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**Gwasanaethau Gweithredol a Phartneriaethol /
Operational and Partnership Services**

Deialu uniongyrchol / Direct line /: 01656 643147
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Ein cyf / Our ref:
Eich cyf / Your ref:

Dyddiad/Date: 8 February 2017

Dear Councillor,

LICENSING SUB-COMMITTEE B

A meeting of the Licensing Sub-Committee B will be held in Committee Rooms 2/3, Civic Offices Angel Street Bridgend CF31 4WB on **Tuesday, 14 February 2017 at 10.00 am.**

AGENDA

1. Apologies for Absence
To receive apologies for absence from Members.
2. Declarations of Interest
To receive declarations of personal and prejudicial interest (if any) from Members/Officers in accordance with the provisions of the Members Code of Conduct adopted by Council from 1 September 2008.
3. Approval of Minutes 3 - 30
To receive for approval the public Minutes of the meetings of the Licensing Sub-Committee of 13 December 2016 and the Licensing Act 2003 Sub-Committee of 23 November and 8 December 2016.
4. Application to Licence Private Hire Vehicle 31 - 34
5. Urgent Items
To consider any other item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.
6. Exclusion of the Public
The minutes and reports relating to the following items are not for publication as they contain exempt information as defined in Paragraph 12 of Part 4 and/or Paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007.

If following the application of the public interest test the Committee resolves pursuant to the Act to consider these items in private, the public will be excluded from the meeting during

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such consideration.

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| 7. | <u>Approval of Exempt Minutes</u>
To receive for approval the exempt Minutes of the meeting of the Licensing Sub-Committee of 13 December 2016. | 35 - 36 |
| 8. | <u>Application for Renewal of Licences</u> | 37 - 40 |
| 9. | <u>Application for Grant of New Licences to Drive Hackney Carriage and Private Hire Vehicles</u> | 41 - 46 |

Yours faithfully

P A Jolley

Corporate Director Operational and Partnership Services

Councillors:

GW Davies MBE

PA Davies

E Dodd

Councillors

CJ James

PN John

DRW Lewis

Councillors

DG Owen

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (B) HELD IN COUNCIL CHAMBER, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON WEDNESDAY, 23 NOVEMBER 2016 AT 10.00 AM

Present

Councillor DRW Lewis – Chairperson

E Dodd

CJ James

Officers:

David Barrett	Licensing Enforcement Officer
Katie Brook	Senior Licensing Technical Officer
Andrea Lee	Senior Lawyer
Andrew Rees	Senior Democratic Services Officer - Committees
Yvonne Witchell	Team Manager Licensing

Representing the Responsible Authorities

PC S Rowlett	-	South Wales Police
PC K Ellis	-	South Wales Police
F Colwill	-	Licensing Enforcement Officer, BCBC

Representing Premises Licence Holder and Designated Premises Supervisor

Ms E Hawkley	-	Solicitor, Representing Premises Licence Holder
Mr HS Johal	-	Designated Premises Supervisor
Mrs H Malhi	-	Company Secretary, H&G Trading Limited

31. DECLARATIONS OF INTEREST

None.

32. LICENSING ACT 2003: SECTION 51 APPLICATION FOR REVIEW OF PREMISES LICENCE COSTCUTTER, 175-176 CAERAU ROAD, CAERAU, MAESTEG

An application was made by Elen Hawkley of Hutton's Solicitors, representing Mr Hardev Johal of H&G Trading Limited, the Premises Licence Holder of Costcutter, 175-176, Caerau Road, Caerau, Maesteg seeking an adjournment as her client was visiting India until 15 December 2016 as she required to take instructions from him and could not make representations on his behalf. She stated that the extent of her instructions was a witness statement made by Mr Johal of 22 November 2016 which confirmed that he owns the business at 175-176 Caerau Road, Caerau, Maesteg and is a limited company registered as H&G Trading Limited and he is a Director. Mr Johal in the witness statement confirmed that he is the DPS of the premises and has day to day running of the business, his duties involve book keeping, weekly outgoing and incoming of all monies, VAT and tax returns, ordering goods, stock taking, dealings with other companies and reps visiting the shop. In his absence, the registered company secretary, Harminder Malhi had been given full authority to run the business with all the legal requirements put into place by Mr Johal.

The Premises Licence Holder's representative informed the Sub-Committee that it were to proceed with the hearing today, Mr Johal would not be able to be represented which would be an infringement on his civil rights. She stated that to revoke the premises licence would have a negative effect on sales at the premises and staff employed at the

premises would have to be laid off. The Premises Licence Holder's representative also informed the Sub-Committee that the premises is inextricably linked to Caerau Village Stores which is also subject to the review procedure and she requested that the review of both premises licences be dealt with together.

PC Ellis was invited by the Sub-Committee to present his objection to the application for an adjournment.

PC Ellis commenced his submission by stating that the basis of the request for an adjournment was that 2 letters had been served on the Licensing Authority from Hutton's Solicitors, both dated 15 November 2016 detailing that their client's director is away on a pre-arranged vacation. The same request was made last year when he was also away and he would not be able to attend a hearing until 20 December 2016. He stated that their client was not put on notice until 4 November 2016 and it was essential that he attends.

PC Ellis informed the Sub-Committee that South Wales Police received further documentation yesterday at 5.15pm which was not seen until this morning. He stated that to serve documentation at such a late hour in response to an application served on 30 September 2016 was not acceptable. Among those documents is a statement from Hardev Johal, what was significant about the statement that he has day to day running of the business, but it made no mention of the fact that he resides in London. PC Ellis stated that by not including such a vital fact, he wanted to keep it from the Sub-Committee.

PC Ellis also referred to a further document relating to a Form of Judgement or Order, but there was no covering report with it to highlight the exact relevance of it. He stated that if it concerned an appeal against the fine of £30,000 imposed by the Home Office, which was referred to in page 15 of the bundle, then the Sub-section 11.24 of the Guidance dictated that it was of no relevance to this Sub-Committee.

PC Ellis made observations in relation to the documentation served by Hutton's, in that the director was not named in the original documentation yet Hutton's are effectively representing Mr Johal and therefore, South Wales Police has trawled through the Companies House for the records of H&G Trading. He stated there are only 2 persons responsible for the actual company, one being the sole director, Hardev Johal who was appointed on 6 January 2010, the other being Harminder Malhi, the Company Secretary who was appointed on 27 January 2010. PC Ellis stated that the company address is the address of Costcutter. Hardev Johal is named as the DPS on the Premises Licence, a role he adopted on 30 July 2010. However, South Wales Police has evidence to suggest that he is DPS in name only and certainly does not have day to day control of the premises. PC Ellis stated that Hardev Johal resides in London and his home address on the Premises Licence of Costcutter detailed a Middlesex address.

PC Ellis informed the Sub-Committee that the address which Harminder Malhi resides at and the address she has given on the Premises Licence of Caerau Village Stores in Costcutter. He informed the Sub-Committee that the licensing guidelines dictate that a DPS must have day to day responsibility for the premises and must also be available to the authorities should they wish to contact them. In this respect, PC Ellis stated there is no telephone number detailed on the premises licence for which the authorities can contact Hardev Johal, which is extremely uncommon. The local authority can only place on a premises licence those details they have been provided with. He stated that when this had been highlighted previously to Harminder Malhi, she has refused to provide the police with the telephone number saying she is not authorised to disclose it. PC Ellis informed the Sub-Committee that this is contrary to Mr Johal's statement detailing that

Mrs Malhi “is given full authority to run the business”, which was contrary to the guidance.

PC Ellis informed the Sub-Committee that Caerau Village Stores is also the subject of a review application and the hearing is listed for 28 November 2016. He stated that the solicitor’s letter in relation to Caerau Village Stores also requests an adjournment for that hearing as “the premises are inextricably linked and the outcome of one investigation will likely affect the other”. He stated that a request had been made for both hearings to be listed together, which did not warrant a postponement and South Wales Police will also be strongly opposed to any application for an adjournment. He also stated that it was noticeable that the solicitor’s letter in relation to Caerau Village Stores refers to Harminder Malhi detailing her as being the manager of Costcutter. The point South Wales Police are making is that Harminder Malhi has day to day control of both premises and Hardev Johal.

PC Ellis stated that Harminder Malhi is the main protagonist and is the person who attempted to deceive the authorities when they visited in August 2015. Harminder Malhi is the person to whom the UK Border Agency served a letter indicating that the employment of 2 illegal immigrants was to be referred to their Civil Compliance Unit. She is the person who has been responsible for contacting South Wales Police on a number of occasions via the 999 emergency or 101 systems for calls solely relating to Costcutter. He stated that Harminder Malhi has an association with Costcutter dating back to at least 2007 when she first reported an incident to South Wales Police and the context of the call was “two boys outside our shop – Costcutters. They are banging on our shutters”. PC Ellis drew the Sub-Committee’s attention to Harminder Malhi referring to the premises as “our shop”.

PC Ellis informed the Sub-Committee that Harminder Malhi has reported 45 incidents to South Wales Police, where she is either the reporting person, a victim or a witness. He stated that what is significant, is that 32 relate to Costcutter and only 3 occurrences at Caerau Village Stores. He informed the Sub-Committee that Hardev Johal has not reported a single incident to South Wales Police and significantly does not appear on any South Wales Police databases which is extremely uncommon considering that he is the DPS at an off licence where anti-social behaviour is prevalent.

PC Ellis referred to the solicitor’s letter where it was suggested that Hardev Johal was not put on notice of the review until 4 October 2016; he is away on a pre-arranged 45 day vacation and will not be available to attend a hearing until 20 December 2016. He stated that the same request was made last year when he was also away. PC Ellis informed the Sub-Committee that the review is dated 30 September 2016 and was posted first class that day and as a DPS has licensing accreditations, it was entirely possible for such a person when receiving a review to know of hearing procedures and predict around about the time when a hearing will be listed. He stated that of the 45 days are discounted from 20 December backwards, Hardev Johal was in the UK up to 6 October and was in receipt of the application and he should have postponed his trip. Additionally, South Wales Police stated that “his attendance will be essential so that he can give evidence and address any concerns the Sub-Committee may have regarding the running of the premises, as well as the company’s historical compliance with the current licensing terms and conditions”. South Wales Police consider this to be not relevant as he does not run the premises; the review does not detail contraventions of the conditions of the premises licence and compliance with those conditions is also not relevant to this hearing which concerns the employment of illegal migrants in the main but also the sale of alcohol to children. PC Ellis stated that in short, South Wales Police that Harminder Malhi is in charge and Hardev Johal is DPS in name only. Hardev Johal does not have day to day control of the premises and therefore he cannot give evidence

and address and concerns the Sub-Committee may have regarding the running of the premises, which is down to Mrs Malhi.

PC Ellis stated that the hearing should therefore go ahead and to address any concerns the Sub-Committee may have in relation to the grounds for appeal. He informed the Sub-Committee that should the request be granted then the information disclosed is evidence that the decision is justified and proportionate in allowing the hearing to go ahead without Hardev Johal.

The Legal Officer questioned the frequency which Mr Johal is at the premises. The Premises Licence Holder's representative informed the Sub-Committee that Mr Johal is at the premises Monday to Friday. She stated that she had been unable to take detailed instructions from Mr Johal as he is away on a pre-arranged vacation. She informed the Sub-Committee that last year's review application had been withdrawn as the matters in relation to illegal migrants had been dismissed and the same application has again been made this year. The Premises Licence Holder's representative informed the Sub-Committee that she had spoken to the solicitor representing Mr Johal at the time who had informed her that an appeal had been submitted against the conviction relating to the employment of an illegal migrant at the premises and the appeal was successful.

The Legal Officer questioned why Harminder Malhi had not given full instructions to the Premises Licence Holder's representative. The Premises Licence Holder's representative informed the Sub-Committee that she had been given some instructions from Mrs Malhi who runs the premises at weekends, whereas Mr Johal runs the premises Monday to Friday and sometimes stays for the week. PC Ellis stated that the Home Office Illegal Working Civil Penalties Compliance Team had served a Civil Penalty Notice on H&G Trading Limited (trading as Costcutter) for £30,000 in October 2015, however the outcome of the appeal had not yet been finalised. He stated that he was in a possession of a document from the Civil Penalties Compliance Team dated 19 September 2016 which stated that the appeal had been granted but it was not known whether the appeal was in relation to the fine imposed or the conviction. He stated that it had been necessary for South Wales Police to withdraw last year's review as he was not present in work at the time and the police did not wish to proceed without knowing the outcome of the appeal.

The Legal Officer advised the Sub-Committee that it had insufficient information on the outcome of the appeal and that it would have to retire. The Legal Officer advised that in order for the hearing to proceed, both parties would have to obtain detailed information on the outcome of the appeal.

PC Ellis informed the Sub-Committee that the obtaining of further information may not establish the outcome of the appeal. He stated that the Premises Licence Holder's representative had maintained that the appeal was successful which was not compatible with the correspondence the police had received from the Home Office.

In response to a question from the Legal Officer as to how many stores H&G Limited operate; the Premises Licence Holder's representative confirmed that it operated the one store being the premises the subject of this review. The Premises Licence Holder's representative informed the Sub-Committee that it was her understanding from the solicitor representing Mr Johal at the time that Judgment was made in favour of the appellant. PC Ellis informed the Sub-Committee that one stage of the appeal was dismissed and there had been an appeal to a higher court. He stated that he had correspondence from the Civil Penalties Compliance Team dated 10 June 2016 which stated that the £30,000 had been maintained which was subject to an appeal by Mr Johal and which was ongoing. The Premises Licence Holder's representative informed

the Sub-Committee that it was her understanding that the appeal had been dealt with, but outcome of the Judgment was bland. The Legal Officer advised the Sub-Committee that it needed more information from the Home Office on the outcome of the appeal before it could proceed with the hearing.

PC Ellis informed the Sub-Committee that South Wales Police could prove that a person had been working illegally at Costcutter as a result of an enforcement visit by the Immigration Compliance and Enforcement Team, although they were not able to serve a Referral Notice as neither the DPS of Harminder Malhi were present. The Legal Officer asked PC Ellis for evidence that the persons arrested at Costcutter and Caerau Village stores were illegal migrants. PC Ellis confirmed that the police have evidence that there were illegal migrants at both premises, one of whom was a student who was an over stayer.

The Licensing Enforcement Officer informed the Sub-Committee that Licensing Enforcement of Bridgend County Council supports the application made by South Wales Police on 30 September 2016 to review the premises licence of Costcutter. She stated that on 29 July 2015 she undertook a joint routine licensing visit with South Wales Police to Costcutter. She stated that Harminder Malhi had advised at the visit that she ran the Costcutter premises as well as being the Premises Licence Holder and Designated Premises Supervisor of Caerau Village Stores. The Licensing Enforcement Officer informed the Sub-Committee that she had not seen the Premises Licence Holder and Designated Premises Supervisor Hardev Johal at the premises which contradicts the comment made by the Premises Licence Holder's representative. The Licensing Enforcement Officer objected to the request for adjournment and requested that the hearing proceed.

The Legal Officer questioned PC Ellis in relation to how the licensing objectives would be undermined if the hearing were to proceed. PC Ellis commented that the licensing objectives would not be undermined if the hearing were to proceed and that Hardev Johal could not add to the proceedings if it were adjourned to a later date. PC Rowlatt informed the Sub-Committee that she had visited the premises on a week day and had not seen Mr Johal at the premises. The Premises Licence Holder's representative could not explain the reason for Mr Johal not being seen at the premises and asked how many visits had been undertaken to the premises. The Licensing Enforcement Officer informed the Sub-Committee that 3 licensing enforcement visits had been made to the premises. The Premises Licence Holder's representative informed the Sub-Committee that Mr Johal could have been at the cash and carry at the time of the enforcement visits. She stated that Mr Johal does have day to day management of the premises. She also stated that the documentation in relation to this hearing had been served on Mr Johal and as he was away on a pre-arranged vacation she did not have full instructions to represent him. She informed the Sub-Committee that if Mr Johal knowingly employed illegal migrants at the premises it would change matters.

The Licensing Enforcement Officer informed the Sub-Committee that at the time of the licensing enforcement visit Mrs Malhi confirmed that she ran the premises, although there was no licence displayed and neither was there authority in place by Mr Johal. The Licensing Enforcement Officer also informed the Sub-Committee that during the visit in which she accompanied the UK Border Agency in August 2015; Mrs Malhi confirmed that she ran both premises.

PC Ellis informed the Sub-Committee that the premises had been problematic and there was no record of Mr Johal on the police data base. He stated that Mrs Malhi had been the subject of an assault while at the premises and there had been 35 reported incidents at the premises, none of which were reported by Mr Johal.

In response to a question from the Legal Officer as to Mr Johal's presence at the premises, Mrs Malhi stated that Mr Johal is physically present at the premises. She stated that his English is not very good and he requires an interpreter, which explains the reason for her making all the telephone calls to the police. She informed the Sub-Committee that she has no need of an interpreter, but her husband and uncle do. She stated that Mr Johal buys at the cash and carry and uses a scanner, which Mrs Malhi then uploads. She informed the Sub-Committee that she and Mr Johal run the business together and book keeping is done at Costcutter.

The Sub-Committee adjourned at 10.52am and reconvened at 11.12am.

The Legal Officer advised all parties that the Sub-Committee will adjourn the hearing due to there being insufficient evidence for it come to a conclusion. She stated that when the hearing is reconvened, the Sub-Committee requires evidence of the County Court decisions in relation to the immigration matters at the premises. The Premises Licence Holder's representative informed the Sub-Committee that a request had been made to the Court for information in relation to the appeal but it would not disclose the information as she was not the instructing solicitor.

The Legal Officer informed the Sub-Committee that the police will need to obtain information from the UK Border Agency in relation to the Court Judgment on the appeal to establish the immigration issues.

The Premises Licence Holder's representative informed the Sub-Committee that an interpreter speaking Punjabi would need to be present at the reconvened hearing to assist Mr Johal.

RESOLVED: That the Sub-Committee stand adjourned and reconvene on Monday 9 January 2017 at 10.00am.

The meeting closed at 11.18am.

The meeting re-convened at 10.40am on Monday 9 January 2017.

Present:-

Councillors
DRW Lewis -
Chairperson
E Dodd
CJ James

Officers:

Y Witchell - Team Manager Licensing
A Lee - Legal Officer
A Rees - Senior Democratic Services Officer - Committees

Representing the Responsible Authorities

PC S Rowlatt - South Wales Police
PC D Rees - South Wales Police
F Colwill - Licensing Enforcement Officer, BCBC

Representing Premises Licence Holder and Designated Premises Supervisor

Mr L Charalambides - Barrister, Representing Premises Licence Holder
Mr HS Johal - Designated Premises Supervisor
Mrs H Malhi - Company Secretary, H&G Trading Limited

The Team Manager Licensing reported that this was a continuation of a hearing which was adjourned on 23 November 2016 which is an application for a review of a premises licence submitted by the Chief Officer of South Wales Police in relation to the premises known as Costcutter, 175-176 Caerau Road, Caerau, Maesteg. A number of bundles were served at the hearing on 23 November 2016 by South Wales Police containing Court Judgments and Orders.

The Premises Licence Holder's representative stated that the Court Judgments and Orders relate to immigration matters with the premises receiving a fine of £20k and which had now been concluded with the Home office and were now irrelevant. PC Rowlatt stated that evidence of the premises receiving a fine of £20k from the Home Office had not been served on the parties. The Premises Licence Holder's representative clarified that this was the outcome of the immigration matters which resulted in a fine given by the Home Office.

The Sub-Committee adjourned at 10.54am and reconvened at 11.12am.

PC Rowlatt commenced her submission by stating that this was a simple case of bad management in relation to selling alcohol to underage persons and offences under the Immigration Act. She stated that both are weighted very heavily by the Section 182 Guidance and that revocation should be considered even in the very first instance. Certain criminal activity that may arise in connection with licensed premises that should be treated particularly seriously and knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of that persons leave to enter. She stated that South Wales Police believe that those circumstances applied to both premises.

PC Rowlatt stated that if the crime prevention objective is being undermined, South Wales Police believe that it is in relation to the type of calls that have been received in connection with the premises. The Guidance states that the Sub-Committee should revoke the licence. PC Rowlatt informed the Sub-Committee that paragraph 11.30 of the Guidance deals with persistent sales of alcohol to children in quick succession and also the suggestion to revoke. She stated that the police did not have evidence of any successful test purchases at the premises, only intelligence. Only 5 visits have been recorded, 3 in 2008, 1 in 2011 and 1 in 2015. No visits have been conducted at the premises since August 2015 being the immigration arrest of 2 persons. She stated that the lack of enforcement was not due to a lack of intelligence, but for safety reasons and the safety of our test purchasers. Operations conducted in the area had not been successful, as the test purchasers stick out like sore thumbs as do enforcement officers. Enforcement visits are conducted at the premises in the evening when illegal workers are not working alone and when local children are out and about in the street. PC Rowlatt recalled one visit, where officers got out of a car and children started asking questions. The Sgt son who was a test purchaser went into another store and the seller said to him that he was supposed to tell him he is 18. Any potential enforcement was put in jeopardy.

PC Rowlatt informed the Sub-Committee that the premises have not operated due diligence, in that from intelligence and occurrence reports that a sale had been made to a child. When the seller was questioned, he stated that he had asked for id. Where the police had confiscated alcohol from children, they had stated they had bought it from Costcutter. It had also been established from crime reports where children have been drinking alcohol; they claim it had been purchased from Costcutter. She stated that

when police question retailers, retailers reply that they know they have to ask for id. PC Rowlatt stated that this is not operating an appropriate due diligence defence and sellers have to understand the consequences and that asking for id is a mandatory condition contained in every licence.

PC Rowlatt informed the Sub-Committee that children can use other people's id, and they can purchase fake driving licenses on the internet for £20 and they have been known to forge validate cards, passports etc. by altering their date of birth. She stated that in order to have an appropriate due diligence, the documents must be examined and understood. The seller must ask questions of the user and understand the answers, if there is any doubt they must refuse the sale. Retailers' stating that they always ask for ID is not good enough. It does not stop the sale of alcohol to children and the police believe this to be the case.

PC Rowlatt referred to a visit she had undertaken to the premises in July 2015 when she encountered subject 2 (referred to in the papers before the Sub-Committee) who found it difficult to answer questions in English regarding her name and identity. PC Rowlatt stated that she had little faith in the person working at the premises to be able to carry out appropriate checks to a significant level, especially when the language spoken to each other is not English and that instructions given were in Punjabi or other languages. PC Rowlatt stated that this came down to who is in day to day control at the premises in regard to alcohol sales and under the Licensing Act this responsibility lies with the DPS. She informed the Sub-Committee that whoever has day to day control is irrelevant on the decision it has to take where revocation was the recommended step to take. She stated that the licence holder will be held accountable this being a limited company and the DPS is responsible for sales. PC Rowlatt informed the Sub-Committee that South Wales Police have never encountered Mr Johal at the premises, which speaks volumes which gives the Sub-Committee an understanding as to where things are going wrong with the management decisions. PC Rowlatt stated that Mr Johal has never been present on any licensing visits he has also not been present when police are investigating crime at the premises and has never made a call to the police. He has never been visible to the local community or the local policing teams and have never met him.

PC Rowlatt informed the Sub-Committee that immigration has two definitions in the Guidance. Firstly, the definition of knowingly employing, where South Wales Police believe this has been met as subject 1 was arrested at the premises by immigration but was still allowed to work after that arrest and still linked to the business. The shop would know he was arrested and would also know that immigration controls were in error. The Premises Licence Holder's representative stated that if the police have evidence then it was incumbent on them to provide that evidence in advance to the Sub-Committee in accordance with the Guidance. He also stated that the police could not introduce new evidence at this stage. PC Rowlatt stated that subject 1 was referred to in the list of reported incidents to have taken place at the premises and which had been provided to the Sub-Committee at page 22 of the bundle. The Premises Licence Holder's representative commented that the list of incidents was not evidence and was unfair, wrong and highly prejudicial. PC Rowlatt stated that Occurrence 62110285252 of 25 August 2011 relate to subject 1 having been arrested for being in the UK illegally. Additional documents had been served which link the 3 subjects arrested at the premises and Caerau Village Stores to the list of incidents reported. The Premises Licence Holder's representative stated that the police have raised very significant allegations in linking subject 1 to the premises. PC Rowlatt stated that occurrence which was an assault on a member of staff on 14 August 2016 related to subject 1 which evidenced that subject 1 was still at the premises. The Premises Licence Holder's representative stated that there were names linking the subjects to the occurrences.

The Legal Officer advised that the absence of names against the occurrences was due to the requirement to have the documentation published on the Council's website.

The Premises Licence Holder's representative informed the Sub-Committee there was no way of testing the evidence of the police and that they had been ambushed particularly as the police were seeking revocation of the premises licence. He believed the police were taking the most draconian of measures for which he had not received had instructions and he could not challenge the evidence of the police. He stated that the police had reviewed the CCTV and could find no trace of an incident, but were relying on an incident they have no proof of. He also stated that he felt ambushed at the way the review was being advanced by the police. The Legal Officer stated that it was matter for the police as to how they presented their evidence. PC Rowlatt stated that she did not believe the Premises Licence Holder's representative to have been ambushed as the Sub-Committee had been provided with information clearly linking occurrences to subjects. PC Rowlatt stated that witness statements had been provided for occurrences 5 (which related to a complaint of racially aggravated assault) and 10 (which related to an assault on a staff member and criminal damage to premises). CCTV of the assault had been reviewed which found no evidence of a person entering the premises carrying a knife. The Sub-Committee questioned why this had not been removed from the police system. PC Rowlatt stated that the occurrences had to remain on the police system. She also stated that the police had attempted to link the 3 subjects to the 12 occurrences at the premises and Caerau Village Stores.

The Sub-Committee questioned the outcome of occurrence 9. PC Rowlatt stated that she was unaware of the outcome of that complaint. The Legal Officer stated that the Sub-Committee that it could not place any weight on that evidence.

PC Rowlatt informed the Sub-Committee that South Wales Police believe that in relation to knowingly employing this had been met as subject 1 was arrested from the premises by immigration, but was still allowed to work after that arrest. She stated that the premises would know he was arrested and that any persons need permission to be employed in this country to work by holding a work visa or student visa. PC Rowlatt informed the Sub-Committee that subject 1 had never had permission at any point in time to work in this country. If subject 1 had permission to work, he would be in possession of papers to work. This is not the case as subject 1 entered the UK illegally without papers. If subject 1 had entered with an Indian visa, passport, he would be on the system and his fingerprints would have been taken even if under a different name. If he entered legally records would be kept of his visa and passport. His passport had never been produced to immigration services and he had never been truthful with who he really is. PC Rowlatt stated that subject 1 has proven to be problematic for the authorities and especially in deportation rights. He is also on the police system several times, showing changed dates of birth and being evasive. PC Rowlatt stated that subject 1 is linked to the premises as a reporting person from 2009 up until 2016.

PC Rowlatt also informed the Sub-Committee that the release address for subject 1 after being in detention was the sister premises Caerau Village Stores. PC Rowlatt stated that if he is not staff then why he reported an assault on a member of staff in August 2016, occurrence 1600309024. He also reported incidents of theft of alcohol from the premises, occurrence 62130267704 in August 2013. PC Rowlatt questioned what other purpose could possibly be given for him to be in the shop when he had entered the country illegally and could not work. PC Rowlatt stated that subject 1 had given false details in that Indian immigration could not support emergency travel documents being issued to him as his country of origin was not India. The Indian authorities had no record of him leaving India and would therefore not allow him to return. Subject 1 was arrested on 11 February 2012 and kept in a detention centre for several months and was kept in custody until 23 January 2013 with several bail application being denied. He was

eventually released on bail and this time complied with the bail arrangements. PC Rowlatt informed the Sub-Committee that subject 1 kept on returning to the premises where he reported incidents or was involved in incidents in April 2016 and August 2016, despite all documentation clearly stating that he had no right to work in the UK.

PC Rowlatt informed the Sub-Committee that management at the premises know that subject 1 had been arrested and was also arrested at the premises. He also did not show for several months and then returned to the premises and had never had permission to work in the UK. PC Rowlatt referred to the witness statement which relates to occurrence 14000823325 and subject 1 working at the premises. Subject 1 took over working at the premises alone despite never having had papers to work in the country and neither had he provided the authorities with any documentation.

PC Rowlatt stated that if the Sub-Committee was not satisfied that subject 1 was knowingly employed; it must consider who cannot lawfully be employed as a result of that person's leave to enter. She stated that subject 1 was arrested at the premises in 2011 and any reasonable person would ask questions and would have carried out proper checks and refused to employ him, knowing this to be the case. PC Rowlatt informed the Sub-Committee that subject 1 has never had permission to work in the UK.

PC Rowlatt informed the Sub-Committee that subjects 2 and 3 were easier to deal with, in that arrests were made by immigration officers in August 2015 and both had now returned to their home country. Subject 2 was originally allowed entry into the UK on a student visa and could work for 16 hours a week up until December 2012. Subject 2 re-applied for an extension of the visa in November 2012, which was granted up until 13 April 2014. Subject 2 overstayed and was found working at the premises in July 2015. On further investigation by immigration officers, it was found on 2 June 2014 that the application was refused. Papers were served in June 2014 and subject 2 was found to be working at the premises in July 2015. Subject 2 was arrested and removed on 18 September 2015. PC Rowlatt informed the Sub-Committee that subject 3 entered the UK illegally arriving in a lorry, which evidenced a person who cannot lawfully be employed.

PC Rowlatt also informed the Sub-Committee that there had been no other instances of crime and disorder to have taken place at the premises. In relation to the licensing objective of the prevention of children from harm, there had been incidents involving children linking the sales of alcohol to children from the premises. PC Rowlatt stated that these facts alone would not warrant a revocation application, however together, they show that a revocation of the premises licence should be considered as no other measure could be suitably engaged.

The Sub-Committee how the police had been able to identify the same person had given different dates of birth and names. PC Rowlatt explained that the police use a system which uses finger print identification which establishes the police have the right person. The system is linked and shared with other agencies and countries.

The Sub-Committee questioned why a person who is in the UK illegally contact the police. PC Rowlatt stated that this was due to naivety on their part.

The Licensing Enforcement Officer informed the Sub-Committee that on 29 July 2015 a joint routine licensing inspection was carried out by Licensing enforcement and South Wales Police. On entering the premises, a lone female worker was present behind the counter. The female worker was asked if the Premises Licence Holder or Designated Premises Supervisor was present and she proceeded to get another female, the manager of the premises who identified herself as Harminder Malhi, who advised that she lived above the premises and ran Costcutter as well as being the Premises Licence

Holder and Designated Premises Supervisor of Caerau Village Stores. Harminder Malhi advised that the DPS was not present at the premises but did visit it on a regular basis and she confirmed that she ran both businesses.

The Licensing Enforcement Officer stated that during the inspection enquiries were made as to the personal details of the lone female worker and it was suspected that both females were being evasive. It was also noted that there was no authorisation list from the DPS and no paperwork could be produced to show any authorisation for staff that did not hold a personal licence. The lone female worker had served alcohol during the time of the inspection. It was also noted that the Premises Licence displayed was a copy and not certified, however during the inspection the original licence was produced and displayed.

The Licensing Enforcement Officer informed the Sub-Committee that concerns regarding the immigration status of the lone female worker were passed to the UK Border Agency on 6 August 2015. On 20 August 2015, the Licensing Enforcement Officer accompanied the UK Border Agency on a visit to the premises.

The Licensing Enforcement Officer informed the Sub-Committee that there had been no further visits to the premises, mainly due to not interfering or hampering any immigration investigation. She stated that the PLH and DPS Mt Hardev Johal lives in Middlesex and is rarely at the premises and therefore impossible for him to have day to day control of the sale of alcohol and he cannot fulfil his duties as DPS.

The Licensing Enforcement Officer also informed the Sub-Committee there was no DPS authorisation in place for staff who were not personal licence holders. Also, it was discovered that the female working at the premises and Harminder Malhi had given false details regarding the status and name of the female serving who was in the country illegally, yet was being left on her own at the premises for long periods of time and serving alcohol to customers.

The Premises Licence Holder's representative questioned the number of enforcement visits which had taken place at the premises. The Licensing Enforcement Officer stated that 3 visits had been undertaken at the premises, the PLH and DPS was not present at any of the visits. The Premises Licence Holder's representative asked whether test purchases had been carried out at the premises. The Licensing Enforcement Officer stated that Trading Standards would usually conduct test purchase exercises. The Premises Licence Holder's representative questioned the authorisation for the enforcement visits undertaken at the premises. The Licensing Enforcement Officer stated that the visit undertaken on 29 July 2015 was carried out with the police and the visit on 20 August 2015 with the UK Border Agency. Verbal advice was given at the premises on the visit in July which was subsequently followed by letter in relation to there being no authorisation in place to non-personal licence holders to sell alcohol; neither were there any training records available for inspection. It was also observed that alcohol was sold by a person who had not been trained and who also was not legally entitled to be in the UK. The Licensing Enforcement Officer stated that this cast doubt on the way the premises were being managed and revocation of the premises licence was sought.

The Sub-Committee asked where Mr Johal lives as he did not seem to be present at the premises when visits had been undertaken there. The Premises Licence Holder's representative informed the Sub-Committee that Mr Johal lives in London, but is in Wales from Monday to Friday. He stated that there was no requirement for the DPS to be at the premises and that he proposed to address that issue by removing Mr Johal as DPS. He commented that it was unfortunate that Mr Johal had not been at the premises when visits had been undertaken there.

The Premises Licence Holder's representative informed the Sub-Committee that the point of the review of the premises licence is to highlight problems and to seek solutions. He referred to Section 182 of the Guidance and to a recent case which related to the employment of a person who was not entitled to work in the UK. He also referred to the problems encountered by officers during the course of visits to the premises where officers had been lied to and given false dates of birth and found a person to have overstayed in the UK. He stated that the premises had received a fine of £20k.

The Premises Licence Holder's representative informed the Sub-Committee that the police had placed reliance on immigration issues but were no longer relying on that evidence. He stated that CCTV images had been reviewed at the premises which had found that a false complaint had been made to the police. He also stated that the evidence submitted by the police was misleading in that it had incorrectly placed reliance on the prevention of crime and disorder and protection of children from harm licensing objectives, when no test purchases had been carried out at the premises. He stated that the premises must be tested for it to be regulated properly.

He informed the Sub-Committee that measures need to be put in place to prevent further problems at the premises and solutions were needed. He stated that Mr Johal lives in London and he did not feel he could fulfil the role of DPS while commuting between South Wales and London. It was proposed to remove Mr Johal as DPS and insert Mrs Malhi as DPS instead as she and her husband live above the premises, her children attend the local school and she speaks fluent English. Mrs Malhi is also company secretary of H&G Trading Limited, runs the company and operates as manager and is the single point of contact for the business.

The Premises Licence Holder's representative also proposed to that a personal licence holder will be present at all times at the premises, with Mrs Malhi having responsibility for setting the work rota. All current members of staff will undergo personal license holder training to be provided by a specialist licensing training company. He stated that the premises do not at present have conditions in place and this was an opportunity to do that. The proposed condition relating to the appointment of Mrs Malhi as DPS will result in the removal of Mr Johal. He stated that a certified copy of the licence was now on display at the premises and the importance of such would be covered at the licensing training to be provided. He also stated that the immigration matters had been dealt with and punishments administered. Appropriate training records and a record of employees will be kept for validation by the police, licensing enforcement and immigration.

The Premises Licence Holder's representative stated that no warnings, disciplinary measures or test purchases had taken place at the premises which was not in accordance with the licensing policy and that the police had gone straight for revocation. He also stated that the police did not have regard for the Statement of Licensing Policy with regard to working together to develop the local economy as it had not worked in partnership with the premises, neither had the police offered to the premises. He stated that the police had accepted that they were misleading in their evidence which was wrong. The Premises Licence Holder's representative commented that the police and the premises have to be criticised for not promoting the licensing objectives. He stated that a warning needed to be given if there were breaches in the future and the police need to check the premises and undertake test purchases. He requested that the Sub-Committee grant the conditions proposed and impose a warning on the premises.

PC Rowlatt requested assurances that the premises would not transgress again. The Premises Licence Holder's representative stated that the fine of £20k to be paid over 3 years was a deterrent and that the DPS would check that every employee working at the premises had the right to work in the UK. PC Rowlatt stated that the police are

committed to working in partnership with the premises and requested an assurance that the premises would work with the police. The Premises Licence Holder's representative stated working in partnership was about having dialogue with the police and that his clients had recognised police officers visiting the premises but they had never introduced themselves. PC Rowlatt stated that no visits had taken place to the premises since the enforcement visit in 2015 not to prejudice the review application. The Premises Licence Holder's representative stated that the police should engage with the premises despite the review application. PC Rowlatt commented that assurances were needed in relation to the proposed conditions as the police were of the view that Mrs Malhi was always in control of the premises. The Premises Licence Holder's representative commented that a licencing conversation had never taken place at the premises. He stated that the premises need a chance and the opportunity to work together with the police and if people were employed at the premises without the right to work in the UK then it would face revocation.

The Legal Officer asked if Mrs Malhi was present in 2015 why had she been obstructive during the enforcement visit. The Premises Licence Holder's representative stated that concerns had been reported to the police as to racially aggravated attacks to have taken place at the premises. He informed the Sub-Committee that what needs to happen is for the parties to go away and give the proposed conditions a chance to operate and that relationships need to be built. He stated that Mrs Malhi had attempted to establish a relationship with the police when she had made calls to inform of problems at the premises.

The Licensing Enforcement Officer informed the Sub-Committee that she had major concerns with the management of Costcutter in that false information had been given to licensing enforcement and the police on a few occasions. She questioned who the fine had been issued to and Mrs Malhi's position within H& G Trading Limited. The Premises Licence Holder's representative confirmed that the fine had been issued to H&G Trading Limited and Mr Malhi's position within the company is that of secretary. He stated that this is her and her family's only source of income. The Licensing Enforcement Officer asked who would have authority for the sale of alcohol from the premises. The Premises Licence Holder's representative stated that the authority for sales of alcohol would be rectified through the proposed conditions. The Licensing Enforcement Officer asked where Mr Johal resided when he was in South Wales. The Premises Licence Holder's representative stated that the flat above the premises has 4 bedrooms and Mr Johal resided in one of the bedrooms. The Licensing Enforcement Officer questioned why Mr Johal was not at the premises during the visit with the police and UK Border Agency which took place in July and August 2015 respectively. The Premises Licence Holder's representative stated that Mr Johal did not have to be present at the premises during the visits. The Premises Licence Holder's representative also stated that Thursday was the day when Mr Johal went to the cash and carry.

The Chairperson invited all parties to sum up.

PC Rowlatt commenced her summing up by stated that she did not feel the respondent would change and that a change or variation of DPS would not improve matters at the premises as Mrs Malhi was already the contact at the premises. PC Rowlatt did not feel that the implementing the proposed conditions would be the correct course of action and that Section 136 licensing breach would be the most appropriate response. She stated that great weight had been placed on Section 182 of the Guidance and for the partnership to work well it has to work both ways. PC Rowlatt concluded that the most appropriate action for the review was revocation of the premises licence.

The Licensing Enforcement Officer commented on the concerns relating to the management of the premises and the fact that as Mrs Malhi already manages the

premises, a change in DPS would not change the way in the premises are managed. The Licensing Enforcement Officer also commented that there had been a number of breaches of the licence when Mrs Malhi has been in charge of the premises.

The Premises Licence Holder's representative referred to the Statement of Licensing Policy which encouraged working together and that in this case the one strike and out approach had been taken with no engagement with the premises. He stated that there are issues with the premises but which had been met negatively. He also stated that the role of the Sub-Committee was to promote the licensing objectives and that the premises had been found lacking and had received a significant fine. The premises had been licensed since 2007 and there had been no visits until the enforcement visits in 2015. He stated that the request for the revocation of the licence is the wrong course of action and he hoped that the premises would be given the opportunity to work with the Responsible Authorities. He stated that if the proposed conditions did not work the Sub-Committee would have the option of revoking the licence in the future.

The Sub-Committee adjourned at 12.55pm and reconvened at 4.21pm.

RESOLVED: That the Sub-Committee considered an application for a review of a Premise Licence in respect of Costcutter in Caerau, Maesteg.

The Sub-Committee has heard representations from the Police that the Premises Licence Holder was visited by the Immigration and Enforcement Team in August 2011 and arrested a male Indian Migrant and checks found that he had illegally entered the Country and had previously been served immigration papers and was liable to be removed from the UK.

In addition on the 21 August 2015 there was a further warrant executed at the Premises and officers found a female working at the Premises who had overstayed their Visa to work in this Country and then a further Indian Migrant was found in Caerau Village Stores who had entered the Country illegally in the rear of a vehicle. The gentleman admitted working at Caerau Village Stores which is also run by Harminder Malhi. There were in total 3 migrants between the two stores who were not entitled to work in this Country.

The Police informed the Sub-Committee that during a visit in July 2015 the female migrant could not answer any questions in English and would not be able to question a child about their age when serving alcohol.

The Police also stated that the Indian Migrant arrested in August 2011 still had links with the premise and was still reporting incidents to the Police. The Police confirmed that their representations were only in relation to the employment of migrants who were not entitled to work in this Country and the Protection of children from harm.

The Police made representations that they had found under age children with alcohol who informed officers that they had obtained the alcohol from the premises.

The Police also stated that during an enforcement visit in July 2015 Harminder Malhi was working at the premises along with the suspected illegal migrant and when questioned by officers was found to be obstructive and untruthful concerning the immigration status and details of the employee. The Licensing Enforcement

Officer who was also present during the visit also made the same allegation.

The Licensing Enforcement Officer also stated that there were no training records at the premise and was concerned that the employees were not correctly trained and persons unlawfully in this Country were often left to run the premises. The Officer also made representations that there was no authorisation list of those persons authorised to sell alcohol at the premise.

The representative of the Premise Licence Holder and DPS advised the Sub-Committee that the Company had admitted they had employed the migrants who were not entitled to work and they had now been fined £20,000 which they had agreed to pay off over a period of 3 years. Representations were made that the fundamental point of a review is to highlight problems at the premise and where possible seek solutions. The fine of £20,000 is a deterrent and the Licence holder was aware of the consequences if they employed anyone in future who is not entitled to work in this Country.

The representative also advised the Sub-Committee that if the Police and the Licensing Authority were so concerned about the protection of children from harm then they should have carried out test purchases on the premises which they had not done.

The representative proposed that Mr Johal the DPS be removed and Mrs Malhi who lives above the Premise becomes the DPS who will authorise the sale of alcohol and be the single point of contact.

It was also proposed that a condition be added to the Licence that all members of staff undergo a refresher course in Licensing and produce certificates confirming that training within three weeks and thereafter attend refresher training every six months.

In addition a further condition be imposed on the licence that each and every member of staff have their ability to work in this country checked and their documents copied and made available upon request to the Police, the Licensing Enforcement Officer and border control.

The representative also referred to the Council's statement of Licensing Policy at 2.5 where it states that the Council will work closely with the South Wales Police, local businesses, and local people in meeting the Licensing objectives. The Representative stated that neither the Police nor the Licensing section has attempted to work with Mrs Malhi and that both sides had failed to act in a way that would promote the licensing objectives. The Police stated that they were not happy with the proposals as Mrs Malhi had always had day to day control of the premise when the offences of employing illegal migrants were committed.

The Police stated that they still feel that revocation is the only option and referred to the Home Office Guidance at 11.27 and that the Police have had concerns over Mrs Malhi's management of Costercutter since 2010 and she was present when all the illegal migrants were working at both premises. The representative of the Licence holder stated that revocation was contrary to the Council's

own Corporate Police of working together and that the Licence holder should be given a chance and to close the door on such narrow issues was plainly wrong.

The Sub-Committee has looked at the Licensing Act, the Council's statement of Licensing Policy and the Home Office Guidance under Section 182 of the Licensing Act.

The Sub-Committee has noted that under 11.27 that certain criminal activity that may arise which should be treated particularly seriously and one of the grounds is "for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter". It further states that if the crime prevention objective is being undermined through the premise being used to further crimes, it is expected that revocation of the Licence even in the first instance should be seriously considered.

The Sub-Committee has considered the representations made by the Licence Holder and the proposal that additional conditions would resolve the problems at the premises. The Sub-Committee note that once of the suggestions is to remove the DPS and Mrs Malhi would then apply to become the DPS, the Committee note however that Mrs Malhi appeared to be running both premises when the offences of employing illegal migrants were committed. However the Sub-Committee are prepared in accordance with the representations made to give the Licence Holder another chance to rectify the problems at the premises and in order to do this have decided to suspend the Licence for a period of 6 weeks, to enable the Licence holder to comply with the new conditions that the Sub-Committee has decided to impose of the licence as follows:-

1. Each and every member of staff will undertake Licensing/refresher training within the next six weeks and will produce the training certificates to the Police and the Licensing Enforcement Officer and thereafter will undergo refresher training every six months and keep a training log of all training undertaken by the members of staff at the premises.
2. The Premises Licence Holder and DPS will check each and every employee at the premises that they are legally entitled to work in the UK and will keep copies of their documentation and produce the same on request to the Police, Licensing Enforcement Officers and Border Control. In addition to the suspension and the additional conditions on the Licence the Sub-Committee has also resolved to remove the DPS at the premises.

The meeting closed at 4.28 pm

MINUTES OF A MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEE (B) HELD IN COUNCIL CHAMBER, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON THURSDAY, 8 DECEMBER 2016 AT 10.00 AM

Present

Councillor DRW Lewis – Chairperson

PA Davies E Dodd

Officers:

Kate Amos	Trainee Solicitor
Andrea Lee	Senior Lawyer
Andrew Rees	Senior Democratic Services Officer - Committees
Helen Williams	Senior EHO Pollution
Yvonne Witchell	Team Manager Licensing

34. DECLARATIONS OF INTEREST

None.

35. LICENSING ACT 2003: SECTION 51 APPLICATION FOR REVIEW OF PREMISES LICENCE KING ALFRED INN, 1 COMMERCIAL STREET, MAESTEG

The Team Manager Licensing reported on an application for a review of the premises licence submitted by the Neighbourhood Services Department of Shared Regulatory Services in relation to the premises known as the King Alfred Inn, 1 Commercial Street, Maesteg. She stated that the Premises Licence Holder is David Lippiatt and the licence authorised the supply of alcohol and regulated entertainment Monday to Sunday 1000 – 0200 hours. The Team Manager Licensing informed the Sub-Committee that the application had been advertised in accordance with the regulations and representations had been received from South Wales Police. She also informed the Sub-Committee that additional documents had been served by Emma Aston, Neighbourhood Services Officer of Shared Regulatory Services which confirmed that complaints regarding noise nuisance due to amplified music and speech continued from the premises. The Premises Licence Holder and Designated Premises Supervisor had been informed that in addition to the ongoing prosecution and review of the Premises Licence, the Department was considering obtaining a warrant to seize sound making equipment should further breaches be witnessed. Witness Statements had also been served by South Wales Police.

The Neighbourhood Services Officer informed the Sub-Committee that discussions had taken place with the Premises Licence Holder and Designated Premises Supervisor and South Wales Police prior to the hearing and an agreement had been reached with the Designated Premises Supervisor to limit the band numbers to 3 artists, secondary glazing would be installed to the front windows of the premises facing Commercial Street within 4 weeks or sooner, live music to finish at 2300 hours and after such time all music would be switched off and all live music must go through the limiter.

The Legal Officer advised that the Sub-Committee would need to make a decision on the matters which had been agreed by the parties.

The Neighbourhood Services Officer informed the Sub-Committee that she had investigated complaints of noise nuisance from the premises since April 2016. She stated that the premises licence authorises the provision of live music until 0000 hours

and recorded music until 0200 hours. The Premises Licence Holder is David Lippiatt and the Designated Premises Supervisor is Nathan Phillip Kyte. Between 23 January and 24 September 2013 and 1 and 28 July 2014 the premises were closed. The Neighbourhood Services Officer informed the Sub-Committee that the Department had received a complaint of noise nuisance due to recorded and live music on 20 April 2016 and as a result of investigations an Abatement Notice was served on Nathan Kyte, the Designated Premises Supervisor, a copy of the Abatement Notice was sent to the Premises Licence Holder, David Lippiatt.

She stated that the Department had attempted to work with the DPS during the course of the investigation in order to resolve the matter, which involved the use of the Department out of hours service in order to advise the DPS of when the music was causing a problem in order that they could make the necessary adjustments to noise level for the music. This involved a considerable amount of officer time and cost to the Department. Officers had witnessed amplified music from the premises at the complainant's property on a number of occasions in May and June 2016. In July 2016, the Department informed the DPS of the intention to prosecute due to a further 4 breaches being witnessed in July 2016. The Neighbourhood Services Officer stated that she had agreed not to take formal action on 14 August 2016. However the complainant contacted the Department that the music from the premises had returned to being a regular problem. She stated that on 3 September 2016 a further breach was witnessed and a letter was sent to the DPS advising of the intention to review the premises licence, a copy was also sent to the Premises Licence Holder.

The Legal Officer questioned the proximity of the residential properties to the premises. The Neighbourhood Services Officer explained that there are flats opposite the premises and there are houses on Neath Road, approximately 50 yards away.

The Sub-Committee requested assurances that the limiter would be set and that new windows would be installed at the premises. The Neighbourhood Services Officer informed the Sub-Committee that she believed that 4 weeks for the installation of new windows at the premises was reasonable. She stated that she required the applicant to submit in writing the steps they will take to limit noise nuisance from the premises as proposed new conditions to the licence. She also stated that the proposed condition to limit bands to 3 artists will reduce noise from the premises and for music to cease at 2300 hours. The Premises Licence Holder informed the Sub-Committee that the works agreed will be carried out in full and that secondary glazing will be installed within days. He stated that there were 2 hot spots in the calendar namely, Christmas and New Year within the next 4 week period and it was intended that all works will be carried out at the premises.

The Sub-Committee questioned how limiting bands to 3 artists would be quieter than having bands with more artists. The Neighbourhood Services Officer explained that larger bands had played at the premises and the limiter had not been able to cope due to an insufficient number of points to connect all the equipment required by the band. The Sub-Committee asked whether bands containing more than 3 artists had been booked to play at the venue. The DPS stated that he would have to check the bookings made for Christmas and the New Year. The Premises Licence Holder confirmed the DPS will check the diary of bookings and inform Licensing accordingly. The DPS informed the Sub-Committee of the music played at the premises, in that live bands play on Saturdays and Sundays, karaoke on Thursdays, a jam night on Tuesdays and recorded music on Fridays. The Sub-Committee questioned the number of people who attend the premises each night. The DPS stated that 30 – 40 attend on Tuesdays and Thursdays, 100 people attend on Fridays, 120 on Saturdays and 40 on Sundays, with different age groups attending each night.

The Premises Licence Holder thanked the Sub-Committee for the opportunity to hold discussions with Shared Regulatory Services and South Wales Police which had enabled them to agree a way forward for the premises.

PC Rowlatt thanked the parties for negotiating terms. She stated that the representations of South Wales Police support the application for the review of the premises licence by Shared Regulatory Services. She stated that the Sub-Committee must not only have regard to the Home Office Guidance but also the Council's "Statement of Licensing Policy" in the prevention of public nuisance. PC Rowlatt informed the Sub-Committee that the hearing was down to a specific issue of live music being played at the premises causing noise nuisance to neighbours and anti-social behaviour to the wider community. She stated that public nuisance had been reported against customers who had attended the premises and then caused anti-social behaviour in the wider community. This behaviour had a wider effect on the community as the customers leave the premises and continue with their behaviour outside in the street.

PC Rowlatt stated that South Wales Police need to have regard to public nuisance and certain measures need to be put in place to prevent anti-social behaviour incidents happening reducing the negative effect this has on the local community. She also stated that the current DPS had been in this position since 21 October 2015 and since that time; there had been two licensing visits conducted, resulting in a verbal warning being issued and a written warning. PC Rowlatt informed the Sub-Committee of the measures it could consider, namely the removal of the current DPS, however this is a family run business and it was unlikely that taking this step would make a difference. The premises had been the subject of two noise nuisance abatement notices in the past. She believed that the measures offered by the Premises Licence Holder and DPS appear to be good measures.

PC Rowlatt informed the Sub-Committee that South Wales Police had been called to an incident on 11 June 2016 at the same date and time complaints had been received by Shared Regulatory Services of noise nuisance. She stated that an occurrence had started inside the premises and escalated outside following a large group of rugby people being asked to leave the premises. Their behaviour continued to escalate outside the premises resulting in people fighting in the street. PC Rowlatt presented witness statements from the victim of an assault and a witness to that assault which took place on 11 June 2016 where the situation had become increasingly aggressive where people had ended up fighting in the street, which not only had affected other people in the street but had stopped traffic in the vicinity. She stated that the DPS had behaved in an exemplary manner in assisting the victim of the assault. PC Rowlatt informed the Sub-Committee that conditions were required to reduce public nuisance from the premises by reducing the hours and noise levels from live music and ensuring that door staff and security measures are put in place. She believed that the removal of the word "and" prior to the words "Bank holidays" in Condition 1 would deal with public nuisance from the premises.

In response to a question from the Sub-Committee if relation to CCTV facilities at the premises, PC Rowlatt confirmed the premises had a fully functioning CCTV system which covered the inside and outside of the premises and is suitable for the premises. The Sub-Committee questioned whether the perpetrator of the assault had been drinking at the premises. PC Rowlatt could not clarify whether the perpetrator of the assault and rugby team had or had not been drinking at the premises but stated that they should not have been allowed entry into the premises due to their levels of intoxication.

The Team Manager Licensing asked PC Rowlatt to clarify the amended wording of Condition 1. PC Rowlatt clarified that the amended wording to Condition 1 should read "Friday, Saturday and Sunday prior to Bank holidays.

The DPS clarified that the perpetrator of the assault did not come from the premises, but the victim of the assault who was part of the rugby group had been at the premises.

The Premises Licence Holder informed the Sub-Committee that he hoped the matters which had been the subject of negotiation would win through and what was being proposed would be robust enough. He stated that the DPS had 22 letters of support for the premises from residents who live closer to the premises than the complainant who now had their property on the market. He also stated that the business provides employment for a number of local people. He hoped the proposals would be robust enough to enable the premises to keep trading and that the Neighbourhood Services Officer would visit the premises once the works to the premises had been completed.

The Sub-Committee requested sight of the letters of support from residents.

The DPS informed the Sub-Committee that they had already spent £3,000 on insulation works to the premises. The Premises Licence Holder informed the Sub-Committee that a noise expert had identified that the windows at the premises as a weakness for the escape of sound and that secondary glazing would be installed within days, measurements would then be taken for the installation of new units thereafter. PC Rowlatt commented that it was unusual for new evidence to be introduced at this point in the hearing such as the letters of support from residents and reports from a noise expert and that the Responsible Authorities should have been made aware of this prior to the start of the hearing. She requested an adjournment for the Responsible Authorities to consider this information. The Sub-Committee requested information as to the proximity of the residential properties to the premises and whether the letters of support had been drafted by the DPS for residents to sign. The DPS confirmed that they had posted the letters of support through residents' letter boxes in order that they could sign and return them to the premises. The Premises Licence Holder stated that one letter returned to the DPS supported the complainant. PC Rowlatt commented that the letters of support were not addressed to individuals. The Neighbourhood Services Officer informed the Sub-Committee that she did not object to the letters of support being part of the review.

The Sub-Committee adjourned at 11.15am and reconvened at 11.34am.

In response to a question from the Sub-Committee, PC Rowlatt stated that she had no objection to the letters of support being submitted as part of the review. The Neighbourhood Services Officer questioned the relevance of the letters of support as they show where the residents, how they would be affected by noise nuisance and are they customers of the premises. The Neighbourhood Services Officer stated there had been 10 breaches of the licensing objectives at the premises.

The Sub-Committee would consider the letters of support when they retire.

The Sub-Committee questioned the sort of glazing proposed at the premises. The DPS confirmed that the present windows are double glazed; the Perspex proposed would be 4mm in thickness making the windows triple glazed. The Premises Licence Holder informed the Sub-Committee that other measures had been discussed with the noise expert, namely, curtains being put on the downstairs windows to absorb sound. It was also proposed to installing Perspex on the upper floor, formerly used as a living area again to absorb sound.

The Sub-Committee questioned the specification and materials to be used at the premises. The Neighbourhood Services Officer stated that the specification of glazing had not been discussed with the Premises Licence Holder and DPS. The Team Manager Licensing informed the Sub-Committee that the specification of works to be undertaken to the windows would need to be the subject to approval by the Neighbourhood Services Team. The Senior Environmental Health Officer informed the Sub-Committee that the Perspex units would be a temporary measure until such time as the new units had been installed. The Premises Licence Holder informed the Sub-Committee that the Perspex units would be installed within days prior to new windows being installed. He stated that the DPS records the decibel levels from the premises each night. The Neighbourhood Services Officer commented that she was unaware that a noise expert had looked at noise reductions measures upstairs at the premises. The Premises Licence Holder stated that the noise expert had identified windows downstairs and upstairs that need replacing which would have the benefit Perspex being installed in the interim and some material to absorb noise would also be used. The Neighbourhood Services Officer commented on the validity of the noise expert's report and stated that a noise expert would look at the premises in its entirety when looking at noise reduction measures being implemented.

The Senior Environmental Health Officer queried the qualifications of the noise expert. The DPS stated that the noise expert lives in Maesteg and he had undertaken work to the Bird in Hand. The Neighbourhood Services Officer stated that she was under the impression that a noise expert had carried out testing at the premises and asked whether he had provided a report on noise break out of the building. The DPS stated that the noise expert had commented verbally. The Senior Environmental Health Officer asked whether the noise expert had received the specifications of the windows in order to attenuate noise. The DPS informed the Sub-Committee of the decibel levels he had recorded outside the complainant's property which was 61 decibels and 82 decibels outside the premises during live music. The Senior Environmental Health Officer stated that it was the responsibility of the DPS and Premises Licence Holder to present information of the noise mitigating measures they proposed to put in place. The Legal Officer informed the Sub-Committee that any amended conditions to the licence would require the approval of Shared Regulatory Services. The Senior Environmental Health Officer stated that no information on any noise mitigating measures proposed at the premises had been received until immediately prior to the hearing.

The Sub-Committee questioned why the DPS and Premises Licence Holder were now prepared to undertake work at the premises when they had previously ignored requests made by Shared Regulatory Services. The DPS informed the Sub-Committee that they had spent £3,000 on acoustics which had been suggested by the Neighbourhood Services Officer. He stated that no correspondence had been received from the Neighbourhood Services Officer for 4 months. He also stated that they would have undertaken works to the premises if they were aware of the need to do so and before the service of the Abatement Notice.

The Premises Licence Holder informed the Sub-Committee there had been a stand-off between the parties prior to this morning where the parties had met and agreed a way forward. He confirmed that the Perspex will be installed within the next few days and that he wished to work with all parties. He asked what would be the acceptable noise level outside the complainant's house. The Neighbourhood Services Officer stated that what needed to be considered was whether music from the premises was audible inside the complainant's house. She confirmed that she had been present in the complainant's house when the music from the premises was audible to the extent that she could clearly identify the words to the songs played. The Premises Licence Holder asked what would be the acceptable noise if the windows to the premises were kept shut. The Neighbourhood Services Officer stated that there was not a great deal of difference in

noise levels if the windows at the premises were open or closed and she had found the music to be audible when the windows at the premises were closed. She advised that a level of music needed to be found which they had control over. The DPS stated that they had been provided with a noise reading by the Neighbourhood Services Officer and had set the limiter to that reading.

The Sub-Committee questioned why complaints were made if the DPS believed that the noise was not as audible as the Neighbourhood Services Officer had made out. The Premises Licence Holder stated that he had spoken to Nathan Kite, the DPS and Paul Kite regarding the noise levels and wanted to see the measures agreed with the parties work. In response to a question from the Legal Officer as to why agreement had now been reached, the Premises Licence Holder stated that it had been due to the fact that all parties were present to allow negotiations to take place and regretted that the negotiations had not taken place earlier and that he believed that he was a third party to these proceedings. In response to a question from the Team Manager Licensing, Mr Lippiatt confirmed that he is the Premise Licence Holder. The Team Manager Licensing commented that as Premises Licence Holder he is a party to these proceedings and the review application had been served on him and was given 28 days in which to respond to those papers. The Team Manager Licensing asked whether he was aware of his responsibilities as Premises Licence Holder. The Premises Licence Holder stated that he had spoken to the DPS and Paul Kite in relation to the review on a number occasions and had been copied in to correspondence. The Legal Officer explained that as Premises Licence Holder he was not a third party to the review application and that responsibility rests solely with him. The Premises Licence Holder stated that he owns 17 public houses and has a portfolio of residential and commercial properties.

PC Rowlatt stated that assurances were required that conditions which had been negotiated were kept to. She asked the DPS why did the complainant advise that music at the premises between 6 - 8 August 2016 had not caused a problem, when on 14 August 2016 the noise nuisance had given rise to a complaint. The DPS stated that a 6 piece band had been booked some 12 months earlier and were a band on tour from Italy. He stated that he was made aware of the noise nuisance by the Neighbourhood Services Officer who had advised that she would let the matter slide. The Neighbourhood Services Officer stated that she had not witnessed the noise and had let it go as they had demonstrated that they were able to control the live music. PC Rowlatt requested an explanation as to why did he allow the event on 14 August 2016 involving the 6 piece band from Italy to take place and what mitigating measures had been put in place. The DPS stated that 2 members of the band had to play through their own equipment as there were insufficient points to play through the limiter. The DPS also stated that it was not a late night as the band had started to play in the afternoon. The DPS stated that the premises now had the benefit of a 24 channel mixer and all bands play through the limiter. The DPS stated that bands playing at the premises would play through the limiter and doors would be closed. The Neighbourhood Services Officer stated that the comment in relation to everything going through the limiter had been made by the DPS and 2 members of the band used their own equipment. The DPS stated that 2 members of the band connected their speakers to their system at the premises. He informed the Sub-Committee that he would email all bands playing at the premises in the future with a set of conditions they must adhere to.

PC Rowlatt questioned why there was noise nuisance on 14 August 2016 if everything went through the limiter. The DPS stated that at its peak the level was 99.3 decibels, the reading on the limiter was 93.8 decibels. He stated that the limiter would not allow anything above 94 decibels to come out of the speakers.

PC Rowlatt questioned why a further breach occurred on 3 September 2016. The DPS stated that it was dependent on the number of people at the premises and the weather.

He stated that sound from the premises would be quieter with 120 persons than 100 persons. The Neighbourhood Services Officer stated that the number of people at the premises would not have an effect of noise levels. The DPS believed that with less people inside the sound would travel further and rebound off the walls. The Senior Environmental Health Officer stated that there would be some sound absorption with more people being there, which would minuscule, but people would not reflect sound. She also stated that with the windows being closed noise levels inside would not vary and there would not be a huge reduction in noise levels.

PC Rowlatt referred to the previous breaches of abatement notices and asked what can be done to prevent noise nuisance again from the premises. The Premises Licence Holder stated that if they had a chance to carry on they would make it work. The DPS stated that irrespective of the measures they had put in previously complaints continued to be received. The DPS stated that since the limiter was set no complaints had been received. The Premises Licence Holder stated that they believed they had safeguards in place to prevent further noise nuisance. The Neighbourhood Services Officer stated that a decision had been taken to stop investigating further in the run up to the review as they had visited the premises 10 times in 8 months and officers had verified the complaints. She also stated that the review had been deferred in August 2016 to allow the Premises Licence Holder and DPS to come up with an action plan. The Premises Licence Holder and DPS were notified on 3 September 2016 of a breach of the abatement notice. The DPS stated that they had worked with the Neighbourhood Services Officer and spent a lot of money on the premises.

The Chairperson invited all parties to sum up.

The Neighbourhood Services Officer stated that she had demonstrated how she had provided assistance and support to the DPS and Premises Licence Holder in resolving the problems of live music causing a noise nuisance and had provided advice to the DPS to achieve an acceptable level of music being played at the premises. This advice was ignored by the DPS and the music level had returned to the original level. She stated that the Department had received a complaint from one individual resulting in the Department visiting in total on 10 occasions to set an acceptable noise level for the limiter provided by the DPS to control the noise. The DPS had disconnected the limiter as the bands could not play the level set, which the DPS did knowing that this would cause disturbance to the complainants as the noise would be above the level agreed. The DPS did not take additional steps following the limiter being disconnected.

The Neighbourhood Services Officer stated that the DPS following a second visit adhered to the noise levels and was able to demonstrate they could have live music without causing a nuisance to nearby residential properties. However the music returned to a level which was unacceptable and causing a nuisance. The Department then served an abatement notice on the DPS and had not taken enforcement action lightly.

The Neighbourhood Services Officer stated that the Department had entered into negotiations with the DPS and Premises Licence Holder prior to the hearing wherein, an agreement had been reached to limit the band numbers to 3 artists, secondary glazing would be installed to the front windows of the premises facing Commercial Street within 4 weeks or sooner and live music to finish at 2300 hours and after such time all music would be switched off.

PC Rowlatt reiterated her thanks for the mediation which had taken place with the DPS and Premises Licence Holder immediately prior to the hearing to agree 3 new conditions to be attached to the licence. She stated that the role of the Responsible Authorities is to work with licence holders, but when a breach of the licensing objectives occurs they

have to act. She believed that Shared Regulatory Services had been fair with the DPS and Premises Licence Holder as the premises is a live music venue and its removal would close the premises down. She stated that the proposed new conditions were an opportunity for the DPS and Premises Licence Holder to work with the Responsible Authorities to remedy the noise nuisance from the premises. She also stated that the proposed conditions were an opportunity to support the business but at the same time giving it one last chance.

The Premises Licence Holder informed the Sub-Committee that neither he nor the DPS were guilt free and that this had been the first review for him to have been involved with and one which had been a big learning curve. He stated that he should have met the DPS prior to now to discuss the noise nuisance problems at the premises. He also stated that they would cooperate with the Responsible Authorities in accepting the proposed new conditions. He stated that they have acted sooner by installing new windows and resolved the issues with the noise levels. He informed the Sub-Committee that he was happy with music finishing at the premises at 2300 hours and that he would enforce that as Premises Licence Holder and if it was not complied with would remove the DPS. He stated that the unique selling point of the venue is as a live music venue which appeals to an older market.

The DPS informed the Sub-Committee that the premises works with the community and allows the sound system to be used by Maesteg Town Council at Christmas free of charge.

The Sub-Committee questioned whether the other licensed premises in the vicinity have live music. The Neighbourhood Services Officer stated that there could have been occasions when live music was played from both venues, but the other premises are no longer open. The Senior Environmental Health Officer stated that it had been established that the noise nuisance came from the King Alfred. The Neighbourhood Services Officer stated that previously the King Alfred did not have live music to the extent it did now and the premises were being in a new way.

The Sub-Committee adjourned at 12.38pm and re-convened at 14.35pm.

RESOLVED: That the Sub-Committee heard an application for a review of the premises licence of The King Alfred Inn, 1 Commercial Street, Maesteg.

The Sub-Committee has heard representations from the applicant being the Neighbourhood Services Department, the Police and the Premises Licence Holder and the DPS.

The Sub-Committee allowed the parties half an hour before the hearing commenced to discuss the matter, all parties advised the Committee that they have reached an agreement in this matter that all parties were satisfied with as follows:-

1. All Bands that play live music have a maximum of 3 artists.
2. The Premises Licence Holder to install secondary glazing to the two windows facing Commercial Street, within 4 weeks.
3. All Live Music to cease at 11pm.
4. All live music must go through the limiter.

The Sub-Committee has heard that the Neighbourhood Services Officer has continually tried to work with the DPS of these premises to abate the noise nuisance. The Sub-Committee has heard that as a result of the noise nuisance witnessed by the officer emanating from these premises an Abatement notice was served on the DPS on the 11th May 2016. A copy of the notice was also served on the Premises Licence Holder.

The Neighbourhood Services Officer has witnessed a number of breaches of the abatement notice and has now reported those breaches for prosecution. The Officer gave evidence that on one occasion the DPS disconnected the noise limiter knowing that he would breach the abatement notice.

The Sub-Committee have decided on hearing the evidence from all parties that the DPS of these premises is responsible for the noise nuisance at these premises and has not taken sufficient steps to abate the nuisance, however the Sub-Committee has taken on board the fact that the Neighbourhood Services Officer has agreed prior to the meeting to an number of conditions which she believes will abate the nuisance at these premises.

On this basis the Sub-Committee has decided in order to promote the licensing objectives to add new conditions on the licence. The Sub-Committee has decided that the following conditions should be added to abate the noise and public nuisance at these premises:-

1. The Premises Licence Holder to install secondary glazing to the two windows facing Commercial Street, within 6 weeks. The secondary glazing must be approved by the Neighbourhood Services Officer as appropriate to abate the noise nuisance.
2. All Live Music to cease at 11pm.
3. All live music must go through the limiter.

The Sub-Committee has considered all the conditions suggested by the Police on page 24 of the report and do not consider that these conditions relate to the public nuisance at the premises and will not assist in abating the existing noise nuisance at the premises and have decided that they will not be added to the Licence.

The meeting closed at 2.40 pm

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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD IN COMMITTEE ROOMS 2/3, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON TUESDAY, 13 DECEMBER 2016 AT 10.00 AM

Present

Councillor DRW Lewis – Chairperson

GW Davies MBE
PN John

PA Davies

E Dodd

CJ James

Apologies for Absence

D Owen

Officers:

Mark Galvin
Andrea Lee
Yvonne Witchell

Senior Democratic Services Officer - Committees
Senior Lawyer
Team Manager Licensing

159. DECLARATIONS OF INTEREST

None

160. APPROVAL OF MINUTES

RESOLVED:

To receive for approval the Minutes of the following meetings of the Licensing Sub-Committee:-

24 August 2016
15 November 2016

161. APPLICATION TO LICENCE PRIVATE HIRE VEHICLE

The Corporate Director Operational and Partnership Services, submitted a report which requested the Sub-Committee to consider an application to grant a licence for a Private Hire Vehicle.

The application was made by Mr P Clarke to licence a Dacia Logan MCV vehicle registration number CK66 VNU as a Private Hire Vehicle to seat 4 persons. The vehicle was pre-owned and was first registered at the DVLA on 31 October 2016.

The vehicle fell outside the Private Hire Vehicle Policy approved by the Licensing Committee due to the reason outlined in paragraph 4.4 of the report.

Members and Officers proceeded to inspect the vehicle which was situate in the Civic Offices basement car park, however, Councillors James and Johns did not take part in this process, and therefore could not take part in the subsequent consideration of the application.

Upon reconvening, the Team Manager – Licensing advised the Sub-Committee that there was 103 miles on the vehicles milometer.

Mr Clarke advised when questioned, that he purchased the vehicle from Swansea, and that the mileage of the vehicle was only based upon the collection of the vehicle.

He confirmed that he needed to purchase the vehicle so that he could expand his fleet due to customer needs.

Mr Clarke then responded to a couple of routine questions from Members, following which it was

RESOLVED: The Sub-Committee granted the application made by Mr Clarke to licence a Private Hire Vehicle, as they were satisfied that there was justifiable reason to depart from their Licensing Policy on this occasion due to the fact that the vehicle was new and therefore in exceptional condition.

162. URGENT ITEMS

None

163. EXCLUSION OF THE PUBLIC

RESOLVED: That under Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following items of business as they contained exempt information as defined in Paragraph 12 of Part 4 and/or Paragraph 21 of Part 5 of Schedule 12A of the Act.

Following the application of the public interest test it was resolved that pursuant to the Act referred to above, to consider the following items in private, with the public excluded from the meeting, as it was considered that in all the circumstances relating to the items, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because the information would be prejudicial to the applicants so mentioned.

164. APPROVAL OF EXEMPT MINUTES

165. APPLICATION FOR GRANT OF NEW LICENCES TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

The meeting closed at 10.36 am

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING SUB COMMITTEE

14 FEBRUARY 2017

REPORT OF THE CORPORATE DIRECTOR, OPERATIONAL AND PARTNERSHIP SERVICES

APPLICATION TO LICENCE PRIVATE HIRE VEHICLE

1. Purpose of Report.

- 1.1 To ask the sub-committee to consider an application to grant a licence for a private hire vehicle.

2. Connection to Corporate Improvement Plan / Other Corporate Priority.

- 2.1 None

3. Background.

- 3.1 It is the duty of the Local Authority to determine applications made under the Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847. Applications which fall outside the policy guidelines are referred to a Licensing Sub-Committee for determination.

4. Current situation / proposal.

- 4.1 Application is made by Wayne Davies, to licence a Mercedes S vehicle registration number W8 WDD as a private hire vehicle to seat 4 persons.
- 4.2 The vehicle is pre-owned and was first registered at the DVLA on 4 June 2007 and Mr Davies acquired the vehicle on 8 October 2014.
- 4.3 The application falls outside the Private Hire Vehicle Policy approved by the Licensing Committee. The vehicle is not wheelchair accessible, but there are specific policy guidelines in respect of the first licensing of private hire vehicles which fall outside policy guidelines, which are set out below. For Members' information, a service history has been provided confirming servicing of the vehicle in June 2016 at 67277 miles. The last MOT Certificate has also been provided in April 2016.

4.4 Policy Guidelines

The vehicle policy applicable to this application was approved by the Licensing Committee on 10 March 2008. The relevant extract from the policy is as follows:

“(Policy 2.1) Applications for the first licensing of a hackney carriage or private hire vehicle should be submitted to the Council within 14 days of the first registration of the vehicle at the DVLA. The mileage at the time of application should be no greater than 500 miles. The applicant may be the second or a subsequent

registered keeper but the applicant must demonstrate that there is no more than 14 days between the first registration and transfer to the applicant's name. Applications will normally be dealt with under the Scheme of Delegation to Officers.

(Policy 2.2.5) A relaxation of the policy will also be considered in exceptional circumstances for applications relating to the first licensing of private hire vehicles. The Council does not seek to limit or define a particular vehicle which is suitable but will adhere to the minimum standards for the size of seats and legroom etc which are available on request. Irrespective of the age of the vehicle it must be capable of satisfying the general licensing conditions and be fit for purpose as a private hire vehicle in terms of passenger safety and comfort. Each application will be reported to the Licensing Sub-Committee for determination on its merits having regard to the following criteria:

- That the vehicle presented is in an exceptional condition in relation to its exterior and interior appearance with no evidence of defects, chips, marks or other evidence of unreasonable wear and tear or damage.*
- That the vehicle presented offers an exceptional standard of safety and comfort for passengers in terms of features offered for example ABS, passenger airbags and ability to meet current requirements on emissions testing.*
- That the application includes evidence that the vehicle has been serviced at the intervals recommended by the manufacturer and at an approved garage. Other relevant documentations such as an MOT certificate should also be provided.*

(Policy 2.4) All applicants should be satisfied that they can meet all current policy requirements before submitting an application and are advised that they submit an application which falls outside the above policy guidelines at their own risk. Acceptance of an application does not infer that it will be granted. Applicants are strongly advised not to purchase a vehicle or make any other financial commitment until the application is determined.”

5. Effect upon Policy Framework & Procedure Rules.

5.1 None

6. Equality Impact Assessment.

6.1 This vehicle is not for wheelchair use. There are no other implications in relation to age; disability; gender and transgender; race; religion or belief and non-belief; sexual orientation.

7. Financial Implications.

7.1 None for the Authority.

8. Recommendation.

8.1 The Sub-Committee is asked to determine the application having regard to the information contained within this report.

Andrew Jolley
Corporate Director Operational and Partnership Services

Date 8 February 2017

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Team Manager Licensing

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Background documents

Private Hire Vehicle Application
Private Hire Vehicle Policy Guidelines

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