contracts are known.

The Chairman suggested that links be made with the military to see if a bus or similar could be used and work with them and the BID to see what work could be done together to make improvements.

A Committee Member suggested that the 3 speakers from Salisbury work with their Area Boards and contact their Salisbury Councillors with their concerns.

Julie Anderson-Hill wished to reiterate that whilst there are several components that need solving for Salisbury, the tariffs had not changed in 5 years and at that time the rest of the County rose to Salisbury's tariff which is the maximum tariff that can be charged.

The Chairman commented that the Committee are passionate to resolve the issues reported and suggested that contact details be exchanged at the end of the meeting with the offer to get together to discuss further and invite input and feedback from all.

The Chairman then explained that the process for any change to tariff would be as follows:

- Officers to receive proposals for any changes to the tariffs by the end of December 2019
- Officers report these proposals to Licensing Committee (at Extraordinary meeting of Licensing Committee in January 2020) and agreement is sought to send out to consultation
- 28-day consultation process launched (including in the local press) and sent to representatives on Pubwatch and Purple Flag and Salisbury BID Licensing Committee consider feedback from consultation and make a decision on any changes to tariffs for Wiltshire at a meeting in Spring 2020.

It was suggested that an invite to respond to the consultation be extended to the Salisbury Bid and the Purple Flag.

Resolved:

An extra ordinary meeting of the Licensing Committee would meet in January 2020 to consider the feedback and any proposals arising from the consultation and take a decision on changes to the tariffs in Wiltshire.

43 **Performance Data for Taxi Licensing Service - October 2019**

Tom Ince (Principal Compliance Officer) reported that this was a new report to the Committee to share details of the Taxi Licensing Team's performance. Tom highlighted the following:

- The number of licence requests that have been processed is up 41% on the same period in 2018 – the increase in volume is primarily due to the introduction of the 3 yearly licences in 2015/16 which are now coming around for renewal;
- The already small team of 4 has had issues with staff turnover and two of these were newly recruited staff;
- The total number of drivers licenced in Wiltshire in October was 1042 – over the last 7 months there had been a marginal decrease in driver numbers;
- The south of the county has a higher percentage of hackney carriage drivers that use the ranks, but drivers are able to use hackney carriage as a private hire vehicle. The Council have the ability to put more conditions on the drivers of hackney carriage vehicles and they monitor the number of wheelchair accessible vehicles. The majority of these vehicles are used for the Council's passenger transport contracts and only 12% of the public are using these vehicles; and
- The Council were currently looking at ways to improve the number of wheelchair accessible vehicles and are considering relaxing the current regulations for these vehicles. We are also looking at demand, but we are being told by the industry that the demand isn't there. For operators 1 in 10 vehicles must be wheelchair accessible but there are very few operators that have more than 10 vehicles in their fleet.

Julie Anderson-Hill reported that they were still awaiting the results of the national consultation for taxis safety but in the meantime had put in place higher benchmarks and more enforcement and inspection of vehicles and drivers. They were also looking to introduce a review rating system which would see drivers having a 1 to 5 grading system in the window of the vehicle so that customers can see this and chose to use the taxi or not.

A Committee Member asked what the Team were doing in relation with climate change and wondered how far discussions had going with the trade as to the age of vehicles etc. Julie reported that they are working with fleet teams regarding electric charge points and Euro 6 points which is the threshold for all

new licences, but the Council cannot be specific at this stage as Euro 4 – 5 are still in operation.

A Committee Member commented that in the data the South seem to have a lot of drivers but that this did not correlate with what was raised with the public speakers earlier in the meeting. Could they be trading out of county?

Tom Ince reported that they did not have information on this, but it could be that whilst this number are licensed they may only choose to work on Friday and Saturday evenings as the footfall and business is not there all week for a sufficient living. That may be a reason why that figure is misleading.

Resolved:

That the performance data for the Taxi Licensing Service for October 2019 be noted.

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

Tom Ince (Principal Compliance Officer) referred to the report circulated with Agenda and reported that the Taxi Licensing Team were putting forward a proposal to introduce an additional check on drivers to make sure that the authority takes all necessary steps to get suitable taxi drivers. Currently we ask those who have applied for a licence/renewal to indicate if they have had a licence revoked or suspend before and we can only rely on their honesty. The team were now looking to adopt a formal process.

The National Register of Taxi Licence Revocations and Refusals is hosted by the National Anti-Fraud Network and there were a number of other Council departments who are members of the network. The Register only gives details of revocations and refusals of a licence for a driver and would not show any suspensions of a licence. The Committee were urged to adopt this process so that an additional check could be carried out.

Resolved:

- 1. That the Licensing Committee approves the adoption of Wiltshire Council's use of the National Register of Taxi Licensing Revocations and Refusals (NR3) database.**
- 2. This policy change will apply to all new applications and renewals that are received from 1 January 2020 and thereafter.**

45 **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:

27 January 2020 (Extraordinary meeting)
2 March 2020
1 June 2020
7 September 2020
7 December 2020.

46 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 - 11.25 am)

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services,
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Licensing Committee

MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 27 JANUARY 2020 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Allison Bucknell, Cllr Trevor Carbin, Cllr Jose Green (Vice-Chair), Cllr Mike Hewitt, Cllr Peter Hutton (Chair), Cllr George Jeans, Cllr Jim Lynch and Cllr Leo Randall

Also Present:

Julie Anderson-Hill (Head of Service, Operational and Cultural Change), Tom Ince (Principal Compliance Officer), Sarah Marshall (Senior Solicitor)

Members of the Public Present:

Adrian Berridge, Stephen Berridge, Paul Humphries, Atiquel Hoque, Robin McGowan, and Amanda Newbery

1 Apologies/Substitutions

Apologies were received from Councillors Sue Evans, Pip Ridout, Ian Thorn and Peter Evans.

2 Chair's Announcements

The Chair, Councillor Peter Hutton made the following announcements:

Focus of Meeting

The Chair wished to clarify to the Committee Members and the members of the public present that he was aware that this extraordinary meeting had drawn some media attention. No final decision on the taxi tariff for Wiltshire would be made today. The Committee were being asked to consider the Officer's recommendations of proposed changes to the taxi tariff which would then be subject to public consultation. Following the public consultation, if no major amendments were proposed then the tariff would be delegated to the Officers for implementation.

Holocaust Remembrance

The Council would be lowering the flag in remembrance of the Holocaust at 11am. With the Committee's agreement the Chair proposed to adjourn the meeting at 10.55am in order for those who wished to join this brief ceremony to do so.

3 **Declarations of Interest**

There were no declarations of interest.

4 **Public Participation**

No questions had been submitted to the Committee from the public prior to the meeting. There were two members of the public present who wished to make statements in relation to the ensuing discussions for the proposed changes to Wiltshire Council's Hackney Carriage Tariff and Fee Structure.

Statement from Mr Paul Humphries

I have been a taxi driver for 20 years in Salisbury. I am primarily independent taxi driver although I have the support of a 40-driver car company. A few things have been brought to my attention regarding the proposed changes. Wiltshire is a big county and Salisbury is different. I am here to represent the voice of the people but myself primarily. Some of the press following the previous meeting in December had made statements apparently coming from the more prominent Taxi trade in Salisbury. I have quotes from the Salisbury Journal Facebook page saying that there is much corruption, people are being ripped off by taxi drivers and it needs to stop, one driver is charging more than another. I would say that this isn't necessarily ripping off, the tariff only shows what we are legally entitled to charge. I have made my voice known to Salisbury – the drivers are not robbing anyone! We hope they are charging legal tariffs and leaders of these Taxi companies need to address what is their legal right of what they are entitled to charge.

One of the key points to address is safety, forget price. The safety of the driver, the passenger and any other members of the public that are road users is paramount. Safety needs to come first. Education is important. We need to educate the public as well as drivers as what to charge – this is what is going wrong – it needs to be simplified. Some of the timings are being ludicrous and needs to be addressed – night time should apply to when the night clubs are open.

The Chair clarified that there was a Licensing Authority Working Group that looks at tariff and other safety aspects for drivers etc. We are currently waiting for the feedback from the Government and will be looking further at it after that time.

Statement from Mr Adrian Berridge

I am a taxi driver from Warminster. I totally agree Salisbury is different to Wiltshire. From our point of view the night time foot fall has dropped off. If we lose the option to use Tariff 3 we are likely to get to the point at 01:00 where drivers decide that they will go home. We can't be brought in line with Salisbury as they are different.

5 **Proposed Changes to Wiltshire Council's Hackney Carriage Tariff and Fee Structure**

Mrs Julie Anderson-Hill (Head of Service, Operational and Cultural Change) reported that the points that had been raised by the two speakers in public participation on behalf of the trade were exactly the essence of what the authority were trying to focus on. Officers confirmed that the Licensing Authority Working Group would continue to meet and look into the possibility of CCTV in vehicles, look to ensure that drivers speak English and put what they can in place to address concerns around safety. The response from the Government's consultation carried out in 2019 was still awaited.

Officers referred to the report circulated with the Agenda which sought to provide the Licensing Committee with the relevant information to make an informed decision on the proposed public consultation on a revised schedule of fees and tariffs for hackney carriages operating from taxi ranks in Wiltshire.

Officers gave details of the engagement that had taken place to get into the position we are now in and that it was important to understand that the feedback needs to come from the trade and it is not for Officers to suggest what the tariff for Wiltshire should look like. Engagement has been part of the voice and it was noted that there were differing views from Salisbury and Warminster reported by the public speakers today.

Officers outlined the proposed changes to the tariff which included an additional 30p to be added to all flag rates (standing charge). Tariff 3 be amended to only apply on public holidays. Tariff 2 be implemented to start at 22.00 instead of 22.30 but will apply every day. Officers reported that as part of the pre-consultation some representatives from the taxi trade had asked for Tariff 2 to commence at 21.30 and some at 23.00 so as a compromise the time of 22.00 was selected.

Officers reminded the Committee that the current schedule had been in place since 2015 and that the changes proposed would only apply to hackney carriages operating from a rank. Officers explained that a private hire driver is able to take a phone booking with an agreed rate and that is the difference between hackney carriage and private hire.

Should any changes to the tariff be agreed following the consultation, sufficient time would be allowed to enable drivers to make the relevant amendments to the meters, etc. It was anticipated that the implementation of any new tariff would be Summer 2020.

Officers explained the table on page 11 of the Agenda which gave details of the proposals raised by trade and on which the proposed tariff was now based. Officers wished to ensure that the taxi provision in Wiltshire remains sustainable to residents and that they felt there was evidence to show that there was need for a tariff change.

Officers circulated coloured graphs (attached as Appendix 1 to these Minutes) at the meeting which showed the current and proposed tariff for Wiltshire over 4 and 8-seater vehicles at different times of the time, together with the costs of fares of neighbouring authorities compared to the existing and proposed tariffs for Wiltshire. The graphs showed that if Wiltshire were to adopt the proposed tariff we come down to a comparable tariff to that of our neighbours. The key difference is when we look at an 8-seater taxi there is a higher cost.

The meeting was adjourned between 10:55 and 11:06 to allow Members and Officers to attend where the Council would be lowering the flag in remembrance of the Holocaust at 11:00.

There was a brief discussion on what competitors are and what comparators are, and it was confirmed that drivers licensed from other authorities are able to drop off but not able to pick up a fare in Wiltshire. The Chair reminded members of the public that the public participation had finished, and any further comments should now be submitted to the public consultation.

A Committee Member asked that if the rest of Wiltshire came up to Salisbury's tariff in 2015 – have South Wiltshire taxi drivers continued to raise their tariffs in isolation? Why/how has this disparity come about?

Officers explained that the difference for the South of Wiltshire is that Tariff 3 was never operated prior to 2015. Since then Tariff 3 has given the drivers the ability to charge a higher rate after 02.30 and that is where the price increase appears to have come from.

Officers wished to clarify to Committee that there was a typo to correct on page 17 of the Agenda (the proposed tariff card) and that the journey start time should be amended to read 06:00 (not 07:00) with the implementation of tariff 2 to run from 22:00 to 05:59 (not 06:59).

Officers explained that the Committee were being asked to agree the tariff that should now be sent out for public consultation. These proposed changes would be shared with the taxi trade, published in the Salisbury Journal, the Wiltshire Times and the Gazette and Herald. The consultation would be open for 14 days after which time Officers would review the consultation responses and then subject to this review and any non-significant changes made, seek to implement the changes with additional time allowed to enable the trade to make the changes they needed to make.

The Chair asked Officers to confirm that a communications strategy would be implemented to ensure that everyone was aware of any changes. Officers confirmed that press release were ready to be released following the meeting.

Committee Members suggested a number of minor amendments to the wording of the proposals/tariff to make it clearer to understand.

A Committee Member asked if the consultation could include Town and Parish Councils and Officers confirmed that they would be included in the consultation.

A Committee Member asked if the suggestion of breaking out into different tariffs for different areas was raised during the consultation if this would be considered. The importance of making the aims and the parameters of the consultation clear were strongly expressed. The purpose of this consultation was to look at proposed changes to the taxi tariff for Wiltshire.

A Committee Member asked if the consultation would be included on the consultation portal – Officers confirmed that they would look to do this if possible, but it would be subject to IT timelines and requirements.

A Committee Member indicated their preference for the terms of the consultation to be explicit in that the feedback received, and that this should be published with the responses made by Officers being made available to clear up what the public sometimes perceive as the futility of a widespread consultation. Officers confirmed that the response to the consultation would be fed back.

A Committee Member asked for a probable timeline of events following the meeting.

Officers reiterated that a key element of when any new tariff would be implemented would be enforcement. There were aware of drivers in different areas doing different things. At present there were only two Enforcement Officers countywide, but changes were in the pipeline to look at shaping the team differently to allow for more junior roles being able to assist with roles and free up officers for compliance/enforcement. However, any problems from users and tariffs not being correctly applied would need to be reported to enable them to be investigated and acted upon by the team.

It was planned that the advertisements of the proposed changes to the tariffs would be placed in the local newspapers and the public consultation launched in February. This would run for 14 days. It would close by the end of February which would allow officers sufficient time during March/April to consider/review the feedback responses with a planned implementation date of any changes in the summer of 2020.

A Committee Member asked about any changes that are raised following consultation. Officers confirmed that if any significant changes were considered this would mean a +/- 10% change - if this was the case then then the matter would have to come back again to the Licensing Committee. Otherwise with no significant changes then this would be delegated to officers to implement.

A Committee Member asked if/how the results of the consultation would be shared. Officers confirmed that they would be happy to share the results of the consultation with the Chair.

A Committee Member suggested that wording should perhaps be included that Officers also consult with the Chair and Vice Chair of Licensing if they were going to make changes under their delegation which was agreed by the Chair.

The Chair read out the revised proposals and it was put to the vote. The Committee unanimously agreed:

Resolved:

1. That the Licensing Committee approves that a public consultation take place on Wiltshire Council's revised Hackney Carriage Fees and Tariffs schedule, detailed in Appendix A. Subject to the results of the consultation it is also proposed that in the event of no significant objections that the power to implement the revised schedule be delegated to officers in consultation with the Chair and Vice Chair of Licensing Committee. Significant objections would be defined as those which change the rates charged by more than 10% or changes to the proposed tariff implementation or finish times greater than one hour.
2. The proposed changes include an increase in the flag rate, and changes to the timings at which the various tariffs apply.

The proposed changes include:

For vehicles up to four seats:

- i) An additional 30p to be added to all flag rates (standing charge).
- ii) Tariff 3 be amended to only apply on all public holidays.
- iii) Tariff 2 be implemented from 22:00 instead of the current 22:30 and apply every day except public holidays.
- iv) Tariff 1 to end at 21:59 instead of 22:29.

For vehicles with more than four seats carrying more than four passengers:

- v) Tariff 5 be amended to only apply on all public holidays.
- vi) Tariff 4 be implemented from 22:00 instead of the current 22:30 and apply every day except public holidays.
- vii) Tariff 2 to end at 21:59 instead of 22:29.

Appendix 1 to Minutes - Taxi Fare Comparison Data
Dates of Future Committee Meetings

6

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

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

7

Urgent Items

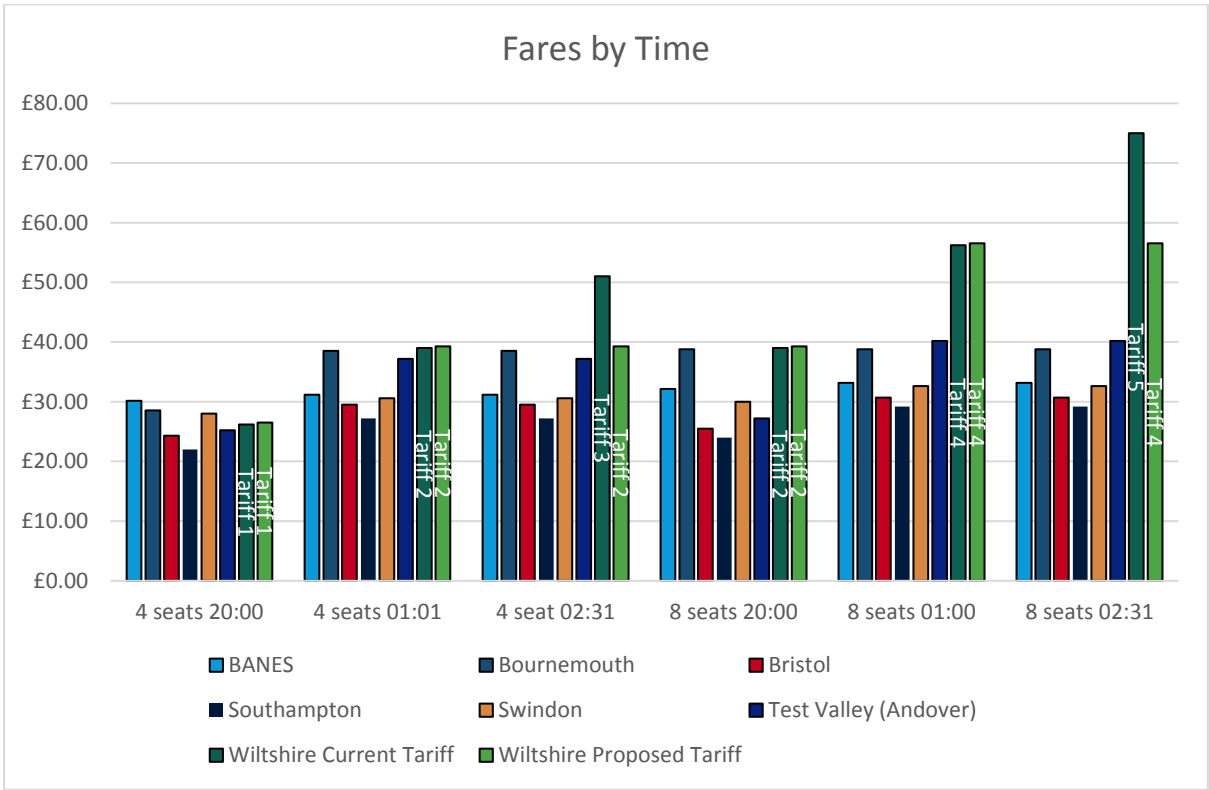
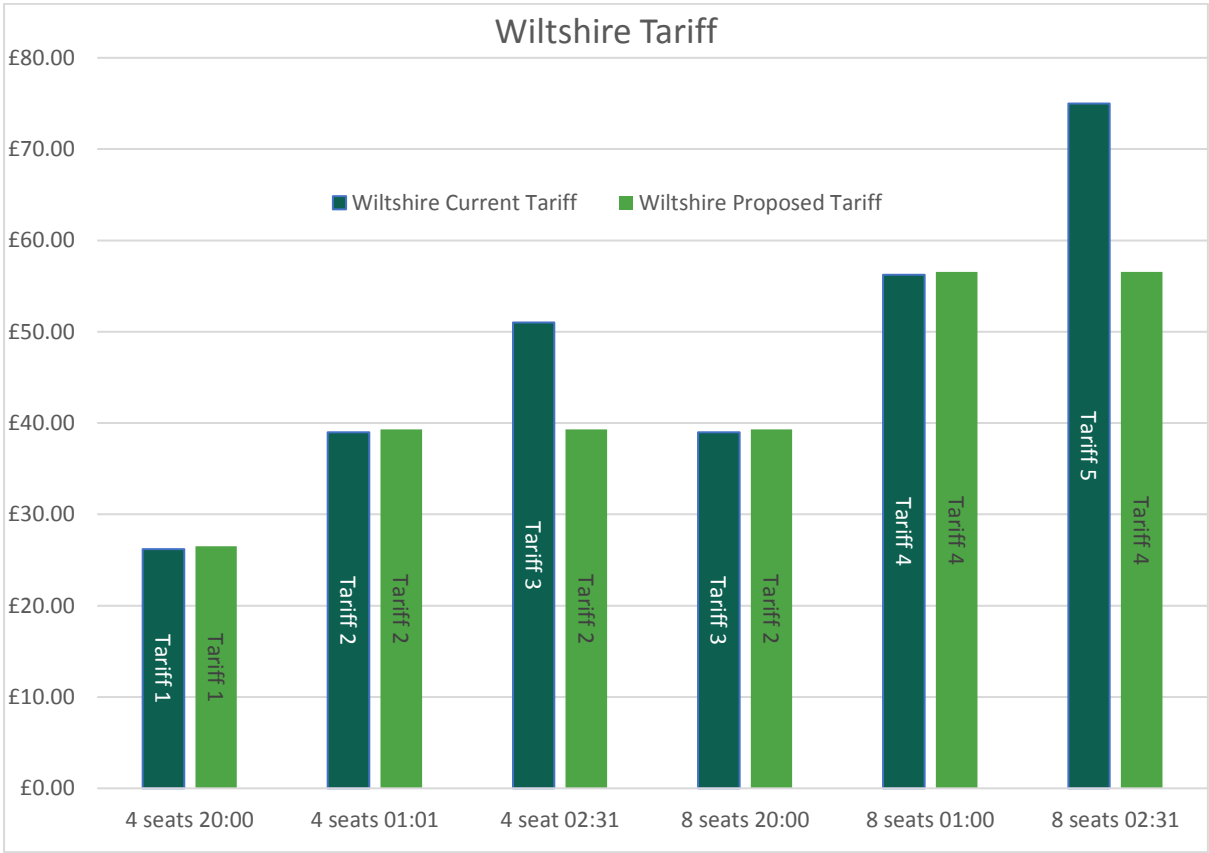
There were no urgent items.

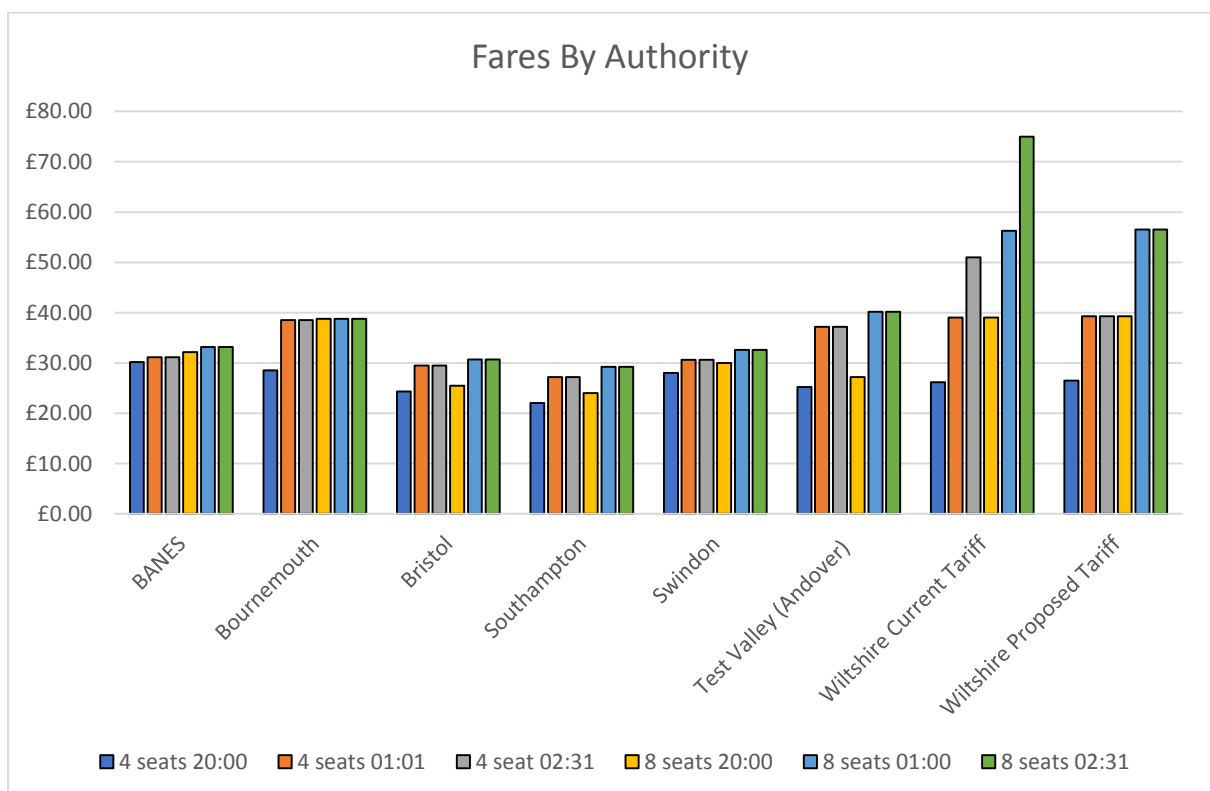
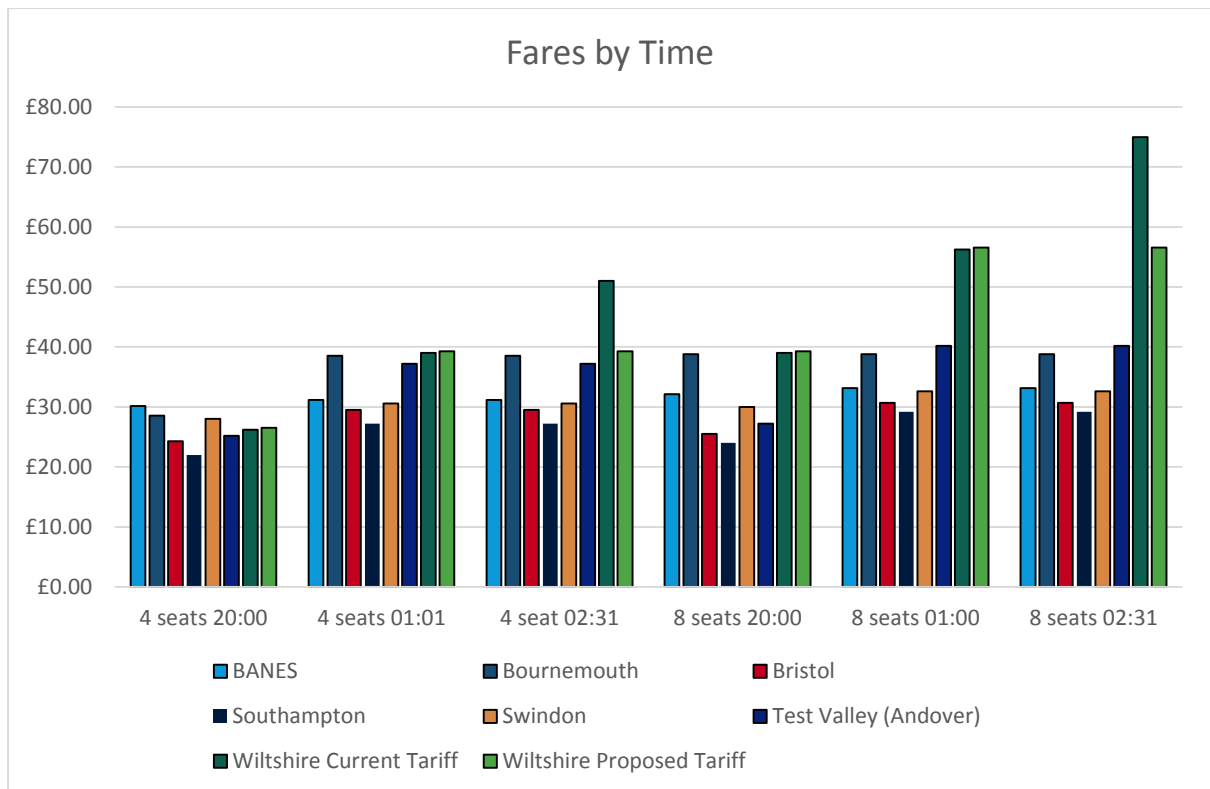
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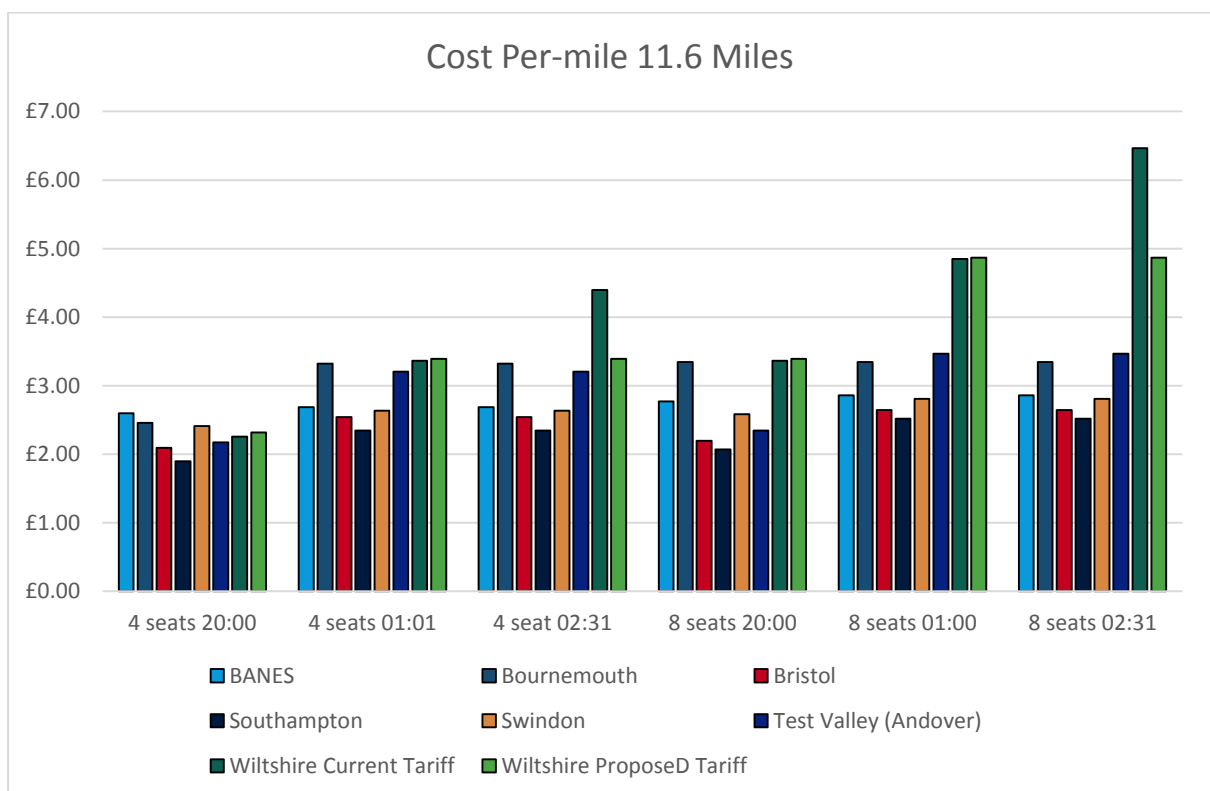
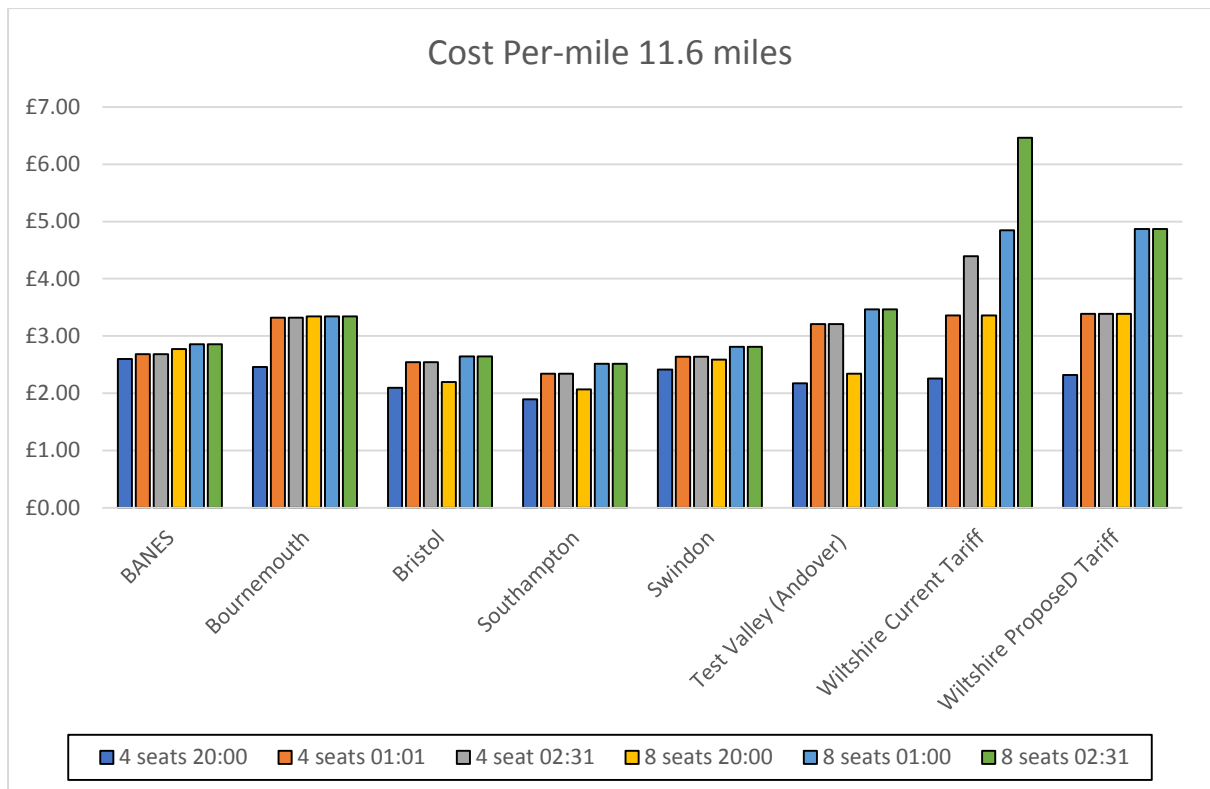
The Officer who has produced these minutes is Lisa Pullin of Democratic Services,
direct line 01225 713015, e-mail lisa.pullin@wiltshire.gov.uk

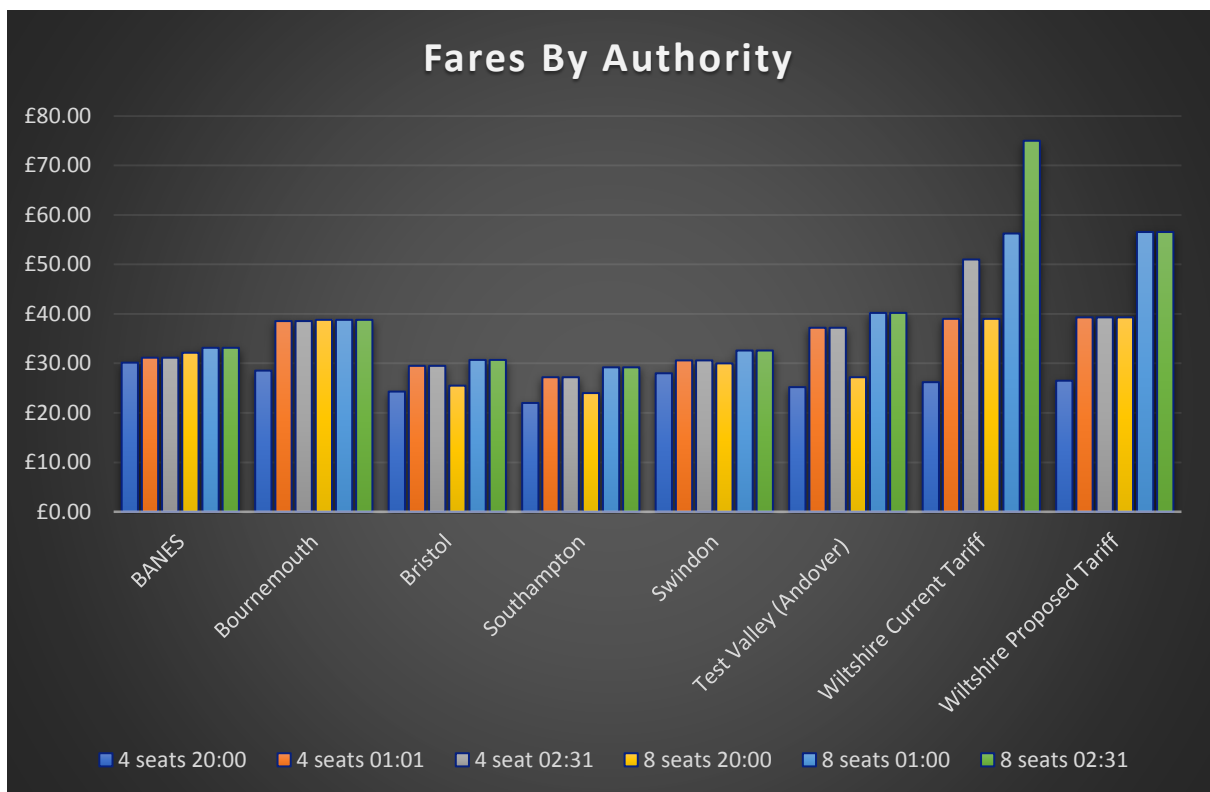
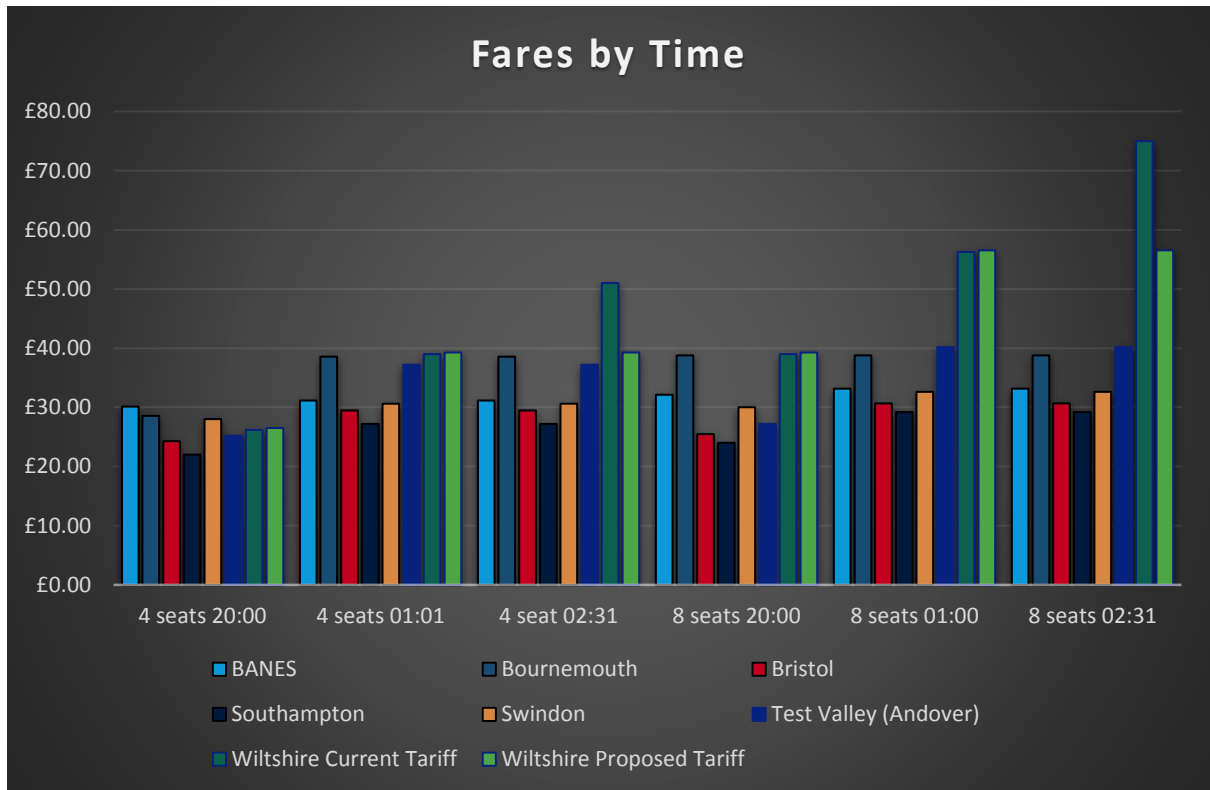
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Bulford Camp to Chapel
night Club 11.6 miles

Authority	4 seats 20:00	4 seats 01:01	4 seat 02:31	8 seats 20:00	8 seats 01:00	8 seats 02:31
BANES	£30.15	£31.15	£31.15	£32.15	£33.15	£33.15
Bournemouth	£28.54	£38.55	£38.55	£38.80	£38.80	£38.80
Bristol	£24.30	£29.50	£29.50	£25.50	£30.70	£30.70
Southampton	£22.00	£27.20	£27.20	£24.00	£29.20	£29.20
Swindon	£28.00	£30.60	£30.60	£30.00	£32.60	£32.60
Test Valley (Andover)	£25.20	£37.20	£37.20	£27.20	£40.20	£40.20
Wiltshire Current Tariff	£26.20	£39.00	£51.00	£39.00	£56.25	£75.00
Wiltshire Proposed Tariff	£26.50	£39.30	£39.30	£39.30	£56.55	£56.55

Average cost per mile

Authority	4 seats 20:00	4 seats 01:01	4 seat 02:31	8 seats 20:00	8 seats 01:00	8 seats 02:31
BANES	£2.60	£2.69	£2.69	£2.77	£2.86	£2.86
Bournemouth	£2.46	£3.32	£3.32	£3.34	£3.34	£3.34
Bristol	£2.09	£2.54	£2.54	£2.20	£2.65	£2.65
Southampton	£1.90	£2.34	£2.34	£2.07	£2.52	£2.52
Swindon	£2.41	£2.64	£2.64	£2.59	£2.81	£2.81
Test Valley (Andover)	£2.17	£3.21	£3.21	£2.34	£3.47	£3.47
Wiltshire Current Tariff	£2.26	£3.36	£4.40	£3.36	£4.85	£6.47
Wiltshire Proposed Tariff	£2.32	£3.39	£3.39	£3.39	£4.87	£4.87

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EASTERN AREA LICENSING SUB COMMITTEE

**DRAFT MINUTES OF THE EASTERN AREA LICENSING SUB COMMITTEE
MEETING HELD ON 15 JANUARY 2020 AT WEST WILTSHIRE ROOM - COUNTY
HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN IN RESPECT OF
Application for a Review of a Premises Licence - Tale of Spice, 9 North Street,
Pewsey**

Present:

Cllr Allison Bucknell, Cllr Trevor Carbin and Cllr Peter Hutton

Also Present:

Gavin Griffiths – Home Office Immigration Officer

Wiltshire Council Officers

Sarah Marshall – Senior Solicitor

Jemma Price – Public Protection Officer, (Licensing)

Kevin Fielding – Democratic Services Officer

Lisa Pullen Democratic Services Officer (observing)

Relevant Representations

Frank Fender – On behalf of A Taste of Spice, Pewsey

Mr Abul Jashim - Premises licence holder and DPS, A Taste of Spice, Pewsey

7 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.

8 Apologies for Absence/Substitutions

There were no apologies or substitutions.

9 **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).

10 **Chairman's Announcements**

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

11 **Declarations of Interest**

There were no interests declared.

12 **Exclusion of Press and Public**

The procedure to be following in the Hearing is governed by the Licensing Act 2003 (Hearings) Regulations 2005.

Regulation 14 provided that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

Under this principle, the Licensing Authority could exclude the public from all or part of the hearing, as considered appropriate.

In view of the representations and evidence that had been submitted, the Sub Committee was asked to consider whether the public should be excluded from any part of the hearing in this instance.

13 **Licensing Application**

Application for Review of a Premises Licence: Tale of Spice, 9 North Street,
Pewsey, Wiltshire, SP9 5ES

Emma Batchelor - Licensing Officer, Wiltshire Council presented her report and introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

Points made by the Licensing Officer included:

- That the hearing was being held to consider the application by Home Office Immigration Enforcement for a Review of the premises licence held by Mr Abul Jashim for Tale of Spice, 9 North Street, Pewsey, Wiltshire, SN9 5ES and which was accepted as a valid application. The application was made on the grounds set out below;
- A visit to the premises on 20 September 2019, identified seven persons found to be working illegally.
- Previous visit on 18 August 2018, identified five persons found to be working illegally.
- Previous visit on 4 April 2014, identified six persons found to be working illegally.
- That the premise had held a licence from April 2011.
- That a review of the licence had been requested by Home Office Immigration Enforcement on the grounds that the premises licence holder had failed to meet the licensing objective of the prevention of crime and disorder, due to illegal working identified at the premises.
- That the review process required a public notice to be posted on the premises for a period of 28 days together with a copy of the notice posted at the offices of Wiltshire Council, Monkton Park, Chippenham. During the consultation period Three Representations of support were received.
- In accordance with Section 52 (3) of The Licensing Act 2003 the Licensing Sub Committee was required to take such steps as it considered necessary for the promotion of the licensing objectives.

The licensing objectives were: -

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- and the Protection of Children from Harm.

Such steps available to the committee were: -

- To modify the conditions of the licence
- To exclude a licensable activity from the scope of the licence
- To remove the Designated Premises Supervisor
- To suspend the licence for a period not exceeding three months

- To revoke the licence
- Or to determine that No steps are necessary

Key points raised by the Review Applicant (Gavin Griffiths – Home Office Immigration Officer Southwest England) were:

- That he works for the Immigration Office who deal with everything within the UK border.
- There is a prevalence of illegal workers in the licensing trade
- Serious crime can be linked to exploitation of vulnerable individuals – encouraging the breaking of laws, smuggling and exploitation of minors. Working illegally is a criminal offence with a custodial sentence and unlimited fine. Employers are required to undertake checks on workers under the Immigration Asylum and Nationality Act 2006
- That the premises were visited by Home Office Immigration Officers on the 20 September 2019.
- That nine people were found to be in the communal kitchen, behind the bar and waiting tables. Five people were found to be working at the premises illegally with no right to work. Three people were given Immigration Bail at the scene and two people were arrested.
- That Home Office Immigration Officers had conducted visits during April 2014 and August 2018 and that civil penalty notices had been issued for £15,000 in April 2014 and £20,000 in August 2018 and That the penalties were still outstanding on the civil penalty notices that had been issued.
- Reference was made to paragraph 11.27 of the Amended Government Guidance issued under s.182 of the Licensing Act 2003 in particular that Police and Licensing Authorities seek to deter the crimes listed in paragraph 11.27 and revocation even for a first offence should be considered as the activity is seriously undermining the licensing objectives of prevention of crime and disorder and that revocation of the licence is sought in this case.

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

Q What was the £40,000 fine?

A This was the civil penalty notice from the most recent September 2019 operation.

Q Enforcement?

A Yes it was now with the Civil Penalties team. There was an objection as the status is that the penalty is being maintained. Could move to the civil courts if contested.

Q Was the Licence Holder and one of the workers present on this visit were also present on a previous visit in August 2018 where the worker was found to be in breach of immigration law with no right to work?

A Yes – was deemed to be working illegally in 2018.

Questions were asked of the Immigration Officer (Review Applicant) by the Mr Fender for the Licence Holder as follows:

Q A person found on more than one occasion was news to Mr Fender. Is there anything in the Application Pack?

A I only received the agenda supplement a few minutes ago but the individual was there in 2014 and 2018.

Q This individual is not mentioned in the report. Is it a legal duty for an employer to undertake checks? A person found on more than one occasion was news to Mr Fender. Is there anything in the Application Pack?

A I refer to page 16 of the Agenda Supplement paragraph 3.16 – 3.18 and s.35 of the Immigration Act 2016 which is the offence of employing an illegal worker. Not doing these checks would be negligent.

Q I accept this should be done but wanted to know if there was any specific legal requirement.

A *No answer required to this question*

Key points raised by Frank Fender on behalf of the Premises Licence Holder were:

- The author of the objection notice Mr Barker is here today as a member of the public and although he is not called as a witness he is here if you need clarification.
- That Abul Jashim - the premises licence holder and DPS is apologising for the situation he finds himself in today. He deeply regrets this situation.

- The purpose of a review hearing is for the Licensing Sub Committee to establish what licensing objectives are being promoted not to determine the guilt or otherwise of the Licence holder.
- Paragraph 2.5 of the Government Guidance refers to reviews as a part of the regulatory process and not part of a criminal law procedure.
- Although Mr Jashim had been the premises licence holder since April 2011, the premises had been under the management of other limited companies.
- Although Mr Jashim was the premises licence holder during this time, he was not responsible for the employment of staff – that function was carried out by the directors of the limited companies which effectively managed the premises.

This appeared to be confirmed in the Immigration application papers, when they say that previous Immigration visits to the premises (in 2014 and 2018) resulted in civil penalty notices being issued – and these were issued to the limited companies or employers and not to the License Holder.

- The civil penalty notices were not issued to Mr Jashim and he was not responsible for employing the staff at that time.
- That the premises had never caused any issues for any of the Responsible Authorities in the years that they have been operated as a restaurant other than the apparent immigration issues in 2014.
- That Mr Jashim had a very good track record of managing a licensed premise without causing any concerns. No alleged breaches of licence conditions, no alleged offences in respect of licensing.
- The Review application by Immigration Enforcement was advertised and parties were invited to make representations. Three letters of support for the way the premises were managed were sent to the licensing authority (page 31 – 33 of the agenda reports).
- The visit on 20 September 2019, nine staff were encountered, five not entitled to work in the UK and four were entitled to work in the UK. That the interviews of the alleged illegal workers were contentious. Illegal working is not happening in every case. There is much to be proved that an employer knowingly employed a person not entitled to work. The Licence holder did not knowingly employ illegal workers.

- The civil penalty notice was issued to the limited company, but I have heard that the objection notice has been refused by Immigration. There was no period of time for the Ltd company owner to appeal the decision and it has not been decided whether to lodge an appeal.
- Objection notice – that the alleged workers were volunteers to help at the Pewsey carnival, and not paid workers. The Pewsey carnival asks people to come to Pewsey and volunteer to help stall holders or help at the Carnival. No contract of work was offered but yes, they were given food as a reward for helping at the weekend.
- Since the visit the licence holder has sought advice from Immigration and Licensing consultants and put in place rules and has now completed employment records and due diligence sheets. I have these, but they were only handed to me yesterday but if you wish to see these you may. It may be seen that these were only done after the visit by the Immigration Service, but checks have been done but they were not documented.
- That Right to Work checks had been carried out, but not documented prior to the September 2019 Home Office visit.
- That the premises licence holder accepted that failures had happened, and documentation had not been kept.
- Paragraph 13 – 26 of the report online states that the Immigration Service are seeking a revocation of the premises licence and refers to case law in order to persuade you and justify why you should revoke the licence. They are inviting you to revoke because that is what has happened in other cases and refer to case law inviting you to punish licence holders by revoking their licence. There has been no dialogue with the Immigration Service. We take issue with the claim that conditions are insufficient as breach of conditions is a serious matter – an unlimited fine or prison or both.
- Paragraph 2.14 of the officer's report provides for possible sanctions. The licence holder accepts there have been shortfalls but does not accept he knowingly employed people with no right to work.

He accepts that sanctions are likely to be imposed.

- I ask you to pay particular attention to the guidance – paragraph 2.10. We believe the most appropriate and proper sanctions in this case are to modify the conditions and we would propose certain conditions;
 - i) The premises licence holder will operate a full HR Management system where all relevant documents, to prove entitlement to work, are stored for each individual member of staff.

- ii) All copies of relevant documents for members of staff will be retained for a period of 24 months post termination of employment and will be made available to Police, Immigration or Licensing Officers upon request. So the records can be shown for all members of staff.
 - iii) The premises licence holder will work with an immigration compliance business to carry out checks on the Home Office website and verify identification documents such as right to work documents to ensure that all new members of staff can be legally employed.
 - iv) No new member of staff will be able to work at the premises unless they have provided satisfactory proof of identification and right to work. This includes any work undertaken on a trial period or a part time basis.
 - v) The premises shall be subject to an unannounced compliance audit by a suitably qualified licensing consultant at least once every three months for a period of 12 months. The audit shall include compliance with conditions and the right to work of those working at the venue. A copy of these audits will be made available to the police and licensing authority within one month of the audit taking place.
- A visit could therefore occur at any time and act as a 'spot check'.
 - Licence conditions are considered appropriate and may include the licence holder requiring a right to work checks on all workers or undertaking a right to work check.
 - The imposition of conditions were an appropriate and proportionate check.
 - There are no other representations from the Police or other authorities in this case.
 - Since the visit the licence holder has taken pro-active steps to ensure this is never to be repeated again.

The Sub Committee stated that it takes its role seriously and understands what it can and cannot do. This is a well-run business and the Sub Committee would have expected all documents to be in place. Can the Sub Committee be reassured that the record keeping extends to training and health and safety

which is a major part of a well-run business? The Sub Committee will act upon the evidence it has heard today.

Questions were asked of the Premises Licence holder by the Sub Committee members as follows:

Q You assert that it is a well-run business, but we have evidence that it is well run in every aspect save for what is before us today.

A I am not responsible for employment.

Q Who deals with employment?

A Mr M H Yousain deals with employment.

Q You have duties and responsibilities - what questions do you have to check that people who work at your business are legal? How do you check?

A Mr Fender asked the Licence-holder who does the right to work checks?

Q It is your responsibility for people working at your premises or volunteering. Were you aware that was your responsibility? Were you aware as DPS? How do you keep up to date with changes in legislation? If the law changes how do you find out the law has changed or there is new legislation, so you can comply?

A I check their passports.

Q That does not answer my question. How do you keep up to date with the legislation you have to comply with to run your business?

A Mr Fender replied on behalf of the Licence-holder that no changes in immigration law, but it is just that the immigration service are more proactive. Licence holders do not keep up to date until something happens in that regard. The answer is that he doesn't. Moving forward is that checks have been done by implementing the proposed conditions. The immigration consultant can keep these premises updated in law, so we can promote the licensing objectives.

Q The suggestion that is someone there for volunteering that doesn't constitute work – the advice we have received is that volunteering does constitute work for right to work purposes.

- A Mr Fender replied on behalf of the Licence-holder that the Licence Holder did not believe volunteers needed the right to work. He has now got advice and knows that volunteers do need the right to work.
- Q Regarding the revocation of the licence for the first instance, you are trying to persuade us not to revoke the licence, but this is not the first instance for this premises? The suggestion that is someone there for volunteering that doesn't constitute work – the advice we have received is that volunteering does constitute work for right to work purposes.
- A Mr Fender replied on behalf of the Licence-holder that the Licence Holder did not believe volunteers needed the right to work. He has now got advice and knows that volunteers do need the right to work. This is the first time the Licence Holder has had a review.
- Q But not the first time he had illegal workers?
- A Mr Fender replied on behalf of the Licence-holder that the Licence Holder does not deal with employment.
- Q Did you know that checks needed to be carried out?
- A Mr Fender replied on behalf of the Licence Holder – No.
- Q How many people are normally employed on a Friday night?
- A It was the Carnival weekend and other people arrived to help out.

Questions were asked of the Premises Licence holder by the Immigration Service as follows:

- Q Were the five individuals volunteers at the carnival or sent by the business to work at premises or were they sent to work at the carnival?
- A Mr Fender replied on behalf of the Licence-holder that One of the individuals said they got the job over the internet. We don't know. Were people sent by the boss?
- A The Licence holder said four turned up and one was sent by the boss.
- A Mr Fender asked the Licence Holder what do you do at the Carnival?
- A The Licence Holder said they have a stall outside.
- Q Is the Immigration Consultant the same as the one who prepared the CPN?

- A Mr Fender replied on behalf of the Licence-holder that it is an independent consultant as it is dangerous to nominate an individual in case the condition cannot be complied with if the individual is not available. Mr Fender further stated that the Immigration Service will have to carry out checks.
- Q The Sub Committee asked Pewsey Carnival and volunteers and they are aware the Carnival puts out a shout for volunteers. Did you advertise for your business to have volunteers on the website?
- A The Licence Holder said No.
- Q So Pewsey Carnival ask for volunteers and they turned up to help at your restaurant?
- A The Licence Holder said they didn't come to my restaurant as they didn't know me. Mr Fender on behalf of the Licence-holder said there seem to be a lot of social media sites where help and staff are sought.
- Q The Sub Committee said they expect to see something in evidence and they cannot understand how they can see something for a carnival and the end up being in a restaurant.
- Q The Sub Committee asked the Immigration Service if they were aware of the Carnival?
- A The Immigration Service said they were made aware at 3 pm but there was no stall outside of the restaurant when they arrived.

The Sub Committee said to the Licence Holder that there seemed to be a lack of communication between the owner and the business. We want to see this improve and it is good that you acknowledge you have made some mistakes.

The Licensing Officer and the Immigration Service did not wish to make any closing submissions.

Mr Fender for the Licence Holder stated that any sanctions must be appropriate and proportionate and to revoke the licence today would close a restaurant and a family business and would ask whether that would be a proportionate response in this case. The Licence Holder has admitted he has made mistakes, but the business is a credit to the community. Since the 20 September visit there has been no evidence of any wrong doing since that date and these premises are not causing any issues. We have submitted modified conditions re maintenance of records and HR system to capture documents etc to ensure the mistakes are not repeated. We would ask you not to revoke.

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

The Sub Committee then retired to consider the application at 3.10pm

The Hearing reconvened at 3.45pm

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:

That revocation would not mean that the business would close, but that no alcohol and late-night refreshments could be served. The parties made no further submissions on the material legal advice given to the Sub Committee.

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:

The Eastern Area Licensing Sub Committee in respect of the Tale of Spice, 9 North Street, Pewsey, resolved as follows:

- 1. To remove the Designated Premises Supervisor – Mr Abul Jashim.**
- 2. To add a condition to the Licence that all relevant records must be maintained and retained accordingly of the right to work of any person working at the premises. Such records to be made available for inspection on demand by any Responsibility Authority.**
- 3. In order for the above condition to be actioned and for a new Designated Premises Supervisor to be put in place at the Premises, that the Premises Licence KK/PL0274 be suspended for a period of 3 months until 16 April 2020.**

Reasons for the Decision

The Sub Committee was of the view that the evidence presented by the Home Office (Immigration Enforcement) and the Licensing Authority demonstrated that the Premises Licence Holder/Designated Premises Supervisor ('DPS') had failed to effectively manage the premises so far as the employment of staff were concerned and had failed to actively promote the licensing objective of the prevention of crime and disorder.

The Premises Licence Holder had been found to have employed or retained staff as volunteers at the business who did not have the relevant permits to work in the United Kingdom ('the UK'). The Premises Licence Holder had not kept sufficient records to prove to the Responsible Authorities that any staff working at the Premises were legally able to work and had not updated himself nor undertaken appropriate training on the employer's legal requirements needed for the employment of staff in particular to take steps to manage the business to ensure staff who were employed or undertaking volunteering work at the business had the relevant permits to work in the UK.

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

- The Prevention of Crime and Disorder.

In reaching its decision, the Sub Committee took account of all the written representations contained within the Agenda and the two Agenda Supplements, in addition to the oral arguments presented at the hearing and made on behalf of the Review Applicant (Home Office - Immigration Enforcement), the Public Protection Officer (Licensing), the Premises Licence Holder, Mr Abul Jashim and the representative for the Premises Licence Holder, Mr Frank Fender.

The Sub Committee also considered and took account of the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the four licensing objectives, the guidance issued under Section 182 of the Act (in particular paragraphs 11.27 and 11.28) and the Licensing Policy of Wiltshire Council.

Conclusions

The Sub Committee acknowledged the Premises Licence Holder's apology and the efforts made by the Premises Licence Holder since the visit on 20 September 2019 to ensure where applicable that staff and volunteers held the appropriate permit to work in the UK and the steps the Premises Licence Holder had taken since the visit.

However, the Sub Committee also noted that the Premises Licence Holder had held the Premises Licence since April 2011 and was the Premises Licence Holder when the two previous visits from the Immigration Service took place in 2014 and 2018. The Sub Committee were mindful that the s182 guidance (paragraphs 11.27 and 11.28) considers the employment of persons not permitted to work in the UK to be criminal activity which should be treated particularly seriously, and revocation of the Licence should be seriously considered even in the first instance.

In view of the evidence heard, the Sub Committee determined that they did not have confidence in the ability of the Premises Licence Holder as DPS to uphold the licensing objective to prevent crime and disorder in future. In particular the Sub Committee were concerned that the Premises Licence Holder appeared to have been unaware of all his legal responsibilities concerning the employment of illegal workers which applied to

volunteers and even where he had an arrangement with the owner of the business so far as the employment of staff was concerned.

The Sub Committee concluded that in this case the removal of the Designated Premises Supervisor, the imposition of an additional condition on the Premises Licence and a suspension of the Premises Licence for a period of 3 months was both proportionate and necessary to meet the licensing objective of the prevention of crime and disorder.

Right to Appeal and Effective Date of Decision

The Sub Committee informed the parties that the Premises Licence Holder, the party that applied for the review and any Responsible Authority or Interested Parties who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision. The decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.

The meeting closed at 3:46pm.

(Duration of meeting: 14:00-15:45)

The Officer who has produced these minutes is Kevin Fielding, of Democratic Services, direct line , e-mail

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

NORTHERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 15 JANUARY 2020 AT WEST WILTSHIRE ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN IN RESPECT OF AN APPLICATION FOR A REVIEW OF A PREMISES LICENCE - TALE OF SPICE, MALMESBURY ROAD, CHIPPENHAM

Present:

Cllr Allison Bucknell, Cllr Trevor Carbin and Cllr Ian Thorn

Also Present:

Wiltshire Council Officers

Roy Bahadoor (Public Protection Officer – Licensing)

Sarah Marshall (Senior Solicitor)

Lisa Pullin (Democratic Services Officer)

Home Office – Immigration Enforcement

Gemma Corfield (Home Office Immigration Officer)

On behalf of Tale of Spice, Chippenham

MD Hafizur Rahaman (Premises Licence Holder/Designated Premises Supervisor)

Frank Fender (Licensing Consultant)

Others in attendance

Alice Ryan-Lowes (Trainee Solicitor)

Libby Johnstone (Democratic Services Team Lead)

Kevin Fielding (Democratic Services Officer)

Kevin Barker (Independent Immigration Consultant)

Gavin Griffiths (Home Office Immigration Officer)

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**

No apologies were received.

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**

There were no interests declared.

6 **Exclusion of Press and Public**

The Sub Committee considered whether the press and public should be excluded from all or part of the hearing due to the possibility of confidential/sensitive information being disclosed.

Resolved:

That the hearing should be held in public and that the press and public should not be excluded from the meeting.

7 **Licensing Application**

Application by the Home Office (Immigration Enforcement) for a Review of a Premises Licence in respect of The Tale of Spice, Malmesbury Road, Chippenham

Roy Bahadoor (Public Protection Officer – Licensing) presented his report which outlined the licensing objectives and the step the Sub Committee could take to meet these objectives.

The Public Protection Officer – Licensing reported that on 20 November 2019 an application for a review of the Premises Licence was received from the

Home Office (Immigration Service), this was accepted as a valid application. The application was made on the grounds set out below:

- The Premises Licence Holder has failed to meet the licensing objective, the prevention of crime and disorder, due to illegal working identified at the premises.
- A visit to the premises on 20 September 2019, identified seven persons found to be working illegally.
- A previous visit on 16 April 2015, identified seven persons found to be working illegally.
- A previous visit on 12 June 2015, identified one person found to be working illegally.

The Public Protection Officer – Licensing gave details of how the Premises Licence Holder or the Review Applicant could appeal the decision made by the Licensing Sub Committee to the Magistrates Court.

In accordance with Section 52 (3) of The Licensing Act 2003 the Licensing Sub Committee was required to take such steps as it considered necessary for the promotion of the licensing objectives.

The licensing objectives were: -

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- and the Protection of Children from Harm.

Such steps available to the committee were: -

- To modify the conditions of the licence
- To exclude a licensable activity from the scope of the licence
- To remove the Designated Premises Supervisor
- To suspend the licence for a period not exceeding three months
- To revoke the licence
- Or to determine that No steps are necessary

Key points raised by Gemma Corfield (Immigration Officer) Home Office (Immigration Enforcement) were that:

- Immigration Enforcement were new Responsible Authorities to the Licensing Act having only been added in April 2017. Immigration Officers are responsible for everything after the border which will include people who have overstayed their visa and those who have entered the UK illegally. Operations respond to intelligence where this is information

to suggest that businesses are employing illegal workers. Immigration Enforcement provide support response to the Police when foreign nationals are arrested, assist with establishing identity and where necessary detain or remove them. Immigration Enforcement are able to prosecute for those most serious immigration offences;

- The prevalence of illegal workers in the licensing trade is so grave that the government has made significant changes to the Licensing Act making Immigration a responsible authority and empowering licensing authorities;
- That the review of the Premises Licence was being requested on the grounds of preventing crime and disorder;
- Working illegally in the UK is a criminal offence and an illegal worker may receive a custodial sentence of up to six months and an unlimited fine. The Immigration Service are committed to tackle the economic motivation behind illegal migration and those who facilitate it. However, employers also have an important role to play by undertaking simple checks on their employees' right to work in the UK. Employers have had a responsibility since 1997 to ensure they do not employ illegal workers and since 2008 there are also civil and criminal sanctions for non-compliance with a possible civil penalty of up to £20,000 per illegal worker and could also be subject to a custodial sentence and an unlimited fine;
- The High Court Judgement *East Lindsey District Council v Abu Hanif* (trading as Zara's Restaurant and Takeaway) 2016 states that prosecutions do not have to occur in order for the crime prevention objective to be undermined and the Licensing Authority to be able to take action;
- On 19 September 2019, Immigration Officers from the Home Office Immigration Enforcement Alcohol Team attended the Premises and nine individuals, two of which tried to escape via a flat roof were located and questioned. Only two of those individuals, one of who was the Premises Licence Holder were established to have leave to be in and work in the UK;
- A civil penalty application was currently being considered by the Home Office. Illegal working was undoubtedly taking place at the premises and this fact is not disputed by the Licence Holder;
- The Immigration Service is asking the Sub Committee to consider measures to prevent illegal working at the premises in the future via the following actions
 - i) Removal of the Designated Premises Supervisor ('DPS')

- ii) Suspension of the Premises Licence to enable a new DPS to be appointed and the application of conditions. These conditions to require that a system be put in place to ensure that the required employment checks are conducted of any prospective employees before employment commences and that copies of the documents relating to the checks are retained and available for checking upon request
- The amended guidance under Section 182 (paragraphs 11.27 and 11.28) states that where reviews arise, and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. The Immigration Service felt that the Premises Licence Holder/Designated Premises Supervisor have seriously undermined the prevention of crime and disorder objective by allowing offenders to work at the premises. This role is a person in whom trust is invested and if staff are employed without the appropriate employment checks how can the Panel be confident that the correct training is being provided in respect of the supply and service of alcohol?

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

- Q Please could you confirm what you are asking for?
- A We would like the licence to be revoked, that would be the ideal outcome for us but if not, we would ask you to consider removing the Designated Premises Supervisor and a suspension of the licence

- Q The previous event that happened at the premises in 2015, I note that you were not a Responsible Authority at that time, what was that outcome following that visit?
- A We did not have the licensing power in 2015 and we dealt with this through the civil penalties route but I do not know the outcome.

- Q You allude to other issues at the premises – could you clarify what you meant?
- A During the visit in September 2019 I was outside of the premises when Officers entered, as people escaped and were on the flat roof, so I was responsible for their safety. At the time of the visit we encountered people who were working in an open and functioning restaurant and there were customers present. Out of all of the persons encountered only 2 had the right to be there. Those in the kitchen and behind the bar were assumed to be working there. Some were arrested upstairs. I have no evidence of how much they were paid but those on the premises were working and the restaurant functioning and we were in no doubt those people were working.

Q How many staff were in at the time?

A Nine staff in, seven of interest to us and we detained six members of staff.

Q You say you are seeking revocation – yet your reports comments are showing that you wish to make a strong stance to the public rather than a suspension which you view as more of a soft touch – can you clarify?

A The intention is that the business would have to find a new DPS and effectively prove that they have the correct methods in place to check all staff.

Q I wish to understand the process you went through on the day of the visit. You say you were outside and there with issues with those outside and then you say you establish those who are working at the premises, how did you establish that?

A We receive an intelligence package and then as a team we seek powers of entry to the Premises. At the time of entry, we have officers based outside so minimise any risks and some officers go inside. We clear the restaurant area, clear the kitchen area and then all individuals perceived to be employees are brought forward to the front of the property so not to hinder business. We have intelligence for illegal workers, my colleagues will gather personal details and use fingerprint checkers. We would run a series of questions and their responses will help us to fill in the picture of their immigration status.

Questions were asked of the Immigration Officer (Review Applicant) by Mr Frank Fender (on behalf of the Premises Licence Holder) as follows:

Q Please could you clarify the date of the visit to the premises. The report says 20 September but in your oral submission you said 19 September.

A I confirm the visit was 20 September 2019.

Q In the papers you have submitted within the Agenda it seemed you wished for a revocation, but at no time did you say revocation in your speech, you said you would be seeking the removal of the DPS and suspension and for conditions to be added. Would you be happy for strict conditions to be applied to the licence?

A I did say revocation would be our preference.

Q You say that it is an employer's responsibility to carry out right to work checks, is that a legal duty to carry out, is it required by law and is there an Act you can point me to where it says that?

A My understanding is that it is a legal obligation. For someone to be employed in the UK they need to have the right to work and be legally present.

A reference was made by the Sub-committee to the Immigration Act 2016 (section 35) where it is an offence to employ a person who is disqualified by

reason of that employee's immigration status or has reasonable cause to believe that person is disqualified from employment by their immigration status.

Q I cannot find any legal requirement but accept that it is recommended that such checks are carried out.

A It is an offence to knowingly employ someone who has no right to work – an employer should take such checks.

Q You stated that the addition of conditions is purely duplicating law, but we say there is no legal basis to carry out the checks.

A You must take checks and if you employ someone who maybe illegal you must establish their status otherwise by default, you are employing illegally. You should obtain legal status for working.

Mr Frank Fender, Licensing Consultant (on behalf of the Premises Licence holder) then addressed the Sub Committee. Mr Fender highlighted the following:

- Mr Rahaman deeply regrets and is very sorry for situation he finds himself in, his business is at risk and he is not proud;
- The purpose of a review hearing is to establish if the licensing objectives are being promoted and if not, what is appropriate to ensure that they are moving forward. The purpose is not to determine guilt or otherwise or to impose punishment – that is a matter for the Courts of Law;
- Mr Rahaman has been the Premises Licence Holder and Designated Premises Supervisor on 18 October 2016. There is a 90-cover capacity at the restaurant and these are all based on the ground floor. This restaurant is managed independently from the Tale of Spice in Pewsey, this is stated as there is reference to the Pewsey restaurant in the papers;
- Mr Rahaman has operated the Premises since October 2016 and since then there have been no problems or issues raised. You will be aware that the Local Authority advertise when a Review application is submitted and that there are no other relevant representations. We will say that this proves that Mr Rahaman has a good track record as no other concerns have been raised;
- In reference to the by the Immigration Service on 20 September we feel that there is some confusion in the papers about what was found at the time of this visit, the numbers of those located/found to be working illegally/arrested differs between the Council Licensing Officer's report and the evidence supplied by the Immigration Service. This information is confusing, and it doesn't help that the details have been redacted;

- The review application on page 32 of the Agenda refers to two previous visits (April 2015 and June 2015 and then April 2014 is mentioned. We would remind you that these visits took place before the current Premises Licence Holder was in place;
- Mr Rahaman was not knowingly employing people who did not have the right to work. No civil penalty notices have been issued following the visit – we feel sure that if they thought he knowingly employed illegal workers then he would have been issued with a civil penalty notice;
- The Immigration Service supply you with case law to say why you can revoke and we remind you that each application will be considered on its own individual merits as stated in your Council's Statement of Licensing Policy. The Immigration Service are inviting you to revoke the licence because of what has happened before and show that you can punish the Premises Licence Holder by revoking the premises licence;
- Since the visit on 20 September the Premises Licence Holder has recognised that he needs to put things into place. He has sought advice from an Independent Immigration Consultant and a Licensing Consultant and made sure that all records are up to date and all subsequent checks are diarised. These records have been sent to you although we accept this was very late;
- It could seem that these actions were taken only as a result of the visit but in this case the physical right to work checks were carried out, but they had not been documented. For this reason, we believe that an appropriate response to this review application would be to modify the conditions on the premises licence rather than revoke the licence;
- On page 47 of the agenda at paragraph 3.1 the Immigration Service tell you that the addition of conditions to the licence is insufficient. There has been no dialogue between the Immigration Service and the Licence Holder. They have rejected plans to do anything other than revoke and have closed their mind to options. We take issue with that conditions being appended are insufficient or in fact are just a duplication of law. Failure to comply with conditions has severe consequences and will help to focus the mind of any Premises Licence Holder;

The Premises Licence Holder accepts there have been shortfalls in meeting the required standard and he regrets this position. He accepts he should have documented checks, and this would have prevented the allegations made. He doesn't accept he knowingly employed people who were disqualified due to their immigration status but he does accept that sanctions are likely to be imposed:

- The Section 182 guidance advises in deciding which power to invoke, the Local Authority should as far as possible seek to identify remedial action

which she should be an appropriate and proportionate response to address the concerns raised in the review. We believe that this should be achieved by modifying the conditions on the premises licence as this would ensure that proper and robust checks are in place. The following conditions were proposed by Mr Fender (with *subsequent comments by Mr Fender shown in italics*):

- i) The premises licence holder will operate a full HR Management system where all relevant documents, to prove entitlement to work, are stored for each individual member of staff. *This is not a duplication of law.*
 - ii) All copies of relevant documents for members of staff will be retained for a period of 24 months post termination of employment and will be made available to Police, Immigration or Licensing Officers upon request. *This is not a legal requirement or a duplication of law, but the Premises Licence Holder could show this as evidence in the event of a future Home Office operation.*
 - iii) The premises licence holder will work with an immigration compliance business to carry out checks on the Home Office website and verify identification documents such as right to work documents to ensure that all new members of staff can be legally employed. *The Premises Licence Holder will work with an immigration compliance business on the Home Office website and verify identification documents such as right to work documents to ensure that all new members of staff can be legally employed. This is over and above legal requirements to show all checks carried out as per the Immigration Service requirements.*
 - iv) No new member of staff will be able to work at the premises unless they have provided satisfactory proof of identification and right to work. This includes any work undertaken on a trial period or a part time basis. *Not a legal requirement but by conditioning this it affords a consequence if not complied with.*
 - v) The premises shall be subject to an unannounced compliance audit by a suitably qualified licensing consultant at least once every three months for a period of 12 months. The audit shall include compliance with conditions and the right to work of those working at the venue. A copy of these audits will be made available to the police and licensing authority within one month of the audit taking place. *Not a legal requirement but a visit could occur at any time to carry out a spot check of compliance.*
- The Premises Licence Holder has already taken steps to ensure he complies with the requirements and with the imposition of the proposed conditions will ensure that the measures he has already taken are

continued. If he doesn't comply there are serious legal consequences and we feel that if the conditions are an appropriate and proportionate response to address the causes of concern in the review application; and

- There have been no other representations submitted and it is indicative that since October 2016 there have been no issues or concerns raised, this record of excellent management cannot be ignored. No other issues have come to light since the visit and the Premises Licence Holder has taken proactive steps and we think you should modify the conditions. This would be an appropriate and proportionate response, not to revoke today but to append conditions.

Questions were asked of the Premises Licence holder by the Sub Committee members as follows:

Q How does the Premises Licence Holder keep up to date with current legislation within the licensing aspects of running a business?

A I did not know but since then now I do.

Q Ignorance is not a defence. The legislation changed in 2017 and introduced this. This has a direct implication on your licence which you have failed to keep up to date with. This has come into place since you have taken over and you have said you don't know about it. It is your responsibility to comply with current legislation and you seem to have missed out a piece of legislation that is critical for this premises licence.

A The legislation on the right to work checks did not change in 2017, but it was then the Immigration Service became a Responsible Authority

Q My concerns are that you have not kept up to date with changes and with what are your duties as a Premises Licence Holder. You have missed out on a piece of legislation.

A Mr Fender replied on behalf of the Licence-holder that for the previous investigations in 2015 the licence couldn't be reviewed but now it can. My experience is that once people are aware it is up to the individuals to keep up to date with legislation – things come to a head once this happened.

Q What do you do? The answer appears to be nothing. You have been running the premises since 2016. There have been no allegations of breaches of the other licensing objectives – why don't you know about it?

A I didn't know about it.

Q It is your responsibility.

A I am just the manager.

Q But you are the licence holder. When you refer to employment law you say that your proposed conditions don't duplicate any law. You are supposed to carry out checks. You have suggested that your conditions

will enforce employment law through the licensing objectives. I don't understand why we should be using the licence to get them to run the business properly using employment law - are you following proper employment law with this people? You have also said there are no issues noted. You say there have been no other changes to legislation, this may have been going on for some time but only now been picked up. You are now saying that you have checked employees right to work but perhaps you haven't been doing it right for years and this is just what we know about.

Mr Fender answered on behalf of the Licence Holder.

A My understanding is that there is no legal requirement in law for those records to be checked and maintained. By proposing those conditions, they would be bound by law under the Local Authority and that brings it onto a legal footing. I understand those checks are not required by law and this would allow the Local Authority to tighten up. The two offences are to work illegally and to knowingly employ someone who doesn't have the right to work. There are no civil penalty notices. They should appear by default, but we see nothing in law.

Q Where you involved at the premises before you were the Premises Licence Holder in another role?

A Yes, as a waiter.

Q As the papers from the Immigration Service have been redacted we cannot cross reference the documents you have supplied to see if the workers are the same.

Mr Fender answered on behalf of the Licence Holder.

A The papers submitted (in confidential Agenda Supplement 1) are related to the current members of staff not those at the time of the visit in September 2019,

Mr Fender answered on behalf of the Licence Holder.

Q Mr Rahaman was aware of the impact of illegal activity given that he was around at the time of previous visits and regardless of his legal responsibility and the fines that were given before, why didn't he check that the same problems didn't arise again. He has seen that penalties have been applied and that there is damage to the business – why did he not think to check that they should be able to work in UK.

Mr Fender answered on behalf of the Licence Holder.

A I have had a have had similar conversation with the Premises Licence Holder. He was an employee before then. He said that when he took

over he carried out the right to work checks but didn't document this. He accepts that there is a shortfall in recording. The Premises Licence Holder stated that he didn't know who was in to work and did not know the consequences of working and that he respects the law.

Q Are you saying that you employ people who are sent to you to work in the restaurant by someone else Had you had concerns with them about their right to work in your restaurant?

A Yes, I did, but they were sent to help out.

Q You didn't ask any of those people about their right to work - did you assume they had been checked by your boss?

A Yes.

Q In your new role as Premises Licence Holder you were accepting these workings in to the restaurant and accepting that others had checked them?

A I didn't know as Premises Licence Holder I had to check, and I am very sorry for that, I was not aware of my responsibility. Once I know it I put things in place.

Q When did you take the qualification for the Personal Licence Holder?

A In 2016.

The Public Protection Officer – Licensing asked the following questions of the Premises Licence Holder:

Q Who is employing staff for the premises?

A Another person, the business owner.

Q We have heard that there were previous visits in 2014 – 2015, could you clarify your position at that time. We have you listed on our records as the Food Business Operator since 2011 and not just from 2016 when you were Premises Licence Holder.

A I am there for a long time.

Gemma Corfield on behalf of the Immigration Service asked the following questions of the Premises Licence Holder:

Q Are the premises managed independently. Is there an overall manager supplying staff for yours and to other restaurants? Is there a connection with the owner of the Tale of Spice in Pewsey?

A As far as I know there is no connection between the restaurants.

The Sub Committee asked the Immigration Officer the following:

Q Is a civil penalty notice going to be issued in this case?

A Consideration of the case is still underway, and a decision is yet to be made on the issue of a civil penalty notice.

Q If you do make a prosecution in a case who would you look to prosecute?

A We would prosecute the owner of business and we would actively look for who employed those staff.

A Sub Committee Member asked the following question to the Premises Licence Holder's representative:

Q Are you aware if the same owner of the business has remained through the 3 visits from the Immigration Service or did it liquidate and get new owners. Are they different limited companies following liquidation of the previous one?

A The owners are not the same I believe from my enquiries.

Mr Fender on behalf of the Premises Licence Holder made the following points in summation:

- Any sanctions must be appropriate and proportionate and to revoke the premises licence would close the restaurant, the family business would be lost, and the employment of staff would be lost. Is this proportionate in a case where a long-standing businessman has admitted a minor error. There is no evidence of wrong doing since the visit and you need to take into account that there are no other representations made in this case; and
- A proportionate response is to modify the conditions of the premises licence to make sure that the appropriate checks are carried out. The consequences of failing to abide by such conditions will go a long way to ensure problems are not repeated.

The Immigration Service did not wish to make any closing submissions.

The Sub Committee then adjourned at 11.25am and retired with the Senior Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Hearing reconvened at 12.30pm.

The Senior Solicitor advise that she gave legal advice on the wording for the decision and possible remedies but no significant legal advice was given to the Sub Committee and the parties did not make any further representations to the Sub-Committee.

Following the deliberations of the Sub Committee Members, it was

Resolved:

The Northern Area Licensing Sub Committee in respect of the Tale of Spice, Malmesbury Road, Chippenham, resolved;

- 1. To remove the Designated Premises Supervisor – Mr MD Hafizur Rahaman.**
- 2. To add a condition to the Premises Licence that all relevant records must be maintained and retained accordingly of the right to work of any person working at the premises. Such records to be made available for inspection on demand by any Responsibility Authority.**
- 3. In order for the above condition to be actioned and for a new Designated Premises Supervisor to be put in place at the Premises, that the Premises Licence LN/000003324 be suspended for a for a period of 2 months until 16 March 2020.**

Reasons for the Decision

The Sub Committee was of the view that the evidence presented by the Home Office Immigration Enforcement Alcohol Team (Immigration Enforcement) and the Licensing Authority demonstrated that the Premises Licence Holder/Designated Premises Supervisor had failed to effectively manage the premises so far as the employment of staff were concerned and had failed to actively promote the licensing objective of the prevention of crime and disorder.

The Premises Licence Holder was found to have employed or retained staff at the business who did not have the relevant permits to work in the United Kingdom (UK). The Premises Licence Holder had not kept sufficient records to prove to the Responsible Authorities that any staff working at the Premises were legally able to work and had not updated himself, nor undertaken appropriate training on the employer's legal requirements needed for the employment of staff in particular to take steps to manage the business to ensure staff who were employed at the business had the relevant permits to work in the UK.

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

- The Prevention of Crime and Disorder.

In reaching its decision, the Sub Committee took account of all the written representations contained within the Agenda and the Agenda Supplement, in addition to the oral arguments presented at the hearing and made on behalf of the Review Applicant (Home Office Home Office Immigration Enforcement Alcohol Team (Immigration Enforcement)) , the Public Protection Officer

(Licensing), the Premises Licence Holder, Mr MD Hafizur Rahaman and the representative for the Premises Licence Holder, Mr Frank Fender.

The Sub Committee also considered and took account of the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the four licensing objectives, the guidance issued under Section 182 of the Act (in particular paragraphs 11.27 and 11.28) and the Licensing Policy of Wiltshire Council.

Conclusions

The Sub Committee acknowledged the Premises Licence Holder's apology and the efforts made by the Premises Licence Holder since the visit on 20 September 2019 to ensure where applicable that staff held the appropriate permit to work in the UK. The Sub Committee also noted that the Premises Licence Holder had held the Premises Licence since October 2016 and was not the Premises Licence Holder when the two visits from the Immigration Service took place in 2015.

However, the Sub Committee were mindful that the s182 guidance (paragraphs 11.27 and 11.28) considers the employment of persons not permitted to work in the UK to be criminal activity which should be treated particularly seriously, and revocation of the Licence should be seriously considered even in the first instance.

In view of the evidence heard, the Sub Committee determined that they did not have confidence in the ability of the Premises Licence Holder as DPS to uphold the licensing objective to prevent crime and disorder in future. In particular the Sub Committee were concerned that the Premises Licence Holder appeared to have not have made himself aware of all his legal responsibilities concerning the employment of illegal workers.

The Sub Committee concluded that in this case the removal of the Designated Premises Supervisor, the imposition of an additional condition on the Premises Licence and a suspension of the Premises Licence for a period of 2 months was both proportionate and necessary to meet the licensing objective of the prevention of crime and disorder.

Right to Appeal and Effective Date of Decision

The Sub Committee informed the parties that the Premises Licence Holder, the party that applied for the review and any Responsible Authority or Interested Parties who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision. The decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being

lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.

(Duration of meeting: 10.00 am - 12.35 pm)

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Wiltshire Council

Licensing Committee

7 September 2020

Briefing Note - Taxi Licensing Line Management Responsibilities

1.0 Purpose

- 1.1 The purpose of this briefing note is to update the Licensing Committee on the new management responsibilities, reporting lines and team structure for the Taxi Licensing service.

2.0 Background

- 2.1 Wiltshire Council undertook a management restructure in March 2020 under Project Evolve which saw the reporting responsibilities for services transfer as the Council's services were realigned.
- 2.2 The Council acknowledged that this is only the first stage in ensuring services are aligned and that there was a need for directors to work with the new teams who moved into their directorate to ensure that structures throughout their directorate deliver effective and joined up services, in some cases this may require a review of structures and in others there may be a need to re-shape and align work with priorities.
- 2.3 Prior to restructure, Taxi Licensing sat within the Highways and Waste directorate under Parvis Khansari with Julie Anderson-Hill taking Head of Service responsibility and attending Licensing Committee.
- 2.4 Within the directorate, Taxi Licensing resided within the Enforcement Team lead by Peter White, the team cover a number of enforcement functions such as Environmental Enforcement (fly tipping), Highways Enforcement, Taxi Licensing and Enforcement, Street Trading, Markets Enforcement and Scrap Metal Licensing and Enforcement.
- 2.5 In October 2019, the Taxi Licensing team, led by Tom Ince, split into two functions; an admin team of 2.5 officers responsible for customer contact, queries, producing licences and taking payments and an enforcement team of 2 officers responsible for enforcing both national and authority legislation. The team structure was split as a lack of visible enforcement was causing issues around the County. Having dedicated Enforcement Officers who were not drawn into admin tasks allowed the team to proactively enforce. An enforcement plan was implemented in October 2019 which resulted in a more visible presence on taxi ranks and in towns across the County. As a result, enforcement actions rose sharply which will help drive up standards within the County.

3.0 Current Position

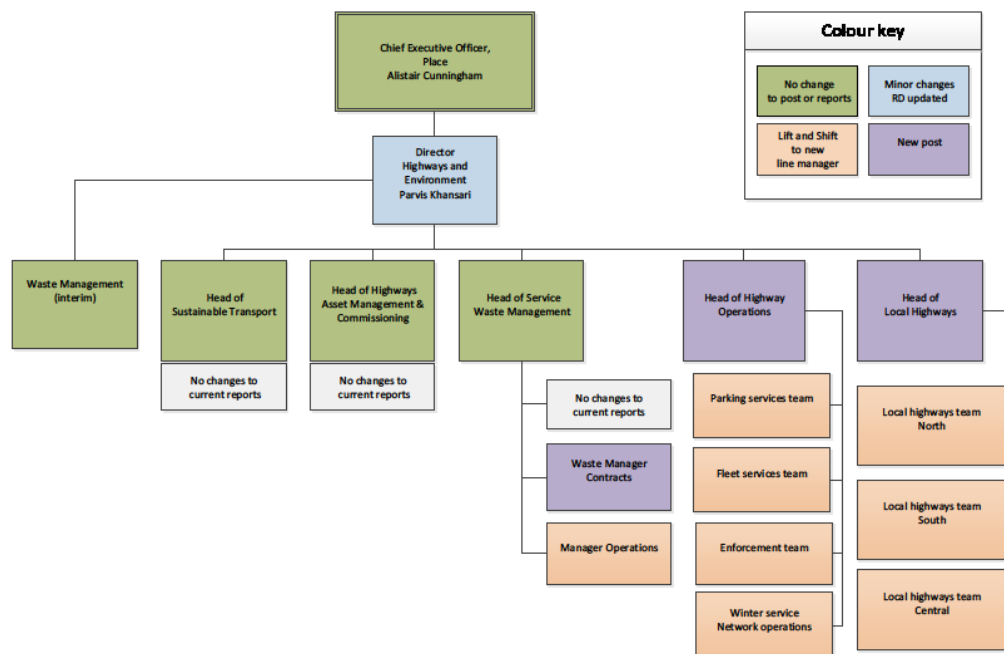
- 3.1 Project Evolve resulted in a change to the Highways and Waste directorate which was renamed Highways and Environment with Parvis Khansari as the director.

The number of Head of Service posts was reduced from three to two as part of the review of the functions which sat within Local Highways and Streetscene and Environment Services. Services in the previous Highways and Waste directorate were transferred, most noticeably Streetscene, along with a number of the old Environmental Services functions such as burials and vehicle access.

- 3.2 Enforcement, including Taxi Licensing, transferred to the new Highways and Environment directorate under the Highways Operations Team with Adrian Hampton as Head of Service.
- 3.3 The Highways Operations team includes Enforcement and its services, along with Parking Services, Fleet and the Winter and Network Operations team. All functions deal with issues that predominantly affect highway and Council land and there is regular interaction between each team.

4.0 New Team Structure and Reporting Lines

- 4.1 The new directorate team structure is shown below. The Enforcement team structure remains unchanged (which includes Taxi Licensing) with the only change being that of the Head of Service.



- 4.2 Adrian Hampton now has responsibility for Taxi Licensing as Head of Service - Highway Operations.

5.0 Summary

- 5.1 Taxi Licensing now sits within the new Highways and Environment directorate with Parvis Khansari as Director with Adrian Hampton as Head of Service.
- 5.2 The Taxi Licensing team structure remains the same and the service still resides within the Enforcement Team. Tom Ince remains the Taxi Licensing Team Leader reporting to the Enforcement Manager - Peter White.

Briefing Note produced by Tom Ince (Principal Compliance Officer)

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Wiltshire Council

Licensing Committee

7 September 2020

Briefing Note - Proposed Changes - Taxi Tariff Schedule for Hackney Carriages

1.0 Purpose

- 1.1 The purpose of this briefing note is to brief the Licensing Committee on the latest position in relation to implementing a new schedule of tariffs and fees for hackney carriages in Wiltshire.

2.0 Background

- 2.1 It was agreed at an extraordinary meeting of Wiltshire Councils Licensing Committee on 27 January 2020 to undertake a public consultation into proposals on a new fees and tariffs schedule for Hackney Carriages in Wiltshire.

The Consultation commenced on 6 February 2020 and finished on 20 February 2020. The details of the proposal were published on the Council's consultation portal for individuals and drivers to feed back on. As part of the consultation all licensed hackney carriage drivers were provided with a copy of the proposals and a driver feedback form and were asked to provide feedback.

- 2.2 The Council received 257 responses to the consultation, 207 of these from hackney carriage drivers and 50 from the public or businesses.
- 2.3 The 207 responses from hackney carriage drivers represented 24.1% of the total 856 hackney carriage drivers licensed at that time.
- 2.4 75.9% of licensed hackney carriage drivers did not respond to the consultation despite being sent a copy of the proposals and a feedback form.
- 2.5 9.3% of total licensed hackney carriage drivers were in favour of the proposal.
- 2.6 14.8% of total licensed hackney carriage drivers were against the proposal.
- 2.7 Of the 207 drivers who responded 39% were for the proposal and 61% were against.
- 2.8 The level of response and the split of for and against responses would indicate that the industry does not support change to the current schedule of fares and tariffs.
- 2.9 The biggest area of concern appeared to be the removal of the ability to charge Tariff 2 all day on a Sunday, with 37% of respondents stating they should be able to charge Tariff 2 all day. The proposal only allowed Tariff 2 to be charged between 22:00 and 05:59 where drivers had previously been able to charge Tariff 2 all day on a Sunday.

- 2.10 After evaluating the feedback and level of response from drivers the Taxi Licensing team considered the following options:

1. Leave the existing schedule of fees and tariffs in place.

Only 9.3% of licensed hackney carriage drivers supported the proposals in the current form. The taxi licensing team believe the level of support is not sufficient to adopt the new proposals. However, it recognises that failure to update the fee and tariff schedule will not address the issues highlighted by the night time economy in Wiltshire.

2. Adopt an amended proposal with Tariff 2 chargeable all day on a Sunday

The most frequent comment during the consultation was in relation to the ability to charge Tariff 2 all day on a Sunday. 76 drivers commented that Tariff 2 should be chargeable on a Sunday, 37% of total respondents. If these respondents supported the proposal with Tariff 2 being chargeable it would change the percentage for the proposal to 76% and against at 24%. It should still be noted that 76% of respondents for the proposal still only equates to 18% of total licensed hackney carriage drivers. The Taxi Licensing team believe this was a major factor in drivers voting against the proposal and that an amended proposal with Tariff 2 chargeable all day would receive a higher level of support.

The Council would demonstrate that the consultation has been effective and that it has listened to the views of drivers when arriving at a final proposal.

3. Adopting the proposal

Adopting the proposal will address the issues highlighted by the night time economy but would be unpopular with drivers given the level of responses against the proposal.

The consultation integrity could be called into question given the low level of support for the proposal and the Council could leave itself open to allegations that drivers feedback was not considered.

The level of hackney carriage drivers not responding (75.9%) may indicate that drivers are not unduly concerned about the proposal and did not see the need to feedback. Therefore, they may be in favour of it - however this cannot be proven.

It should be noted that legislation dictates any change to the existing tariff would have to be advertised in the local press for 28 days to allow the public and drivers to raise objections. The cost to the Council of advertising the new tariff will be approximately £10,000 and at present there is no budget to support this. The team will look at options for funding via the Communities Fund, an Area Board grant and the Salisbury recovery fund.

3.0 Current Position

- 3.1 After review, it was agreed to implement Option 2, an amended proposal that allowed drivers to charge Tariff 2 all day on a Sunday. The Council listened to driver feedback from the consultation and amended the proposal to reflect this.
- 3.2 In January 2020 the Licensing Committee delegated implementation of the new tariffs to the Taxi Licensing Team with a proposed implementation date of summer 2020.

- 3.3 The advertising spend required to fund publicising the proposed changes is unbudgeted. It is a legal requirement to advertise the proposed changes for 28 days.
- 3.4 Covid 19 has impacted all industries/sectors and the taxi industry has not been immune to this, experiencing a significant reduction in business. Changes to the tariff would incur a small cost to adjust every vehicle meter. It is felt that at this point, given the hardship experienced by drivers and vehicle owners since March 2020, to implement this change would not be supportive of the industry.
- 3.5 In light of the financial pressures placed on the Council due to Covid 19, the Councils current guidance is that all advertising spend is unauthorised. In view of this it would be inappropriate for the Taxi Team to undertake any advertising using unbudgeted spend.
- 3.6 Senior management have agreed that a funding request for the additional £10,000 spend will be submitted as part of the 2021/2022 budget setting process.

4.0 Conclusion

- 4.1 Implementation of the proposed changes the schedule of fees and tariffs for Hackney Carriages will not take place in the 2020/21 financial year. The implementation is still planned but will be delayed until after 1 April 2021.

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