

## AGENDA

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**Meeting:** Licensing Committee  
**Place:** Council Chamber - Council Offices, Monkton Park, Chippenham, SN15 1ER  
**Date:** Monday 2 September 2013  
**Time:** 10.30 am

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Please direct any enquiries on this Agenda to Kieran Elliott, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718504 or email [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

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

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### Membership:

Cllr Desna Allen (Vice Chairman)	Cllr Jose Green
Cllr Nick Blakemore	Cllr Mike Hewitt
Cllr Allison Bucknell	Cllr Simon Jacobs
Cllr Trevor Carbin	Cllr George Jeans
Cllr Chris Caswill	Cllr Leo Randall
Cllr Sue Evans	Cllr Pip Ridout (Chairman)

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### Substitutes:

Cllr Glenis Ansell	Cllr Howard Greenman
Cllr Liz Bryant	Cllr Jon Hubbard
Cllr Ernie Clark	Cllr Magnus Macdonald
Cllr Andrew Davis	Cllr Bill Moss
Cllr Bill Douglas	Cllr Jeff Osborn
Cllr Dennis Drewett	

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# AGENDA

1. **Apologies**

To receive any apologies.

2. **Minutes** (*Pages 1 - 6*)

To confirm the minutes of the meeting held on 18 February 2013 (copy attached).

3. **Chairman's Announcements**

4. **Declarations of Interest**

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

5. **Public Participation**

The Council welcomes contributions from members of the public.

Statements

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

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named above no later than 5pm on Friday 23 August 2013.

Please contact the officer named on the first page of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

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

6. **Minutes of the Licensing Sub-Committees**

To receive the minutes of the following Licensing Sub-Committees:

**Eastern Area**

08.04.13 Application for an amendment to the Premises Licence at the Royal Oak, Easterton

15.04.13 Application for a Premises Licence, Ludgershall Development Centre, Ludgershall

**Northern Area**

12.04.13 Application for a Provisional Statement, SN15, 17a Station Hill, Chippenham

23.05.13 Application for a Variation to a Premises Licence, Reel Cinema, Marshfield Road, Chippenham

04.06.13 Applications for Temporary Event Notices, WOMAD, Charlton Park, Malmesbury

**Southern Area**

08.04.13 Application for a Premises Licence, Durrington Development Centre, Durrington

17.07.13 Application for a Variation of a Premises Licence, Eastern Chillout, Fisherton Street, Salisbury

**Western Area**

25.01.13 Application for a Review of a Premises Licence – Trowbridge Cricket & Sports Club, Lower Court, Trowbridge

16.04.13 Application for a Premises Licence; Edington Farm Shop & Three Daggers Brewery Bar, Edington

22.04.13 Application for a time limited Premises Licence by Sunrise Festival 2013 Ltd, Thoulston Park Golf Club, Thoulston, Chapmanslade

7. **Review of Wiltshire Council's Statement of Licensing Policy (Pages 87 - 92)**

The report of Kate Golledge (Public Protection Manager – Licensing) informs the Committee on the progress made in reviewing the Council's Statement of Licensing Policy.

8. **Further Harmonisation of Hackney Carriage and Private Hire Licensing**  
(Pages 93 - 144)

The report of Kate Golledge (Public Protection Manager – Licensing) gives details of the introduction of further harmonised conditions to be applied throughout the Wiltshire Council area and asks the Committee to consider in principle the future introduction of a harmonised zone for the whole of the Wiltshire Council area and one harmonised tariff to apply throughout the zone.

9. **Dates of Future Committee Meetings**

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

2 December 2013

3 February 2014

10. **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.

## LICENSING COMMITTEE

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### **DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 18 FEBRUARY 2013 AT COMMITTEE ROOM C - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER.**

#### **Present:**

Cllr Desna Allen, Cllr Richard Beattie, Cllr Rod Eaton, Cllr Malcolm Hewson, Cllr Jon Hubbard (Substitute), Cllr George Jeans, Cllr Jacqui Lay, Cllr Bill Moss, Cllr Pip Ridout, Cllr Bill Roberts and Cllr Jonathon Seed (Chairman)

#### **Also Present:**

Stuart Figini (Democratic Services Officer), Kate Golledge (Public Protection Manager, North and West, Safer Communities and Licensing) and Paul Taylor (Senior Solicitor)

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#### **1 Apologies**

There were no apologies.

Councillor Jon Hubbard filled the Liberal Democratic vacancy on the Committee for this meeting only.

#### **2 Minutes**

The minutes for the Licensing Committee meeting held on 14 September 2012 was presented and it was,

#### **Resolved:**

**To approve and sign the minutes of the meeting held on 14 September 2012 as a correct record.**

#### **3 Chairman's Announcements**

The Chairman thanked members for their support and contributions over the years at Licensing Committee meetings. He also thanked in particular the officers for their advice, help and support during his time as Chairman.

4 **Declarations of Interest**

There were no declarations of interest.

5 **Public Participation**

There was no public participation.

6 **Minutes of the Licensing Sub-Committees**

The minutes of the Northern Area Licensing Sub-Committee meetings held on 29 November and 14 December 2012 were presented, and it was

**Resolved:**

**To approve the minutes of the meetings held on 29 November and 14 December 2012.**

7 **Street Collection Policy**

The Committee considered the report of the Public Protection Manager Licensing, Public Protection Services, Kate Golledge, seeking Members views about the need to review and amend the Council's current policy in relation to Street Collections.

Members were reminded that the current policy was agreed by the Committee in February 2012 and implemented in April 2012. The Chairman explained that a complaint had been received from a local branch of a national charity that they wanted more than two days permitted to collect money on the streets of the Wiltshire Council area. It was suggested that the policy could be amended to take this issue into account and allow charities to collect for more than two days subject to the additional days being available within 28 days of the collection.

Members expressed some concern that the small local charities could be overlooked by the public if the national charities had additional collection days, however, it was noted that the public probably had a fair idea of the charities they would support and there would not be a notable difference in the amounts collected if there were two charitable collections on the same day.

**Resolved:**

**That the proposed changes to the Council's current Street Collection Policy be approved subject to the additional changes detailed below:**

- Paragraph 1, line 1, second word 'must' to be replace with 'should'
- Paragraph 2, line 1, add the words 'or other exceptional circumstances' after the word disaster

- **Paragraph 4 to read**
  - **Each charity can apply for two street collections per town or village per year.**
  - **Each collection will last for no more than the duration on one whole day.**
  - **If additional days are requested the Council will accommodate this request if made within 28 days of the collection and if no other permit has been granted for the requested day or location.**
  - **Any additional days granted will be to a maximum of 3 days per annum.**

## **8 Fit and Proper Policy**

The Committee considered the report of the Public Protection Manager Licensing, Public Protection Services, Kate Golledge, informing Members of the need to amend the Council's policy regarding consideration of criminal records for existing Hackney Carriage drivers, Private Hire Drivers and Operators.

The Public Protection Manager explained that officers needed to consider an applicant's criminal record and the relevance of that record when determining if the person was a 'fit and proper' person to hold a licence as detailed above.

**Resolved:**

**That the proposed amendments to the Council's policy on the relevance of convictions for Hackney Carriage drivers, Private Hire drivers and Operators be approved.**

## **9 Guidance to Town and Parish Councils on Making Representations**

The Committee considered the report of the Public Protection Manager Licensing, Public Protection Services, Kate Golledge, informing Members about the guidance drafted by the Licensing Service to aid Town and Parish Councils on how to make representations to the Licensing Authority in connection with applications received under the Licensing Act 2003.

The Chairman explained the importance for the Town and Parish Councils to know when licensing applications were made and it was suggested that each time an application was received by the Licensing Service, in addition to members receiving a list of the application(s), it was also sent electronically to all the Clerks of Town and Parish Councils and Parish Meetings so that the notification coincides with the 28 day consultation period.

**Resolved:**

- 1. That the proposed Guidance attached to the report be agreed**

2. That the Licensing Service be asked to include the finalised Guidance in the next Town and Parish Newsletter and add it to the Licensing guidance pages on the Wiltshire Council website
3. That the Licensing Service be asked to send an electronic list of new Premises and variation applications made under the Licensing Act 2003, when received, to Members and all Clerks of Town and Parish Councils and Parish Meetings so that the notification coincides with the 28 day consultation period

#### 10 **Home office Alcohol Strategy Consultation**

The Committee considered the report of the Public Protection Manager Licensing, Public Protection Services, Kate Golledge, informing Members about the response of the Licensing Authority to the current Home Office consultation on the measures proposed to promote the Governments Alcohol Strategy.

The Chairman reminded the Committee that in March 2012 the Home Office had announced a range of measures in the Alcohol Strategy to radically reshape the approach to alcohol and reduce excessive drinking. The report set out the measures and proposals.

Members noted that the closing date for the consultation was 6 February 2013 and the Licensing Authority's response to the consultation was attached to the report, which included three responses from Councillors.

**Resolved :**

**That the report and responses of the Licensing Authority to the Home Office consultation on the Alcohol Strategy be noted.**

#### 11 **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:

- 28 May 2013
- 2 September 2013
- 2 December 2013
- 3 February 2014

#### 12 **Urgent Items**

There were no urgent items



(Duration of meeting: 10.30 - 11.15 am)

The Officer who has produced these minutes is Stuart Figini, of Democratic & Members' Services, direct line 01225 718376, e-mail [stuart.figini@wiltshire.gov.uk](mailto:stuart.figini@wiltshire.gov.uk)

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## **EASTERN AREA LICENSING SUB COMMITTEE**

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**DRAFT MINUTES OF THE EASTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 8 APRIL 2013 AT WESSEX ROOM - THE CORN EXCHANGE, MARKET PLACE, DEVIZES, SN10 1HS IN RESPECT OF The Royal Oak, Easterton - Variation of Premises Licence**

**Present:**

Cllr Ernie Clark, Cllr Jose Green and Cllr Jonathon Seed

**Also Present:**

Jane Cowley (Public Protection Officer), Sukdave Ghuman (Principal Solicitor), Kieran Elliott (Democratic Services Officer), Jill Crooks (Wiltshire Gazette and Herald), Lloyd Stephens (Licence Holder - Wadworths and Company Ltd.), Phil Evans (Designated Premises Supervisor - Royal Oak)

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**1 Election of Chairman**

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

**Resolved:**

**To elect Councillor Jonathon Seed as Chairman for this meeting only.**

**2 Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the agenda pack.

**3 Chairman's Announcements**

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

**4 Declarations of Interest**

There were no interests declared.

## 5 Licensing Application

### **Application by Wadworth & Company Ltd. for a Variation of a Premises Licence at Royal Oak, 11 High Street Easterton, SN10 4PE**

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. A correction was made to paragraph 2.2 of the report, clarifying that for the sentence "*In accordance with Section 35(3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such of the steps listed in 2.4 below as it considers necessary for the promotion of the licensing objectives*", the phrase 'considers necessary', should be substituted with 'considers appropriate' as required under current legislation.

In accordance with the procedure detailed in the agenda, the representative for the Licence Holder, Wadworths and Company Ltd., and Tenant and Designated Premises Supervisor were given the opportunity to address the Sub Committee. No others who had made representations were present to address the Sub Committee.

Key points raised by Mr Phillip Evans, Designated Premises Supervisor (DPS), and Mr Lloyd Stephens on behalf of the Licence Holder, were:

- There was no intention to hold events on every Friday and Saturday, but to enable flexibility in scheduling;
- There had been no recorded complaints or police visits during the four licensed events in the past 12 months;
- Of the three remaining representations, two were not permanent residents of the village;
- The additional conditions agreed in the agenda pack were felt to be sufficient to meet the licensing objectives and concerns of those making representations regarding public nuisance and potential disorder;
- The tenant of the pub as a good track record and there have been no concerns raised about the operation of the establishment to date.

The Sub-Committee then asked questions of the applicants, and raised points including the following:

- The Sub Committee sought further clarity on how, during the period in which no further customers were to be allowed in, the owners would ensure that someone leaving the building to smoke was not replaced by someone not previously present before the cut-off time. It was stated the DPS would keep track of all customers present at the time of cut-off, to prevent new customers to enter after this time, as had been done at the recent New Years.

- The Sub Committee raised the issue of signs and notifications of events that might disturb residents, and it was stated in the past the local residents would be informed in writing of scheduled events which might produce more noise than usual. It was clarified that this practice would continue, however, this would not include occasions where no event was scheduled, but the premises were open at the new proposed hours.
- The Sub Committee further sought details on the capacity and clientele of the Royal Oak, and commented that taxi pick-ups from the car park of the property could be advised to switch off their engines.

The Sub Committee members sought clarification on some points before retiring to consider the application at 10:50 and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Hearing reconvened at 11:00.

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

No specific material legal guidance had been given in closed session, but the enforceability of proposed conditions had been clarified.

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 has resolved to amend the Premises Licence for The Royal Oak, Easterton, as follows:

The variation to the provision of Licensable Activity:

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
Sale of Retail of Alcohol (on & off premises)	10:00 - 02:00 next day	Friday & Saturday
Late Night Refreshment	23:00 - 02:00 next day	Friday & Saturday

Conditions to be varied by the addition of the following:

- 1) A closed door policy to be implemented from 23:30 hours, except for those customers who wish to leave and return for the purpose of complying with legislation regarding smoking in enclosed spaces.
- 2) Regular checks to be conducted outside of the premises to prevent customers congregating.

- 3) The Beer Garden to close from 23:00 hours and no drinks (alcohol or non-alcohol) to be taken outside after that time.
- 4) Customers using the smoking shelters to be monitored to prevent noise nuisance.
- 5) All external doors to be kept closed except for ingress and egress of customers leaving the premises.
- 6) On nights where events are being staged, prominent, clear and legible temporary notices must be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly and not loiter close to the entrance.
- 7) Customers leaving the premises from 24:00 hours onwards to exit via the rear of the premises.

### **Advisory**

All Neighbours to be advised of a contact number to be utilized in the event of a noise nuisance associated with the premises.

All Taxis and taxi companies are to be informed to switch off their engines when waiting for collections from the premises, and to only use the rear car park for collections.

### **Reasons:**

The Sub-Committee considered the written evidence presented in the agenda from the licence holders and those making representations in objection, together with the oral evidence given at the hearing from the Licence Holder, Mr Lloyd Stephens, and the tenant and Designated Premises Supervisor, Mr Phillip Evans.

The Sub-Committee considered that the addition of the conditions set out above was appropriate to meet the licensing objectives and to address the relevant concerns of the interested parties regarding public safety, the prevention of public nuisance and crime and disorder.

In reaching its decision the Sub-Committee considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 35); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

### **Right of Appeal:**

All parties have the right to appeal to the Magistrates' Court within 21 days of this decision. Any person or Responsible Authority has the right to request the Licensing Authority to review the licence. Such an application may be made at any time, but it is in the discretion of the Local Authority to hold the review, and where a request is made by a person other than a Responsible Authority, a

review will not normally be held within the first twelve months of a licence, or within 12 months of any previous review save for the most compelling reasons.

(Duration of meeting: 10.30 - 11.00 am)

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## EASTERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE EASTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 15 APRIL 2013 AT LECTURE ROOM, BRAESIDE EDUCATION & CONFERENCE CENTRE, BATH ROAD, DEVIZES, SN10 2AP IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE AT LUDGERSHALL DEVELOPMENT CENTRE, 30 ANDOVER ROAD, LUDGERSHALL**

**Present:**

Cllr Rod Eaton, Cllr Jose Green and Cllr Jonathon Seed

**Also Present:**

Jane Cowley, (Licensing Officer, Wiltshire Council), Lauren Kemple (Solicitor, Wiltshire Council), Kevin and Ros McGowan (Those who made Relevant Representations), and Lisa Pullin (Democratic Services Officer, Wiltshire Council)

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**1 Election of Chairman**

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

**Resolved:**

**To elect Councillor Jonathon Seed as Chairman for this meeting only.**

**2 Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 8) of the Agenda refers).

**3 Chairman's Announcements**

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

#### 4 **Declarations of Interest**

There were no interests declared.

#### 5 **Licensing Application**

##### **Application by Wiltshire Council for a Premises Licence at Ludgershall Development Centre, 30 Andover Road, Ludgershall, SP11 9LZ**

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

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

Key points raised by Kevin Sweeney, Area Manager of the Integrated Youth Service of Wiltshire Council (Applicant) were:

- That the application had been made for every night of the week to allow flexibility in the nights that the Centre was able to open. It was only intended that the Centre be open for two days a week as that was all that the Centre's resources allowed;
- That from time to time the Centre would like to have the ability to hold fundraising events on a Saturday, these could be limited up to 12 per year; and
- That the applicant would be happy to remove the provision for live music from the application to mitigate any local concerns and meet with nearby residents to address any issues they may have. He would also be happy to agree that the Centre would not operate beyond 22:00.

The Chairman then clarified the following points with the Applicant who confirmed his agreement:

- That the application for the provision of live music was withdrawn from the application;
- That the application be amended so that the Centre was able to open on 2 days per week, Monday to Friday, to suit the needs of the Centre;
- That additional opening be allowed for up to 12 Saturdays per year; and
- That the Centre would not provide the regulated entertainment and operate beyond 22:00 on any week nights or Saturday nights.

The Sub Committee then asked questions of the applicant about the structure of the building, and the ages and the numbers of young people that use the Centre.

Key points raised by those who had made Relevant Representations were:

Kevin and Ros McGowan

- That the notification for local residents of the application was not what they would have expected it to be – they had expected to receive a letter giving details of the application and how they could respond to it;
- That after hearing from the applicant, many of their concerns had now been addressed, but the from original application they had the impression that they would be in the proximity of a junior nightclub and were very concerned about the possible disturbance from the music and the late opening times;
- A concern about the emergency exit access on the outside of the property; and
- The possibility of other users hiring the Centre may open late and have loud music.

The following points were clarified:

- That Wiltshire Council do not own the building;
- If there were any others hiring the Centre for a private event they would have to comply with any Premises Licence granted today; and
- If any other regulated entertainment or extended timings were required for an event outside of any existing Licence this would need to be covered with a Temporary Event Notice.

The Sub Committee then retired to consider the application at 11.00am with the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Hearing reconvened at 11.15am.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council confirmed that no material legal advice was given in closed session.

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

**Resolved:**

**That the Eastern Area Licensing Sub Committee has resolved to GRANT the Premises Licence for the following licensable activities:**

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
Films (indoors) Recorded music (indoors) Performance of dance (indoors)	Two days per week between Monday to Friday	08:00 to 22:00
No live music	All of the above regulated entertainment on a maximum of twelve Saturdays throughout the year.	08:00 to 22:00

**Advisory Note**

That the Applicant is to provide nearby residents with relevant contact information for use in the event of concerns once the licence is issued.

**Reasons**

The Sub Committee have considered the written evidence presented in the agenda together with the oral evidence given at the hearing, noting in particular the concerns of the representations in respect of noise nuisance.

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

The granting of this licence is without prejudice to any other consents or approvals that may be required.

**Right to Appeal**

All parties have the right to appeal to the Magistrates' Court within 21 days of receipt of this decision.

The Officer who has produced these minutes is Lisa Pullin, direct line 01225 713015  
or email [lisa.pullin@wiltshire.gov.uk](mailto:lisa.pullin@wiltshire.gov.uk), of Democratic Services

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## **NORTHERN AREA LICENSING SUB COMMITTEE**

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### **DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 12 APRIL 2013 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER IN RESPECT OF AN PROVISIONAL STATEMENT - SN15, STATION, HILL, CHIPPENHAM**

#### **Present:**

Cllr Desna Allen, Cllr Ernie Clark and Cllr Jonathon Seed

#### **Also Present:**

##### **SN15 Ltd**

Mr P Shayegan  
Mr C Meikel  
Mrs B Daniels

##### **Responsible Authority**

Linda Holland – Senior Licensing Officer  
Paul Taylor – Senior Legal Officer  
Richard Francis – Senior Environmental Health Officer  
Kate Golledge – Public Protection Manager

##### **Persons who made Representation**

Cllr Chris Caswill  
Mr R Burford  
Ms M Croucher  
Mr I Keasey

##### **Wiltshire Police**

Ms J Gallimore  
Roger Bull  
John Brixey

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#### **1 Election of Chairman**

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

#### **Resolved:**

**To elect Councillor Jonathon Seed as Chairman for this meeting only.**

## **2 Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 8 of the Agenda refers).

## **3 Chairman's Announcements**

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

## **4 Declarations of Interest**

There were no interests declared.

## **5 Licensing Application**

### **Application by SN15 Ltd for a Provisional Statement for SN15 17A Station Hill Chippenham**

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

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and persons who had made relevant representations were given the opportunity to address the Sub Committee.

Key points raised by Mr Shayegan, the applicant, were:

- He had been in the business for 30 years and owned clubs in Bath.
- He had always been interested in opening a business in Chippenham.
- He recognised that the club had had problems in the past but believed that was due to bad management.
- He wanted a club where people would be treated with respect, could dress up and have a good time without getting drunk and fighting.
- They would work with the customers to build up a good relationship with them.
- Drugs would not be tolerated.
- Security would be comprehensive.
- There had been a noise report which had been agreed to. Regarding noise on the street – people would be asked to leave at 02.30 and security would ensure that people left the premises quietly and safely. Security would patrol until 03.30. There would also be CCTV to check the street.



- A taxi firm would be available to ensure that taxis were available all the time.
- Litter etc would be cleaned up the next day.

Mr Shayegan then introduced Mr Craig Meikle who would be the Designated Premises Holder.

Mr Meikle explained that he had been the manager of Club 11 for three and a half years and had been Chair of Pubwatch. He was aware of the issues at the previous nightclub in the premises. The proposed club would be a respectable venue and be a safe environment.

Mr Shayegan introduced Mrs Barbara Daniels who would provide security to the proposed nightclub. Mrs Daniels explained that she has been operating in Chippenham for nine years and supplied security to other premises in the town. The security men would ensure that people who were intoxicated would be placed in taxis. There would be CCTV and door to door radios.

The Sub Committee then asked questions of the applicant:

- How any behavioural issues would be addressed by security?

*We will have more than one doorman and others can be called if necessary. We also have CCTV.*

- How many security staff will be on duty at any time.

*There be will 10 SIA staff both men and women.*

- What connection was there between the old management and SN15 Ltd.

*Nothing other than they are the landlord.*

Questions from the Responsible Authority (Mrs Kate Golledge of Wiltshire Council) were:

- We would question Area Global Management's acoustic qualifications.

*We have told them I have a standard to meet. They have met with Ian Sharland and an agreement has been reached and they will comply with the noise report.*

- What is the chill out area to be used for and will you have a cut-off point.

*It will be like a Moroccan area with hubbly bubbly. It is just for people to sit and enjoy drinking quietly. We propose to use sound abating materials. We will close it at 2am.*

- Our policy states that residents shall not be prevented from sleeping from 11pm to 6am. There are residences within 10m of the club – how do you propose to control the noise in the yard?

After a short recess it was agreed that that use of the outside area would cease at 11pm for drinking and then only be in use for up to 40 smokers at any one time until closing time.

Questions raised by the Police were:

- What are the leasehold arrangements?

*The lease is for one year. The intention is to buy the freehold.*

- What are the estimated costs for refurbishment?

*I estimate about £25000*

- So no quotes just a guess?

*Correct.*

Questions raised by Persons who made Relevant Representations were:

- The sound consultant's reports states that you advised him that there had been no complaints about noise in the past.

*I had no information from the previous owners, I did not know there had been issues with noise.*

- On page 77 of the acoustic report that closing time is given as 2am not 3am will that affect the recommendations?

*That is a mistake.*

- *Can we have your assurance that the acoustic report covers a 3am close?*

Yes

- Feel that the drugs policy is inadequate – can we have assurances that more detail and fuller measures will be taken?

*We can make random searches and if we are suspicious we will call the Police. We have zero tolerance of drugs.*

- We need to be reassured that noise suppression is adequate and noise barriers will not be disengaged.

*The sound measures will address these issues.*

Key points raised by Ms Gallimore of Wiltshire Police were:

- The Police position was that the application broadly met all the Police requirements.
- Police would work closely with the applicant.
- Police were satisfied with Mr Meikle and also with Mrs Daniels.
- Would question the applicant's financial commitment to this venture.

The Police then drew attention to the agenda supplement which detailed incidents in Chippenham when the old Karma Club was open and after it had closed. Police had been able to assess what was normal without the club being open.

Questions raised by the Sub Committee were:

- Could your statistics be influenced by other premises?

*The data is location specific. We can't attribute it to just one location but there is a correlation between the statistics and the constant presence of the nightclub.*

- Crime rates have dropped in all of Chippenham anyway?

*Yes however the drop was so dramatic it could only be attributed to one incident, that is the closure of Karma.*

Key points raised by Persons who made Relevant Representations were:

- This is not the right place for a nightclub.
- The sound consultant has made some assumptions.
- Previous owners have the potential to be associated with the premises.
- There is not a clear schedule of works.
- Resident's lives were blighted when Karma was open.
- Concerned about the level of damage that has been done to properties in the past

There was a recess for lunch at 1.05pm.

The Hearing reconvened at 1.40pm.

The parties were then given the opportunity to sum up.

The Sub Committee then retired to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

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

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

**Resolved:**

That the Northern Area Licensing Sub Committee have considered an application by SN15 Ltd for a provisional statement for premises at 17A Station Hill, Chippenham in relation to the following proposed licensable activities:

	<b>Timings</b>	<b>Days</b>
<u>Provision of regulated entertainment</u>		
Films	11:00 to 03:00	Daily
Live music	11:00 to 03:00	Daily
Recorded music	11:00 to 03:00	Daily
Performance of dance	11:00 to 03:00	Daily
Anything of a similar description	11:00 to 03:00	Daily
Sale by retail of alcohol on sales only	11:00 to 02:30	Daily
Hours premises open to the public	11:00 to 03:00	Daily

The Sub Committee having taken note of the management proposals by SN15 Limited has issued the following provisional statement:

The applicants are required to produce a proper schedule of works to bring the property into a satisfactory condition, which is fit for purpose, implementing all of the recommendations in the acoustic report by Ian Sharland Limited dated 10<sup>th</sup>

November 2012 and the Fire Precautions Survey Report by Roger Tombs dated 7<sup>th</sup> November 2012 to the satisfaction of the Licensing Authority. On completion of the works and the installation of any PA system a commissioning exercise is to be undertaken to establish sound levels to the satisfaction of the licensing authority.

If the premises were altered in the way proposed in the schedule of works as described above and if a premises licence were sought for those premises in the terms set out in this attached application, then the Authority would consider it appropriate for the promotion of licensing objectives to modify the application and attach further conditions as follows:

The closing time of the premises on Sunday to Wednesday nights to be 02.00 hours the following morning with the terminal hours of licensable activities to be adjusted accordingly in particular supply of alcohol to cease at 01.30 hours on those days.

The external amenity area, as described in the acoustic report, is only to be used for smoking after 23.00 hours and is to be restricted to a maximum of 40 persons. The smoking area shall be restricted to the upper patio area. This area is to be appropriately managed by the applicant to ensure compliance

No rubbish or recyclable material is to be disposed of from the premises between the hours of 02.00 and 07.00

The Authority would also impose conditions consistent with those set out in the management plan and the operating schedule, as submitted with the application, and those previously applied to the premises licence for 17A Station Hill, held by Constantine Leisure Limited as at the time of its revocation in October 2011, as attached.

**Reasons:**

The Sub Committee consider the proposed modifications and conditions would meet the licensing objectives in particular the prevention of public nuisance and the prevention of crime and disorder.

**Evidence:**

In reaching its decision the Sub Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 31); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

The Sub Committee have also considered the written evidence presented in the agenda, together with the oral evidence given at the hearing on behalf of the applicant, the responsible authorities and other persons who had made representations.

The applicant had explained that it was his intention to create an atmosphere in the club where patrons would have respect for the premises. They would not have any cheap drinks promotions and would seek to educate patrons that unsociable behaviour was not acceptable. They were aware of the issues that had led to the previous premises licence being revoked and would work hard with the relevant authorities to ensure that similar problems did not recur.

The representatives of the licensing and public protection authorities explained that their main concerns were that the works set out in the acoustic and fire prevention reports were implemented in full, to reduce the impact of noise from the premises and that, in particular, the use of the outside area be restricted.

The police's representative referred to the problems that had existed when the premises had previously operated as a nightclub and drew attention to the reduction in the number of recorded incidents in the area, since the previous nightclub had closed. They noted that the type of operation being proposed was similar to that which had led to problems of nuisance and crime and disorder in the past.

Cllr Caswill and the other persons who gave evidence, also referred to the problems that they and their neighbours had experienced in the past from the premises and stated that they did not consider this to be an appropriate location for a nightclub.

Having taken into account all of the representations, the Sub Committee felt that there were not sufficient grounds to state that a premises licence application would be refused. They were concerned at the inadequacies in the schedule of works, but considered that, if a proper schedule of works were implemented, then the concerns about noise from the premises would be addressed. They also felt that it would be appropriate to impose similar conditions to those that had been previously applied to the premises, to address the other concerns that had been raised, in particular those about nuisance caused by persons leaving the premises.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court against the terms of this statement. Any such appeal must be made within 21 days of receipt of this statement .

The Officer who has produced these minutes is Pam Denton, of Democratic Services,  
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## NORTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 23 MAY 2013 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER IN RESPECT OF AN VARIATION OF PREMISES LICENSE - REEL CINEMA, MARSHFIELD ROAD, CHIPPENHAM, SN15 1JR**

**Present:**

Cllr Desna Allen, Cllr Allison Bucknell and Cllr Trevor Carbin

**Also Present:**

Linda Holland (Licensing Officer), Paul Taylor (Senior Solicitor) and Samuel Bath (Democratic Services Officer)

**Applicant:**

Andrew Grimsey (Solicitor)  
Muhammed Faisal (Operations Director of Reel Cinema's Limited)  
Justin Kinsella-Wood (Designated Premises Supervisor)  
Jeremy Howard (Site Manager)

**Persons who made a relevant representation:**

Mr Owen Pennell  
Councillor Watts (on behalf of Mr & Mrs Newey)

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**6 Election of Chairman**

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

**Resolved:**

**To elect Councillor Desna Allen as Chairman for this meeting only.**

**7 Procedure for the Meeting**

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

8 **Chairman's Announcements**

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

9 **Declarations of Interest**

There were no interests declared.

10 **Licensing Application**

**Application by Reel Cinema's Ltd for a Premises Licence at Reel Cinema, Marshfield Road, Chippenham, SN15 1JR**

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. In addition the Licensing Officer drew attention to the representations that had been made originally, and those that had satisfactorily withdrawn following discussions with the applicant.

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

Key points raised by the Mr Grimsey (representing the applicant) included the clarification on the premises intended usage. The Applicant stated that the premises were to be used as a Cinema and not as a nightclub, as had been suggested by some of the representations submitted.

It was stated that recorded music as listed on the application was purely for the use of background music, to create ambience in the foyer, and to be used prior screenings. It was stated that the condition that such music would not be audible outside of the building so as to not constitute a public nuisance, was included by the applicant to satisfy environmental health concerns. It was also stated that there would be no live music inside the venue, and that this was not included on the application for this reason.

The Applicant stated that serving Alcohol was a means to which Reel could increase revenue from existing custom. It was stated that Alcohol would be served only to ticket holders, and would be subject to the 'Challenge 25' policy. It was also stated that alcohol would be served in plastic containers, and that all glass bottles would be decanted.

The applicant requested to submit an image of a 'typical bar' used at other Reel Cinema premises. In accordance with policy, the persons who had made representations and the committee were consulted. After brief discussion, all parties and the committee approved their use.

The applicant stated that 'premium' brands of Alcohol would be stocked and sold at 'competitive', prices. It was clarified that this would not include the sale of alcohol at largely discounted prices.

The applicant also outlined that antisocial behaviour and drinking would be actively discouraged and managed by the staff, and that no Alcohol would be sold on site until the site manager had undertaken licensee training.

The Applicant stated that there had been no history of antisocial behaviour at the site, and that it was expected that this would continue following the introduction of alcohol as it would be consumed moderately and managed effectively by the establishment.

There were no further comments by the Applicant.

The persons who had made a relevant representation were then given the opportunity to ask questions of the Applicant.

Mr Owen Pennell stated that in the letter dated 22 April 2013, that a comment had been made "*you may be aware that other cinemas in Chippenham now offer alcoholic drinks with refreshments*". Mr Pennell asked the Applicant to which cinemas this referred.

The Applicant responded by stating that unfortunately the letter had been sent by a previous firm, who no longer represented the Applicant, and stated that there were no other cinemas in Chippenham and affirmed that the comment was incorrect.

Mr Pennell then asked the Applicant how it would manage potentially unruly patrons who had become intoxicated at the cinema who may then cause trouble in the local residential area.

The Applicant stated that all unruly patrons would be refused entry at first instance and that all customers who appear to have consumed 'too much' whilst on the premises would be refused service.

Councillor Watts stated that he had no questions to ask on behalf of Mr and Mrs Newey.

Councillor Allen questioned how the applicant planned to manage customers leaving the premises following consumption of alcohol, and how it would enforce the consumption of alcohol in designated areas of the building and manage noise outside of it.

The applicant responded by saying that CCTV would be in use on the premises and would be used to monitor both inside and outside the premises.

Councillor Bucknell then questioned the frequency of late night showings. The applicant clarified that late night showings were infrequent.

Councillor Bucknell then questioned the applicant on the arrangements for customers leaving the premises and the management of noise. The Applicant stated that for late night showings, an usher is used to guide people towards the exits and to manage noise spill on the street.

The key points raised by those who made a Relevant Representation were;

- Applicants have no control over intoxicated customers.
- Potential for noise nuisance in the residential area.
- Littering in the local area.

Mr Pennell attended and spoke against the application.  
Councillor Watts attended on behalf of Mr & Mrs Newey.

Written representation was also made by;

Mrs Merrett;  
Mr & Mrs Causer;  
Miss Carine;  
Mr King;  
Ms Williams; and,  
Chippenham Civic Society.

The applicant had no questions to ask of the persons who had made a relevant representation.

The sub-committee members asked the following questions;

Is there any evidence to suggest an increase in Anti Social Behaviour will occur? Mr Pennell replied that other than the increase in alcohol consumption and the possible problems this may bring, there was no concrete evidence to suggest there would be an increase in ASB. It was added that it could increase the littering problem along St Paul's road. Mr Kinsella-Wood stated that the Cinema would look into arranging a litter collection along the street to reduce the impact of littering if this proved to be a continuing problem.

Councillor Bucknell stated that while she sympathised with the concerns over the potential for increased ASB. It was discussed that the likely increase in ASB would not be substantial, and that coupled with the current nominal levels of ASB, only small scale problems would be expected.

Mr Pennell responded by saying that the cinema had allayed some of the concerns expressed, but that he had apprehension over raising a future review of the license should the need arise.

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

The Sub Committee then retired to consider the application at 13:40

The Hearing reconvened at 14:15.

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. It was;

**Resolved:**

**That the Application for a Premises Licence/for a Variation of a Premises Licence at Reel Cinema, Marshfield Road, Chippenham, SN15 1JR be GRANTED as detailed below, subject to the following conditions;**

- **Recorded music will be played at volumes that will not be audible outside the premises.**
- **Late night refreshments will only be sold to customers with a valid ticket to watch a film at the premises. The refreshments will only be for consumption on the premises only.**
- **The applicant will use “Challenge 25 scheme” and will ask anyone who looks under the age of 25 to provide proof of their age when buying alcohol or when purchasing a ticket for a film (as appropriate).**
- **Alcohol will only be sold to customers with a valid ticket to watch a film at the premises. Any customer who appears to be intoxicated will not be sold alcohol.**
- **Alcohol will only be sold for consumption on the premises and will be served in plastic or polycarbonate containers.**
- **All staff will be fully trained to check the age of any customer purchasing alcohol at the premises and will be instructed not to sell alcohol to anyone who appears to be intoxicated.**
- **Tickets will be checked and screens will be patrolled.**

- **CCTV with recording facilities will operate at all times that licensable activities take place. Images to be made available for inspection upon a reasonable request by police or other relevant officers of a responsible authority, and to be of sufficient quality to identify individuals. Recordings are to be retained for 30 days.**

A summary of the appeal process was then provided, and the meeting closed at 14:30

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## NORTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 4 JUNE 2013 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER FOR THE CONSIDERATION OF WILTSHIRE POLICE AND PUBLIC PROTECTION TEAM OBJECTION NOTICES IN RESPECT OF FOUR TEMPORARY EVENTS NOTICES (TENS) FOR WOMAD, CHARLTON PARK, CHARLTON, MALMESBURY, WILTSHIRE.**

**Present:**

Cllr Desna Allen, Cllr Chris Caswill and Cllr Dennis Drewett

**Also Present:**

Jacqui Gallimore (Wiltshire Police representative), Kate Golledge (Public Protection Manager Licensing – Wiltshire Council), Lisa Pullin (Democratic Services Officer – Wiltshire Council), Graham Steady (Public Protection Manager, Food and Environment - Wiltshire Council) and Paul Taylor (Senior Solicitor – Wiltshire Council)

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**1 Election of Chairman**

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

**Resolved:**

**To elect Councillor Desna Allen as Chairman for this meeting only.**

**2 Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the “Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications” (Pages 1 – 8 of the Agenda refers).

**3 Chairman's Announcements**

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

#### 4 **Declarations of Interest**

There were no interests declared.

#### 5 **Licensing Application**

##### **Consideration of Wiltshire Police and Public Protection Team Objection Notices in respect of four Temporary Events Notices (TENs) for WOMAD, Charlton Park, Charlton, Malmesbury, Wiltshire.**

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

The Licensing Officer reported that since the service of the TENs an email had been received from Mr Christopher Smith on behalf of WOMAD agreeing to amend two of the TENs so that Regulated Entertainment at the Backstage Bar and the San Frans Disco bar had been reduced to end at 02:00 (instead of 04:00). Wiltshire Police had requested that a number of conditions that were currently included within the Premises Licence be included on the TENs. The Licensing Officer reported that WOMAD's representative (who was not present at the hearing) had verbally agreed to these conditions being included within the TENs.

In accordance with the hearing procedure detailed in the agenda, the Public Protection Team representative and the Wiltshire Police representative were given the opportunity to address the Sub Committee.

Key points raised by Graham Steady, Public Protection Manager, Food and Environment (Wiltshire Council Public Protection Team) were:

- The Public Protection Team were happy that the end time of the Regulated Entertainment for the Backstage Bar and the San Frans Disco Bar had been reduced back to 02:00; and
- That although the Backstage Bar would now be starting a day earlier (Wednesday 24 July) if the noise condition from the existing Premises Licence was included this would alleviate any additional noise nuisance.

Key points raised by Jacqui Gallimore, representative for Wiltshire Police were:

- If the TENs were to be allowed and the conditions they were requested were included, where would these be detailed? They would require clarity for their enforcement purposes.

The Licensing Officer confirmed that the conditions would form part of the Decision Notice which would be attached to the TENs which would be countersigned by the Chairman of the Sub Committee.



The Sub Committee then retired to consider the application at 2.45pm with the Solicitor for Wiltshire Council and the Democratic Services officer.

The Hearing reconvened at 3.20pm.

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 Northern Area Licensing Sub Committee has considered the Objection Notices submitted by Wiltshire Police and Wiltshire Council's Public Protection Team.

The Sub Committee has decided not to issue Counter Notices in respect of any of the Temporary Events Notices and therefore to allow the four Temporary Events Notices as follows:

Core Crew Camping Bar	Sale of alcohol from 18:00 on Tuesday 23 July to 04:00 each day until Monday 29 July 2013.  Provision of late night refreshment from 23:00 to 04:00 each day until Monday 29 July 2013.
Backstage Bar	All licensable activities from 12:00 on Wednesday 24 July to 04:00 on Monday 29 July 2013 with the exception of Regulated Entertainment from Friday 26 July to Monday 29 July 2013 which will end at 02:00.
San Frans Disco Bar	All licensable activities from 23:00 on Thursday 25 July through to 04:00 on Monday 29 July 2013 with the exception of Regulated Entertainment from Friday 26 July to Monday 29 July 2013 which will end at 02:00.
Molly's Bar	Sale of alcohol and provision of late night refreshment from 23:00 on Thursday 25 July through to 04:00 on Monday 29 July 2013.

The Sub Committee decided to impose the following conditions which are part of the existing Premises Licence:-

1. In relation to the Backstage Bar the following noise condition – That at monitoring points A B and C on the map the daytime criteria will be 50dB

L<sub>Aeq</sub>, 15 minutes (+/- 3 dB) and the night time criteria at these locations will be 45dB L<sub>Aeq</sub>, 15 minutes. At point X the criteria will be 55 dB L<sub>Aeq</sub> 15 minutes (+/- 3dB), daytime and 45 dB L<sub>Aeq</sub>, 15 minutes (+/-) night time. The 3 dB leeway is to allow for demonstrable influence from residual noise sources, (night time criteria to take effect from 23.00 hours).

In relation to all of the four Temporary Events Notices:-

2. The Event shall be managed in accordance with the Event Management Plan.
3. Each bar where alcohol is being sold at the Event shall be under the direct supervision of a Personal Licence Holder and a Schedule of Personal Licence Holders detailing which areas each is responsible for shall be provided to the Licensing Authority at least one week prior to the event.
4. An effective staff and public communication system including radio communication for all key staff and means of communication with all spectators shall be provided.
5. A recognised proof of age, which includes a photograph, is to be required for anyone who appears to be under the age of 21 and who wishes to purchase or consume alcohol.
6. The Licence Holder shall provide to Wiltshire Police and the Licensing Authority a list of names of all Security Staff working at the event together with their SIA Badge Numbers at least one month prior to the event.
7. The Licence Holder shall provide and maintain a CCTV system to the satisfaction of Wiltshire Police.
8. The Licence Holder shall ensure that the Statement Policy on drugs as detailed in the Operation Schedule is followed throughout the Event.
9. A Risk Assessment from the Security Company is to be provided to Wiltshire Police at least one month prior to the event.
10. The Premises Licence Holder is to provide a full schedule of security manning numbers, hours and areas of operation at least one month prior to the event.
11. Radio WOMAD must be fully operational prior to the commencement of the event, and during the event.

**Reasons:**

The Sub Committee considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 105); the guidance issued under Section 182 of the Act, in particular part 7, paragraph 7.23, and the licensing policy of Wiltshire Council.

The Sub Committee reached their decision after consideration of the written evidence presented together with the oral evidence on behalf of the Police and Environmental Protection given at the hearing.

### **Right of Appeal**

The Premises User may appeal to the Magistrates Court against the Sub Committee's decision to issue a Counter Notice. The Chief Officer of Police and or/Environmental Health Officer may appeal against a decision not to issue a Counter Notice. Any appeal must be lodged within 21 days beginning with the day of notification of the decision. No appeal may be brought later than five working days before the day of the proposed temporary events.

(Duration of meeting: 2.30pm – 3.20pm)

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services,  
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## **SOUTHERN AREA LICENSING SUB COMMITTEE**

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**DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 8 APRIL 2013 AT CROWN COURT - THE GUILDHALL, MARKET PLACE, SALISBURY, WILTSHIRE, SP1 1JH IN RESPECT OF AN PREMISES LICENCE - DURRINGTON DEVELOPMENT CENTRE FOR YOUNG PEOPLE**

**Present:**

Cllr Trevor Carbin, Cllr George Jeans and Cllr Pip Ridout

**Also Present:**

Debbie Mulvey (Licensing Officer, Stuart Figini (Democratic Services Officer), Samuel Bath (Democratic Services Officer) and Lauren Kemple (Solicitor)

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**1 Election of Chairman**

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

**Resolved:**

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

**2 Procedure for the Meeting**

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

**3 Chairman's Announcements**

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

**4 Declarations of Interest**

There were no interests declared.

**5 Licensing Application**

## **Application by Wiltshire Council for a Premises Licence at Durrington Development Centre for Young People, The Ham, Durrington, SP4 8HW**

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

In accordance with the procedure detailed in the agenda, the Applicant and Interested Parties were given the opportunity to address the Sub Committee.

Key points raised by Mr Kevin Sweeney on behalf of the Applicant were:

- It was accepted that a number of local residents had objected to the opening of the Development Centre, however the applicant suggested that the number of days requested in the application could be reduced to the current usage to mitigate any local concerns.
- There was no intention to have live music at the Centre and therefore the applicant also asked for live music to be removed from the Licensable activities.
- No expansion of the site was planned.
- No formal complaints regarding noise, criminal damage or traffic had been received by police or Wiltshire Council officers.
- Wiltshire Council was happy to continue to meet with local residents to address any concerns.

Opportunity was given to ask questions of the Applicant and Wiltshire Council Officers by Members, and points including the following were raised:

- There were no plans to drastically change the functioning or activities of the existing centre on the site; the application was merely to meet the licensing obligations.
- It was confirmed that the Centre was currently open on Monday, Wednesday and Fridays evenings and Tuesday afternoons. The applicant also suggested that the young people would like to hold fundraising events on Saturdays throughout the year.
- The Police Community Support Officer occasionally visited the centre and has expressed support for the events held and the supervision of the events.

Key points raised by the Responsible Authority - Peter McMillan, Senior Environmental Health Officer were:

- The construction of the building housing the Centre was inadequate for loud regulated entertainment
- The nearest residential neighbours were very close to the building and would potentially be impacted from the comings and goings from the Centre

- There was some history of complaints from people living nearby as a result of noise created by the young people attending the centre.

Key points raised by the Interested Parties – Mr C Pottage on behalf of local residents – Mrs H R Jones, Mr J & Mrs D Fields, Ms K Pottage, Mrs J Pottage, Mr K & Mrs T Buringham, Mr E & Mrs A Reeves, Mr & Mrs T Adaway and Mr Jones were:

- The neighbours were concerned about the noise from the Centre, from traffic using the lane to access the Centre and the potential impact from live music. There was particular concern about the bass beat that could be heard and felt from some distance away.
- The local residents would support opening hours based on the current opening hours of 19:00hrs-21:00hrs Monday, Wednesday and Friday, 13:00hrs-15:00hrs Tuesday afternoons and the occasional Saturday 09:00-21:00hrs.
- The residents had experienced disturbance and anti-social behaviour in relation to the operation of the Centre, with some residents subjected to abuse when asking young people to leave the area quietly.

The parties were given the opportunity to ask questions of the Responsible Authority, Interested Parties and Wiltshire Council Officers. Members sought clarification on:

- The revised proposal for days and hours requested by the applicant
- The route used by the young people to access the Centre

The Sub Committee, Solicitor for Wiltshire Council and the Democratic Services Officer then retired to consider the application at 10:55hrs.

The Hearing then reconvened at 11:35hrs.

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 no specific legal advice had been given.

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 Southern Area Licensing Sub Committee has resolved to GRANT the licence for the following licensable activities:

Licensable Activity	Timings	Days
Films Performance of dance Anything of a similar description	Three days per week between Monday to Friday	08:00 to 22:00
Recorded music	Three evenings per week between Monday and Friday	19:00 to 22:00
	One afternoon once a week between Monday and Friday	13:00 to 15:00
	All of the above regulated entertainment on a maximum of twelve Saturdays throughout the year.	13:00 to 17:00
No live music		

And subject to the following additional condition:

1. Prominent, clear and legible notices must be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly and not loiter close to the entrance.

### **Reasons**

The Sub Committee have considered the written evidence presented in the agenda together with the oral evidence given at the hearing, noting in particular the concerns of the representations in respect of noise disturbance and litter.

The Sub Committee also imposed an additional condition to address the concerns regarding noise nuisance.

The Sub Committee noted that all parties were in agreement with the suggested amended Licensable Activities, hours and days detailed above.

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



The granting of this licence is without prejudice to any other consents or approvals that may be required.

The Sub Committee had regard to comments about recorded music potentially having the same impact on local residents as live music. It was therefore suggested that the recorded music should be at a level to the satisfaction of the Council's Environmental Health Department.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates' Court within 21 days of receipt of this decision.

(Duration of meeting: 10.30 - 11.40 am)

The Officer who has produced these minutes is Stuart Figini, of Democratic Services, direct line 01225 - 718376 , e-mail [stuart.figini@wiltshire.gov.uk](mailto:stuart.figini@wiltshire.gov.uk)

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## SOUTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 17 JULY 2013 AT ALAMEIN SUITE - CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE; EASTERN CHILLOUT, 99 FISHERTON STREET, SALISBURY, SP2 7SP**

**Present:**

Cllr Trevor Carbin, Cllr Leo Randall and Cllr Jose Green

**Also Present:**

Kieran Elliott (Senior Democratic Services Officer), Lisa Moore (Democratic Services Officer), Debbie Mulvey (Senior Public Protection Officer), Paul Taylor (Senior Solicitor), Peter McMillan (Senior Environmental Health Officer), Jemma Kemaneler (Applicant), Hannah White (Salisbury Journal), Nathaniel Dalley (Salisbury Journal), Rhiannon Croker (Salisbury Journal)

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**1 Election of Chairman**

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

**Resolved:**

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

**2 Procedure for the Meeting**

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

**3 Chairman's Announcements**

Details were given of the exits to be used in the event of an emergency.

**4 Declarations of Interest**

There were no interests declared.

## 5 Licensing Application

### **Application by Mrs Jemma Kemaneler for a Variation of a Premises Licence at Eastern Chillout, 99 Fisherton Street, Salisbury, SP2 7SP**

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

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

Key points raised by Mrs Jemma Kemaneler, Applicant were:

- The applicant wishes to expand and enhance the current offer of the restaurant by offering an experience not only a meal, and the extension of live music and dance performances would add to atmosphere.
- There had been a single complaint from a previous performance of live music, and in future all music would be acoustic in nature as it was more in keeping with the intended quiet atmosphere preferred by existing clientele, and would not disturb neighbouring properties, as the applicant would take measures to consult neighbours where a performance was planned.
- The extension to the premises area was to take advantage of the large garden of the property and permit occasional events to take place, and extended times were to permit flexibility and not to rush people out the door; there were no plans to regularly hold events late at night.
- The property had previously been a public house, so nearby residents were used to a certain amount of activity in the garden of the property, which was also a city centre property used to a certain amount of noise.

Key points raised by the Responsible Authority, Mr Peter McMillan of Wiltshire Council, (Environmental Health) were:

- The lack of sufficient noise suppression for 'The Barn'.
- The sheer proximity of neighbouring residential properties, and impact of events outside the current restaurant area from smell and in particular noise leading to public nuisance.
- The application for extension to hours on every day of the week, leading to potential of extensive disruption.

The parties were given the opportunity to ask questions of the Applicant and Responsible Authority. A debate ensued in which the Sub Committee discussed points including the following:

- The insulation of the structure known as 'The Barn', which in an update to the papers did now contain doors, but had not been assessed for noise cancellation.
- The impact of even light music on the outdoor structures and tents given the closeness of residential properties.

- Intended operation with extended hours and frequency of dance and music performances.

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

The Sub Committee then retired to consider the application at 1130.

The Hearing reconvened at 1300.

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 no specific legal guidance had been given.

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

**Resolved:**

**That the Application for a Variation of a Premises Licence at Eastern Chillout, 99 Fisherton Street, Salisbury, SP2 7SP be granted as detailed below:**

The Southern Area Licensing Sub Committee has resolved to MODIFY the premises licence for Eastern Chillout, 99 Fisherton Street, Salisbury as follows:-

1. To amend the area covered by the premises licence to that shown on the plan submitted with the variation application on 22 May 2013.
2. To approve the structural alterations as shown on the plan submitted with the variation application on 22 May 2013.
3. To amend the permitted licensable activities as follows:

<b>Licensable Activity</b>	<b>Days and Timings</b>	<b>Non- Standard Timings</b>
<p><b>Live music</b></p> <p>(This activity is no longer a licensable activity on premises licensed for the sale of alcohol for the consumption on the premises if it is unamplified and takes</p>	<p>Friday &amp; Saturday in the restaurant area only 08:00 to 23:30</p>	<p>Until 02:00 the following day on Christmas Eve, New Year's Eve, Boxing Day, Midsummer's Day and Valentine's Day in the restaurant area only</p>

place between 08:00 & 23:00 and amplified between 08:00 & 23:00 and as long as the audience is of no more than 200)		
<b>Recorded music</b>	Friday & Saturday from 20:00 to 21:30 only in conjunction with a performance of dance	Until 02:00 the following day on Christmas Eve, New Year's Eve, Boxing Day, Midsummer's Day and Valentine's Day in the restaurant area only
<b>Performance of dance</b> (This activity is now <b>not</b> licensable between 08:00 & 23:00 as long as the audience is of no more than 500)	Friday & Saturday 08:00 to 23:30 in the restaurant area only	Until 02:00 the following day on Christmas Eve, New Year's Eve, Boxing Day, Midsummer's Day and Valentine's Day in the restaurant area only
<b>Anything of a similar description</b>	Monday to Thursday 11:00 to midnight Friday & Saturday 11:00 to 02:00 Sunday Noon to Midnight	None
<b>Provision of late night refreshment</b>	Sunday to Thursday 23:00 to 01:00 Friday & Saturday 23:00 to 02:00 in the restaurant area only	Between the hours of 23:00 and 02:00 the following day on Boxing day, New Year's Eve, Christmas Eve, Midsummer's Day and Valentine's Day
<b>Sale by retail of alcohol (on and off sales)</b>	Sunday to Thursday 08:00 to Midnight Friday & Saturday 08:00 to 02:00	New Year's Eve until start of business on 1 <sup>st</sup> January
<b>Opening times</b>	Sunday to Thursday 08:00 to 01:00 Friday & Saturday 08:00 to 02:00	Until 02:00 the following day on Christmas Eve, New Year's Eve, Boxing Day,

		Midsummer's Day and Valentine's Day
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4. To amend the existing condition relating to entry to the premises to read:-  
'There will be no entry to the premises after 23.00 hours.'
5. To amend the existing condition relating to recorded music to read:  
'Other than where specifically allowed in conjunction with a performance of dance, recorded music will be limited to background music – i.e. not regulated entertainment, which will not be audible outside the premises.'
6. To add a condition to read:- 'CCTV will be installed to cover all licensed areas, and the system will be of sufficient quality to ensure that identification of individuals will be possible. CCTV will be securely stored and images will be retained for a period of not less than 30 days. CCTV images will be produced to a Police Officer or a Wiltshire Council Licensing Officer on request.'
7. To remove the existing condition that provides that Persons under 16 will not be permitted on the premises after 18.00 hours.

### **Informative**

1. For the purposes of this licence, 'the restaurant area' is not to include any outside area, the tents, or the additional structure known as 'the barn'.

### **Reasons**

The Sub Committee considered that the modifications to the premises licence as set out above would enable the licence-holder to expand and develop the range of facilities offered to patrons, whilst seeking to protect the amenity of nearby residents. In particular the Sub Committee were concerned at the likely disturbance of residents by live and recorded music late at night and for that reason did not approve the requested addition of recorded music as a licensable activity (other than in the limited circumstances allowed); the increase in hours of live music; or the provision of late night refreshments other than in the restaurant area. The Sub Committee accepted the comments of the Environmental Health officer that the acoustic properties of the restaurant area had not been significantly improved since noise complaints last year. They also accepted that the acoustic properties of the barn were inadequate, or at best untested, and that the tents would not contain any noise at all.

The Sub Committee accepted that performances of belly-dancing needed to be accompanied by recorded music and therefore agreed that such music could be permitted, in the restaurant area, during the limited hours of those performances on Friday and Saturday evenings. They also felt that both live and recorded music would be acceptable on non-standard days.

The Sub Committee saw no reason to restrict the presence of persons under 16 on the premises, but accepted the need to have appropriate CCTV in place, to prevent crime and disorder.

In reaching its decision the Sub Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 35 ); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

### **Evidence**

The Sub Committee heard evidence from Mrs. Kemaneler, the licence-holder. She explained the nature of the business currently operated at the Eastern Chillout and how they wished to offer more services to their patrons, including being able to cater for weddings. She said that works had been carried out to the barn to improve its acoustic properties and that advice had been taken from an acoustic engineer. They had had a live music event last year at the premises which had led to complaints. Since then that had been no further events.

Mr. McMillan, for the Environmental Health Team, explained the concerns that his Team had with some of the proposed variations to the licence. There were residential properties very close to the premises and the occupants of those properties would be disturbed by both music noise and by the noise of people talking in the garden area late at night. The tents were particularly near to other properties and, in his view, it was inconceivable that there could be music in the tents that would not be audible beyond the premises. He had not seen details of any acoustic works to the barn, but in any event, would be concerned at the inevitable escape of music from the buildings, when doors were opened.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates' Court within 21 days of receipt of this decision.

(Duration of meeting: 10.45 am - 1.00 pm)

The Officer who has produced these minutes is Kieran Elliott, of Democratic Services, direct line 01225 718504, e-mail [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

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## **WESTERN AREA LICENSING SUB COMMITTEE**

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**DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 25 JANUARY 2013 IN COMMITTEE ROOM A - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM SN15 1ER - WESTERN AREA LICENSING COMMITTEE - APPLICATION FOR REVIEW OF A PREMISES LICENCE; TROWBRIDGE CRICKET & SPORTS CLUB**

**Present:**

Cllr Desna Allen, Cllr Trevor Carbin and Cllr George Jeans

**Also Present:**

**Wiltshire Council:**

Kate Golledge (Public Protection Manager, North and West, Safer Communities and Licensing), Maggie Jones (Licensing Officer) and Paul Taylor (Senior Solicitor)

**Responsible Authorities:**

Richard Francis, Senior Environmental Health Officer, Linda Holland, Senior Licensing Officer, Maggie Jones, Licensing Officer, Graham Steady, Public Protection Manager

**Trowbridge Cricket Club:**

Mrs Christine Davies, Mr Colin Poplett and Mr Brian Scrine

**Interested party:**

Mrs T Gates

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**1 Election of Chairman**

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

**Resolved:**

**To elect Councillor Desna Allen as Chairman for this meeting only.**

## 2 **Procedure for the Meeting**

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

## 3 **Chairman's Announcements**

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

## 4 **Declarations of Interest**

There were no interests declared.

## 5 **Application for Review of a Premises Licence; Trowbridge Cricket & Sports Club, Lower Court, Trowbridge, Wiltshire BA14 8PX**

**Application by Wiltshire Council Environmental Protection team for a review of a Premises Licence at Trowbridge Cricket & Sports Club, Lower Court, Trowbridge**

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

At this point Mr Poplett, representing the Cricket Club, presented a letter to the Chairman, concerning the late submission of evidence by the reviewing Responsible Authority. He told the Sub Committee that the Cricket Club had requested an adjournment of the hearing in order to get legal representation. This request had initially been accepted on the basis that there were no music events before any reconvened hearing, but was later rescinded, because a live music had been held at the Club on the previous Saturday evening. Mr. Poplett explained that the most recent event had been held on the ground floor and felt that it should be disregarded.

The Licensing Officer clarified that the license for review was for the entire license which covered both ground floor and first floor.

Mr Poplett queried if Mrs Davies was aware of this and the Licensing Officer confirmed that the information was in the paperwork for the agenda.

Mr. Poplett asked that the latest evidence from the Environmental Health Team be disregarded by the Sub Committee, as the Club had only had a short time to consider it. Mr. Taylor confirmed that it was for the Sub Committee to decide whether or not to take late submissions into consideration and, if so, how much weight to give to such submissions.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub Committee.

Graham Steady, Public Protection Manager (the applicant) asked questions of Richard Francis, Senior Environmental Health Officer, and made the following key points:

- The existing management were, in the view of Public Protection, ineffective.
- The Public Protection team have consistently expressed doubts that the premises are suitable for the provision of amplified music.
- An abatement notice was served by the Council in May 2010 and a breach of that notice was witnessed by authorised officers in August 2010.
- Conditions were agreed with the club in December 2010, prior to the licensing hearing in January 2011, these including installing a noise limiter.
- Public Protection wrote to the club in July 2011 and made recommendations to the club in respect of noise attenuation.
- On 17 May 2012 Public Protection wrote to the club regarding a live music event on the evening of 5 May 2012.
- The club had explained that the reasons for the noise issues at the above event were that the noise limiter had failed due to a power surge.
- On 14 July 2012 Maggie Jones, Licensing Officer, visited the club with Annabel Wilkinson, Environmental Health Officer, the noise limiter was not working and the clubs explanation was that Mr Poplett was on holiday and no-one knew how to operate it.
- On the same occasion sight of the premises log book was requested but it was not available as Mr Ball was out monitoring the sound in the nearby streets.
- On 1 September 2012 Linda Holland, Licensing Officer, visited the club with Susie Vowles (Public Protection Officer), and it was their opinion that the music being played that night constituted a public nuisance due to the distance at which it could be heard.
- Richard Francis wrote to the club on 28 September making them aware that he would be requesting a review and offering to undertake an acoustic assessment of the premises.
- On 13 October and 10 November 2012 noise equipment was placed in the complainant's house in Downhayes Road.

At this point the committee listened to extracts from the above recordings

- The noise recordings were played to a noise consultant who recommended that a further survey should be undertaken. The club did not respond to Mr Steady's request to carry this out.
- The Council requested Industrial Noise and Vibration Centre (INVC) to carry out the survey.
- INVC wrote to the Council with their recommendations and expressed concerns that there may be another sound transmission path.
- Richard Francis wrote to the club on 11 December 2012 enclosing the INVC report and requesting that the Council be allowed access to allow for all the sound transmission paths to be identified.

Members asked for clarification on the following issues:

- Was it possible to bypass the limiter?  
*Yes without proper management*
- How difficult is the limiter to operate.  
*It is just a matter of plugging in a plug*
- Had Maggie Jones subsequently seen the premises log book and was she confident that the sound was being monitored at that time.  
*Some results were presented to the Council*
- Is noise transmission weather-dependent?  
*There is guidance issued regarding which weather conditions measurements can be made in*
- Was the noise only projecting in one direction and if not why was it affecting only one property?  
*There are no properties between the club and Downhayes Road.*

Mr Poppett, on behalf of the Cricket Club, asked the following questions:

- Why was the review called when only one individual had complained?  
*The review was called because, in the opinion of the professional officers, there was evidence of a public nuisance being caused.*  
  
When the expert listened to the sound recordings did he have to do anything to them?

*Yes it was detailed on page 114 of the agenda papers.*

- The roof is not a weak point as suggested by Public Protection.

Key points raised by Mrs Gates (Interested party) were:

- Mrs Gates stated that the recordings played to the committee replicated what she heard in her bedroom
- If the Council believes the club has breached the conditions on the license would there be any point in revised conditions if they don't abide by the ones they already have.
- The club is wooden built and noise from the premises travels to Palmer Road, Seymour Road and Downhayes Road although her property tends to shield others in Downhayes Road.
- When live bands are playing music from the club can be heard in all rooms of the house.
- The Council had agreed that the noise from the club constituted a public nuisance and agreed that a way forward with the club was to install the noise limiter.
- At the Western Area Licensing Sub-Committee in January 2011 Mr Poplett had accepted that the club had been the cause of noise nuisance. Conditions were therefore put in place to minimise the impact on neighbours.
- Music events have been held at the club on numerous occasions but the noise limiter has not been used.
- The club had to monitor music in the surrounding area when an event was taking place. Although a representative from the club did indeed visit Downhayes Road he only did so to berate Mrs Gates' family to the neighbours.
- The family were often woken up or prevented from sleeping when a live music event was being held.
- The process of information gathering by the Council has been stressful and intrusive for the family.
- As residents the family have a right to peaceful enjoyment of their home.
- The anticipation of events were stressful on the family and they often tried to go away for weekends to avoid the noise nuisance.
- A letter was sent by Mr Poplett to the neighbours in which he insulted the family and called them liars.

- The club do not believe there is a noise nuisance and are unable to self-regulate.

Members asked for clarification on the following issues:

- What did Mrs Gates feel had changed in 2010?  
*We just started to hear the music more and louder*
- How many times a month were you disturbed.  
*Varies – 18 occasions over the last 3 years.*
- What times of the evening would be acceptable to hear the noise.  
*Not for me to say the levels are set by law*
- Did you contact the club in person?  
*Yes we did but we were sworn at.*

Mr Poplett asked the following questions:

- You mentioned a survey by the club – did you husband do a similar survey two years ago?  
*It was similar we were trying to raise people's awareness.*
- In his survey did he say that we (the club) would be playing live music until 2am every Saturday?  
*He said that you could do that because that is what you applied for*
- You said that I called Mr Gates a liar but he produced evidence at the last hearing which he subsequently withdrew when challenged because it was a lie.  
*You misled us to our neighbours.*

Points raised by Linda Holland, on behalf of the responsible authority were:

- The premises licence holders have demonstrated on several occasions that they have failed to comply with their premise licence, through non compliance with licensing conditions and permitted hours for live music. The licensing authority could seek to prosecute for these offences but this action would not address the core issues, the most likely outcome should the case be proven is a financial penalty on the premises licence holders.

- The decision made by the sub-committee in January 2011 was to impose conditions on the licence and restrict the number of live events to address the concerns of residents and the responsible authority who made representations.
- Following the January hearing, it came to the attention of the licensing officer, Mrs Jones, that events were taking place at the cricket club in contravention of the conditions imposed by the hearing, a formal warning letter was written to the premises licence holder in March 2011. At this time no working noise limiter was in place or had the noise management plan been seen and approved by officers.
- With reference to noise nuisance emanating from the premises she referred to her witness statement and that of the environmental health officers, which demonstrated that the premises licence holders, in her opinion were unable / unwilling to control noise break out from their premises.
- It was her belief that the evidence in front of the sub-committee, established that the licence holder had over a period of several years demonstrated their inability to comply with their premises licence and any conditions contain there in, despite receiving guidance and support from officers of the council over a significant period of time to seek to work with them to address these issue. It also appeared that they did not acknowledge that their activities may be having a negative and detrimental impact on surrounding domestic dwellings.
- The licensing authority had no confidence in the management / premises licence holders ability to comply with the licence as it currently stands. The authority could see no other reasonable conditions that would address the issues raised by the review application and has concerns that any further conditions will also be met with the same response. The Licensing Authority would therefore ask that the committee consider the removal of live amplified music from the premises licence in totality.

Key points raised by Mr C Poplett (on behalf of the license holder) were:

- The club building was upgraded 20 years ago when a double skin was added.
- Mrs Davies and Mr Scrine have worked hard to bring it up to the condition it is today.
- It has already been upgraded to accommodate the Council, for example installation of the sound limiter.
- The club is prepared to do more work but only if it will resolve Mrs Gates' problems.
- The Police don't have any issues with the club.

- There is bound to be noise; if it gets too noisy we stop it but there has to be some give and take.
- We sent a questionnaire to all the neighbours and no-one complained; a lot of them live nearer to the club than Mrs Gates.
- To accommodate Mrs Gates the club is prepared to provide double glazing and do the work required by the acoustic engineer but not if we get more complaints in 6 months time.

Members asked for clarification on the following issues:

- Why did the club consider it not advisable to comply with the conditions on the license or the noise abatement order?

*I am not an officer of the club*

- Were you aware that you had breached your license?

*No*

- The sound limiter failed on just two occasions?

*No we don't think it was set properly in the first place*

- Can you think what might have changed in 2010?

*No we can't we have had this sort of music for seven years.*

- Why did you not accept the acoustic assessment?

*We wanted to speak to counsel and were told not to make any comments*

- Are you prepared to have the survey done?

*Yes*

- Are all doors and windows closed by 11.30pm?

*Yes*

- How many people attend the events?

*Average 60 – 70 people, many of whom would be there anyway, even if there was no live music*

- How many survey forms were circulated?

*Approximately 45 forms.*

- What hours did you apply for when you asked for the license?



*We have just heard 2am. We were told to apply for more than we needed even if we never used them*

- But you called Mr Adlem Gates a liar when he told people you had applied for up to 2am?

*Not a lie – it was a mistake*

Questions asked by Graham Steady, Public Protection Manager were:

- Do you accept that we must investigate if there is a complaint but will only take action if, in the opinion of the professional officers, the complaint is justified?

*No*

- Do you feel that the letter that you sent out with the questionnaire was going to encourage other people to complain?

*No*

Graham Steady asked Maggie Jones (Licensing Enforcement Officer) to clarify the original license application times applied for in 2010. Mrs Jones read aloud the original times from the application found as exhibit 6.

Questions asked by Mrs Gates (Interested party) were:

- How many people that you surveyed were relatives, and club members? How were the 3 houses on Seymour selected?

*The ones on Seymour were put out by Mr Scrine on his way to the shop. Of the others some may have been club members and one was a personal friend*

- All the responses were in your favour – no-one could hear the noise?

*We didn't put words into people's mouths*

- My understanding is that you have breached your conditions many times not just twice. You say that the noise limiter is not working properly, if you knew that why did you let it carry on for three years?

*We are trying to put matters right.*

Linda Holland, summed up on behalf of the responsible authority:

- The licensing authority has not confidence in the club management and would ask the committee to remove live music from the license.

Mrs Gates (Interested party) summed up:

- She said that she didn't believe that the club had taken on board the issues. She felt that they believed that they were having trouble from just one family.
- There should be no leeway for them to flaunt conditions further.

Graham Steady, Public Protection Manager summed up:

- Public Protection have tried to demonstrate that regular noise can cause a public nuisance. The club appear to be in denial of the impact of their activities and have bullied residents into not making complaints.
- It has been very difficult to work with the club.
- The provisions of the Live Music Act 2012 should be dissapplied to this premises.
- Both live and recorded amplified music should be removed from the premises licence.

The Sub Committee then retired to consider the application at 1.50pm

The Hearing reconvened at 4.00pm

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:

- The Live Music Act
- What defines public nuisance

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 Western Area Licensing Sub Committee has resolved to amend the Premises Licence for the Trowbridge Cricket & Sports Club, Lower Court, Trowbridge as follows:

1. To remove recorded music from the licensable activities permitted by the licence.

2. To include a condition that no amplified live music can be played at the premises at any time. The provisions of s. 177A(4) of the Licensing Act 2003, as inserted by the Live Music Act 2012, are to apply to this condition.
3. To remove the additional conditions 2) i – iv, imposed at the hearing on 6 January 2011, as they are now inconsistent with the removal of amplified live and recorded music from the premises licence.

## **Evidence Presented**

### **Extent of the Noise Problem**

The Sub Committee were addressed by Mr. Graham Steady, Public Protection Manager for the North and West Areas of Wiltshire Council, and also heard evidence from Mr. Richard Francis, Senior Environmental Health Officer and Linda Holland, Senior Licensing Officer, in support of the review application. These officers referred to the history of their dealings with the cricket club premises, including the service of an abatement notice in May 2010. The Sub Committee were informed, both in witness statements and in oral evidence, of a number of incidents when officers of the Council had attended residential premises in Downhayes Road, following complaints about the level of music coming from events taking place at the cricket club. The Sub Committee were also played a recording from noise monitoring equipment that had been placed in the bedroom of 23 Downhayes Road. Mr. Steady stated that, on a number of these occasions, the officers concerned had concluded that the level of noise constituted a public nuisance.

The Sub Committee also heard evidence from Tracy Gates of 23 Downhayes Road, regarding the problems she and her family had suffered as a result of the noise from live music events that were held at the cricket club.

In response Mr. Colin Poplett, on behalf of the Cricket Club, explained the steps that the Club took to control the levels of music during events at the premises. He also presented to the Sub Committee the responses to questionnaires that had been circulated to a number of properties in the vicinity of the cricket pavilion and drew attention to the fact that all of the respondents had indicated either that they could not hear any music from the premises, or that they were not caused any problems by it. The validity of this survey was challenged by Ms. Gates, on the basis that not all properties in the area had received a copy of the questionnaire and that its tone could have led to others who had been affected by the noise being reluctant to send in their views.

### Structure of the Premises

The Sub Committee heard evidence regarding the structure of the cricket pavilion and the difficulties that this presented in trying to control the escape of amplified music. They were informed of the steps that had been taken since the granting of the premises licence in January 2011, including the installation of a noise limiter to be used during live music events. In addition, the Council had commissioned a report from independent consultants. Although those consultants had recommended a number of structural changes to address the escape of music, there was now some doubt as to whether those changes would resolve the problems, given the intrinsic nature of the structure, which was not suitable for amplified music.

### Management of the Premises

Mr. Steady and the other Council witnesses, both Environmental Health and Licensing, informed the committee that there had been a number of breaches of both the abatement notice and the premises licence conditions, particularly in relation to the use of the noise limiter. They referred to a number of occasions when the noise limiter had not been operating as required during live music events. As a result of their dealings with the Cricket Club on these issues, the Council's officers no longer had any confidence in the ability or commitment of the Club to address the problems or to promote the licensing objective of the prevention of public nuisance.

In response, Mr. Poplett and the other representatives from the Cricket Club explained that on one occasion the noise limiter had not been used, as there had been no-one present at the time who was able to operate it. On another occasion there had been an electrical fault preventing it from being used.

### Reasons for Decision

The Sub Committee has carefully considered all of the evidence presented regarding the extent of the problems being caused by amplified music from events taking place at the cricket club premises. They were also referred to, and took account of, the relevant section of the S.182 Guidance (paragraph 2.19) and to the common law meaning of public nuisance, as well as the Council's licensing policy in relation to public nuisance. They were satisfied, on balance that the number and nature of the problems being caused did mean that it was appropriate to take steps to prevent public nuisance and in particular to respect residents' right to peaceful enjoyment of their property as stated in Wiltshire Council's Statement of Licensing Policy.

The Sub Committee accepted the evidence presented by Graham Steady, Public Protection Manager and Richard Francis, Senior Environmental Health Officer that the structure of the Cricket Club premises meant that noise is easily transmitted in the direction of Downhayes Road. They considered that the premises, as they currently exist were unsuitable for amplified music events.

They did not feel that there were any suitable conditions that could be placed on the premises licence that would satisfactorily address the problems.

The Sub Committee also concluded that, given the history of the Club's dealings with both Environmental Health and Licensing Officers, they had no confidence that the current management structure of the club would comply with any further conditions relating to live and amplified music that the Sub Committee could impose.

The Sub Committee therefore concluded that, in order to promote the licensing objective of preventing public nuisance, it was appropriate to remove both amplified live music and recorded music from the licensable activities permitted under the premises licence. They also concluded that it would be appropriate to disapply the provisions of the Live Music Act 2012, so that the restrictions on live music would apply at all times.

The decision to remove recorded music from the permitted licensable activities does not prevent the playing of incidental music, in accordance with Part 2 of Schedule 1 to the Licensing Act 2003.

In reaching its decision the Sub Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. The amendments to the licence will not come into effect until the period for appeal has expired or, if an appeal is made, until that appeal has been disposed of.

(Duration of meeting: 10.30 am - 4.10 pm)

The Officer who has produced these minutes is Pam Denton, of Democratic Services, direct line 01225 718371 , e-mail [pam.denton@wiltshire.gov.uk](mailto:pam.denton@wiltshire.gov.uk)

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## Western Area Licensing Sub Committee

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**Draft Minutes of the Western Area Licensing Sub Committee Meeting Held on 16 April 2013 at Civic Centre, St Stephens Place, Trowbridge, BA14 8AHH in Respect of a New Premises Licence - 3 DAGGERS BREWERY BAR, EDINGTON FARM SHOP, EDINGTON, BA13 4PGPG**

**Present:**

Cllr Ernie Clark, Cllr George Jeans and Cllr Pip Ridout

**Officers:**

Samuel Bath (Democratic Services Officer)

Maggie Jones (Licensing Officer)

Paul Taylor (Legal Officer)

**Also Present:**

Mr Dodds

Mr Paterson

Ms Klonowski

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**1 Election of Chairman**

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

**Resolved:**

**To elect Councillor Ernie Clark as Chairman for this meeting only.**

**2 Procedure for the Meeting**

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

**3 Chairman's Announcements**

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

The Chairman announced that Councillor Ernie Clark had substituted for Councillor Rod Eaton.

#### 4 **Declarations of Interest**

There were no interests declared.

#### 5 **Licensing Application**

##### **Application by Adrian Jenkins for a Premises Licence at Three Daggers Micro Brewery and Farm Shop, Edington.**

The Chairman began by inviting the Licensing Officer to outline the report and state the details of the application.

The Licensing Officer introduced the report, providing an overview of the premises to which it related and the key issues for consideration.

In accordance with the procedure, the Applicant was then given the opportunity to address the Committee. The applicant was represented by Mr Patterson from Wansbroughs solicitors, who spoke on behalf of Mr Jenkins. The applicant presented a site plan to the committee which outlined the arrangement of the building.

The applicant made reference to the Paulet Arms pub which is located at the same site as the farm shop, and outlined the existing terms of that license. The applicant gave an overview of his license holding history, and discussed the employment arrangements at the farm shop and pub. This was followed by a summary of training provided to staff that ensures compliance with the existing pub license.

The applicant then addressed the conditions of the Paulet Arms licence and proposed to the committee that these conditions be included in the current application.

The applicant discussed the physical structure of the building and reviewed the inside layout, highlighting that the structure was fully compliant with building regulations. The applicant then provided an overview of delivery times and traffic flow to the site, and the low level lighting conditions of the site at night.

Finally the applicant stated the intended usage of the property, to be used as a farm shop selling high quality bespoke products, tours of the micro brewery, and functions in the adjoining space of the brewery.

Key points raised by Neil Patterson on behalf of the Applicant were:

- The applicant has been a licensed trader since 2002, with licenses in Devon, Dorset and Bath.
- The applicant is a responsible licensee, evidenced in the compliance with the existing Paulet Arms license.



- The building is fit for purpose, and fully compliant with building regulations.
- Traffic control measures have been introduced in the surrounding area to reduce the risk of traffic collisions involving vehicles entering and leaving the site.
- Careful consideration has gone into the layout of the building and car parking to limit the intrusion to nearby residents with regard to light and noise pollution.

An opportunity was then given to the responsible authorities and persons who have made a relevant representation to question the applicant.

The Responsible Authorities had no questions to the Applicant.

Mr Dodds who had made a representation then asked the Applicant the following:

- Did the application mean that the Farm Shop had the potential to host 6 events per week?

*Yes, in theory the farm shop would have the capacity to host 6 events per week, but the intention was to allow for flexibility in hosting fewer events.*

Ms Klonowski who had also made a representation then asked the following:

- If there was no intention to use the dates as specified, then why apply for them?

*If the license was not granted or had not been applied for, the shop would have to rely on temporary event notices. In addition to the cost and time involved, there are only a finite number of TEN that can be granted. Therefore it would be counterproductive and restrictive to operate in such a way.*

The Committee then asked the following questions to the applicant:

- How often do you intend on having a live music event at the site?

*If granted we would expect to host fewer events than the adjacent pub. Perhaps once a month.*

- How many people do you expect will form the capacity of a brewery tour, and how often do you expect you will host them?

*We would look to hold private tours, and have had some interest from local groups. Also we would look to attract some business during village events such as the summer fair. It is expected that group tours will be no bigger than 25 people.*

- Would restricting tours to 25 people be something you would consider having on the license?

*Probably not, no.*

- Is there a history of antisocial behaviour at the pub?

*No.*

- Do you plan to hold any live music outside?

*No, all music events will be held inside the building.*

- The Paulet Arms license references 'special events'. What do you consider a special event would constitute for this application?

*It is considered that any event after 20:00 within the farm shop would constitute a special event.*

The persons who had made a representation then made a number of comments with regard the application. These were:

- Mr Dodds – stated he did not have any opposition to the farm shop or to its owner, but that the representation was made against the unnecessary additional opening hours after 8pm.
- It was stated that event traffic was in fact different to general pub visitor traffic, as large groups of visitors would ultimately lead to more cars arriving and leaving together. This could cause light and noise nuisance due to the proximity of the farm shop to Mr Dodds' house.
- It was stated that it was unnecessary for the shop to be open until 11 when the pub would be open next door.
- Mr Dodds had conducted a survey of breweries in the region and had found that 95% of shops closed by 8pm.
- Objections were therefore made against late night events at the shop, parking for staff, as land adjacent to Mr Dodds house had been used for parking during construction of the shop when there were no available parking spaces for staff.
- Ms Klonowski – Objections were to the opening hours of the farm shop, and to the timings of licensable activities within, but not against the shop itself, the brewery or the applicant.

- Objection to the timings on the application as a successful business plan could lead to an increase in events at the farm shop.
- Raised concerns around the parking arrangements when the site is at capacity.
- Requested the committee to consider the impact on 20:00 – 23:00 and the potential for growth in this bracket.

The applicant then was able to question those persons who had made a relevant representation. The following questions were asked.

- Do you know how many spaces there are in the car park?

*No. It is not my site so I would not know. Perhaps 17?*

There are actually 24 spaces.

- Do you know of any functions that have been booked?

*No. It is not my business.*

- Are you aware of any parking restrictions on the road outside your house?

*No, although I am not sure if there should be as the road was re-surfaced not long ago. I assume not.*

- Are you aware that there are other breweries operating tours at night?

*Yes, but they are located in retail/industrial parks, not next to residential properties.*

There were no questions from the committee to individuals who had made a representation.

The persons who had made a representation had nothing further to add in their summing up.

The Applicant stated that no representation had been made by Environmental Health with regard to noise and light nuisance. It was stated that the applicant had considered advice from EH and Highways, after which both had approved the applications content. The applicant highlighted that there was no history of crime or disorder at the pub.

The Sub-Committee then retired to consider the application at 11:50.

The Hearing reconvened at 12:40 to hear the decision of the Committee.

Following the deliberations of the Sub-Committee Members, the Solicitor for the Council made a statement declaring the material legal advice given in closed session.

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

**RESOLVED:**

**That the Application for a Premises Licence at 3 Daggars Farm Shop and Micro Brewery, Edington be GRANTED as detailed below.**

**Grant the application as per the conditions of the application as amended by the applicants' submission dated 17 March 2013.**

**And subject to the following conditions:**

- **No bottles to be emptied from the premises into bottle bins between 2100 and 0900.**
- **Staff will be trained in the Licensing Act 2003, proof of age, responsible drinking, health & safety, food hygiene and fire regulations.**
- **The Designated Premises Supervisor will be an active member of the local pub watch scheme where one operates.**
- **During the hours of darkness, when operating, the external public areas and car park will be well lit.**
- **Risk assessments will be undertaken as part of the overall health & safety policy.**
- **For all events taking place after 20:00, staffing levels will be increased as necessary, and neighbours who may be affected by the event will be informed when such events are due to take place at the premises.**
- **When events take place past 20:00, a responsible person nominated by the licence holder or DPS will monitor noise levels from the premises. Action will be taken to reduce noise levels if necessary. A record of the action taken and by whom, will be recorded together with the time and date, in the premises noise log book.**
- **During regulated entertainment, all doors and windows to remain shut except for access and egress.**

- **Proof of age will be required from any person seeking to purchase or consume alcohol and who appears to be under the age of 21. This evidence shall be photographic, such as a passport or photographic driving licence, until other effective identification technology (for example, finger print or pupil recognition) is adopted by the licence holder**

**RESOLVED:**

**That the Application for a Premises Licence at 3 Daggars Farm Shop and Micro Brewery, Edington be GRANTED as detailed below.**

**Grant the application as per the conditions of the application as amended by the applicants' submission dated 17 March 2013.**

**And subject to the following conditions:**

- **No bottles to be emptied from the premises into bottle bins between 2100 and 0900.**
- **Staff will be trained in the Licensing Act 2003, proof of age, responsible drinking, health & safety, food hygiene and fire regulations.**
- **The Designated Premises Supervisor will be an active member of the local pub watch scheme where one operates.**
- **During the hours of darkness, when operating, the external public areas and car park will be well lit.**
- **Risk assessments will be undertaken as part of the overall health & safety policy.**
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- **During regulated entertainment, all doors and windows to remain shut except for access and egress.**
- **Proof of age will be required from any person seeking to purchase or consume alcohol and who appears to be under the age of 21. This evidence shall be photographic, such as a passport or photographic**

**driving licence, until other effective identification technology (for example, finger print or pupil recognition) is adopted by the licence holder**

**Reasons:**

**The Sub Committee considered the written evidence presented in the agenda together with the oral evidence given at the hearing, noting in particular the concerns of the representations in respect of noise and light nuisance. The sub-committee also took into account the fact that the premises were immediately adjacent to a public house, which held a premises licence allowing licensable activities until 01.00.**

**In light of the submissions, the committee decided to grant the license application as amended by the applicants' submission dated 17 March 2013, with the additional conditions set out above.**

**These conditions are considered appropriate to meet the licensing objective of the prevention of nuisance.**

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

(Duration of meeting: 10:30 – 12:50)

The Officer who has produced these minutes is Samuel Bath, of Democratic Services, direct line 01225 718211, e-mail [samuel.bath@wiltshire.gov.uk](mailto:samuel.bath@wiltshire.gov.uk)

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## WESTERN AREA LICENSING SUB COMMITTEE

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### **DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 22 APRIL 2013 AT THE LAVERTON, BRATTON ROAD, WESTBURY BA13 3EN IN RESPECT OF AN PREMISES LICENCE - SUNRISE FESTIVALS 2013**

#### **Present:**

Cllr Desna Allen, Cllr Trevor Carbin, and Cllr Jonathon Seed

#### **Also present**

##### **Sunrise Festivals**

Mr D Hurring  
Mr G Boal  
Mr A Leppingwell  
Ms S Le Fevre

##### **Persons who made relevant representation**

Mrs A Campbell  
Ms S R Minty  
Mr R Thwaites  
Mr C Good & Mrs P Good  
Mr L Walker  
Mrs P Bailey  
Mr R Bailey  
Mr M Brake  
Mr T Wallis  
Mr D Thomas  
Cllr F De Rhe Philipe  
Mr D Holmyard & Mrs E Holmyard  
Mr J Bruce  
Mr P Jefferson  
Mrs V Emery representing Mr J Bower  
Mr S Belgrave representing himself and Mr N Emery  
Mr N Lucas  
Mrs I Lewis  
Ms S V Lock representing Mrs J Collier  
Mr W Harridge & Mrs J Harridge  
Mr K Collins representing Mr P Powell

Mrs J Johns  
Mrs P Thomson  
Mrs S Simpson  
Mr A Campbell  
Mrs D Lanham  
Cllr D Barnard representing Chapmanslade Parish Council  
Cllr J Willmott representing Chapmanslade Parish Council  
Mrs L Biddiscombe

**Supporting application**

Ms F Penfold  
Ms Sioux How

**Wiltshire Council**

Mrs K Golledge  
Ms A Wilkinson  
Mr J Freegard

**Wiltshire Police**

Ms J Gallimore  
Chief Inspector C Dibble  
Mr D Bennett

**Other**

A S Anderson  
Ms W Elkins  
Alex Michael  
Mr D Shalesby  
Cllr F Morland

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**1 Election of Chairman**

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

**Resolved:**

**To elect Councillor Jonathan Seed as Chairman for this meeting only.**

**2 Procedure for the Meeting**

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



### 3 **Chairman's Announcements**

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

### 4 **Declarations of Interest**

There were no interests declared.

### 5 **Licensing Application**

#### **Application for a time limited Premises Licence by Sunrise Festival 2013 Ltd, Thoulston Park Golf Club, Thoulston, Chapmanslade, BA13 4AQ**

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

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and persons who made relevant representation were given the opportunity to address the Sub-Committee.

Key points raised by Ms Le Fevre on behalf of the Applicant were:

- This would be a family-friendly festival.
- Tickets were not cheap
- The applicants had already successfully run similar festivals since 2006
- Testimonies had been received from other local authorities and parish councils
- The event would be staffed by SIA trained personnel as well as green stewards, volunteer marshalls and traffic management personnel.
- Detailed planning is recorded in the Event Management Plan
- Previous events had initially attracted opposition however for subsequent events there had been minimal objections
- Consultation had been held from an early stage, the Police had now withdrawn their objections reflecting their contentment with the application and Management Plan
- Sunrise had agreed to pay for special Police services.
- Noise levels proposed by the Environmental Health team had been accepted. The only remaining issue was how those levels would be measured.

Mr Anderson, Acoustic Consultant for Sunrise Festivals was called to explain his professional experience and qualifications. He then answered questions from Mr Freegard, Public Protection Officer for Wiltshire Council on the

propagation prediction spreadsheets detailed in the Event Management Plan. Questions were also asked regarding the interpretation of 'desensitized properties'.

Ms Le Fevre then drew attention to letters that had been sent out to residents from Sunrise Festivals which detailed arrangements that had been made for the festival. She also drew attention to the 14 letters of support received and Mr Hurring, the event organiser, confirmed that these had not been solicited.

Ms Le Fevre then asked Mr Hurring to explain how Sunrise Festivals were attempting to address the concerns raised by residents in respect of parking, security and traffic issues.

Mr Hurring explained:

- Traffic marshalls would be monitoring all potential parking points 24 hours a day.
- There was a no parking or waiting order within half a mile of the site.
- Pedestrians would not be allowed to enter the site on foot.
- Responsible Authorities were content with arrangements that had been made for traffic control.
- Security proposals were sound based on previous experience plus knowledge of crowd safety and management.
- The two ponds on the site would be fenced off.
- There would be a daily litter sweep and the site would be clear five to seven days after the festival.
- Traffic would not be allowed to back up on the roads, an overspill field was available.
- Nearest residences would be given residents passes and their access would be a priority.
- There would be 24 hour security near to closest properties however crime was not associated with the festival.
- Lighting in the car parks should not affect any adjacent properties.

Ms Le Fevre than asked Mr Lepingwell, the event organiser, about the suitability of the land

Mr Lepingwell replied that the bunds on the golf course were constructed with material brought in from elsewhere. A farmer had been using the land over some period of time and there had not been any instances of any dangerous substances found. If anything were to be found then that area would be fenced off.

The parties were given the opportunity to ask questions of the Applicant.

Questions were raised regarding the following:

- Noise levels and clarification regarding desensitized properties.
- Why Thoulstone Park House had not been included in the noise predictions.
- Security of residential properties in the vicinity.
- Parking and control of people who wish to leave the site and return of foot.
- The effect of low frequency noise.
- Who to contact in case of complaint.
- How traffic would be controlled.
- Start and finish times of buses.
- Had environmental surveys been carried out.
- Who would carry out the mobile security patrol.
- Had lessons been learnt from previous difficulties encountered when the festival had been held in Somerset.
- The strength of the company to take responsibility for the event and any difficulties that may arise.
- How complaints about noise levels would be dealt with.
- Were there enough resources to monitor the noise.
- Would extra Police be available outside the venue as well as inside.

The Chairman then invited comments from the Responsible Authority. Ms Golledge replied that the issue of noise levels at sensitive properties still needed to be addressed at the hearing.

Mr Freegard said that he was still not satisfied that a blanket figure of 60dB would be acceptable, and he was concerned that no allowances had been made for the orientation of the main stage. He was also concerned about the length of the festival and would not expect music to be played on the Thursday.

The sub-committee then adjourned for lunch at 1.05pm

The meeting resumed at 1.45pm

Ms Le Fevre informed the sub-committee that an agreement regarding the noise conditions had been agreed as follows:

On Thursday, at nearest noise sensitive properties:

50dB 17.00 to 23.00 hrs

Reducing to 40dB 23.00 – 01.00 hrs

Music to be inaudible outside residential receptors after these times

The sub-committee then heard from the following persons who had made representation

Ms Diana Lanham

Mr R Bailey  
Mr James Bruce  
Mr Trevor Wallis  
Mr Stephen Belgrave  
Mr Julian Bower  
Mr V Emery  
Mrs Pat Bailey  
Mr D Barnard  
Mr Philip Jefferson  
Mrs P Thompson  
Ms Isabel Lewis  
Mr Davis Thomas  
Mr David Holmyard

Issues raised included:

- The omission of Thoulstone Park House from the noise assessments, when this property was the one most likely to be affected by noise from the main stage
- The effect of unamplified music and the general noise generated by a large number of people, which did not appear to be addressed in any of the proposed conditions
- The disproportionate impact of low frequency noise and the need for this to be addressed.
- The effect of the proposed event on wildlife in the area
- The high number of accidents on the A36 in the vicinity of the site and the increased risk of accidents if the event were to take place
- The lack of time available to the public to consider the detailed arrangements proposed by the organisers in the Event Management Plan
- The inadequacy of the notice given of the application, both on site and in the press
- Concerns about the financial history of these events and the financial security of the company organising the current proposed event
- Although there were only a relatively small number of properties that would be affected, the residents were still entitled to enjoy their properties without the disruption that this event would cause.

The Sub-Committee members then retired to consider the application at 3.10pm and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Hearing reconvened at 4.10pm

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 wildlife was not a licensable objective.

Time limits had been taken into account.

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 Western Area Licensing Sub Committee has resolved to GRANT the application for a time limited Premises Licence as follows:

Premises Licence from 12 noon on Thursday 30 May 2013 to 05:00 hrs Monday 3 June 2013 for Sunrise Festival, Thoulstone Park Golf Club, Chapmanslade, Wiltshire for the following licensable activities:

Licensable Activity	Timings	Days
<u>Provision of regulated entertainment</u>  Plays (In & Outdoors) Indoor Sporting Events  Films (In & Outdoors)  Live music (In & Outdoors) Recorded music (In & Outdoors) Performance of dance (In & Outdoors) Anything of a similar description (In & Outdoors) – Circus Performance, Marching & Street Bands, Walkabout Performance & Similar	12:00 Thursday – 00:00 Sunday  12:00 Thursday – 04:00 Monday  12:00 Thursday – 02:00 Monday	Thursday to Sunday  Thursday to Monday  Thursday to Monday
<u>Provision of entertainment facilities</u>  <b><u>Facilities are no longer</u></b>		

<b><u>licensable</u></b>		
Making Music (In & Outdoors)	12:00 Thursday – 04:00 Monday	Thursday to Monday
Dancing (In & Outdoors) Entertainment of a similar description (In & Outdoors)	12:00 Thursday – 02:00 Monday	Thursday to Monday
Provision of late night refreshment (In & Outdoors)	23:00 Thursday – 05:00 Monday	Thursday to Monday
Supply of Alcohol (On the premises)	12:00 Thursday – 01:30 Monday	Thursday to Monday
Hours premises are open to the public	10:00 Thursday – 16:00 Monday	Thursday to Monday

Subject to the following conditions:-

1. The licence holder shall at all times comply with the detailed arrangements for the event set out in the final agreed version of the Event Management Plan.
2. The event will not take place until the Crime and Disorder and Public Safety elements of the Event Management Plan, (in particular the Drugs Policy, policing levels, security/stewarding levels, hours of alcohol sale, age verification, traffic management) have been submitted and approved by the Licensing Authority in consultation with Wiltshire Police. The final version of the Event Management Plan will be submitted not later than 30 days prior to the event. No changes likely to have an adverse impact on Crime and Disorder or Public Safety may be made after the Event Management Plan has been approved by the Licensing Authority in consultation with Wiltshire Police without the written consent of both those parties.
3. The maximum noise levels to apply shall be as follows:-
  - a. 50dB between 17.00 and 23.00 – Thursday  
40dB between 23.00 and 01:00 – Thursday to Friday morning  
60dB between 12.00 and 23.00 – Friday, Saturday and Sunday  
50dB between 23.00 and 00.00 – Friday, Saturday and Sunday

45dB between 00.00 and 02:00 – Saturday and Sunday morning

Music to be inaudible outside residential receptors after these times

**Applied to Thoulstone Park House, Thoulstone Cottages and Spinney Farmhouse only.**

- b. 47dB between 17:00 and 23:00 – Thursday  
37dB between 23:00 and 01:00 – Thursday to Friday morning  
57dB between 12.00 and 23:00 - Friday, Saturday and Sunday  
47dB between 23:00 and 00:00 - Friday, Saturday and Sunday  
42dB between 00:00 and 02:00 - Saturday and Sunday mornings

Music to be inaudible outside residential receptors after these times

**Applied to Chalcot house only.**

- c. 40dB between 17:00 and 23:00 – Thursday  
30dB between 23:00 and 01:00 – Thursday to Friday morning  
50dB between 12.00 and 23:00 hrs - Friday, Saturday, Sunday  
40dB between 23:00 hrs and 00:00 - Friday, Saturday, Sunday  
35dB between 00:00 and 02:00hrs - Saturday and Sunday mornings

Music to be inaudible outside residential receptors after these times

**Applied to Dilton Court Farm and Clearwood View only.**

- 4. The maximum levels of low frequency noise shall not exceed the following on all days:-

Between 12:00 and 23:00 – 75dB at 63 and 125 Hz ( based on 60dB MNL)

Between 23:00 and 00:00 - 70dB at 63 and 125 Hz ( based on 50dB MNL)

Between 00:00 and 02:00 – 65dB at 63 and 125 Hz ( based on 45dB MNL)

and to be inaudible outside residential receptors after these times

**Reasons:**

The Sub Committee acknowledged the concerns raised by residents in their oral and written representations regarding public safety, the prevention of public

nuisance and the prevention of crime and disorder. However the Sub Committee felt that these issues had been appropriately addressed by the applicant in their event management plan and arrangements for the event and that they had also been discussed with responsible authorities and other relevant agencies during the planning of the event. The Sub Committee noted in particular that there had been no representations or objections from the Responsible Authorities other than the comments from Environmental Protection regarding noise levels which are addressed by the additional conditions proposed. They felt that these conditions were appropriate to address the licensing objectives of the prevention of public nuisance and public safety and that the conditions, together with the arrangements in the operational plan adequately addressed the concerns raised by the residents about those objectives and also the objectives of the prevention of crime and disorder and protection of children from harm.

### **Evidence:**

The Sub-Committee heard evidence from the applicant regarding their proposals for a four-day music festival at the Thoulston Park Golf Club site, between 30<sup>th</sup> May and 2<sup>nd</sup> June 2012. The applicants explained the history of previous events held in Somerset and drew attention to the low level of objections received after the initial events, indicating, in their view, that the understandable concerns of local residents in advance of those events had proved to be unfounded. Mr. Anderson, the Applicants' noise consultant, explained that a comprehensive noise prediction survey had been carried and that, in his view, the event could meet the proposed maximum noise levels.

The Applicants accepted that they had incorrectly treated Thoulstone Park House as being 'desensitised' and stated that they would discuss with the occupants of that property what measures might be put in place to assist them.

Mr. Hurring, on behalf of the applicants, explained the proposals as set out in the event management plan to address the other issues that had been raised by the objectors, mainly those relating to traffic, parking, security, litter and access for residents. He drew attention in particular to the following:-

- There would be marshalling at perceived vulnerable parking points, with a 24 hour community safety patrol
- No entry would be allowed to customers arriving on foot
- All responsible authorities were satisfied with the traffic management arrangements. If traffic began to stack up on the Thursday, prior to the start of the event, they would allow access to the car parks
- Arrangements were in place to give priority to local residents to allow them access to their properties.

Mr Freegard, on behalf of the Public Protection Team, stated that he remained concerned that two properties had not been included in the noise predictions and that the event was to last for four days



Evidence was then given by and on behalf of a number of those local residents who had made relevant representations. Among the issues raised were:-

- The omission of Thoulstone Park House from the noise assessments, when this property was the one most likely to be affected by noise from the main stage
- The effect of unamplified music and the general noise generated by a large number of people, which did not appear to be addressed in any of the proposed conditions
- The disproportionate impact of low frequency noise and the need for this to be addressed.
- The effect of the proposed event on wildlife in the area
- The high number of accidents on the A36 in the vicinity of the site and the increased risk of accidents if the event were to take place
- The lack of time available to the public to consider the detailed arrangements proposed by the organisers in the Event Management Plan
- The inadequacy of the notice given of the application, both on site and in the press
- Concerns about the financial history of these events and the financial security of the company organising the current proposed event
- Although there were only a relatively small number of properties that would be affected, the residents were still entitled to enjoy their properties without the disruption that this event would cause.

### Considerations

In considering the representations made by the parties, the Sub-Committee were satisfied that adequate notice of the application had been given and that there had been an opportunity for the residents' concerns to be raised. They accepted that the objectors had only had a limited time to address the detailed proposals by the applicants and took this into account in considering how much weight to give to the submissions by the parties. They also took into account the comments regarding the financial history and status of the applicants, but were satisfied that, to the extent that this was relevant to the licensing objectives, this did not affect their decision on the merits of the application.

The Sub-Committee considered that the applicants had prepared a comprehensive event management plan that was acceptable to the relevant responsible authorities. For the reasons stated above, the Sub-committee therefore felt it appropriate to grant the licence, with the additional conditions specified.

In reaching its decision, the Sub Committee took into account the views of the Responsible Authorities, all of the written relevant representations contained within the agenda papers and presented at the hearing, the oral representations received at the hearing and the relevant provisions of the Licensing Act 2003 (in

particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council.

### **Right to Appeal**

All parties have the right of to appeal to the Magistrates Court within 21 days of the notification of the decision.

(Duration of meeting: 10.00 am - 4.15 pm)

The Officer who has produced these minutes is Sam Bath, of Democratic Services, direct line 01225 7118211 , e-mail [Samuel.bath@wiltshire.gov.uk](mailto:Samuel.bath@wiltshire.gov.uk)

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

**Wiltshire Council**

**Licensing Committee**

**2 September 2013**

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## **Review of Wiltshire Council Statement of Licensing Policy**

**Cabinet member: Councillor Keith Humphries – Public Health and Protection, Adult Care & Housing**

### **Summary**

A previous report presented to the Licensing Committee on 14 September 2012 considered the new tools available to the Council when licensing premises in the area. At the time that the report was written the secondary legislation was not available and therefore the new tools could not be considered for inclusion into any subsequent review of the Council's Statement of Licensing Policy. During the last twelve months three significant consultations have been carried out by the Home Office and the Department for Culture Media and Sports which have had further influence and change on Licensing legislation. This report informs the Committee on the progress made on reviewing the Council's Statement of Licensing Policy and outlines the next steps.

### **Proposal**

That the Licensing Committee note the report and task the Corporate Director to ensure that the next steps are carried out within the next twelve months as recommended in the report.

### **Reason for Proposal**

Wiltshire Council is a Licensing Authority for the purpose of the Licensing Act 2003. Section 5 of the Act requires all licensing authorities to prepare and publish a Statement of Licensing Policy every five years. This outlines how the Licensing Authority proposes to exercise their functions under the Act during the period to which the Policy Statement applies.

**Maggie Rae, Corporate Director**

## **1. Purpose of Report**

- 1.1 To inform the Committee on the progress made in reviewing the Council's Statement of Licensing Policy.
- 1.2 To task the Corporate Director to carry out the next steps during the subsequent twelve months as recommended in the report.

## **2. Background**

- 2.1 A previous report presented to the Licensing Committee on 14 September 2012 considered the new tools available to the Council when licensing premises in the area. At the time that the report was written the secondary legislation was not available and therefore the new tools could not be considered for inclusion into any subsequent review of the Council's Statement of Licensing Policy. During the last twelve months three significant consultations have been carried out by the Home Office and the Department for Culture Media and Sports which have had further influence and change on Licensing legislation. Any future review must take these changes in legislation in to account.
- 2.2 The Council is required to prepare and publish a Statement of Licensing Policy every five years. The last policy statement was published by the Council in November 2009, to meet our statutory responsibilities the new statement must be prepared and published before November 2014.

## **3. Key Areas that the Policy Will Address**

### **Legislation**

- 3.1 Since the publication of the Council's Statement of Licensing Policy in November 2009 there have been significant changes made to the Licensing Act 2003 and associated section 182 Guidance. The Guidance has been reissued seven times during this period. Certain forms of Regulated activities have either been totally deregulated hence they are no longer licensable or partially deregulated. New tools such as Early Morning Restriction Orders and Late Night levies have been introduced. The new policy must take account of these changes.

### **Community Engagement**

- 3.2 In light of experience the issue of large scale licensable events such as festivals needs to be addressed within the new policy. Currently the policy is not strong enough when addressing these events. Applicants often do not engage with the Licensing Authority or Responsible Authorities prior to submitting a formal application for a license, thus not providing sufficient time to properly assess the impact that the event may have on the local community, especially concerning public nuisance or public safety issues. The emphasis has shifted from a cafe culture to one where the community has a much stronger voice due to the removal of the vicinity test. To

ensure that communities have a greater say, Area Boards should be added to the list of consultees once the new policy has been drafted.

### **Fees**

- 3.3 At the time of writing this report the Council are waiting for a response from the Local Government Association concerning a recent licensing fees case R (Hemming and others) v Westminster City Council and its implications around any introduction of Late Night Levies.
- 3.4 At present the fees associated with Licensing Act 2003 applications have been set by central Government. There is a current challenge to this position due to the decision made in the above case.
- 3.5 The level of licensing fees set by central Government concerning large scale events should also be addressed, as currently these events can have an adverse impact on public funds.
- 3.6 To ensure that all future license fees set by local authorities comply with Article 13.2 of the European Services Directive (2006/123) it is highly likely that all licensing fees will be set locally including those associated with the Licensing Act 2003. If central Government change the statute within the next six months Wiltshire Council must change its policy to adopt locally set fees. The method of setting fees must be clear, unambiguous, transparent and easily understood. The fees should be based on full cost recovery to the council when exercising the licensing function. The fees will not include wider costs such as managing the night time economy. The fees must equate as nearly as possible to the aggregate costs of discharging the licensing function and a share of the Licensing Authorities general costs.
- 3.7 When setting fees the Committee will need to have all relevant information before it when determining them to avoid any legal challenge. The next steps to be taken in anticipation of locally set fees is to task the new Head of Service for Community Safety and Licensing to carry out a budget audit on the Licensing Act 2003 income and expenditure to ensure that the Council are providing a cost neutral licensing service.

### **Special Policies**

- 3.8 Special Policies to deal with the Cumulative Impact of licensed premises have not in the past been adopted by Wiltshire Council.
- 3.9 In determining whether to adopt a Special Policy for a particular area the Licensing Authority may gather evidence and intelligence from Responsible Authorities and local residents concerning levels of crime, disorder and nuisance.
- 3.10 There is evidence and intelligence to inform the adoption of a Special Policy for the Milford Street area in Salisbury. This evidence relates to incidents of crime and disorder recorded by Wiltshire Police, complaints

from local residents and data provided by both the local minor injuries unit and the South West Ambulance Trust.

- 3.11 The next steps in adopting a Special Policy for Milford Street in Salisbury will involve further analysis of the data and evidence to identify the area in which problems are arising, and the boundaries of that area, making an assessment of the causes and carry out a full consultation process for a twelve week period with all Responsible Authorities, the city council, Salisbury and District Chamber of Commerce, Salisbury Pub Watch and Poppleston Allen, Licensing Solicitors.

#### **Best Practice Schemes**

- 3.12 The last key subject that the new policy should address is industry best practise schemes such as `Pub Watch`, Purple Flag and Business Improvement Districts. The Council recognises the value of such schemes and needs to be a key player in supporting their introduction and maintenance.

#### **4. Safeguarding Considerations**

- 4.1 Children's services are a Responsible Authority and statutory consultees where new premises license and variation applications are concerned. It will be incumbent upon officers to make a representation or call a review if safeguarding issues arise around licensed premises.

#### **5. Public Health Implications**

- 5.1 From April 2012 Public Health has become a Responsible Authority and statutory consultee where new premises license and variation applications are concerned. Consideration of early interventions associated with the irresponsible sale of alcohol should be made by the Public Health team in the licensing context.

#### **6. Environmental and Climate Change Impact of the Proposal**

- 6.1 There is minimal environmental impact of these proposals.

#### **7. Equalities Impact of the Proposal**

- 7.1 The impact of these proposals is assessed as "low" against the Council's statutory responsibilities.

#### **8. Risk Assessment**

- 8.1 If the Licensing Authority do not prepare and publish a new Statement of Licensing Policy during the next twelve months it will not meet its statutory responsibilities.

#### **9. Financial Implications**

- 9.1 Costs will be incurred in the carrying out of the consultation for both the Special Policy dealing with cumulative impact in Milford Street Salisbury and the new Statement of Licensing Policy.

## **10. Legal Implications**

- 10.1 The Council will consult on the proposal to introduce a Special Policy for Milford Street in Salisbury and it will consult widely on its new Statement of Licensing Policy. The Council will consider changes to its policy in light of comments made by persons responding to the consultation.

## **11. Conclusions**

### **Next steps**

- 11.1 The Council must prepare and publish a new Statement of Licensing Policy before November 2014.
- 11.2 All changes to licensing statute must be considered and included in the preparation of the Councils Statement of Licensing Policy.
- 11.3 In the interest of giving communities a stronger say Area Boards should be added to the list of consultees when the statement has been prepared.
- 11.4 Consideration should be given to the introduction of locally set fees when the statute allows.
- 11.5 Emphasis must be given to the early engagement of applicants with the Licensing Authority and all Responsible Authorities where new Festival applicants are concerned.
- 11.6 Further analysis of the available data and evidence in support of the adoption of a Special Policy for the Milford Street area of Salisbury needs to be carried out and a consultation process completed with all interested parties over a twelve week period.

## **12. Recommendation**

- 12.1 The Licensing Committee note the report and task the Corporate Director to carry out the next steps within the next twelve months as recommended in the report.

**Maggie Rae**  
**Corporate Director**

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## **Background Papers**

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

Licensing Act 2003

Section 182 Guidance to the Licensing Act 2003

Wiltshire Councils Statement of Licensing Policy

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**Wiltshire Council**

**Licensing Committee**

**2 September 2013**

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## **Further Harmonisation of Hackney Carriage and Private Hire Licensing**

**Cabinet member: Councillor Keith Humphries – Public Health and Protection, Adult Care and Housing**

### **Summary**

A previous report taken to the Licensing Committee on 26 May 2010 considered and agreed a proposed set of harmonised conditions, administrative and enforcement arrangements for licensing hackney carriages (taxis), private hire vehicles, drivers and operators throughout Wiltshire. This report updates these arrangements and proposes a final step towards harmonisation across the County by the introduction of a single zone for Wiltshire Council and one tariff which will apply throughout the single zone. The report also proposes the inclusion of a “zero tolerance” policy for alcohol and smoking, including a prohibition on the use of electronic cigarettes by drivers.

### **Proposal(s)**

The Licensing Committee is recommended to approve the additional harmonised conditions, administrative and enforcement arrangements:

1. A “zero tolerance” on alcohol use by drivers.
2. A “zero tolerance on smoking in vehicles, which includes the use of electronic cigarettes.

The Licensing Committee is also asked to consider in principle the future introduction of one harmonised zone for the Wiltshire Council area and one tariff which will apply throughout the single zone.

### **Reason for Proposal**

Provide a harmonised service with the introduction of consistent conditions, administrative and enforcement arrangements to be applied throughout the Wiltshire Council area. To introduce and implement a single zone for the whole of the Wiltshire Council area and one tariff to apply throughout the zone. Without the implementation of one zone and harmonised tariffs the Council will not be able to complete the harmonisation of the service. This would be more efficient for the council’s licensing service to administer and any efficiency savings would be passed on to the businesses via the new fee structure.

**Maggie Rae, Corporate Director**

## **1. Purpose of Report**

- 1.1 To introduce further harmonised conditions to be applied throughout the Wiltshire Council area.
- 1.2 To consider in principle the future introduction of a harmonised zone for the whole of the Wiltshire Council area and one harmonised tariff to apply throughout the zone.

## **2. Background**

- 2.1 A previous report taken to the Licensing Committee on 26 May 2010 considered and agreed a proposed set of harmonised conditions, administrative and enforcement arrangements for licensing hackney carriages (taxis), private hire vehicles, drivers and operators throughout Wiltshire. These conditions are attached at Appendix 1. This report updates condition D22 “No Smoking Policy” to include the prohibition of the use of electronic cigarettes. This report also asks the Committee to consider the inclusion of a “zero tolerance” policy for alcohol use by drivers. Both the condition and proposed statement of intent through a zero tolerance policy represent good practice and are in keeping with policies adopted by other Local Authorities. The reason for prohibiting the use of electronic cigarettes is that the Council has received complaints from the drivers when passengers have used them in their licensed vehicles and from members of the public who think licensed drivers have been smoking in their vehicles.
- 2.2 Although Wiltshire Council has been a Unitary Authority since 2009 taxis and private hire licensing continues to operate as four separate zones based on the old district council areas. The legislation however allows the council, to merge these existing zones into one large zone that would cover the whole of the Wiltshire Council area. Three of the four existing zones are already very similar and this will be the final step towards complete harmonisation. This means that all hackney carriages and private hire driver and vehicle licenses would be valid throughout the whole council area and covered by a single fee.
- 2.3 The Department for Transport document “Taxis and Private Hire Licensing: Best Practice Guidance” dated March 2010 advises that a single zone is more appropriate than retaining historic multiple zones. The relevant part of the guidance is reproduced below:

### **TAXI ZONES**

1. *The areas of some local licensing authorities are divided into two or more zones for taxi licensing purposes. Drivers may be licensed to ply for hire in one zone only. Zones may exist for historical reasons, perhaps because of local authority boundary changes.*
2. *The Department recommends the abolition of zones. That is chiefly for the benefit of the travelling public. Zoning tends to diminish the supply of taxis and the scope for customer choice - for example, if fifty taxis were licensed*

*overall by a local authority, but with only twenty five of them entitled to ply for hire in each of two zones. It can be confusing and frustrating for people wishing to hire a taxi to find that a vehicle licensed by the relevant local authority is nonetheless unable to pick them up (unless pre-booked) because they are in the wrong part of the local authority area. Abolition of zones can also reduce costs for the local authority, for example through simpler administration and enforcement. It can also promote fuel efficiency, because taxis can pick up a passenger anywhere in the local authority area, rather than having to return empty to their licensed zone after dropping a passenger in another zone.*

2.4 Consultation; Informal consultation has already commenced with all current licence holders in the taxi and private hire licensed trade in Wiltshire. Formal consultation will take place with the taxi and private hire licensed trade once the informal consultation has been completed.

2.5 A proposed harmonised tariff for Wiltshire Council is included at appendix 2.

### **3. Main Considerations for the Council**

3.1 Without the implementation of one zone and harmonised tariffs the Council will not be able to complete the harmonisation of the service. This would be more efficient for the council's licensing service to administer and any efficiency savings would be passed on to the businesses via the new fee structure. It should be noted that three of the four current zone areas are already very similar.

### **4. Safeguarding Considerations**

4.1 All licensed taxi and private hire drivers in the Wiltshire Council zone are subject to a "fit and proper" test which ensures the safety of all passengers, including vulnerable adults and children.

### **5. Public Health Implications**

5.1 The "zero tolerance" policy for alcohol and smoking (including the prohibition on the use of electronic cigarettes) promotes a healthier lifestyle.

### **6. Environmental and Climate Change Impact of the Proposal**

6.1 There is minimal environmental impact of these proposals.

### **7. Equalities Impact of the Proposal**

7.1 The impact of these proposals is assessed as "low" against the Council's statutory responsibilities.

### **8. Risk Assessment**

8.1 If a harmonised tariff rate cannot be agreed the Council could be open to legal challenge by the taxi and private hire trade.

## **9. Financial implications**

9.1 Costs will be incurred in the carrying out of consultation, and these can be absorbed within the existing budgets for the service.

9.2 One zone and harmonised tariffs would be more efficient for the council's licensing service to administer and any efficiency savings would be passed on to the businesses via the new fee structure.

## **10. Legal Implications**

10.1 The Council will consult on the proposed single zone and tariff and will consider any objections before adoption as required by law. A further report will be presented to the Licensing Committee after which final approval will need to be sought from Full Council.

## **11. Conclusions**

11.1 This is the final harmonisation necessary as a result of Wiltshire Council becoming a Unitary Authority.

11.2 Without the implementation of one zone and harmonised tariffs the Council will not be able to complete the harmonisation of the service. This would be more efficient for the council's licensing service to administer and any efficiency savings would be passed on to the businesses via the new fee structure. It should be noted that three of the four current zone areas are already very similar.

## **12. Recommendations**

12.1 That the Licensing Committee agrees to the addition outlined in the condition D22 "No Smoking Policy" to include the use by drivers of electronic cigarettes.

12.2 That the Licensing Committee to consider the inclusion of a "zero tolerance" policy for alcohol use by drivers.

12.3 That the Licensing Committee to consider in principle the future introduction of a harmonised zone for the whole of the Wiltshire Council area and one harmonised tariff to apply throughout the zone, and that formal consultation with the trade is commenced.

**Maggie Rae, Corporate Director**

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## **Background Papers**

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

None

## **Appendices**

Appendix 1 – Conditions for Wiltshire Council Private Hire and Hackney Carriages.

Appendix 2 – Proposed harmonised tariffs.

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# APPENDIX 1

Conditions for Wiltshire Council Private Hire and  
Hackney Carriages

# DRIVER CONDITIONS

Irrespective of whether taxi licensing continues to operate as four independent zones or merge to become a single zone, the council intends to adopt a single set of conditions relating to drivers licensed to drive private hire vehicles, hackney carriage vehicles or both private hire vehicles and hackney carriages.

## Proposal

The council proposes the following conditions for all private hire and hackney carriage drivers licences:

## Hackney Carriage / Private Hire Drivers

In these conditions, unless otherwise indicated

- “The council” means “Wiltshire Council”.
- “The Driver” means the holder of a licence granted by the council under Section 46 Town Police Clauses Act 1847 or Section 51 Local Government (Miscellaneous Provisions) Act 1976.
- “Licensed Vehicle” means a vehicle granted a licence by the council under Section 37 Town Police Clauses Act 1847 or Section 48 Local Government (Miscellaneous Provisions) Act 1976.
- “Proprietor” means the person to whom a vehicle licence is issued.

## Conditions of Licence

### D1 Control of Licensed Vehicles and Drivers

Local Authorities have a statutory obligation to licence and regulate hackney carriage and private hire, vehicles, drivers and operators. The most important reason for this is to provide a service to the general public that is both accessible and safe. In order to achieve this all applicants are vetted with the Criminal Records Bureau with an Enhanced check and vehicles are tested on a regular basis.

Once licensed a taxi or private hire vehicle remains a licensed vehicle 24 hours a day, irrespective of the use to which the vehicle is being put. Consequently the only persons allowed to drive a licensed taxi or private hire vehicle are those who have been issued with a driver licence by the same local authority who licensed the vehicle.



There are exemptions to this rule, but only in respect of licensed taxis. Persons who are allowed to drive a licensed taxi, without firstly obtaining the appropriate driver licence, are:

- An applicant taking a driving test in order to obtain their taxi driver licence
- A mechanic road testing a licensed taxi.

These exemptions do not apply to private hire vehicles.

#### D2 Accident Reporting

The driver/proprietor of a licensed vehicle shall report to the council as soon as is reasonably practicable and within 72 hours of the occurrence of any accident:

- Damage materially affecting the safety, performance or appearance of the vehicle; or
- Damage affecting the comfort or convenience of persons using the vehicle; or
- Damage rendering the vehicle in contravention of the licensed vehicle conditions.

#### D3 Animals

Any animal belonging to or in the possession of the driver must not be carried in any licensed vehicle when the vehicle is plying for hire, during a hiring or prior to any booking.

Any animal belonging to or in the custody of any passenger may be conveyed in a licensed vehicle at the discretion of the driver. The animal must be carried in a suitable cage, or safely restrained on a lead, whilst in the vehicle.

#### D4 Assistance Dogs – including Guide Dogs and Hearing Dogs

Under the Disability Discrimination Act 1995, the driver of a licensed vehicle must carry guide dogs, hearing and certain other assistant dogs free of charge. Medical exemption certificates may be issued to drivers which must be clearly displayed in the vehicle, (these can be obtained from the licensing office for drivers who have a proven medical condition that would exclude them from carrying any type of dog).

#### D5 Canvassing or Touting

A driver/proprietor of a taxi when standing or plying for hire shall not, by calling out or otherwise, persistently request any person to hire such vehicle and shall not make use of the services of any other person for that purpose.

#### D6 Complaints from the public

The driver of a licensed vehicle must report any complaint made by a member of the public as soon as possible to the Vehicle Proprietor/Operator, who must inform the council's Licensing Officer. The driver will also be responsible for informing the complainant that he may complain to the Licensing Authority, if he so wishes, and afford him every assistance to do so.

#### D7 Conduct of Driver and Providing Assistance

A driver of a licensed vehicle shall, when standing, plying or driving for hire:

- (a) Conduct themselves in a civil and orderly manner.
- (b) Be respectably dressed and clean and tidy in appearance.
- (c) Take all reasonable precautions to ensure the safety of persons conveyed in, entering or alighting the vehicle.
- (d) Provide sufficient assistance to open doors and aid passengers walking to and from, as well as exiting and alighting from the vehicle. In particular, offer assistance to:
  - Blind and partially sighted passengers.
  - Disabled passengers whether in a wheelchair or not.
  - Elderly or infirm passengers.
  - Passengers who appear to require assistance or who request it.

For further information see advice sheet.

#### D8 Deposit of licence

Before commencing to drive for your employer you are required to provide a copy of your paper Hackney Carriage / Private Hire Driver Licence, which they are required to retain until such time that you leave their employ.

If you are an independent driver who is operating your own vehicle under your own insurance, this does not apply to you.

#### D9 Driver and Vehicle Documentation

The driver of a licensed vehicle shall produce their council driver's badge, current personal driving licence and the certificate of insurance to any authorised officer of the council or police officer on request.

#### D10 Driver – Dress Code

Drivers should be suitably dressed not to cause offence.

#### D11 Driver – Notification of information

The driver of any licensed vehicle shall as soon as possible and within seven days notify the council in writing of any:

- Change of address.
- Change of employment with a taxi/private hire company.
- Conviction or formal caution (including traffic offences) being recorded against them.
- IMMEDIATELY IF BANNED FROM DRIVING – it is accepted that this can only be done in office hours.
- Medical or other circumstances where they have been advised to stop driving.

#### D12 Driver Identification

A driver of a licensed vehicle shall:

- (a) When standing, plying or driving for hire, wear the drivers badge provided by the council in such a position and manner on the upper part of the body so as to be plainly visible.
- (b) Not lend the badge to any other person or cause or permit any other person to wear it.

#### D13 Driver – Refusal of a fare

Under Section 53 Town Police Clauses Act 1847 any driver who refuses or neglects, without reasonable excuse, to take a fare commits an offence. The council will, in the first instance, determine whether the refusal or neglect was a reasonable excuse. Any sanction for this offence will be either to apply penalty points, which could lead to suspension or revocation of licence, or prosecution in the Magistrates Court.

#### D14 Driver to take Direct Route

The driver of a licensed vehicle when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route and for this purpose shall comply with any Road Traffic Regulation Orders in force.

#### D15 Fare to be Demanded – (Private Hire Only)

The driver of a licensed Private Hire vehicle must not demand from any hirer a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a fare meter, the fare shown on the face of the meter. The fare is for the hire of the vehicle and not per passenger.

#### D16 Items not obligated to carry

A licensed driver shall not be obliged to carry any of the following:

- (a) Any article or animal which is of such bulk or amount or character that the carrying would be likely to cause damage to the vehicle or its fittings.
- (b) Any substance which is or could be flammable, explosive, dangerous, noxious, odorous, foul or offensive.

#### D17 Lost and Found Property

A licensed driver shall immediately after the termination of any hiring carefully search the vehicle for any property which may have been accidentally left therein. If any property is accidentally left in the vehicle the driver shall, if it is not claimed within 48 hours by or on behalf of the owner, hand the property into the council's licensing officer who will issue a receipt.

#### D18 Luggage

A licensed driver shall assist passengers with loading and unloading luggage and convey a reasonable amount of luggage if requested.

#### D19 Luggage on the roof

A driver shall not carry luggage on the roof of any licensed vehicle without ensuring that it is adequately fixed on a secure luggage rack.

#### D20 Medical Condition / Fitness of Driver

A licensed driver shall not drive the vehicle if they know or have reasonable grounds for knowing that they suffer from any illness or disability, which could cause them not to be in full control of the vehicle.

Drivers of licensed vehicle are required to have higher standards of fitness and must undertake a medical examination to Group 2 Standards, Group C1 in the case of insulin or byetta (exenatide) treated diabetes.

- On initial application.
- On their 45<sup>th</sup> birthday, then
- Every 5 years up to the age of 65 years, then
- Annually thereafter.

Conditions such as epilepsy, diabetes (insulin treated) and eyesight problems may be a ban to holding a licence, but full details can be found in the council's Medical Examination form, which will be supplied to all applicants. All examinations should be undertaken by the driver's own GP or a doctor from the same practice who has access to their medical records.

If this advice is ignored and the applicant produces a medical certificate from another doctor the council can exercise its power under Section 57(2) of the Local Government (Miscellaneous Provisions) Act 1976 and request an applicant to submit to a further examination by a doctor selected by the council.

This power can also be exercised at any time, whether or not any such certificate has been produced, requesting any driver to undergo a medical examination. Drivers are asked to cease driving a licensed vehicle and notify the council immediately if they know of any medical condition which may affect their driving ability and the health and safety of themselves and any passengers.

#### D21 Mobile Phones

A mobile phone must not be used whilst driving unless it is designed for hands free operation, (Department for Transport advice is that driving includes times when stopped at traffic lights or other hold-ups that may occur during a typical journey when a vehicle can be expected to move off after a short while).

#### D22 No Smoking Policy

The driver of a licensed vehicle should not smoke in the vehicle at any time, including when being used for social, domestic and pleasure purposes.

The driver of a licensed vehicle shall not permit any other person or fare-paying passenger to smoke in a licensed vehicle. (Note. This is a requirement of the Health Act 2006 and relevant regulations).

#### D23 Number of passengers to be conveyed

A licensed driver shall not cause or permit to be conveyed in the vehicle a greater number of passengers than the licence issued by the council indicates as being the maximum number of passengers that the vehicle can carry, irrespective of the age of the passenger.

#### D24 Obstruction of Authorised Officer

Under Section 73 local Government (Miscellaneous provisions) Act 1976 a licensed driver must not:

- Wilfully obstruct an authorised officer or constable.
- Without reasonable excuse fail to comply with any requirement made to them by such officer or constable.
- Without reasonable cause fail to give assistance or information which may reasonably be required by such officer or constable.
- Give any such information which he knows to be false.

#### D25 Permitting Persons to ride without the consent of the Hirer.

A licensed driver must not permit any other person to be carried without the express consent of the hirer.

#### D26 Punctual Attendance

A licensed driver shall, if they are aware that the vehicle has been hired, punctually attend at the appointed time and place.

#### D27 Radio Communications

A licensed driver shall at the request of passengers refrain from operating a radio or similar equipment whilst carrying passengers for hire.

#### D28 Seat Belts

Passengers – Drivers should advise all passengers of the need to wear a seatbelt. Any passenger who fails to wear a seatbelt commits an offence. If the passenger is over 14 years of age the passenger commits the offence, but any passenger under 14 years old is the responsibility of the driver and the driver commits the offence.

Drivers – Under the requirements of the Motor Vehicles (Wearing of Seatbelts) Regulations 1993 the driver of a licensed vehicle is not required to wear a seatbelt in the following circumstances:

- Taxis – whilst the vehicle is being used for seeking hire, or answering a call for hire, or carrying a passenger for hire.
- Private Hire – whilst the vehicle is being used to carry a passenger for hire.

The following diagram outlines the responsibilities of individuals riding in vehicles and exemptions for taxis. The exemptions mentioned for taxis do not apply to private hire vehicles.

	Front Seat	Rear Seat	Who is Responsible?
Driver	Seat belt must be worn if fitted		Driver
Child under 3 years of age	Correct child restraint must be used	Correct child restraint must be used. If one is not available in a taxi, may travel unrestrained	Driver
Child from 3 <sup>rd</sup> birthday up to 135 cms in height (12 <sup>th</sup> birthday, whichever they reach first)	Correct child restraint must be used	Correct child restraint must be used where seat belts are fitted. Must use adult belt in a rear seat if correct child restraint is not available – <ul style="list-style-type: none"> <li>• in a taxi;</li> <li>• for a short distance in an unexpected necessity;</li> <li>• if two occupied child restraints prevent fitting a third.</li> </ul>	Driver
Child 12 or 13, or over 135 cms in height	Seat belt must be worn if fitted	Seat belt must be worn if fitted	Driver
Adult passengers	Seat belt must be worn if fitted	Seat belt must be worn if fitted	Passenger

D29 Vehicle Condition The driver of a licensed vehicle shall ensure that the licence plate issued by the council is fixed to the rear exterior of the vehicle so as to be clearly visible at all times when the vehicle is operating.

They shall also ensure that the vehicle is in a tidy and clean condition, that the fixtures and fittings are in good working order and repair and that the vehicle is in a fit and roadworthy condition at all times.

#### D30 Wheelchair Accessible Vehicles

(a) All licensed drivers that drive wheelchair accessible vehicles must be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraining mechanisms fitted to the vehicles and be able to provide evidence of suitable training. (Note 'suitable training' will be defined by the licensing authority).

(b) Before any movement of the vehicle takes place the driver must ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied and electric motor switched off. A separate approved occupant restraint system must also be used.

All drivers must ensure that:

- Any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers or to anyone else, in accordance with regulations, S. 100 of the Road Vehicles Construction and use Regulations 1986.
- Should take the passenger without discriminating against a passenger who is disabled.
- If their vehicle is not wheelchair accessible and they are approached or hailed by a passenger requiring to be carried seated in a wheelchair either:
  - Divert the passenger to a wheelchair accessible vehicle on the rank if one is available or,
  - Use their phone or radio to contact an operator of a wheelchair accessible hackney carriage vehicle to arrange to collect the passenger as soon as possible.

It is the drivers responsibility to ensure that disabled passengers are not left unattended during access or egress to or from the licensed vehicle.

#### D31 Private Hire Vehicle Operation

A licensed driver shall not cause their vehicle to stand in a road or public place in such a manner as to suggest that the vehicle is plying for hire or that it is a hackney carriage.

#### D32 Rank Use

A licensed driver while parked on a taxi rank shall:-

- Not leave their Hackney Carriage Vehicle unattended for any reason.
- Move down the rank immediately when a space becomes free.
- Not park on a taxi rank in a Private Hire Vehicle.

A licensed driver who holds a blue badge: -

- When requiring a break park away from the taxi rank so as not to invite customers for hiring.
- Not use their blue badge to gain an unfair advantage in accessing a rank or to secure a position on a rank.

#### D33 Driving Ability

Should an officer of the council have cause to be concerned about the driving ability of any driver, they reserve the right to request the driver to undertake a driving assessment by a driving assessor. The cost of this assessment will be paid for by the driver.

#### D34 Termination or Surrender of Licence

All badges, signs and licence plates issued remain the property of the council at all times. On surrender, expiry, suspension or revocation of the licence, the licence holder must return the driver badge to the council without delay.

### Advice for Taxidriviers –when dealing with disabled persons

Taxis are an invaluable means of door-to-door transport for many people. For a large and growing number of elderly and disabled people, they are quite literally a lifeline. Often taxis provide the only means of accessible local transport, or the only accessible link to long distance transport, for example, by rail or air. In fact, they are the most flexible form of public transport there is.

You may have a vehicle which has been designed to make travelling easier for many elderly and disabled people including those who use wheelchairs. But the vehicle design is only part of the answer. Your attitude and understanding are vital. If you

are not sure how to help or if you are not willing to help elderly or disabled passengers you may lose a significant potential market and they will have lost an invaluable source of independent mobility.

Here is some basic advice to help you give the best service to your passenger and get the best from your vehicle. Disability comes in many forms - some visible, some invisible. Never make assumptions. Always ask what help (if any) a passenger may need from you. Make sure you are familiar with the access and safety equipment in your vehicle. Carrying ramps in a purpose built vehicle may be a condition of your licence. You have a responsibility to know how to use them safely and correctly.

If the passenger is a wheelchair user and you drive a wheelchair accessible vehicle you should always:

- pull up as close as possible to the kerb;
- ask if they would like to use the ramps;
- if necessary, tip up the back seat to give more space to manoeuvre the wheelchair;
- insist that the passenger travels in the correct position as recommended by the vehicle manufacturer, or conversion team. In the case of Fairway or Metro-cab models this position will be facing to the rear of the vehicle. In the case of wheelchair accessible vehicles, which have been specially converted for the purpose of conveying wheelchairs, you should follow the converter's recommendations. Any other travelling position is unsafe;
- always make sure that the brakes of the wheelchair are on;
- be polite and ask before touching or moving your customer;
- secure the wheelchair and suggest that the passenger also uses the seat belt provided (they may need your help with this);
- avoid sudden braking or acceleration;
- if it has been raised, lower the back seat, if the passenger would prefer it;
- bring the wheelchair out of the vehicle backwards down the ramp and ask if the passenger would like the brakes on once it is unloaded;
- leave the passenger in a safe and convenient place which enables them



to move away independently.

If you drive a saloon car, you may still be able to take wheelchair users provided that the passenger is able to transfer. In those circumstances, you should ask the passenger what help they require, listen to their response, and act only as advised.

Take care when loading the wheelchair into the boot. Wheelchairs can be expensive to repair or replace and without it the passenger may be totally immobile.

Remember, many disabled people who have mobility difficulties will not use a stick or crutches. People, with arthritis in particular, may be unable to walk using a stick or crutches due to painful upper limbs. If the passenger appears to have walking difficulties, or is frail or elderly, always:

- Offer to fit the additional step if there is one - this reduces the first step and makes it easier to get into the vehicles;
- Ask whether pulling up as close as possible to the kerb would be helpful. For saloon cars this may not be useful because it increases the height the passenger has to drop down to the seat and may make it more difficult for them to get out of the seat at the end of the journey;
- Offer the use of the swivel seat (if you have one);
- Be ready to help but do not insist on helping. If you are asked to help, listen carefully to the information given, or ask what is the best way to assist;
- If you have used the swivel seat, make sure it is locked back in position once inside the vehicle.

If the passenger is blind or partially sighted, ask what assistance they require and always:

- Look out for the "TAXI" sign which is held out by some blind and partially sighted people to hail a cab;
- If you are collecting a blind or partially sighted passenger from a pre-booked location, knock at the door on arrival - do not remain in the cab and hoot your horn;
- Tell your passenger whether they are entering a saloon car or purpose built cab;
- Demonstrate which way the doors open;
- If possible, place the blind person's hand on the open door and indicate the position of the roof;
- Make sure they know which way the vehicle is facing;
- Make sure they are seated and have secured the seat belt (where applicable) before you move off. They may like help with the belt;
- Tell them if you are taking a different route from that which they might expect, or if there is a hold-up or diversion;
- Tell them the fare and count out the change;
- Set them down in a safe place and make sure they know where they are going. If they would like to be accompanied to an entrance of a building, offer them your arm; gripping just above your elbow will enable them to be guided more easily;
- Remember guide dogs are trained to remain on the floor of a vehicle and

will not abuse your vehicle. Refusal to carry a guide dog, may also be in contravention of the conditions attached to your licence. In saloon cars, there is more room for the dog on the floor in front of the vehicle.

If the passenger is deaf or hard of hearing, always:

- Look at them when you are speaking. Speak clearly - but don't shout!
- Always have a pad of paper and pen handy as it is sometimes easier to communicate in writing;
- Make sure that they are aware that you have understood their instructions and that you know where you are going;

## HACKNEY CARRIAGE VEHICLES

### Proposal

The council proposes the following conditions for all hackney carriage vehicles:

Where any grandfather rights are proposed to protect existing licence holders these are specified within the proposals.

## Hackney Carriage Vehicles

In these conditions, unless otherwise indicated:

- “The council” means “Wiltshire Council”.
- “Vehicle” means Hackney Carriage and is a vehicle granted a licence by the council under Section 37 Town Police Clauses Act 1847.
- “Taxi” means Hackney Carriage.
- “The Driver” means the holder of a licence granted by the council under Section 46 Town Police Clauses Act 1847 or Section 51 Local Government (Miscellaneous Provisions) Act 1976.
- “Proprietor” means the person to whom the vehicle licence is issued.

No vehicle will be licensed as a Hackney Carriage unless it has first been inspected by an officer of the council and found to comply with these conditions. Although council Officers will offer guidance and assistance to applicants for a vehicle licence, no approval can be issued until the vehicle has been inspected. Applicants are advised to discuss any proposed acquisition of a vehicle for use as a Hackney Carriage with council Licensing Officers prior to any such acquisition.

Once licensed the vehicle must meet all the conditions at all times.

## Conditions of licence

The holder of the licence shall comply with the provisions of the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976 and the conditions detailed below:-

### T1 Single Licensing of Vehicle

This licence is issued on the condition that the vehicle to which it relates is not licensed as either a Hackney Carriage or Private Hire Vehicle by another council. If Wiltshire Council becomes aware of other vehicle licences (hackney carriage or private hire) running concurrently with this licence then this licence will be revoked.

## T2 Passengers

The number of passengers conveyed in the vehicle should not be more than the number prescribed in the licence, regardless of the age or size of the passenger.

## T3 Inspection Frequency and Age Policy

On first application for a licence only vehicles under 5 years old from the date of first registration will be considered.

Prior to first application a conditions check will be carried out by a licensing Officer before referral for a new MOT or Compliance Certificate, irrespective of the vehicles age.

From the date of the first licence being issued a conditions check, carried out by a Licensing Officer, and an MOT or Compliance Certificate will be required on a 6- monthly basis, irrespective of the vehicles age.

All existing licensed vehicles will be required to have a 6-monthly conditions check, carried out by a Licensing Officer and an MOT or Compliance Certificate, irrespective of the vehicles age.

(NOTE: should a vehicle not be presented for inspection in accordance with the above then the licence may be suspended. Where a vehicle fails the inspection then the licence may be suspended or the licence not renewed.)

## T4 Production of Vehicle Documentation

The owner of a hackney carriage vehicle shall, at the request of any authorised officer of the council, produce for inspection:

- The vehicle licence.
- The certificate of insurance covering its use for hire and reward.
- MOT certificate or Compliance Certificate.

## T5 Vehicle type

Owners with more than four hackney carriages and/or private hire vehicles must ensure the next plated vehicle licensed for the first time on or after 1 April 2010 is:

- Wheelchair accessible from the nearside or rear, including a ramp or lift to enable loading.
- Have space to carry at least one passenger while using a wheelchair.

Example:

If you own 2 hackney carriages and 2 private hire vehicles and wish to purchase a 5<sup>th</sup> vehicle for use as a hackney carriage or private hire vehicle, this vehicle must be wheelchair accessible.

(NOTE: this means that purchases of wheelchair accessible vehicles are required for the 5<sup>th</sup>, 10<sup>th</sup>, 15<sup>th</sup>, 20<sup>th</sup> vehicle and so on. See T22 for further

information.)

Vehicles must be either:

- Four door saloons, hatchbacks, MPVs or estate cars. In addition vehicles must have:
  - Between 4 and 8 seats for passengers excluding the driver and
  - Been manufactured or modified for the primary purpose of carrying passengers.

All vehicles must be right-hand drive.

Vehicles must have a hard top roof that cannot be removed. (NOTE: open top vehicles, convertibles or vehicles with removable hard tops will not be licensed).

The vehicle must have at least two doors for the use of passengers, in addition to the driver's door. Where passenger doors are on only one side of the vehicle they must be on the near (left) side.

#### T6 Engine Type

All vehicles must be powered by an internal combustion engine, or a hybrid arrangement of internal combustion engine and electrical motor.

(NOTE: vehicles that are human powered will not be licensed.)

Where a vehicle has been converted to run on LPG a certificate must be produced, prior to a licence being issued, from a member of the LPG Association confirming that the LPG installation conforms to the Association's Code of Practice and is therefore considered safe. If an LPG conversion involves installation of the LPG tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage, and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of the vehicle. These vehicles will be subject to any additional testing required by the compliance testing garage.

In the case of the conversion of a vehicle that is already licensed the above certificate must be produced before the vehicle is operated on LPG.

#### T7 Luggage compartment

The luggage compartment must be completely separate from the passenger carrying area. In the case of estate cars this means that there must be a secure guard fitted between the luggage and passenger compartments.

All luggage must be suitably restrained where it is likely to cause injury to the occupant of the vehicle in the event of an accident.

#### T8 Wheels and tyres

All vehicles must have at least 4 road wheels. A spare tyre, space saver tyre or repair kit must be carried in the vehicle as supplied by the manufacturer when new, together with any necessary jack and tools. Any spare or space saver wheel should be carried in the vehicle in the place allocated by the manufacturer.

(NOTE: Space saver tyres and puncture repair kits will only be acceptable in vehicles that are manufactured without full size spare tyres and vehicles that are adapted in a way to prevent them carrying a full size spare tyre.)

Re-moulded or re-cut tyres must not be fitted to the vehicle and all tyres must be kept at the correct pressure and meet legal requirements.

#### T9 Bull bars

Vehicles must not be fitted with 'bull bars' or other modification that increases the risk to passengers, pedestrians or other road users in the event of impact. Tow-bars are accepted at initial licence. Any material changes to the vehicle (in addition of a tow-bar) must be provided in writing to the relevant Licensing Area Office.

#### T10 Passenger access

All internal door handles must be clearly visible to passengers and, if necessary, marked with signs or identification tape and must be fully operational at all times.

Any steps at passenger door entrances must have clearly marked edges and be lit when the passenger door is open.

#### T11 Seats and seat belts

All passenger seats must be easily accessible to passengers without the need for more than one passenger to move. If access to one or more of the passenger seats requires the folding or moving of the other seats, the release mechanism for the adjustable seat must be clearly marked and visible to passengers.

All passenger seats must face forward or rearward to the direction of travel.

All swivel seats must be fitted in accordance with manufacturer's recommendations.

All seats in the vehicle must be fitted with either a 3 point inertia belt, 2 point lap belt or 3 point disabled persons belt. They must comply with current seatbelt standards and be fully functional at all times.

Passenger seats must be at least 400mm wide per passenger with no significant intrusion by wheel arches, armrests or other parts of the vehicle. There must be a minimum of 860mm headroom for all passenger seats, measured from the rear of the seat cushion to the roof lining.

#### T12 Windows

Vehicles must meet the legal standards for light transmission through the front windscreen and front side windows. Rear windows and rear side windows must have a light transmission of at least 70%, irrespective of whether the vehicle was

manufactured contrary to this standard. Documents must be provided for proof of light transmission when requested by the council. Limousines are excluded from the condition relating to rear and rear side windows.

(NOTE: This standard is the same as the legal requirement for front side windows).

#### Grandfather rights

The part of the above condition that relates to rear and rear side windows will not apply until 1 April 2015 in relation to a vehicle that:

- has been licensed continuously prior to 31 March 2010, and
- the owner at 31 March 2010 continues to have at least 50% ownership of the vehicle

No temporary glass or other material will be accepted as a temporary measure i.e., plastic sheeting until windows are replaced due to damage.

All passengers must have access to an openable window or other form of natural ventilation whilst being carried in the vehicle.

#### T13 No smoking signs

All vehicles must display no-smoking signs in a place visible to all passengers.

#### T14 Communication with the driver

A proprietor of a hackney carriage shall provide sufficient means by which any person in the vehicle may communicate with the driver.

#### T15 Use of Trailers

A vehicle may tow a trailer only when one is required in order to convey a hirer's luggage. If a trailer is towed it shall:

- Be roadworthy at all times, comply with all requirements of the current Road Traffic legislation and the towing weights specified by the vehicles' manufacturer.
- The vehicle insurance must include cover for towing a trailer.
- Comply with the speed restrictions applicable to trailers at all times.
- Provide secure and weather proof stowage for the luggage.
- Trailers must not be towed whilst standing on a hackney carriage rank or left unattended on the highway.
- The driver will hold the appropriate licence category on their DVLA driving licence to tow a trailer.

#### T16 Fire extinguisher

Each vehicle must carry either one 2 kg or two 1 kg dry powder fire extinguishers. The extinguishers must:

- Comply with and be marked as complying with either EN3 or BS 5306 and be so marked.
- Be stored in a readily accessible position in the vehicle.

- Be full and, where a gauge is fitted, this must show that this is the case.

All wheelchair accessible vehicles with a lift MUST carry a 1 or 2kg fire extinguisher at the front and the rear of the vehicle.

(NOTE: no other extinguisher type is permitted.)

#### T17 First aid kit

A First Aid Kit must be carried that contains the following items:

- 6 individually wrapped sterile adhesive dressings.
- 1 large sterile unmedicated dressing, approximately 18 cm x 18 cm.
- 2 triangular bandages.
- 2 safety pins.
- Individually wrapped moist cleansing wipes.
- One pair of disposable gloves.

All first aid kit contents must be within any specified expiry date.

All first aid materials must be carried in a suitable container clearly marked as containing first aid and of a design and construction that protects the contents. The container should be stored in a readily accessible position in the vehicle.

(NOTE: the First Aid Kit is for use by the driver to administer first aid to themselves and is required under the Health and Safety (First Aid) Regulations 1981).

#### T18 Written off vehicles

The vehicle must not have been written off for insurance purposes at any time.

#### T19 Temporary Replacement of Licensed Vehicles

Any licensed vehicle suffering (major) accident damage or requiring mechanical repair may be replaced by a hire vehicle provided:

- The accident damage has been reported by the licence holder in accordance with the requirements of these conditions, or the defect to the licensed vehicle has been similarly reported.
- Application is made by the licence holder for a temporary plate/transfer and the appropriate fee paid.
- The replacement vehicle is properly taxed, insured and tested to the requirements of the normal licence vehicle.
- The replacement vehicle is of suitable size (like for like) to be used for hire purposes.

Providing the foregoing conditions are met:

- The council will issue a temporary licence plate(s) to cover the existing period of the licence.
- Any temporary licence plate(s) must be returned to the council at the end



of the temporary replacement.

- The inspection costs will be borne by the licence holder.
- Any hackney replacement vehicle must be fitted with a meter, which must be tested and calibrated to the council's current tariff.

#### T20 Vehicle condition

The vehicle must be kept in good condition and in particular meet the following criteria at all times:

- Vehicles should have no damage affecting the structural safety of the vehicle.
- The body of the vehicle must be watertight and draught proof.
- Vehicles should be free of significant areas of visible rusting. Minor blemishes are acceptable, but should be regularly treated and painted to match existing paintwork.
- Vehicles should not have any major dents or similar damage to the bodywork.
- Vehicles should have no scratches down to the metal of more than 5 cm in length and no scratches down to base coat longer than 20cm.
- All panels on all vehicles shall be painted in a uniform colour and all original panels and trim shall be in place.
- All seats, including the drivers, must be fully intact, free from cuts, holes, stains or burns, except of a very minor nature. Any repairs must have been carried out in a professional manner. Seat covers are acceptable provided that they meet the above standard.
- All carpets and floor coverings shall be complete and free from all major cuts, tears or obvious stains.
- All interior trim, including headlining, shall be clean, complete, properly fitted and free from serious cuts, tears or staining.
- The luggage compartment must be clean and tidy.

#### Maintenance

The vehicle must be serviced and maintained in accordance with the manufacturer's instructions and suitable records must be available for inspection.

#### T21 Licence Plates

The external licence plate must be securely fixed externally to the rear of the vehicle in a position specified by the council, which is clearly visible, and remain in that position for the duration of the licence.

The internal licence plate must be securely fixed on the inside of the vehicle windscreen or clearly visible in the passenger compartment as specified by the council.

#### T22 Wheelchair Accessible Vehicles

##### Vehicle Type

Any vehicle that has been purpose built, or any vehicle that has been modified or converted to carry a disabled person confined to a wheelchair, will be considered

for licensing provided the vehicle complies with the requirements and conditions laid down by Wiltshire Council.

Vehicles will have a maximum seating capacity of up to eight passenger seats and only forward or rearward facing seats shall be fitted. When carrying a wheelchair this must be included and not in addition to the maximum number of seats. When the wheelchair facility is not required the vehicle will operate as a normal hackney carriage or private hire vehicle with seating for the number of passengers the vehicle is licensed to carry.

Prior to licensing all new vehicles and equipment must undergo an independent initial inspection by a qualified and competent vehicle examiner to ascertain the suitability of the vehicle, and to confirm the vehicle is fit for purpose. This will include the seating, the system and devices used to secure the wheelchair and occupant and the wheelchair access equipment. The applicant must provide the licensing authority with written confirmation from the examiner that the vehicle meets the required standard. A licensing officer may require the vehicle to be referred to the council's designated vehicle examiner. This inspection will be carried out at the owners cost. Existing vehicle licence holders will be required to adhere to this condition within six months of these conditions coming into force.

### Access

All wheelchair accessible vehicles must be able to load a wheelchair using the access equipment by the side or rear access doors. The side access door would be the door situated on the nearside of the vehicle, i.e. kerbside when stopped in a normal road.

The aperture of the door into which the access equipment is fitted shall have minimum clear headroom in its central third of 48 inches (1.220m). The measurement shall be taken from the upper centre of the aperture to a point directly below on either the upper face of the fully raised platform or the upper face of the ramp fully deployed on level ground.

A locking mechanism shall be fitted that holds the access door in the open position whilst in use.

### Equipment

A wheelchair accessible vehicle shall be fitted with either of the following forms of wheelchair access equipment:

#### Ramps

Any purpose designed access ramp that is carried must be lightweight and easy to deploy. The installed ramp shall have visible reference to a safe working load of 250 kgs and certified BS6109.

#### WheelchairLift

A purpose designed wheelchair lift shall conform to the LOLER 98 Regulations. Vehicles presented for inspection with a wheelchair lift will require a valid LOLER certificate.

The wheelchair access equipment shall be fitted such that it terminates at the interior floor level so as to allow smooth entry/exit of the wheelchair.

### Anchorage

The wheelchair must always be carried in a secure and stable position as recommended by the vehicle manufacturer or conversion team. In the case of purpose built vehicles i.e. London style taxis, this position will be facing the rear of the vehicle. In the case of vehicles, which have been specially converted for the purpose of conveying wheelchairs, the converter's recommendations should be followed. Please note this will always be either facing the front or rear of the vehicle. Wheelchairs should never be carried facing sideways in a vehicle.

A system for the effective anchoring and securing of wheelchairs shall be provided within the vehicle in all spaces designated as wheelchair spaces. The system and the devices used to secure a wheelchair to the vehicle shall comply with the relevant standards laid down in European Directive 76/115 EEC (as amended by 90/629 EEC).

All wheelchair tracking must comply with European Standard UNECE Regulation 14 (EC Directive 76/115 EEC).

Each wheelchair user shall be provided with a disabled person seatbelt, which fastens to the structure of the vehicle either permanently or temporarily by use of approved fixings appropriate to the position of the wheelchair. European Directive 76/115 EEC and Regulations 46 & 47 Road Vehicles (Construction and Use) Regulations 1986).

### T23 Notification of changes

Once a licence has been issued the following criteria will apply to the owner of a hackney carriage:

The licence holder must within 72 hours supply the council with details of any:

- Change of the owners business or home address.
- Change of premises where the vehicle is normally kept.
- Accident causing damage or materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein.
- Alteration in the construction, specification, design and condition of the vehicle.

This notification may be by oral report in the first instance, but must be followed up in writing.

The licence holder must give within 7 days written notification to the council of the following:

- The name and address of every additional owner or part owner of the vehicle.

- The name and address of anyone concerned either solely or in partnership with any other person in keeping, employing or letting the vehicle for hire.
- Details of any conviction(s) being recorded against:
  - The owner of the vehicle.
  - Any company of which he/she is a director or secretary.
  - Any person with whom he/she is in partnership or who has any interest in the vehicle.

#### T24 Roof signs

The vehicle must be fitted with an illuminated roof sign ('top sign') on which the word 'TAXI' must appear and be clearly visible from in front of the vehicle. The roof sign must:

- Be securely fixed to the vehicle roof at all times.
- Illuminate automatically when the vehicle taximeter is set to 'for hire'.

(NOTE: there is no restriction or requirement for any wording on the rear of the sign).

#### T25 Fare meters

Vehicles must be fitted with a Hackney Carriage fare meter ('taximeter') which shall be so constructed, installed and maintained so as to comply with the following conditions:

- The taximeter shall be installed by a competent person.
- The taximeter shall be calibrated to the vehicle and the current table of tariffs, set by the licensing authority, applied by a person approved by the manufacturer of the taximeter.
- The taximeter shall be maintained in proper working order and condition.
- The fare meter shall be fitted with a key, flag or other device which will bring the machinery of the fare meter into action and cause the word "HIRED" to appear on the face of the meter.
  - Such key, flag or other device shall be capable of being locked in such a position that the machinery of the fare meter is not in action and that no fare is recorded on the face of the fare meter.
- When the machinery of the fare meter is in action there shall be recorded on the face of the meter in clearly legible figures the fare equal to the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the vehicle by distance and time in accordance with the current Table of Fares.
- The hackney carriage meter shall be positioned so that all letters and figures on its face are at all times plainly visible to any person being conveyed in the vehicle, even during darkness.
- Prior to being licensed, or once licensed and prior to every fare increase, it is the responsibility of the proprietor of a licensed hackney carriage to have the meter calibrated/recalibrated to the current approved council tariff. This is usually done through the meter manufacturer or supplier.
- Any seal applied to the meter or associated components by the council

should not be removed or otherwise tampered with.

(NOTE: under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 an authorised officer of the council can inspect and test, at any reasonable time, any taximeter in a licensed hackney carriage or private hire vehicle. If they are not satisfied as to the accuracy of the meter they may by a notice in writing suspend the vehicle licence until he is satisfied that the meter is working correctly.

#### T26 Fare cards

A copy of the current table of fares (the Fare Card), as supplied by the council, must be displayed on the inside of the vehicle in a conspicuous position so as to be readily visible to any person carried in the vehicle. This table of fares must not have been altered in any way.

#### T27 Advertising on Vehicles

Advertising may only be displayed on a vehicle when it has been approved by the council after adoption of these conditions.

Advertising will only be approved which:

- Provides information about the services provided by the vehicle proprietor and contact details for that operator or relates to goods or services not provided by the vehicle proprietor.
- Does not obliterate or confuse any council licence plate or number plates of the vehicle.
  - Is unlikely to cause offence.
- Complies with the latest British Code of Advertising, Sales Promotion and Direct Marketing (The “CAP code”) published by the Advertising Standards Authority.

All advertisements must be submitted in writing to the council for approval, clearly indicating the size, design and location on the vehicle.

#### T28 Bus Lanes – Salisbury Area

Licensed hackney carriages are allowed the use of bus lanes in Milford Street and Castle Road provided certain ‘conditions of use’ are followed.

- Milford Street – never travel at more than 10mph and always have the vehicle’s headlights switched on.
- Castle Road – no additional conditions of use, but vehicles are allowed the use of the ‘bus gate’ at the end of the bus lane.
- All Wiltshire licensed hackney carriages will be able to use any future bus lanes.

### T29 Taxi Ranks and Plying for Hire

Drivers can ply for hire in a licensed hackney carriage from:

- A designated taxi rank.
- Private land – at the landowners consent.

Drivers must stay with their vehicle at all times when using designated taxi ranks.

### T30 Termination or Surrender of Licence

All badges, signs and licence plates issued remain the property of the council at all times. On surrender, expiry, suspension or revocation of the vehicle licence, the licence holder must return the external and internal plates to the council without delay.

## PRIVATE HIRE VEHICLES

### Proposal

The council proposes the following conditions for all private hire vehicles.

Where any grandfather rights are proposed to protect existing licence holders these are specified within the proposals

## Private Hire Vehicles

In these conditions, unless otherwise indicated:

- “The council” means “Wiltshire Council”.
- “Vehicle” means Private Hire Vehicle and is a vehicle granted a licence by the council under Section 48 Local Government (Miscellaneous Provisions) Act 1976
- “PHV” means Private Hire Vehicle.
- “The Driver” means the holder of a licence granted by the council under Section 46 Town Police Clauses Act 1847 or Section 51 Local Government (Miscellaneous Provisions) Act 1976.
- “Proprietor” means the person to whom the vehicle licence is issued
- “The Operator” means the holder of the Private Hire Operator Licence.

No vehicle will be licensed as a Private Hire Vehicle unless it has first been inspected by an officer of the council and found to comply with these conditions. Although council Officers will offer guidance and assistance to applicants for a vehicle licence, no approval can be issued until the vehicle is inspected. Applicants are advised to discuss any proposed acquisition of a vehicle for use as a Private Hire Vehicle with council Licensing Officers prior to any such acquisition. Once licensed the vehicle must meet all the conditions at all times.

## Conditions of licence

The holder of the licence shall comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 and the conditions detailed below:-

### P1 Single Licensing of Vehicle

This licence is issued on the condition that the vehicle to which it relates is not licensed as either a Hackney Carriage or Private Hire Vehicle by another council. If Wiltshire Council becomes aware of other vehicle licences (hackney carriage or private hire) running concurrently with this licence then this licence will be

revoked.

#### P2 Passengers

The number of passengers conveyed in the vehicle should not be more than the number prescribed in the licence, regardless of the age or size of the passenger.

#### P3 Inspections

On first application for a licence only vehicles under 5 years old from the date of first registration will be considered.

Prior to first application a conditions check will be carried out by a licensing Officer before referral for a new MOT or Compliance Certificate, irrespective of the vehicles age.

From the date of the first licence being issued a conditions check, carried out by a Licensing Officer, and an MOT or Compliance Certificate will be required on a 6- monthly basis, irrespective of the vehicles age.

All existing licensed vehicles will be required to have a 6-monthly conditions check, carried out by a Licensing Officer, and an MOT or Compliance Certificate, irrespective of the vehicles age.

(NOTE: should a vehicle not be presented for inspection in accordance with the above then the licence may be suspended. Where a vehicle fails the inspection then the licence may be suspended or the licence not renewed).

#### P4 Production of Vehicle Documentation

The owner of a hackney carriage or private hire vehicle shall, at the request of any authorised officer of the council, produce for inspection:

- The vehicle licence.
- The Certificate of insurance covering its use for hire and reward.
- MOT Certificate or Compliance Certificate.

#### P5 Vehicle type

Owners with more than four hackney carriages and/or private hire vehicles must ensure the next plated vehicle, licensed for the first time on or after 1 April 2010, is:

- Wheelchair accessible from the nearside or rear, including a ramp or lift to enable loading.
- Have space to carry at least one passenger while using a wheelchair.

Example:

If you own 2 hackney carriages and 2 private hire vehicles and wish to purchase a 5<sup>th</sup> vehicle for use as a hackney carriage or private hire vehicle, this vehicle must be wheelchair accessible.

(NOTE: this means that purchases of wheelchair accessible vehicles are required



for the 5<sup>th</sup>, 10<sup>th</sup>, 15<sup>th</sup>, 20<sup>th</sup> vehicle and so on. See P22 for further information).

Vehicles must be either:

- Four door saloons or hatchbacks.
- MPVs.
- Estate cars.
- Limousines.

In addition vehicles must have:

- Between 4 and 8 seats for passengers excluding the driver.
- Been manufactured or modified for the primary purpose of carrying passengers.

If a vehicle design appears to be that of a hackney carriage it will not be licensed. (NOTE: this includes traditional London taxis such as the FX and TX ranges as well as the Peugeot E7).

The vehicle must not carry any roof sign or any markings which may give the impression it is a hackney carriage.

All vehicles must be right-hand drive. The only vehicles permitted to be left-hand drive are limousines.

Vehicles must have a hard top roof that cannot be removed. (NOTE: open top vehicles, convertibles or vehicles with removable hard tops will not be licensed).

In addition to the drivers door, the vehicle must have at least two doors for the use of passengers. Where passenger doors are on only one side of the vehicle they must be on the near (left) side.

#### P6 Engine Type

All vehicles must be powered by an internal combustion engine, or a hybrid arrangement of internal combustion engine and electrical motor.

(NOTE: vehicles that are human powered will not be licensed).

Where a vehicle has been converted to run on LPG a certificate must be produced, prior to a licence being issued, from a member of the LPG Association confirming that the LPG installation conforms to the Association's Code of Practice and is, therefore, considered safe. If an LPG conversion involves installation of the LPG tank in a vehicle's boot space, and possible relocation of the spare wheel, it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage. Any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of the vehicle. These vehicles will be subject to any additional testing required by the compliance testing garage.

In the case of the conversion of a vehicle that is already licensed the above certificate must be produced before the vehicle is operated on LPG.

#### P7 Luggage compartment

The luggage compartment must be completely separate from the passenger carrying area. In the case of estate cars this means that there must be a secure guard fitted between the luggage and passenger compartments.

All luggage must be suitably restrained where, in the event of an accident, it is likely to cause injury to the occupant of the vehicle.

#### P8 Wheels and tyres

All vehicles must have at least 4 road wheels. A spare tyre, space saver tyre or repair kit must be carried in the vehicle as supplied by the manufacturer when new, together with any necessary jack and tools. Any spare or space saver wheel should be carried in the vehicle in the place allocated by the manufacturer.

(NOTE: Space saver tyres and puncture repair kits will only be acceptable in vehicles that are manufactured without full size spare tyres and vehicles that are adapted in a way to prevent them carrying a full size spare tyre).

Re-moulded or re-cut tyres must not be fitted to the vehicle and all tyres must be kept at the correct pressure and meet legal requirements.

#### P9 Bull bars

Vehicles must not be fitted with 'bull bars' or other modification that increases the risk to passengers, pedestrians or other road users in the event of impact. Tow-bars are accepted at initial licence. Any material changes to the vehicle, in addition of a tow-bar, must be provided in writing to the relevant Licensing Area Office.

#### P10 Passenger access

All internal door handles must be clearly visible to passengers and, if necessary, marked with signs or identification tape and must be fully operational at all times.

Any steps at passenger door entrances must have clearly marked edges and be lit when the passenger door is open.

#### P11 Seats and seat belts

All passenger seats must be easily accessible to passengers without the need for more than one passenger to move. If access to one or more of the passenger seats requires the folding or moving of the other seats, the release mechanism for the adjustable seat must be clearly marked and visible to passengers.

All passenger seats must face forward or rearward to the direction of travel, except in the case of vehicles that fall within the council's definition of limousine.

All swivel seats must be fitted in accordance with manufacturer's recommendations.

All seats in the vehicle must be fitted with either a 3 point inertia belt, 2 point lap belt or 3 point disabled persons belt. They must comply with current seatbelt standards and be fully functional at all times.

Passenger seats must be at least 400mm wide per passenger with no significant intrusion by wheel arches, armrests or other parts of the vehicle. There must be a minimum of 860mm headroom for all passenger seats measured from the rear of the seat cushion to the roof lining.

#### P12 Windows

Vehicles must meet the legal standards for light transmission through the front windscreen and front side windows. Rear windows and rear side windows must have a light transmission of at least 70%, irrespective of whether the vehicle was manufactured contrary to this standard. Documents must be provided for proof of light transmission when requested by the council. Limousines are excluded from the condition relating to rear and rear side windows.

(NOTE: This standard is the same as the legal requirement for front side windows).

#### Grandfather rights

The part of the above condition that relates to rear and rear side windows will not apply until 1 April 2015 in relation to a vehicle that:

- Has been licensed continuously prior to 30 March 2010, and
- The owner at 31 March 2010 continues to have at least 50% ownership of the vehicle.

No temporary glass or other material will be accepted as a temporary measure i.e., plastic sheeting, until windows are replaced due to damage.

All passengers must have access to an openable window or other form of natural ventilation whilst being carried in the vehicle.

#### P13 No smoking signs

All vehicles must display no-smoking signs in a place visible to all passengers.

#### P14 Communication with the driver

A proprietor of a private hire vehicle shall provide sufficient means by which any person in the vehicle may communicate with the driver.

#### P15 Use of Trailers

A vehicle may tow a trailer only when one is required in order to convey a hirer's luggage. If a trailer is towed it shall:

- Be roadworthy at all times, comply with all requirements of the current Road Traffic legislation and the towing weights specified by the vehicles' manufacturer.
- The vehicle insurance must include cover for towing a trailer.
- Comply with the speed restrictions applicable to trailers at all times.

- Provide secure and weather proof stowage for the luggage.
- Trailers must not be towed whilst standing on a hackney carriage rank or left unattended on the highway.
- The driver will hold the appropriate licence category on their DVLA driving licence to tow a trailer.

#### P16 Fire extinguisher

Each vehicle must carry either one 2 kg or two 1 kg dry powder fire extinguishers. These extinguishers must:

- Comply with and be marked as complying with either EN3 or BS 5306 and be so marked.
- Be stored in a readily accessible position in the vehicle.
- Be full and, where a gauge is fitted, this must show that this is the case.

All wheelchair accessible vehicles with a lift **MUST** carry a 1 or 2kg fire extinguisher at the front and the rear of the vehicle.

(NOTE: no other extinguisher type is permitted).

#### P17 First aid kit

A First Aid Kit must be carried that contains the following items:

- 6 individually wrapped sterile adhesive dressings.
- 1 large sterile unmedicated dressing – approximately 18 cm x 18 cm.
- 2 triangular bandages.
- 2 safety pins.
- Individually wrapped moist cleansing wipes.
- One pair of disposable gloves.

All first aid kit contents must be within any specified expiry date.

All first aid materials must be carried in a suitable container of a design and construction that protects the contents, and be clearly marked as containing first-aid. The container should be stored in a readily accessible position in the vehicle.

(NOTE: The First Aid Kit is for use by the driver to administer first aid to themselves and is required under the Health and Safety (First Aid) Regulations 1981).

#### P18 Written off vehicles

The vehicle must not have been written off for insurance purposes at any time.

#### P19 Temporary Replacement of Licensed Vehicles

Any licensed vehicle suffering (major) accident damage or requiring mechanical repair, may be replaced by a hire vehicle provided:

- The accident damage has been reported by the licence holder in accordance with the requirements of these conditions, or the defect to the licensed vehicle has been similarly reported.

- Application is made by the licence holder for a temporary plate/transfer and the appropriate fee paid.
- The replacement vehicle is properly taxed, insured and tested to the requirements of the normal licence vehicle.
- The replacement vehicle is of suitable size (like for like) to be used for hire purposes.

Providing the foregoing conditions are met:

- The council will issue a temporary licence plate(s) to cover the existing period of the licence.
- Any temporary licence plate(s) must be returned to the council at the end of the temporary replacement.
- The inspection costs will be borne by the licence holder.

#### P20 Vehicle condition

The vehicle must be kept in good condition and, in particular, meet the following criteria at all times:

- Vehicles should have no damage affecting the structural safety of the vehicle.
- The body of the vehicle must be watertight and draught proof.
- Vehicles should be free of significant areas of visible rusting. Minor blemishes are acceptable, but should be regularly treated and painted to match existing paintwork.
- Vehicles should not have any major dents or similar damage to the bodywork.
- Vehicles should have no scratches down to the metal of more than 5 cm in length and no scratches down to base coat longer than 20cm.
- All panels on all vehicles shall be painted in a uniform colour and all original panels and trim shall be in place.
- All seats, including the drivers, must be fully intact, free from cuts, holes, stains or burns, except of a very minor nature. Any repairs must have been carried out in a professional manner. Seat covers are acceptable provided that they meet the above standard.
- All carpets and floor coverings shall be complete and free from all major cuts, tears or obvious stains.
- All interior trim, including headlining, shall be clean, complete, properly fitted and free from serious cuts, tears or staining.
- The luggage compartment must be clean and tidy.

#### P21 Licence Plates

The external licence plate must be securely affixed externally to the rear of the vehicle in a position specified by the council, which is clearly visible and remain in that position for the duration of the licence.

The internal licence plate must be securely affixed on the inside of the windscreen within the vehicle, or clearly visible in the passenger compartment as specified by the council.

## P22 Wheelchair Accessible Vehicles

### Vehicle Type

Any vehicle that has been purpose built, or any vehicle that has been modified or converted to carry a disabled person confined to a wheelchair, will be considered for licensing provided the vehicle complies with the requirements and conditions laid down by Wiltshire Council.

Vehicles will have a maximum seating capacity of up to eight passenger seats and only forward or rearward facing seats shall be fitted. When carrying a wheelchair this must be included and not in addition to the maximum number of seats. When the wheelchair facility is not required the vehicle will operate as a normal hackney carriage or private hire vehicle with seating for the number of passengers the vehicle is licensed to carry.

Prior to licensing all new vehicles and equipment must undergo an independent initial inspection by a qualified and competent vehicle examiner to ascertain the suitability of the vehicle and to confirm the vehicle is fit for purpose. This will include the seating, the system and devices used to secure the wheelchair and occupant and the wheelchair access equipment. The applicant must provide the licensing authority with written confirmation from the examiner that the vehicle meets the required standard. A licensing officer may require the vehicle to be referred to the council's designated vehicle examiner. This inspection will be carried out at the owners cost. Existing vehicle licence holders will be required to adhere to this condition within six months of these conditions coming into force.

### Access

All wheelchair accessible vehicles must be able to load a wheelchair using the access equipment by the side or rear access doors. The side access door would be the door situated on the nearside of the vehicle, i.e. kerbside when stopped in a normal road.

The aperture of the door into which the access equipment is fitted shall have minimum clear headroom in its central third of 48 inches (1.220mm). The measurement shall be taken from the upper centre of the aperture to a point directly below, on either the upper face of the fully raised platform or the upper face of the ramp fully deployed on level ground.

A locking mechanism shall be fitted that holds the access door in the open position whilst in use.

### Equipment

A wheelchair accessible vehicle shall be fitted with either of the following forms of wheelchair access equipment:

#### Ramps

Any purpose designed access ramp that is carried must be lightweight and easy to deploy. The installed ramp shall have visible reference to a safe working load of 250 kgs. and certified BS6109.

### WheelchairLift

A purpose designed wheelchair lift shall conform to the LOLER 98 Regulations. Vehicles presented for inspection with a wheelchair lift will require a valid LOLER certificate.

The wheelchair access equipment shall be fitted such that it terminates at the interior floor level so as to allow smooth entry/exit of the wheelchair.

### Anchorage

The wheelchair must always be carried in a secure and stable position as recommended by the vehicle manufacturer or conversion team. In the case of purpose built vehicles, i.e. London style taxis, this position will be facing the rear of the vehicle. In the case of vehicles, which have been specially converted for the purpose of conveying wheelchairs, the converter's recommendations should be followed. Please note this will always be either facing the front or rear of the vehicle, wheelchairs should never be carried facing sideways in a vehicle.

A system for the effective anchoring and securing of wheelchairs shall be provided within the vehicle in all spaces designated as wheelchair spaces. The system and the devices used to secure a wheelchair to the vehicle shall comply with the relevant standards laid down in European Directive 76/115 EEC (as amended by 90/629 EEC).

All wheelchair tracking must comply with European Standard UNECE Regulation 14 (EC Directive 76/115 EEC).

Each wheelchair user shall be provided with a disabled person seatbelt, which fastens to the structure of the vehicle either permanently or temporarily by use of approved fixings appropriate to the position of the wheelchair. (European Directive 76/115 EEC and Regulations 46 & 47 Road Vehicles (Construction and Use) Regulations 1986).

### P23 Notification of changes

Once a licence has been issued the following criteria will apply to the owner of a private hire vehicle:

The licence holder must within 72 hours supply the council with details of any:

- Change of the owners business or home address.
- Change of premises where the vehicle is normally kept.
- Accident causing damage or materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein.
- Alteration in the construction, specification, design and condition of the vehicle.

This notification may be by oral report in the first instance, but must be followed up in writing.

The licence holder must give within 7 days written notification to the council of the following:

- The name and address of every additional owner or part owner of the vehicle.
- The name and address of anyone concerned either solely or in partnership with any other person in keeping, employing or letting the vehicle for hire.
- Details of any conviction(s) being recorded against:
  - The owner of the vehicle.
  - Any company of which he/she is a director or secretary.
  - Any person with whom he/she is in partnership or who has any interest in the vehicle.

#### P24 Roof signs

The vehicle must not be fitted with a roof sign ('top sign') of any description.

#### P25 Fare meters

While there is no requirement to do so the vehicle may be fitted with a fare meter (taximeter). If the vehicle is fitted with a taximeter then it must be constructed, installed and maintained so as to comply with the following conditions:

- The taximeter shall be installed by a competent person.
- The taximeter shall be calibrated to the vehicle and the table of tariffs applied by a person approved by the manufacturer of the taximeter.
- The taximeter shall be maintained in proper working order and condition.
- The fare meter shall be fitted with a key, flag or other device which will bring the machinery of the fare meter into action and cause the word "HIRED" to appear on the face of the meter.
  - Such key, flag or other device shall be capable of being locked in such position that the machinery of the fare meter is not in action and that no fare is recorded on the face of the fare meter.
- When the machinery of the fare meter is in action there shall be recorded on the face of the meter, in clearly legible figures, the fare or rate of fare which the proprietor or driver is entitled to demand and take for the hire of the vehicle by distance and time in accordance with the Table of Fares charged by the operator.
- The meter shall be positioned so that all letters and figures on its face are at all times plainly visible to any person being conveyed in the vehicle even during darkness.
- Any seal applied to the meter or associated components by the council should not be removed or otherwise tampered with.
- If a taximeter is installed in the vehicle when licensed, it must not be removed without the prior consent of the Licensing Officer.

(NOTE: Under Section 68 of the Local Government (Miscellaneous Provisions) Act



1976 an authorised officer of the council can inspect and test, at any reasonable time, any taximeter in a licensed Hackney Carriage or private hire vehicle. If he is not satisfied as to the accuracy of the meter he may by a notice in writing suspend the vehicle licence until he is satisfied that the meter is working correctly).

#### P26 Fares and fare cards

If a fare meter is fitted in the vehicle a copy of the current table of fares, the Fare Card, as supplied by the operator, must be displayed on the inside of the vehicle in a conspicuous position so as to be readily visible to any person carried in the vehicle. This table of fares must not have been altered in any way.

#### P27 Advertising on Vehicles

Advertising will not be permitted on private hire vehicles unless it relates specifically to the private hire operator.

#### P28 Bus Lanes – Salisbury Area

Licensed private hire vehicles are allowed the use of bus lanes in Milford Street and Castle Road provided certain 'conditions of use' are followed.

- Private hire vehicles only – when using the bus lanes they must always display a front vehicle identification marker in addition to the normal plate displayed on the rear of the vehicle. These are issued by the council and are required as a means of identifying a licensed vehicle from the front. A fee is payable.
- Milford Street – never travel at more than 10mph and always have the vehicle's headlights switched on.
- Castle Road – no additional conditions of use but vehicles are allowed the use of the 'bus gate' at the end of the bus lane.
- All Wiltshire licensed private hire vehicles will be able to use any future bus lanes.

#### P29 Taxi Ranks

Private Hire Vehicles must not be used to ply for hire from a taxi rank or in any other such manner which may give members of the public the impression it is a taxi.

#### P30 Door Signs

Vehicles are required to display signs provided by the council on the front nearside and offside doors.

#### P31 Exemption from displaying vehicle plate/door signs

If a written exemption notice has been issued it must be carried in the vehicle at all times. Failure to do so will invalidate the exemption.

If, after an exemption notice is issued, the circumstances of the exemption change, such as a change of use for the vehicle, the licence holder must inform the council in order that the exemption can be reconsidered.

(NOTE: Under Section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976 the council, which issues the licence, may exempt a licensed private hire vehicle from the need to display a plate and the driver from wearing his identity badge. Owners who wish to apply for this exemption should contact their local licensing office).

The vehicle licence holder will be required to make a written application for an exemption to include:

- The plate and index number of the licensed vehicle.
- The nature of the work/business the vehicle will be engaged in.
- The reasons why the exemption is requested.

The main consideration will always be the safety of the general public, but consideration will also be given to the nature of the work the vehicle will be used for and whether it needs to be identifiable to the public or not.

#### P32 Stretched limousines

These conditions and relaxations apply only to stretched limousines which are constructed or adapted to seat up to 8 passengers. These vehicles are defined as:

- A saloon type vehicle that has undergone an increase in length by extending the wheelbase after manufacture and modified to contain luxury facilities and fixtures.

These are typically imported from the USA and manufactured originally by Lincoln (Ford) or Cadillac.

These conditions made under the Local Government (Miscellaneous Provisions) Act 1976 are specific to a vehicle adapted by lengthening the wheelbase of a standard, factory built vehicle. The purpose of these conditions is to protect public safety. They apply in addition to the Authorities standard conditions for private hire vehicles and take account of the fact that stretched limousines will:

- Be used mainly for special events/occasions and not for normal private hire work.
- Travel generally at slower speeds than normal private hire vehicles.
- Not normally overtake other vehicles.
- Be easily recognisable by the hirer.
- Be heavier and considerably longer than standard cars.
- Be often adapted or converted by someone other than the original manufacturer.

#### P33 Pre licensing conditions for limousines

The council will require originals of the following documentation to be produced before an initial application for a vehicle licence can be considered:

- Completed importation document where applicable.
- Single Vehicle Approval (SVA) certificate issued by VOSA.
- Proof that the 'stretch' was performed by the manufacturer or by a coachbuilder approved by the manufacturer by producing a Vehicle Modifier Certificate (VMC) or a Cadillac Master Coachbuilder Certificate (CMC) for Cadillac vehicles.
- DVLA registration document specifying the number of seats as being no more than 9 seats inclusive of the driver.
- Documentation to show the overall weight of the vehicle, as displayed on the vehicle.
- Valid Vehicle Excise Licence disc.
- Where applicable vehicles converted to run on LPG must produce an installation certificate from a Liquefied Petroleum Gas Association (LPGA) Approved UK Vehicle Conversion Company.

This documentation must be available at all times otherwise the licence will be revoked.

#### P34 Maximum length of stretch conditions for limousines

The maximum length of the vehicle 'stretch' shall not exceed 3048 millimetres (120 inches) with the exception of the Cadillac, which shall not exceed 3302 millimetres (130 inches). This is the measurement between the rear edge of the front door and the front edge of the rear door.

#### P35 Limousine Tyres

The vehicle should be equipped with a minimum of four road wheels and one full size spare wheel. The tyres shall be of an approved rating as specified by the tyre manufacturer for weight and speed of the vehicle.

#### P36 Limousine seats and seat belts

Seats may be forward, rearward or sideways facing.

All seats shall be fitted with appropriate seat belts, which must be fitted in accordance with the current Road Vehicle (Construction & Use) Regulations.

For the purposes of calculating the seating capacity of a vehicle the minimum width of a passenger seat will be 400 mm. (16inches). In the case of an 'L' shaped seat sufficient space must be made available in the corner to prevent the passenger on one side of the corner encroaching on the passenger on the other side.

#### P37 Limousine Glass

Tinted glass shall conform to the legal requirements of the current Road Vehicle (Construction & Use) regulations.

#### P38 Limousine doors and interior

The vehicle must have at least 2 doors for use of persons conveyed in the limousine and a separate means of ingress and egress for the driver. Doors must

be capable of being readily opened from inside and outside the vehicle by one operation.

There must be adequate internal light to enable passengers to enter and leave the vehicle safely.

The internal fittings and furniture of the limousine must be kept in a clean, well- maintained condition and in every way fit and safe for public use.

Facilities must be provided for the safe conveyance of luggage.

Facilities must be provided to ensure that any person travelling in the limousine can communicate with the driver.

#### **P39 Passengers in limousines**

All passengers must remain seated and wear a seat belt when the vehicle is in motion.

Passengers must not be carried in the front of the vehicle.

Passengers under the age of 15 years shall not be carried in a stretched limousine unless accompanied by a responsible adult who is over the age of 18 years, or the parent or guardian of at least one of the children.

No person under the age of 18 years being conveyed in a stretched limousine shall be allowed to consume alcohol.

## PRIVATE HIRE OPERATORS

### Proposal

The council proposes the following conditions for all private hire operators.

## Private Hire Operator

In these conditions, unless otherwise indicated

- “The council” means Wiltshire Council.
- “The Driver” means the holder of a licence granted by the council under Section 46 Town Police Clauses Act 1847 or Section 51 Local Government (Miscellaneous Provisions) Act 1976.
- “Licensed Vehicle” means a vehicle granted a licence by the council under or Section 48 Local Government (Miscellaneous Provisions) Act 1976.
- “The Operator” means the holder of the Private Hire Operator Licence.

## Conditions of Licence

### O1 Criminal Records Bureau Check (CRB)

A basic CRB disclosure will be required for operators who do not hold a current hackney carriage/private hire drivers licence with the council. This can be obtained via Disclosure Scotland at [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk)

### O2 Definition of an Operator

An operator is a person who in the course of business makes provision for the invitation or acceptance of bookings for a private hire vehicle.

Sub-contracting may only take place from one operator to another as long as the operator being subcontracted to is licensed by the same local authority.

### O3 Standards of Service

The proprietor / operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose shall:

- Ensure that all conditions under the provisions for vehicles and drivers are complied with.
- Keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access whether for the purpose of booking or waiting.
- Ensure that any waiting area provided by the operator has adequate seating facilities.
- Ensure that any telephone facilities and any radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.

- Ensure that any radio equipment provided by the operator is licensed and produce the licence to the council at any time required.
- Not conduct the business to which this licence relates in a manner which will cause a nuisance or annoyance to the owners or occupiers of nearby premises.

#### O4 Records

The records required to be kept by the operator under section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept on a suitable form or forms and the operator shall enter, before the commencement of each journey, the following particulars of every booking of a private hire vehicle invited or accepted by the operator:

- The time and date of booking.
- The name and address of the hirer.
- Number of persons to be carried.
- How the booking was made, i.e. by telephone, personal call, etc.)
- The time of pick up.
- The point of pick up.
- The destination.
- Name and licence number of driver.
- Vehicle to be used, registration and plate number.
- Remarks, including details of any sub-contract.

The operator shall also keep records of the particulars of all private hire vehicles operated by him, which shall include details of the owners, registration numbers and drivers of such vehicles, together with any radio signal used.

All records kept by the operator shall be preserved for a period of not less than six months following the day of the last entry.

#### O5 Advertising

The proprietor shall not exhibit or permit the exhibition of advertising material, any sign or distinguishing mark upon the vehicle (other than the licence plate identifying the vehicle) without first obtaining the council's consent.

The proprietor shall not include in any sign, advertisement, printed material (including for the avoidance of doubt any telephone directory, photograph or film) or broadcast whether by way of radio, cinema or television the words "TAXI", "CAB", "HACKNEY" or "CARRIAGE", whether in the singular, plural or combination of words which would suggest that the vehicle is a hackney carriage (taxi).

#### O6 Notifiable Information

The operator/proprietor shall within three days supply the council with written details of any:

- Change of address.
- Change of address from which they operate or otherwise conducts the business of an operator.

- Change in premises where the vehicle is kept.
- Change in the vehicles and/or drivers operated.
- Accident causing damage materially affecting the safety, actual performance or appearance of the vehicle or the comfort or convenience of persons carried therein (alteration in the design or construction of the vehicle).
- Complaint relating to or arising from the business and the action, if any, which is proposed to be taken in respect thereof.

The operator/proprietor shall give written notification to the council within seven days of any conviction being recorded:

- Against him/her personally.
- Any driver of that vehicle.
- Any company of which he/she is a director.
- Any person with whom he/she is in partnership.

The operator/proprietor shall within 14 days of the vehicle being transferred to any other person, which includes both companies and partnerships, notify the Council of the name and address of the person to whom the vehicle has been transferred.

## PENALTY POINTS SCHEME

Penalty points schemes were operated by the previous North Wiltshire District Council, Salisbury District Council and West Wiltshire District Council.

A penalty points scheme allows the licensing authority to deal with contraventions of conditions or legislation without undue bureaucracy or involvement of the Magistrates Court by issuing points in a similar way to those applied to DVLA driving licences for offences such as speeding. Unlike the DVLA scheme there is no requirement to pay any fine.

Penalty points are removed after a period of 12 months, but an accumulation of points could then trigger a sanction being applied that could include suspension or revocation of the licence and / or prosecution in the magistrates court.

### Proposal

The council proposes that a penalty points scheme be introduced as follows.

## PENALTY POINTS SCHEME

### Enforcement

As a licence holder you have accepted the legal responsibilities that come with the benefit of holding a licence. There are regulations and disciplinary policies adopted by the council as part of the licensing process. Enforcement is viewed as part of the overall licensing control process exercised by the council and is seen as an important way of maintaining and improving the standards within the trade and the quality of service delivered to the general public.

Usually enforcement action will be taken to:

- Protect the public interests.
- Support the policies of the council.
- Respond to individual public and trade complaints.
- Support partnerships with other agencies like the Police and Vehicle Inspectorate.
- Compliment the council's Corporate Enforcement Policy.

Authorised Officers of the council are empowered to give and recommend any of the following disciplinary measures:

- Verbal warning.
- Written warning.
- Penalty Points.
- Appearance before Committee/Delegated Officer.
- Prosecution.

Licence holders have a clear legal duty to offer assistance and information to



any authorised officer and must not wilfully obstruct or give false information.

### Penalty Points Scheme

The Penalty Points Scheme is a 'fast track' disciplinary code whereby points are issued to licence holders for breaches of licensing conditions, non-compliance of the law or because of unsatisfactory conduct.

The main features of the scheme are as follows:

- Points are issued to licence holders for breaches of licensing conditions, legislation or byelaws.
- A total of 12 points credited to an individual licence in any 12 month period will result in a review of the licence at Committee/by Delegated Officer.
- In the case of a Private Hire Operator Licence the total number of points credited in any 12 month period is extended to 30 points.
- Any outstanding points against a licence holder will be automatically removed after 12 months have elapsed from the date the points were issued.
- Licence holders have a written right of appeal within 7 days of the points being issued.

There is no financial penalty associated with this scheme and you may continue to work even if points are awarded.

A list of offences covered by the scheme, together with the points that can be awarded for each offence, is shown on the grid overleaf.

Defined Breaches in Relation to Conditions	Condition No	Driver	Vehicle	Operator
Failure to display drivers ID badge in the correct manner	D12	3		
Unsatisfactory appearance of the driver	D10	2		
Failure to notify change of address/any convictions received /medical grounds not to drive	D11, T23, P23, O6	3	3	3
Failure to behave in a civil and orderly manner towards customers and other members of the public at all times	D7	1-5		
Obstruction of an authorised officer	D24	3-6		3-6
Failure to produce licence/insurance when requested by authorised officer	D9 T4, P4	4		4
Failure to report accident damage within 72 hours	D2, T23, P23	3		3
Overdue medical examination	D20	2		
Carrying more passengers than permitted by the vehicle licence	D23 T2, P2	5		
Refusal to carry passengers without a reasonable excuse	D13	5		
Failure to convey or assist with carrying luggage	D7	2		
Failure to display current tariff of fares correctly	T26, P26	2	2	2
Failure to recalibrate meter to the current tariff	T25, P25		2	2

Failure to display interior and/or exterior identity plate correctly	T21, P21	2	2	2
PH Exempt Vehicles only – Failure to: Display Interior plate, carry exemption certificate, and carry exterior plate	P31	2	2	2
Unreasonable prolongation of a journey or any other misconduct regarding the charging of fares.	D14	5		
Failure to be with taxi on rank	D32	2		
Failure to comply with the conditions/use of bus lanes	T28, P28	3		
Failure to display door signs on Private Hire vehicle	P30	2	2	2
Failure to have operational fire extinguisher fitted	T16, P16	2	2	2
Failure to carry adequate first aid kit	T17, P17	2	2	2
Failure to display vehicle licence plate correctly	T21, P21	3	3	3
Failing to display approved roof sign	T24, P24	3	3	3
Unsatisfactory condition of vehicle interior/external	D29, T20, P20	3	3	3
Failure to deal appropriately with items of property accidentally left in vehicle	D17	2		2
Using/permitting licensed vehicle with no insurance	D9, T4, P4	9-12	9-12	9-12
Using licensed vehicle without current certificate of compliance/MOT	D9, T4, P4	3	6	6
Unauthorised advertising on licensed vehicle	T27, P27, O5		3	3
Standing or plying for hire in a private hire vehicle	D31, P29	5		3
Failure to attend a hiring punctually	D26	3		3
Touting	D5	6		
Defective taxi meter	T25, P25	3	3	3
Failure to keep or produce records of private hire bookings/documents required to be kept or produced.	O4			4-6
Any other breach or unsatisfactory behaviour	Will be specified	1-6	1-6	1-6

## Appendix 2

**WILTSHIRE COUNCIL  
HACKNEY CARRIAGE  
MAXIMUM TABLE OF FARES**

For journeys starting	Vehicles up to 4 seats	Vehicles with more than 4 seats carrying more than 4 passengers
0600 hours – 2259 hours	Tariff 1	Tariff 2
2300 - 0559 hours and Sundays, Bank Holidays, Public Holidays and Easter Sunday and after 8pm Christmas Eve & New Years Eve	Tariff 2	Tariff 4
25 December, 26 December and 1 January	Tariff 3	Tariff 5

	Tariff 1	Tariff 2	Tariff 3	Tariff 4	Tariff 5
Journeys up to 176 yards (1/10 Mile)	£3.20	£4.50	£6.00	£4.95	£6.60
Subsequent 176 yards (1/10 Mile)	20p	30p	40p	45p	60p
Waiting time per minute	30p	30p	30p	30p	30p
Fouling charge (minimum)	£100	£100	£100	£100	£100

**Hackney Carriages are regulated by Wiltshire Council**  
**Tel: 0300 456 0100**

1 August 2013 (Provisional)

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