



Meeting	Licensing & Regulation Committee
Date and Time	Tuesday, 15th December, 2020 at 6.00 pm.
Venue	This meeting will be held virtually and a live audio stream can be listened to via www.winchester.gov.uk .

Note: *Owing to the ongoing Covid-19 pandemic and government guidance, it will not be possible to hold this meeting in person. The Council has therefore made arrangements under the Coronavirus Act 2020, and subsequent Regulations permitting remote meetings, to hold the meeting virtually. If you are a member of the public and would like to listen to the audio stream of the meeting you may do so via www.winchester.gov.uk*

AGENDA

PROCEDURAL ITEMS

- 1. Apologies and Deputy Members**
To record the names of apologies given and Deputy Members who are attending the meeting.
- 2. Disclosures of Interests**
To receive any disclosure of interests from Members and Officers in matters to be discussed.

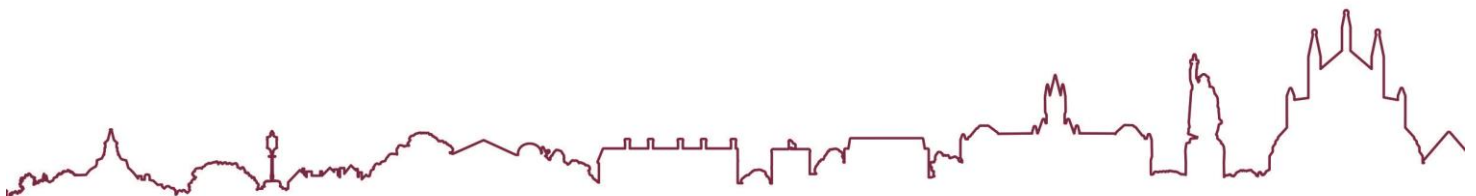
Note: Councillors are reminded of their obligations to declare disclosable pecuniary interests, personal and/or prejudicial interests in accordance with legislation and the Council's Code of Conduct.

If you require advice, please contact the appropriate Democratic Services Officer, prior to the meeting.

- 3. Minutes (Pages 5 - 10)**
Minutes of the previous meeting held on 15 September 2020

BUSINESS ITEMS

- 4. Public Participation**
To receive and note questions asked and statements made from members of the public on issues relating to the responsibility of this Committee.



Members of the public and visiting councillors may speak at this Committee, provided they have registered to speak three working days in advance. Please contact Democratic Services **by 5pm on Wednesday 9 December 2020** via democracy@winchester.gov.uk or (01962) 848 264 to register to speak and for further details.

5. **Review of Hackney Carriage and Private Hire Conditions of Licence (LR536)** (Pages 11 - 36)
6. **Minutes of the Licensing Sub Committee held on 21 September 2020** (Pages 37 - 40)

Lisa Kirkman
Strategic Director: Resources and Monitoring Officer

All of the Council's publicly available agendas, reports and minutes are available to view and download from the Council's [Website](#) and are also open to inspection at the offices of the council. As part of our drive to minimise our use of paper we do not provide paper copies of the full agenda pack at meetings. We do however, provide a number of copies of the agenda front sheet at the meeting which contains the QR Code opposite. Scanning this code enables members of the public to easily access all of the meeting papers on their own electronic device. Please hold your device's camera or QR code App over the QR Code so that it's clearly visible within your screen and you will be redirected to the agenda pack.



7 December 2020

Agenda Contact: Nancy Graham, Senior Democratic Services Officer
Tel: 01962 848 235 Email: ngraham@winchester.gov.uk

**With the exception of exempt items, Agenda, reports and previous minutes are available on the Council's Website www.winchester.gov.uk*

MEMBERSHIP:

Councillors

Chairperson: Bentote (Liberal Democrats)
Vice Chairperson: Green (Liberal Democrats)

Conservatives

Mather
McLean
Read
Ruffell

Liberal Democrats

Achwal
Gordon-Smith
Laming
Power
Williams

Deputy Members

Pearson

Clear and Fern

Quorum = 4 members

PUBLIC PARTICIPATION AT VIRTUAL MEETINGS

Representations will be limited to a maximum of 3 minutes, subject to a maximum 15 minutes set aside for all questions and answers. To reserve your place to speak, you are asked to **register with Democratic Services three clear working days prior to the meeting** – please see public participation agenda item for further details. People will be invited to speak in the order that they have registered, subject to the maximum time period allowed for speaking not being exceeded. Public Participation is at the Chairperson's discretion.

FILMING AND BROADCAST NOTIFICATION

This meeting may be recorded and broadcast live on the Council's website. The meeting may also be recorded and broadcast by the press and members of the public – please see the Access to Information Procedure Rules within the Council's Constitution for further information, which is available to view on the [Council's website](#).

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LICENSING & REGULATION COMMITTEE

Tuesday, 15 September 2020

Attendance:

Councillors

Bentote (Chairperson)

Green	McLean
Achwal	Power
Gordon-Smith	Read
Laming	Williams
Mather	

Others in attendance who addressed the meeting:

Councillor Porter (Cabinet Member for Built Environment and Wellbeing)

Apologies for Absence:

Councillors Ruffell

[Full audio recording and video recording](#)

1. **DISCLOSURES OF INTERESTS**

There were no disclosures of interest made.

2. **MINUTES**

RESOLVED:

That the minutes of the previous meeting of the Committee, held on 19 September 2019, be approved and adopted.

3. **PUBLIC PARTICIPATION**

Four members of the public spoke regarding report LR535 and responded to questions from Committee Members, as summarised briefly below.

John Fairey

Opposed the “end of life” provisions for vehicles stating it would make his business unviable and also opposed the proposal for permanent signage on vehicles as his vehicles were used for other purposes at times.

John Boardman

Concern regarding the provision allowing vehicles to accommodate only one wheelchair user and one other passenger as believed this could result in larger groups having to use two vehicles, increasing the cost. Believed the training for drivers on accommodating wheelchair users was inadequate at times. Did not consider there was a requirement for a colour scheme and expressed concern that permanent signage could increase the risk for criminal damage to vehicles when not in use.

Barry Hussey

Concurred with previous comments regarding the risks caused by permanent signs, including permanent damage to vehicles when removed for vehicle on-sale. Believed magnetic signs would be preferable. Agreed with concerns raised by Mr Boardman about the implications of licensing smaller vehicles which could accommodate one wheelchair user and only one other passenger. Had no objection to the proposal for a colour scheme for vehicles provided it was a readily available colour.

Jaleel Iqbal

Opposed the use of rear loading vehicles as there was inadequate space on taxi ranks to allow this and believed the policy should allow for side-loading only with either three or five passengers (in addition to a wheelchair user). Believed the requirement for additional signage should apply to private hire vehicles only as hackney carriages already had permanent roof signs.

The Chairperson thanked everyone for their contributions which would be taken into account by the Committee in consideration of report LR535.

4. **REVIEW OF HACKNEY CARRIAGE & PRIVATE HIRE POLICY PHASE 2**
(LR535)

The Licensing Officer introduced the report and outlined the main proposed changes to the policy, as shown in Appendix 1 to the report. This included the proposal that all new drivers must complete and pass disability awareness training, with the same requirement on existing drivers by 31 August 2021. She emphasised that the Council's first consideration must always be public safety. The Committee noted that the Department of Transport introduced new statutory taxi and private hire vehicle standards in July 2020 and these would be reviewed in line with the policy later in the year.

At the invitation of the Chairperson, Councillor Porter addressed the Committee in support of the proposed policy, highlighting that the working party set up to oversee the policy review had been mindful of the financial challenges facing the taxi trade, particularly during the Covid pandemic. However, the primary consideration was the safety of the public.

Some Members expressed concern that the working party only included two members, with no representation from the opposition party. These concerns were noted, although it was highlighted that the principle of membership had been established under a previous administration.

The Licensing Officer, Service Lead: Public Protection and Councillor Porter responded to a number of detailed questions from Committee Members on the policy as proposed. This included explaining the rationale behind proposing a single colour (rather than “wrapping” a vehicle, as for example in London), the reason why permanent signage was proposed rather than magnetic removable signage and the proposed “end of life” maximum age for vehicles. The rationale had considered the financial implications for the drivers but balanced against the public safety priority. It had also had regard to the results of the public consultation, included at appendix 2 to the report and it was confirmed that in addition to the general public, taxi drivers had been given the opportunity to participate in the consultation.

The Service Lead: Public Protection emphasised that if the policy was agreed, there was a lead in period before drivers would be required to adhere to the new requirements.

With regard to safeguarding, the Service Lead and Licensing Officer confirmed that the frequency of the training was a matter for future consideration. It was noted that new Department of Transport standards required that every driver undertake a Disclosure and Barring Service (DBS) renewal check every six months.

With regard to some queries expressed during public participation about the wording of paragraph 5.2 of the policy, the Committee considered the proposed amendment was clear in allowing disabled access vehicles to be *either side or* rear loading.

RECOMMENDED (TO CABINET):

That the draft Policy as amended (and set out in Appendix 1 to the report) be approved for adoption.

5. **INTRODUCTION OF 'PAVEMENT LICENCE' UNDER BUSINESS & PLANNING ACT 2020**
(LR534)

The Licensing Officer introduced the report which followed the Government’s introduction of “pavement licence” in July 2020 to assist businesses in response to the Covid pandemic by offering an expedited and more cost-effective process. Local conditions were proposed to mitigate the impact on the local area and also prevent potential obstructions to wheelchair users or visually impaired people.

The Licensing Officer and Service Lead: Public Protection responded to a number of detailed questions from Committee Members. Their responses included confirming that the licensing holder was responsible to ensure tables and chairs remained within the licensed area. Some members expressed concern about the adequacy of enforcement and Officers advised that they would act on any potential breaches notified. The possibility of utilising Enforcement Officers was also noted.

The Service Lead: Public Protection confirmed that the £100 maximum fee was stipulated by the Government and was significantly less than the fee charged under the Highways Act, however the licence was only for one year.

RESOLVED:

That the implementation of the Pavement Licensing Policy in support of economic recovery be agreed and that applications for Pavement Licences are charged at the recommended rate of £100.

6. **PUBLIC SPACE PROTECTION ORDER REVIEW**
(LR533)

The Neighbourhood Services Officer introduced the report and explained that the proposal was to extend the Public Space Protection Order (PSPO) in its current format for three years. Consultation responses from partners, including the Police District Commander, were in support of the proposal as set out.

The Neighbourhood Services Officer responded to questions from Members and confirmed that further consideration would be given to improving the promotion of the PSPO within the area.

RESOLVED:

1. That the extended Public Open Space Protection Order and publication and notification of the Order be approved.
2. That the Strategic Director Services, in consultation with the Cabinet Member for Built Environment and Wellbeing, be authorised to extend the timeframe of the Public Spaces Protection Order to October 2023.

7. **MINUTES OF THE LICENSING SUB-COMMITTEE HELD ON 6 DECEMBER 2019**

RESOLVED:

That the minutes of the Licensing Sub-Committee held on 6 December 2019 be received and noted.

8. **MINUTES OF THE LICENSING SUB-COMMITTEE HELD ON 20 JANUARY 2020**

RESOLVED:

That the minutes of the Licensing Sub-Committee held on 20 January 2020 be received and noted.

9. **MINUTES OF THE LICENSING SUB-COMMITTEE HELD ON 3 MARCH 2020**

RESOLVED:

That the minutes of the Licensing Sub-Committee held on 3 March 2020 be received and noted.

The meeting commenced at 6.00pm and concluded at 7.55pm

Chairperson

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REPORT TITLE: REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE
CONDITIONS OF LICENCE

15 DECEMBER 2020

REPORT OF CABINET MEMBER: Cllr Jackie Porter, Cabinet Member for
Environment and Wellbeing

Contact Officer: Claire Humphreys Tel No: 01962 848 188

Email: chumphreys@winchester.gov.uk

WARD(S): ALL

PURPOSE

This report is to consider proposed changes to the Hackney Carriage & Private Hire Driver's Conditions, Hackney Carriage & Private Hire Vehicle Conditions and Private Hire Operator Conditions following the review of the Statement of Licensing Policy with respect to Hackney Carriage & Private Hire Vehicles, Drivers and Private Hire Operators ("the Policy").

RECOMMENDATIONS:

1. That the amended Hackney Carriage & Private Hire Driver's Conditions at Appendix 1, the amended Hackney Carriage & Private Hire Vehicle Conditions at Appendix 2 and the amended Private Hire Operator's Licence Conditions at Appendix 3, be agreed and approved for consultation with the taxi and private hire trade.
2. Where comments are received following consultation, that these are considered by Members at a future Licensing and Regulation Committee meeting. If no comments are received following consultation, that Members delegate to the Service Lead for Public Protection authority to implement the amended set of Conditions and to make any further amendments in keeping with the Policy.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 Tackling the Climate Emergency and Creating a Greener District
- 1.2 The current Conditions require licensed drivers to minimise the running of vehicle engines when waiting for a passenger. The draft Conditions do not propose to make any changes to this.
- 1.3 Vibrant Local Economy
- 1.4 Supporting our taxi and private hire trade (private hire operators and self-employed drivers) to provide a safe and professional service for residents, visitors and tourists.
- 1.5 Living Well
- 1.6 The taxi and private hire trade provide an invaluable service to many different customers, especially those who are less mobile and rely on licensed drivers to pick them up and drop them off door to door. Without this service, some wouldn't be able to leave their homes.
- 1.7 Your Services, Your Voice
- 1.8 Following the adoption of the revised Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators, these Conditions seek to reflect the requirements of the licence holders to ensure that they provide high standards of service to the public.

2 FINANCIAL IMPLICATIONS

- 2.1 The implementation of revised Conditions will not require any additional resourcing. The compliance and enforcement will be carried out by the current licensing team.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The proposed amendments to the licence conditions for Hackney Carriage & Private Hire Vehicles are implementation of the policy changes agreed by cabinet on 10 November 2020 [CAB3272](#). Consultation is required when a policy change is implemented and for transparency purposes. However as the conditions are implementation of the policy document recently consulted upon the city council is fulfilling this duty conscientiously.
- 3.2 The Licensing and Regulation Committee are delegated to approve 'Standard Conditions'.

4 WORKFORCE IMPLICATIONS

- 4.1 There is already a set of licence Conditions which must be complied with and are enforced by Authorised Officers. The revised Conditions would replace the existing set of Conditions.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 N/A

6 CONSULTATION AND COMMUNICATION

- 6.1 All current licence holders will be consulted on the proposed changes to the revised set of Conditions. This will likely be held from 18 December 2020 to 24 January 2021.
- 6.2 Where comments are received following consultation, these will be considered by the Licensing and Regulation Committee on 23 February 2021.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 This has been covered in the recent review and adoption of the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators. Report [CAB3270](#) refers.

8 EQUALITY IMPACT ASSESSEMENT

- 8.1 An Equality Impact Assessment was carried out as part of the review of the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators. This can be found as a background report to [CAB3270](#).

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None required because there is no processing of personal data, or where there is processing it does not result in a high risk to the rights and freedoms of natural persons

10 RISK MANAGEMENT

- 10.1

Risk	Mitigation	Opportunities
<i>Property</i>	N/A	
<i>Community Support</i>	The Conditions set out the expected standard of compliance from licence holders.	To ensure that a continued high standard of service is provided to the public.
<i>Timescales</i>	The amended Conditions of licence will be	

	implemented as soon as possible after Member approval.	
<i>Project capacity</i>	N/A	
<i>Financial / VfM</i>	N/A	
<i>Legal</i>	The amended Conditions of licence could be subject to an appeal to the Magistrates Court as set out in the Local Government (Miscellaneous Provisions) Act 1976.	
<i>Innovation</i>	N/A	
<i>Reputation</i>	The Council's paramount consideration is to protect the public, whilst ensuring that licence holder comply with the law and Conditions of licence.	
<i>Other</i>	N/A	

11 SUPPORTING INFORMATION:

Introduction

- 11.1 A District Council may attach conditions to Hackney Carriage & Private Hire Driver's Licence under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, Hackney Carriage & Private Hire Vehicle Conditions under Section 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 and Private Hire Operator Licences under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976.
- 11.2 On 15 September 2020, the Licensing and Regulation Committee resolved to approve the draft proposals to the Policy and these draft proposals were subsequently adopted by the Cabinet on 10 November 2020.

12 Amendments

- 12.1 Following the adoption of the reviewed policy, proposed changes are recommended to insert the following conditions of licence, in summary below:
- a) If the driver has any safeguarding concerns these must be reported immediately to the Local Safeguarding Board or Police. Appendix 1 Paragraph 11 refers.

- b) A contactless payment device shall be carried in the vehicle at all times as prescribed in the Policy, this condition excludes vehicles that are exempt from displaying licence plates and door signs. Appendix 2 paragraph 13 refers.
- c) The licence holder shall ensure that the contactless payment device is connected, maintained and working at all times to ensure customers are able to pay by card. Appendix 2 paragraph 14 refers.
- d) The driver must not charge an additional fee or minimum fare for passengers who wish to pay by card. Appendix 2 paragraph 15 refers
- e) The vehicle must display a permanent sign at all times as required in the Policy. This excludes vehicles that are exempt from displaying licence plates. Appendix 2 Paragraph 16 refers.
- f) Vehicles not required to display Internal and External licence plates must display the Plate Exemption Card in the windscreen at all times. Appendix 2 paragraph 29 refers.
- g) A replacement (temporary) vehicle must comply with the vehicle conditions, other than the requirement to display permanent door signs and the Winchester City Council Logo on the roof sign. [Replacement (temporary) vehicles are licensed by third party companies when a licensed vehicle has been taken off the road due to an accident]. Appendix 2 paragraph 43 refers.
- h) The vehicle roof sign must carry the word "TAXI" in black font on a white background, on the front and rear, together with the Winchester City Council Logo on the front. The roof sign must be installed in a central position across the width of the roof. Appendix 2 paragraph 45 refers.
- i) All passengers in wheelchairs may also enter the vehicle from the rear, as the Policy now allows rear loading as well as side loading. Appendix 2 paragraph 47(e) refers.
- j) The Operator must ensure that a Basic DBS certificate is provided to the Licensing Authority for each member of staff who makes the provision for bookings on their behalf, prior to their employment. Appendix 3 paragraph 3 refers.

13 OTHER OPTIONS CONSIDERED AND REJECTED

13.1 NONE

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

[CAB 3272](#) – Review of Hackney Carriage & Private Hire Policy Phase 2 – 10 November 2020

[LR526](#) - Review of Private Hire Operator Licence Conditions - 19 September 2019

Other Background Documents:-

[Statement of Licensing Policy with Respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators](#)

APPENDICES:

Appendix 1 – Draft Hackney Carriage & Private Hire Drivers Conditions.

Appendix 2 – Draft Hackney Carriage & Private Hire Vehicle Conditions.

Appendix 3 – Draft Private Hire Operator Licence Conditions.



Hackney Carriage & Private Hire Drivers Conditions

These conditions are made under Section 51 Part II of the Local Government (Miscellaneous Provisions) Act 1976 by Winchester City Council in respect of Hackney Carriage and Private Hire Vehicle Drivers and the Town Police Clauses Act 1847.

The holder of a Hackney Carriage and/or Private Hire Vehicle Driver's licence must observe and carry out the requirements of the Local Government (Miscellaneous Provisions) Act 1976, Part II, and any order or regulation made under this Act, and the requirements of any other Act of Parliament or orders, regulations or byelaws made under these Acts relating to the driving of motor vehicles.

Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.

Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

Interpretation

In these conditions

“Authorised Officer” means any officer of the Council authorised in writing by the Council for the purpose of these conditions.

“Hackney Carriage” has the same meaning as in the Town Police Clauses Act 1847.

“Private Hire Vehicle” means a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a Hackney Carriage or public service vehicle, which is provided for hire with the services of a Driver for the purpose of carrying passengers.

“Taximeter” means any device for calculating the fare to be charged in respect of any journey in a Hackney Carriage or Private Hire vehicle by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both.

“the Act” means Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.

“the Council” means Winchester City Council.

“the Driver” means a person licensed to drive a Hackney Carriage and Private Hire vehicle under Section 51 of the Act.

“the Licence Holder” means the holder of the Hackney Carriage and/or Private Hire Drivers licence.

“the Operator” means the person(s) or company directors whom the Council has granted the Private Hire Operator’s Licence under Section 55 of the Act.

Drivers must be familiar with the conditions and apply them at all times and upon request make them known to any hirer.

General

1. The Driver’s badge shall be worn in such a position that it be clearly seen all the time Driver is working.
2. The Driver’s badge remains the property of Winchester City Council and if the Driver’s licence is not renewed, or is otherwise revoked or suspended such badge shall be returned by the Driver together with the licence to the Council within seven days of a written notice or upon the demand of an Authorised Officer.
3. The identity badge remains the property of Winchester City Council and in the event of loss or damage to this badge, which renders it unserviceable, the Licence Holder shall make application to the Council for a replacement badge to be issued for which a fee is payable. Loss or theft shall be reported to the Police and the Police reference number provided to the Council.
4. The Driver of a Hackney Carriage or Private Hire vehicle shall be fully acquainted with the topography of the district and, if requested to do so, satisfy the Council as to his/her knowledge of the district.
5. The Driver shall immediately and in any case within seven days disclose to the Council in writing any convictions or cautions, motoring or otherwise imposed upon him/her during the period of the licence.
6. The Driver shall notify the Council in writing of any change of address during the period of licence prior to such change taking place and in any case within seven days of such change.
7. The Driver shall if requested by the hirer provide a written receipt for the fare paid. This shall include the Driver’s full name, Driver’s badge number, signature and date.
8. If, at any time, the Driver becomes aware of any medical condition which may affect his/her fitness to drive licensed vehicles he/she shall immediately give notice in writing to the Council and shall, if required, submit to an examination by a registered medical practitioner of the Council’s choice to ascertain his/her fitness to be licensed. The cost of such examination shall be paid by the driver.
9. The Driver of a Hackney Carriage or Private Hire vehicle where the Taximeter is used, shall be entitled to the fare fixed by the Council. The fare shall be calculated by distance and shown on the Taximeter. The Driver shall not demand a higher fare than that shown on the Taximeter unless a fouling charge is applicable.

10. The Driver shall produce a valid certificate of insurance at the request of an Authorised Officer. Failure to do so may result in suspension of the Drivers licence.

10-11. Where the Driver has any Safeguarding concerns they must report these immediately to the local Safeguarding Board or Police.

Conduct of Driver

11-12. The Driver of a Hackney Carriage or Private Hire vehicle shall drive to any destination by the shortest available route unless otherwise directed by the hirer.

12-13. The Driver shall at all times:-

- (a) Provide a prompt, efficient and reliable service.
- (b) Assist passengers with luggage, pushchairs and wheelchairs.
- (c) Be clean and respectable in his/her dress and person and in a manner not to cause embarrassment to members of the public.
- (d) Behave in a civil, courteous and orderly manner.
- (e) Take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by him/her.
- (f) Comply with any code of conduct the Council may have in force at any time he/she is licensed by the Council.

13-14. The Driver shall at no time cause or permit the noise emitted by any radio or in car entertainment in the vehicle to be a source of nuisance or annoyance to any person, whether they are inside or outside the vehicle.

14-15. The Driver who has been hired to be at an appointed time and place shall unless delayed or prevented by some sufficient cause, punctually attend with the vehicle at the appointed time and place.

15-16. The Driver shall when requested by any person hiring or seeking to hire the vehicle:-

- (a) Convey a reasonable quantity of luggage.
- (b) Afford reasonable assistance in loading and unloading.
- (c) Afford reasonable assistance by removing the luggage to and from the entrance of any house, station or place at which the journey starts or finishes.

16-17. The Driver of a Hackney Carriage or Private Hire vehicle shall refrain from operating a radio or similar communications equipment to the annoyance of the hirer.

17.18. The Driver of a Hackney Carriage or Private Hire vehicle shall not smoke inside the vehicle at any time.

18.19. A Driver of a wheelchair capable vehicle shall not refuse to take a wheelchair bound passenger when plying for hire or when instructed to do so by the Private Hire Operator.

Vehicle inspection

19.20. The Driver shall immediately after the end of any hiring of a licensed vehicle, or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left in the vehicle.

20.21. Any property that is found or is given to the Driver having been left in a Hackney Carriage or Private Hire vehicle shall deposit it at a Police Station within 24 hours, providing details of the finding.

21.22. The Driver of a Hackney Carriage vehicle or Private Hire vehicle shall ensure that the vehicle is kept to a high standard of cleanliness at all times. In cases where the Driver is not the vehicle Licence Holder, he/she shall report any mechanical or bodywork problems to the Licence Holder immediately.

Carrying of animals

22.23. The Driver of a Hackney Carriage or Private Hire vehicle shall not refuse to carry an assistance dog provided it is accompanied by a fare paying passenger, unless the Driver can produce a letter of exemption from the Council. No charge shall be made for the carriage of assistance dogs.

23.24. The Driver of a Hackney Carriage or Private Hire vehicle shall not convey in the vehicle any animals belonging to or in the custody of the Driver, the proprietor or operator of the vehicle unless they are accompanied by a fare paying passenger.

24.25. Any animal belonging to or in the custody of any fare paying passenger which at the **Driver's discretion** may be carried in a Hackney Carriage or Private Hire vehicle shall not be carried in the front of the vehicle.

HACKNEY CARRIAGE DRIVERS ONLY

25.26. Every Driver of a Hackney Carriage for which ranks are fixed by any Byelaw shall when plying for hire in any street and not actually hired proceed with reasonable speed to one of the ranks, and;

- (a) If the rank, at the time of arrival is occupied by the number of vehicles authorised to occupy it, proceed to another rank.
- (b) On arriving at a rank not already occupied by the full number of vehicles authorised to occupy it, place the vehicle immediately behind the vehicle on the end so as to face in the same direction.
- (c) When any other vehicle immediately in front is moved, move the vehicle forward so as to fill the place previously occupied.

26-27. The Driver of a Hackney Carriage shall when occupying any position on a rank shall remain with the vehicle ready to be hired at once.

27-28. The Driver of a Hackney Carriage provided with a Taximeter shall:-

- (a) When plying for hire, have the roof light illuminated.
- (b) When hired or off duty, or in another Council district, ensure the roof light is not illuminated.
- (c) Ensure the Taximeter is not activated until immediately prior to the journey starting.
- (d) Ensure that the Taximeter is properly illuminated throughout any part of the hiring.
- (e) Not tamper with or permit any person to tamper with any Taximeter in the vehicle.

28-29. The Driver shall clearly display the current Hackney Carriage fare chart.

29-30. The Driver of a Hackney Carriage plying for hire shall drive to any place within the Council district at the request of the hirer.

30-31. The Driver of a Hackney Carriage shall not, by calling out or otherwise, encourage any person to hire such carriage and shall not make use of the services of any other person for that purpose.

PRIVATE HIRE DRIVERS ONLY

31-32. The Driver shall not demand from the hirer of a Private Hire vehicle a fare in excess of any previously agreed for the hiring between the hirer and the Operator. If the vehicle is fitted with a Taximeter and the fare has not been agreed then the fare shall be that amount shown on the Taximeter.

32-33. Drivers of Private Hire Vehicles shall not stop on or near an appointed Hackney Carriage rank at any time in circumstances which could give the impression that the vehicle is being used to ply for hire.

Appeals

33-34. The Licence Holder may appeal against the imposition of any of these conditions.

34-35. The Licence Holder/applicant may appeal against the refusal to grant or renew a licence, or the suspension or revocation of a licence.

35-36. **Any appeal should be made to the Magistrates Court within 21 days of the refusal to grant or renew a licence, or the suspension or revocation of such a licence.**

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Hackney Carriage and Private Hire Vehicle Conditions

These conditions are made under section 47(1) Part II of the Local Government (Miscellaneous Provisions) Act 1976.

The holder of a Hackney Carriage Vehicle Licence or Private Hire Vehicle Licence shall observe and carry out the requirements of the Local Government (Miscellaneous Provisions) Act 1976, Part II and any orders or regulations made thereunder and the requirements of any other Act of Parliament or orders, regulations or byelaws made thereunder relating to motor vehicles.

Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.

Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

Interpretation

In these conditions:-

“**Authorised Officer**” means any officer of the Council authorised in writing by the Council for the purpose of these Conditions.

“**External Licence Plate**” means the Hackney Carriage or Private Hire Vehicle Licence plate issued by the Council that is displayed on the outside rear of the Vehicle.

“**Hackney Carriage**” has the same meaning as in the Town Police Clauses Act 1847.

“**Internal Licence Plate**” means the Hackney Carriage or Private Hire Vehicle Licence plate issued by the Council that is displayed in the Vehicle on the windscreen.

“**Private Hire Vehicle**” means a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a Hackney Carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers.

“**Taximeter**” means any device for calculating the fare to be charged in respect of any journey in a Hackney Carriage or Private Hire Vehicle by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both.

“**the Act**” means the Local Government (Miscellaneous Provisions) Act 1976.

“**the Council**” means Winchester City Council.

“**the Driver**” means the person licensed to drive a Hackney Carriage and Private Hire Vehicle under section 51 of the Act.

“the Licence Holder ” means the holder of the Hackney Carriage or Private Hire Vehicle Licence.

“the Operator” means the person to whom the Council has granted the Private Hire Operator’s Licence to which these conditions apply. In the case of a partnership these conditions apply to each of the partners and in the case of a company to each of the company directors.

“the Vehicle” means the Hackney Carriage Vehicle or Private Hire Vehicle.

“the Policy” – means the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators.

The Licence Holder must be familiar with the conditions and apply them at all times and upon request make them known to any hirer.

Maintenance and appearance of vehicles

1. The Vehicle shall be maintained and serviced in accordance with the manufacturer’s recommendations.
2. The Vehicle and its fittings must at all times when it is available for hire or being used as a Hackney Carriage or Private Hire Vehicle be safe, clean and tidy. It shall comply with all relevant statutory requirements applicable to the class of vehicle to which the Vehicle belongs including the Motor Vehicle (Construction and Use) Regulations 1978.
3. The Vehicle shall be maintained throughout the term of the Hackney Carriage or Private Hire Vehicle licence, to a high standard of appearance to the complete satisfaction of an Authorised Officer.
4. Any vehicle presented shall be free from any significant areas of visible rusting, dents or scratches to include the following:-
 - (a) PAINT WORK. All panels on a vehicle should be in matching colour.
 - (b) SEATS. In conventional saloon vehicles where it is intended that the licence should be for four passengers, the rear seat must be at least 50 inches (127cms) in width. All seats have a minimum leg room of 18 inches per passenger and in respect of seating comply with the Road Vehicles Registration and Licensing Regulations 1971. All seats shall be free from cuts, tears or cigarette burns.
 - (c) CARPETS /FLOOR COVERING. All carpets and floor coverings shall be complete and free from cuts, tears or serious staining.
 - (d) HEADLINING AND OTHER TRIM. All interior trim including headlining, shall be clean, complete, properly fitted and free from serious, tears or major soiling.
 - (e) INTERIOR. The interior shall be kept clean, tidy, free from litter and water tight.

- (f) **BOOT/ LUGGAGE COMPARTMENT.** This shall be kept empty except for spare wheel, essential tools and first aid kit. The compartment shall be clean, tidy and free of any litter or other rubbish. Any covering shall be free from major cuts, tears or other damage or staining.
- (g) **WINDOWS.** Vehicles with manufactured tinted glass may be licensed with no additional tinting. Applicants/licence holders may request window tinting on vehicles that have clear glass where they can provide exceptional reasons why it is required and must be professionally applied.
- (h) **WINDOW OPERATION.** All passengers, except those occupying a middle seat, must be able to open adjacent windows without difficulty.

Mechanical Inspection

- 5. The Vehicle shall be mechanically inspected by the Council's nominated testing station no earlier than once month prior to a licence being issued.
- 6. The Vehicle shall not be used as a Hackney Carriage or Private Hire Vehicle unless there is a current mechanical inspection certificate and if applicable, an MOT certificate in force in respect of that vehicle, in addition to a current hackney carriage or private hire vehicle licence being in force.

Emissions

- 7. Within the air quality management area in the City Centre, drivers shall minimise the running of vehicle engines when waiting for a passenger.

Spare wheel

- 8. A spare wheel or tyre re-inflation device, as supplied by the manufacturer, must be maintained and kept in the Vehicle at all times. In the event of a puncture, The Driver shall secure alternative transport without delay to complete the journey.

Taximeters

- 9. The Taximeter in any new vehicle or any replacement Taximeter shall be of the calendar type which, when recalibrated cannot be altered by the Driver.
- 10. The Licence Holder shall notify the Council of any replacement Taximeters fitted to the Vehicle.
- 11. The Taximeter should be maintained in good working order at all times and must be inspected and sealed by the Authorised Officer prior to use.
- 12. Whenever the Hackney Carriage fares are amended, the Licence Holder shall ensure that the Taximeter is tested by an Authorised Officer within fourteen days of the change.

Contactless Payment Device

13. A contactless payment device shall be carried in the Vehicle at all times as prescribed in the Policy. Vehicles that are exempt under Section 75(3) of the Act are excluded from this condition.
14. The Licence Holder shall ensure that the contactless payment device is connected, maintained and working at all times to ensure customers are able to pay by card/contactless.
- ~~14.~~15. The Driver must not charge an additional fee or minimum fare for passengers to pay by card/contactless.

Signs

16. The Vehicle must display a permanent sign at all times as required in the Policy. Vehicles that are exempt under Section 75(3) of the Act are excluded from this condition.
- ~~15.~~17. No signs, notices, plates, marks, letters figures, symbols, emblems or devices whatsoever (collectively referred to as 'sign') other than those mentioned in paragraph 17 below shall be displayed on in or from the Vehicle.
- ~~16.~~18. Signs permitted are:-
- (a) registration number
 - (b) any sign required by law or Council policy
 - (c) the licence plate giving the licence number and the maximum number of passengers ~~to be carried on~~ permanently fixed to the outside rear of the Vehicle
 - (d) any sign on a Taximeter indicating that the Vehicle is for hire
 - (e) For Hackney Carriages only, the roof sign referred to in paragraph 41 and 42 below
 - (f) any sign indicating membership of a national motoring organisation
 - (g) any sign approved by the Council to indicate that payment of fares may be made by credit/debit card/contactless payment
 - (h) any sign provided by Hampshire County Council to show that the Vehicle is used for schools contracts
 - (i) any other sign within the Vehicle must be approved in advance by an Authorised Officer
- ~~17.~~19. Any sign permitted must be positioned so as not to impede visibility.

Advertising

~~18-20.~~ No advertising is permitted in or on the Vehicle without prior written approval from the Council. Approval will only be considered on receipt of a professional proof/draft of the advertisement.

~~19-21.~~ Advertising must not be displayed on the windscreen or passenger windows.

~~20-22.~~ Advertisements relating to tobacco, alcohol, gambling, sex, religion or politics will not be approved.

~~21-23.~~ Advertisements must comply with the Advertising Standards Authority.

~~22-24.~~ All advertising must be completed to a professional standard and quality.

Licence Plate

~~23-25.~~ The Internal Licence Plate shall be displayed on the front nearside of the windscreen, or in the case of vehicles that have a partition, displayed on this partition.

~~24-26.~~ The External Licence Plate shall be ~~firmly~~ permanently affixed and displayed on the rear of the Vehicle to the satisfaction of an Authorised Officer.

~~25-27.~~ The Council shall be informed immediately should the Internal or External Licence Plate be broken, lost or defaced. On no account shall a vehicle be used as a Hackney Carriage or Private Hire Vehicle without a plate.

~~28.~~ The Internal or External Licence Plate shall be returned to the Council by the Licence Holder if, for any reason, the Vehicle is not available for hire for a period of more than fourteen days without the consent of the Council, in advance.

~~26-29.~~ Vehicles that are exempt under Section 75(3) of the Act are not required to display Internal and External Licence Plates but must display the Plate Exemption Card in the windscreen at all times.

Towing Of Trailers

~~27-30.~~ No Hackney Carriage or Private Hire Vehicle shall tow a trailer unless evidence of valid insurance to cover such use for hire and reward has been produced to an Authorised Officer. The External Licence Plate shall be clearly displayed on the rear of any trailer used, this sign being in addition to that on the rear of the Vehicle.

~~28-31.~~ Any trailer used must comply with all relevant regulations.

Mechanical Breakdown

29-32. In cases where the Driver has fully complied with the service requirements, if the Vehicle becomes unfit to complete a hiring:-

- (a) The Driver shall be entitled to demand the fare for the distance already covered.
- (b) The Driver shall secure alternative transport without delay to complete the journey if the hirer so wishes.
- (c) If the Vehicle is repaired and completes the hiring the Driver shall be entitled to the full fare with the exception of any time that the Driver was waiting for the repair to be carried out.
- (d) Any such incident shall be reported to an Authorised Officer within seven days.

Vehicle Checks

30-33. Any Vehicle which in the opinion of an Authorised Officer does not comply with any legislation, bye-laws or conditions may be inspected by an Authorised Officer at any time to ensure its fitness to be used as a Hackney Carriage or Private Hire Vehicle.

Insurance

31-34. The licence holder shall produce to the Council a valid certificate of insurance within seven days of the insurance cover being renewed or any change of insurer during the course of the licence, or any change of additional drivers.

32-35. A copy of the current insurance certificate or insurance cover note shall be carried in the Vehicle at all times.

Dual Plating

33-36. No vehicle shall be licensed if it is also licensed in another district.

Navigation

34-37. The Licence Holder shall ensure that the Vehicle is equipped with an indexed street map of the Winchester City Council district at all times. Vehicles that carry a satellite navigation system must also comply with this condition.

Luggage

35-38. All luggage shall be carried in the luggage area and may only be carried in the seating area if it is safely secured and with the consent of the passengers.

Transfer of vehicle

36-39. In the event that the Licence Holder of a Hackney Carriage or Private Hire Vehicle transfers his/her interest in that vehicle to a person other than one of those named on the licence, he/she shall within seven days of the transfer, give notice in writing to the Council specifying the name, address and Hackney Carriage and/or Private Hire Driver licence number of the person to whom the Vehicle has been transferred.

Driver

37-40. The Licence Holder shall notify the Council in writing of the names, addresses and licence numbers of drivers of the Vehicle and shall produce evidence of fully comprehensive insurance for each driver.

Change of Address

38-41. The Vehicle Licence Holder shall inform the Council of any change of address within seven days.

Convictions

39-42. The Licence Holder shall within seven days disclose to the Council in writing any convictions or cautions, motoring or otherwise imposed upon him/her during the period of the licence (or, if a company or partnership, of any of the directors or partners).

Replacement Vehicles

40-43. A replacement vehicle must comply with these conditions, other than the requirements to display permanent door signs and Winchester City Council logo on the roof sign.

HACKNEY CARRIAGE VEHICLES ONLY

Fare Chart

41-44. A copy of the current fare chart shall be clearly displayed within the Vehicle at all times, where it may be seen by any passenger.

Roof Signs

42-45. Other than a purpose built vehicle that has a 'taxi' light/sign integrated into the Vehicle, a sign of a design approved by the Council the roof sign must carry the word "TAXI" in black font on a white background, on the front and rear, together with the Winchester City Council logo on the front. The roof shall be installed in a central position across the width of the roof.

~~43.46.~~ The roof sign shall be connected to the Taximeter and shall be illuminated at all times while the Vehicle is plying for hire. The light shall at all times comply with the requirements of vehicle lighting regulations when illuminated.

Wheelchair Bound Passengers

~~44.47.~~ This section is applicable to vehicles which are required to comply with the conditions of fitness as prescribed by ~~The Disability Discrimination Act 1995~~ the Equality Act 2010. ~~(the “DDA”)~~

- (a) There shall be sufficient space between the front of the rear seat and any partition for an occupied wheelchair to turn and to safely access or exit the Vehicle.
- (b) There shall be sufficient space for a wheelchair to be safely secured facing forward or rearward. No wheelchair shall be carried facing sideways.
- (c) There shall be separate means of securing the chair and the wheelchair passenger.
- (d) Wheelchair ramps shall be carried in the Vehicle at all times.
- (e) Passengers in wheelchairs shall enter the Vehicle from the side adjacent to the pavement or rear when the Vehicle is plying for hire on an authorised rank. ~~Rear loading facilities may be used other than on the highway.~~
- (f) A Vehicle designed or adapted to carry wheelchairs shall display a minimum of two signs indicating that it is capable of carrying wheelchair bound passengers.
- (g) Any swivel seat fitted must meet the requirements of the DDA Equality Act 2010.

PRIVATE HIRE VEHICLES ONLY

Signs

~~45.48.~~ Private Hire Vehicles shall have a sign advertising the name of the Operator on both sides of the Vehicle which, in addition to the name of the company shall include the words ‘Advance booking only’, ‘Pre-booked only’ or ‘No booking no ride’. Vehicles that are exempt under Section 75(3) of the Act are excluded from this condition.

~~46.49.~~ Private Hire Vehicles are not permitted to display roof signs.

~~47.50.~~ Private Hire Vehicles shall not display any advertisement that includes the words ‘taxi’, ‘cab’ or words of a similar meaning.

Advertising

~~48~~51. Approval will not be given to advertise on Private Hire Vehicles that are exempt from the requirement to display the Licence Plates.

~~49~~52. Advertising must not be displayed on the same panel of the Vehicle as the Operator sign as in ~~47~~3 above.

Hackney Carriage ranks

~~50~~53. Drivers of Private Hire Vehicles shall not stop on or near an appointed Hackney Carriage rank at any time in circumstances which could give the impression that the vehicle is being used to ply for hire.

Plate Exemption

~~51~~54. Vehicles that are exempt from the requirement to display the Licence Plates must keep a copy of the letter of exemption in the vehicle at all times. This letter must be produced upon request.

Appeals

~~52~~55. The Licence Holder may appeal against the imposition of any of these conditions.

~~53~~56. The Licence Holder/applicant may appeal against the refusal to grant or renew a licence, and suspension or revocation of a licence, except where the suspension relates to the safety of the vehicle.

~~54~~57. Any appeal should be made to the Magistrates Court within 21 days of the refusal to grant or renew, or the suspension or revocation of such licence.

~~55~~58. In the case of refusal to grant a hackney vehicle licence, the appeal should be made to the Crown Court.

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Private Hire Operator's Licence Conditions

These conditions are made under section 55(3) Part II of the Local Government (Miscellaneous Provisions) Act 1976.

The holder of a Private Hire Vehicle Operator's licence shall observe and carry out the requirements of the Local Government (Miscellaneous Provisions) Act 1976, Part II, and any orders or regulations made thereunder and the requirements of any other Act of Parliament or orders, regulations or byelaws made thereunder relating to the operation of the motor vehicles.

Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.

Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

Interpretation

In these conditions

"Assistance Dogs" means as defined in Section 37A(2) Disability Discrimination Act 1995.

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

"Private Hire Vehicle" means a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers.

"the Act" means Local Government (Miscellaneous Provisions) Act 1976.

"the Council" means Winchester City Council.

"the Driver" means a person licensed to drive a hackney carriage and private hire vehicle under Section 51 of the Act.

"the Operator" means the person to whom the Council has granted the Private Hire Operator's Licence to which these conditions apply. In the case of a partnership these conditions apply to each of the partners and in the case of a company to each of the company directors.

The Operator shall be familiar with the conditions and apply them at all times.

1. Any vehicle employed or used by the Operator shall be licensed by Winchester City Council before it is used as a private hire vehicle.

2. Any premises at which the licence holder operates **must** be in the Winchester district and the address provided to the Council. If an operator does not have premises, all provision for inviting and the acceptance of bookings must be undertaken in the Winchester district and the operator shall provide evidential records to show this.

2.3. The Operator must ensure that a basic DBS certificate is provided to the Licensing Authority for each member of staff who will make the provision for bookings on their behalf, prior to their employment.

Records to be kept by the Operator

3.4. The records required to be kept by the Operator under Section 56(2) and (3) of the Act shall be kept in a book, electronic file or other form approved by the Council, and produce on request to an Authorised Officer for examination.

4.5. The Operator shall record before the commencement of each journey, the following particulars of every booking of a private hire vehicle accepted:-

- a) the name and pick up point of the hirer
- b) the time and date of the booking
- c) the time and date of the pick up and the call sign of the vehicle used
- d) the name and licence badge number of the Driver dispatched
- e) how the booking was made (i.e. by telephone, personal call, etc)
- f) the destination
- g) fare quoted or to be charged by the meter and in either case to include call out or return fee
- h) exact location of where the acceptance of booking was taken (where the operator does not invite or accept bookings from a premises)

5.6. The Operator shall keep copies of all hackney carriage and private hire driver and vehicle licences operated.

6.7. The Operator must inform the Council of the names and licence badge number of all drivers operated by him/her within 7 days of the arrangement.

7.8. The Operator shall keep a record of all vehicles and their call signs.

8.9. The Operator shall keep a copy of the letter of exemption issued by the Council of all private hire vehicles that are exempt from displaying a licence plate.

9.10. The Operator shall keep all records for a period of at least 12 months following the date of the last entry.

10.11. If the telephone number of the operating company is diverted to a person outside of the operating premises at any time, that person must record all bookings as in 3 above. These records must be added to the full record within 48 hours.

Standard of service

11.12. The Operator shall provide a prompt, efficient and reliable service to the public at all reasonable times, in particular shall ensure that the hirer is aware of the fare for

the journey, or whether it is to be metered and in either case to include any call out or return fee.

~~12.~~13. The Operator shall ensure that when a private hire vehicle has been booked the Driver attends at the appointed time and place punctually, unless delayed or prevented by sufficient cause.

~~13.~~14. Any premises to which the public have access, whether for the purpose of booking or waiting, the Operator shall keep clean, adequately heated, ventilated and lit premises which the Operator provides.

~~14.~~15. The Operator shall notify the customer if their booking is to be sub-contracted to another Private Hire Operator and provide the sub-contracted Operator's name and telephone number to the customer.

Fares

~~15.~~16. If a minimum fare is to be charged, the Operator shall ensure that each customer is informed at the time of booking. If no fare is quoted, the meter shall be used to calculate the fare and the Driver shall not demand more than the fare shown on the meter. The meter shall not be started until the customer is seated in the vehicle.

Provisions regulating signs on vehicles

~~16.~~17. The Operator shall ensure that any licensed private hire vehicle shall not display any advertisement that includes the words 'taxi', 'cab' or words of a similar meaning.

Conduct of the Operator

~~18.~~ The Operator shall immediately upon receipt notify the Council in writing of any complaints concerning the conduct of a driver or the cleanliness/condition of a vehicle.

~~17.~~19. The Operator shall ensure that they comply with their own complaints procedure. Any changes to the complaints procedure must be provided in writing to the Licensing Authority within seven days.

~~18.~~20. No Operator shall change the operating address without prior agreement in writing from the Council.

~~19.~~21. The Operator shall notify the Council in writing of any change of operating address during the period of the licence within seven days of such change.

~~20.~~22. The Operator shall provide details to the Council in writing within seven days of the date of any caution or conviction he/she receives.

~~21.~~23. The Operator may only sub-contract any accepted booking to another licensed private hire operator.

22-24. The Operator shall not refuse any booking made for carrying wheelchair bound passengers without reasonable cause and shall ensure that each of these bookings is carried out.

23-25. The Operator shall not refuse any booking nor apply any additional charge for carrying Assistance Dogs without reasonable cause and shall ensure that each of these bookings is carried out.

Appeals

24-26. The Operator may appeal against the imposition of any of these conditions.

25-27. The Operator/applicant may appeal against the refusal to grant or renew a licence, or the suspension or revocation of a licence.

26-28. Any appeal should be made to the Magistrates Court within 21 days of the refusal to grant or renew a licence, or the suspension or revocation of such a licence.

Draft

Public Document Pack Agenda Item 6

LICENSING SUB-COMMITTEE

Monday, 21 September 2020

Attendance:

Councillors

Mather (Chairperson)

Green

Bentote

Officers in attendance:

Miss B Appletree – Licensing Officer

Mr N Mountney – Litigation Solicitor

[Full audio recording and video recording](#)

1. NEW PREMISES LICENCE – SAINSBURY'S SUPERMARKETS LTD, WINCHESTER ROAD, BISHOPS WALTHAM, SO32 1BA (PREVIOUSLY BUDGENS STORE)

(Report LR532)

The Chairperson welcomed all those present to the meeting:

Applicant

- Joanne Surguy – Licensing Manager, Sainsbury's Supermarkets Ltd
- Robert Botkai – Solicitor for the Applicant, Winckworth Sherwood LLP
- Andrew Sanders – Winckworth Sherwood LLP

Representations by Other Persons

- Parish Councillor Robert Shields (on behalf of Bishops Waltham Parish Council)

The Licensing Officer introduced the report which set out an application for a New Premises Licence under Section 17 of the Licensing Act 2003 for Sainsbury's Supermarkets Ltd, Winchester Road, Bishops Waltham. The premises was previously owned by Budgens Stores Ltd who had held a premises licence permitting the supply of alcohol at the site since 2005.

The application was seeking the supply of alcohol (for consumption off the premises only) as the only licensable activity, between the hours of 0600 and 0000 Monday to Sunday and specified the premises' opening hours as between 0000 and 0000 Monday to Sunday (24 hours), as set out in appendix 1 to the report.

During the consultation period, a number of conditions had been agreed between Hampshire Constabulary and the applicant. These conditions were set out in section 5 of the report.

Furthermore, following consultation with Hampshire County Council's Trading Standards, the applicant had amended the terminal hour for the supply of alcohol to 2300 to promote the prevention of crime and disorder licensing objective.

One valid representation had been received from Bishops Waltham Parish Council, raising objection to the application, in respect of the current operating hours of the Budgens Store and primarily in relation to the prevention of crime and disorder, public safety and the prevention of public nuisance licensing objectives. Their representation was set out in full in appendix 2.

The Licensing Officer advised the Sub-Committee that the premises licence for the Budgens Store currently permits the supply of alcohol between 0800 to 2300 Monday to Saturday and 1000 to 2230 on Sundays and the opening hours mirrored these times. To provide some context, Hampshire Constabulary had provided crime statistics from the last 12 months at the premises. These consisted of three crime reports: two relating to theft and one relating to anti-social behaviour.

In conclusion, the Licensing Officer advised the Sub-Committee that, if minded to approve the application, there were conditions to consider, as set out in Section 5 of the report, including those conditions agreed by Hampshire Constabulary and the applicant (set out in italics) which the Sub-Committee could amend as appropriate to promote the licensing objectives.

In response to questions from the Sub-Committee, the Licensing Officer clarified that the newly proposed terminal hour for the supply of alcohol of 2300 hours would remain the same as the terminal hour currently in place, with the exception of the terminal hours on Sundays which was currently 2230 hours. However, it was noted the starting hour would change from those hours existing of 0800 hours Monday to Saturday and 1000 hours on Sundays to the proposed starting hour for the supply of alcohol of 0600 hours Monday to Sunday.

At the invitation of the Chairperson, the Solicitor representing the applicant, Mr Botkai, addressed the Sub-Committee and responded to questions. He set out the application as amended and clarified that discussions had taken place with Bishops Waltham Parish Council with an offer to further amend the hours for the supply of alcohol to 0700 hours to 2300 hours Monday to Sunday to help address their concerns.

The Chairperson then invited Parish Councillor Robert Shields to address the Sub-Committee on behalf of Bishops Waltham Parish Council and in respect of their representation as 'Other Persons'. He stated that the morning hours were not of a concern to the Parish Council, the objection was based solely on the store opening hours, specifically the store remaining open beyond 2200 hours; the time that had been referred to in Sainsbury's letter dated 27 July 2020 which had been widely publicised and sent to local residents, as set out in addendum 1

to appendix 2. He stated that opening beyond 2200 hours would result in unacceptable behaviour in a residential area later into the evening.

In conclusion, Parish Councillor Shields stated that, on the basis of the hours set out in Sainsbury's letter dated 27 July 2020 (0800 hours to 2200 hours Monday to Saturday and 1000 hours to 1600 hours on Sundays), local residents and Bishops Waltham Parish Council would welcome Sainsbury's to the area. He urged the Sub-Committee to restrict the opening hours of the store to 2200 hours Monday to Saturday to ensure that the applicant honoured the commitment made to members of the public.

All the points raised were answered by the applicant accordingly.

For clarification, the applicant and the Council's Litigation Solicitor confirmed that this application was to consider the licensable hours for the supply of alcohol and that store opening hours were to be determined by the local planning authority.

In response to questions from the Sub-Committee in relation to the Sainsbury's letter of July 2020, Mr Botkai clarified the difference between the store opening hours and the licensing hours for the supply of alcohol. He confirmed that an existing licence of 0800 hours to 2300 hours for the supply of alcohol was already in place at the existing premises which was transferable between licence holders if required.

Currently Budgens store had chosen to only operate until 2200 hours but had the option to trade for longer. Sainsbury's had submitted a new premises licence application but were seeking no change to the terminal hour to that of the existing licence of 2300 hours. In respect of the store hours stated in the letter dated 27 July 2020, Mr Botkai advised that he was not aware of any immediate change to the terminal store hour of 2200 hours as set out in the letter and clarified that it was common for applications for licensable activities such as the hours for the supply of alcohol to be longer than store opening hours to allow for a degree of flexibility.

In summing up, Mr Botkai confirmed that the application submitted and now revised by Sainsbury's, was not seeking for any extension to the terminal hour beyond that already existing on the current premises of 2300 hours and it was only the hour change to the starting hour for the licence for the supply of alcohol at these premises from 0800 hours to 0700 hours that represented the only change to the existing licence currently held by the Budgens store and to which the Parish Council raised no objection.

The Sub-Committee retired to deliberate in private.

In her closing remarks, the Chairperson stated that the Sub-Committee had carefully considered the application, the representation made by Bishops Waltham Parish Council and the Applicant's evidence received. It had taken into account the Council's Statement of Licensing Policy, the Home Office Guidance issued under section 182 of the Licensing Act 2003, the duties under the Crime and Disorder Act 1998 and the rights set out in the Human Rights Act 1998.

The Sub-Committee has also considered the evidence of police incidents arising on this site in the last year. According to police reports, two incidents of theft and one incident of anti-social behaviour and reference was made to the Parish Council letter of representation, which stated that the Parish Council was not aware of any incidents at the current premises.

The Sub-Committee concluded that the application should be granted, with the conditions set out in section 5 of the report, with the following amendment that the hours for the supply of alcohol should be 0700 hours to 2300 hours Monday to Sunday.

The Chairperson thanked all those present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrates' Court within 21 days from the date of notification of the decision.

RESOLVED:

1. That the application be granted, subject to the conditions set out in section 5 of the report with an amendment to the hours for the supply of alcohol of 0700 hours to 2300 hours Monday to Sunday, as set out above, for the following reasons:

REASON

The Sub-Committee considered that the conditions attached to the licence and as amended above, particularly those conditions agreed between the applicant, Hampshire Constabulary and Hampshire County Council Trading Standards, would adequately promote the prevention of crime and disorder, public safety and the prevention of public nuisance licensing objectives.

The meeting commenced at 10am and concluded at 11.30 am.

Chairperson