

Public Document Pack

AGENDA

Committee	PUBLIC PROTECTION COMMITTEE
Date and Time of Meeting	Tuesday, 2 December 2014, 10.30 am
Venue	Committee Room 1 - County Hall
Membership	Councillor Parry (Chair) Councillors Ahmed, Ali, Bridges, Howells, Hudson, McGarry, Morgan, Murphy, Phillips and Simmons

1 Apologies for Absence

To receive apologies for absence.

2 Declarations of Interest

To be made at the commencement of the agenda item in question, in accordance with the Members' Code of Conduct.

3 Minutes

(Pages 1 - 6)

To approve as a correct record the minutes of the previous meetings.

4 Hackney Carriage/Private Hire Applications

(Pages 7 - 8)

To consider an application for Prestige Vehicle status.

5 Application for an Additional Front Seat in a Ford Tourneo

(Pages 9 - 10)

6 Presentation on Enforcement of Moving Traffic Contraventions

(Pages 11 - 18)

7 Village Green Application - Arls Field, Llandaff

(Pages 19 - 36)

8 Street Trading Conditions - Application to Amend Conditions in St Mary Street

(Pages 37 - 52)

9 Approval of Driver Fitness Criteria

(Pages 53 - 70)

10 Skin Piercing Registrations

(Pages 71 - 72)

11 Street and House to House Collection Permit Applications
(Pages 73 - 80)

Date of next meeting - Tuesday, 6 January 2015

Marie Rosenthal

County Clerk & Monitoring Officer

Date: 28 November 2014

Contact: Graham Porter, 029 2087 3401, g.porter@cardiff.gov.uk

PUBLIC PROTECTION COMMITTEE

4 NOVEMBER 2014

Present: County Councillor Parry (Chairperson);
Councillor Boyle, Bridges, Howells, Hudson, McGarry, Morgan,
Murphy, Phillips and Simmons

30 : MINUTES

The minutes of the meetings held on 16 September 2014 and 7 October 2014 were approved by the Committee as a correct record and were signed by the Chairperson.

31 : CONTROL OF STREET TRADING – CITY CENTRE DESIGNATIONS

The Committee received a report and were asked to consider re-designating streets in the City Centre for the purposes of street trading. Members were advised that designating the streets as 'consent' streets would also trading to take place on a flexible basis. The authority can issue consent to a trader to cover a short period of time which would allow for trading during events held in the City Centre, such as the 6 nations rugby tournament.

In October 2012 St Mary Street and High Street were re-designated from 'prohibited' to 'consent' streets, allowing market-style trading to take place on weekends. As part of the current review of the Statement of Street Trading Policy a number of other streets in the City Centre were identified that could also benefit from a change in designation, allowing event based trading and promoting economic activity in the City. The Committee was recommended that the streets listed in the report be changed from 'prohibited' to 'consent' streets so that trading consents can be issued as part of events/activities organised by, or in partnership, with the authority.

The report provided further details of how trading consents would be issued and the restrictions placed on the size and types of stalls and merchandise to be traded.

The Committee sought clarification on how the granting of trading consents would be administered. Officers advised that the cost of administering the scheme would be reflected in the fees charged to applicants.

RESOLVED – That the Committee indicates its intent to designate the following streets as consent streets for the purposes of street trading:

The Hayes
Trinity Street
Working Street
St Johns Street
Queens Street
Frederick Street

Park Place
Womanby Street
Lloyd George Avenue (from its junction with Hemmingway Road South to
Roal Dahl Plas)

32 : REVIEW OF STREET TRADING CONDITIONS

The Licensing Authority is to ensure that individuals who are granted street trading licences and consents do so in a proper manner. The Committee was advised that the current street trading conditions were last approved by the Committee in 2000.

As part of the review of street trading policy, it was proposed that the following additional conditions were attached to the Street Trading Licence and consent standard conditions:

- (a) The Street Trading Licence/Consent holder must obtain suitable public liability insurance with a minimum liability of at least two million pounds to cover all liabilities that may arise from the street trading activities. The insurance must be valid for all trading periods.
- (b) Food trading businesses must achieve a rating of at least 3 under the National Food Hygiene Rating System (or equivalent if the business is registered outside England, Wales or Northern Ireland).

Members questioned whether traders had been consulted about the proposed addition to the standard conditions. Officers advised that all fixed traders already have public liability insurance as the City Centre Management Team already insist on this for activity on its sites. The additional conditions would apply to applicants for street trading consents. Public Liability insurance was estimated to cost in the region of £50-60. Officers also advised that, in terms of the food hygiene rating system, traders would be given a transition period of 12 months to comply.

RESOLVED – That:

- (1) Food trading businesses must achieve a food hygiene rating of at least 3 under the National Food Hygiene Rating System (or equivalent if business registered outside England, Wales or N Ireland).
- (2) The Street Trading Licence holder must obtain suitable public liability insurance with a minimum liability of at least two million pounds to cover all liabilities that may arise from the street trading activities. The insurance must be valid for all trading periods.
- (3) The Street Trading Consent holder must obtain suitable public liability insurance with a minimum liability of at least two million pounds to cover all liabilities that may arise from the street trading activities. The insurance must be valid for all trading periods.

33 : SKIN PIERCING REGISTRATIONS

The Committee noted the actions taken by the Head of Regulatory and Supporting Services in respect of the following applications.

1. E Carter, Claires Accessories
Personal Registration
2. GM Tucker, Claires Accessories
Personal Registration
3. K Williams, SWYD Tattoo
Personal Registration
4. Rino and Company, Royal Arcade
Premises Registration

34 : STREET AND HOUSE TO HOUSE COLLECTION PERMIT APPLICATIONS

The Committee noted the actions taken by the Head of Regulatory and Supporting Services in respect of the following applications.

1. Noahs Ark Appeal
Street Collection Permit
21/11/14
2. Cleft Lip and Palete Association
Street Collection Permit
21/11/14
3. Cats Protection
Street Collection Permit
29/11/14
4. Breakthrough Breast Cancer Care
Street Collection Permit
30/10/14
5. Tredegar Town Band Society
Street Collection Permit
30/11/14
6. Anthony Nolan Bone Marrow Trust
Street Collection Permit
25/11/14
7. Arthritis Research UK

- Street Collection Permit
13/10/14 to 18/10/14
8. Be Child Cancer Aware
House to House Collection Permit
01/01/15 to 31/12/15
 9. The Breast Centre
Street Collection Permit
31/10/14
 10. Troop Aid
House to House Collection Permit
20/11/14 to 19/11/15
 11. Civil Aid Voluntary Rescue Association
Street Collection Permit
23/11/14
 12. RSPB
Street Collection Permit
19/11/14
 13. Oxfam
Street Collection Permit
16/11/14

35 : SEX ESTABLISHMENT LICENCES

The Committee noted the actions taken by the Head of Regulatory and Supporting Services in respect of the following applications.

1. The Private Shop, Mill Lan
Sex Establishment (Sex Shop) Licence renewed
2. Fantasy Lounge, St Mary Street
Sex Establishment (Sex Entertainment Venue) Licence renewed
3. Pulse Nightclub
Sex Establishment (Sex Entertainment Venue) Licence renewed

PUBLIC PROTECTION SUB COMMITTEE

4 NOVEMBER 2014

Present: County Councillor Parry (Chairperson);
County Councillors Boyle and Murphy

PPSC21 : EXCLUSION OF THE PUBLIC

RESOLVED – That the public be excluded for the following items of business on the grounds that if members of the public were present during the discussions, because of the nature of the business to be transacted, there would be a disclosure to them of exempt information as defined in Section 100(1) of the Local Government Act 1972 and Categories 1 and 3 of the Local Authorities (Access to Information) (Variation) (Wales) Order 2007 as described below:

“Information relating to the business affairs of any particular person (other than the Authority)”.

PPSC22 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

- (1) Application 1
Deferred for 1 month
- (2) Application 2
No further action.
- (3) Application 3
The driver to receive a written warning for unacceptable conduct.
- (4) Application 4
No further action.
- (5) Application 5
Licence revoked as the Sub Committee did not consider the driver to

be a fit and proper person to hold a licence.

(6) Application 6

Did not attend. Deferred for 1 month.

(7) Application 6

The driver to receive a written warning for unacceptable conduct.

(8) Application 6

Two weeks suspension and the driver to attend a driver awareness course.

PPSC23 : LEGAL PROCEEDINGS AND ENFORCEMENT ACTIONS

The Committee noted the legal proceedings and enforcement actions that had taken place during the period.

.....
Chairperson

Agenda Item 4

AGENDA ITEM

CARDIFF COUNCIL
CYNGOR CAERDYDD

PUBLIC PROTECTION COMMITTEE: 2nd DECEMBER 2014

REPORT OF THE HEAD OF REGULATORY & SUPPORTING SERVICES

HACKNEY CARRIAGE/PRIVATE HIRE APPLICATIONS

The Committee is requested to determine the following application:-

1. **Muhamad Afzal : Peugeot Partner**

Application to have the Peugeot Partner approved as a Prestige Vehicle with a ten year age restriction.

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**CITY OF CARDIFF COUNCIL
CYNGOR DINAS CAERDYDD**

Agenda No.

**PUBLIC PROTECTION
LICENSING COMMITTEE: 2 DECEMBER 2014**

Report of the Head of Regulatory and Supporting Services

**APPLICATION FOR THE LICENSING OF AN ADDITIONAL FRONT SEAT IN
A FORD TOURNEO CUSTOM TITANIUM PEOPLE CARRIER.**

1. Background

- 1.1 An application has been made by Mr Wayne O,Connor the managing director of St Davids Cars for the approval of the additional front seat in the Ford Tourneo Custom Titanium. This would increase the licensed seat numbers from 7 to 8 seats.
- 1.2 At present Cardiff Council's Taxi Licensing Policy Statement prohibits more than one passenger in the front seat of a mini bus/MPV style vehicle.
- 1.3 This report is to provide details of the application to enable the application to be considered by Committee.

2. Details.

- 2.1 The Ford Tourneo was approved as a prestige vehicle by Committee in March 2000 and is suitable as a hackney carriage or private hire vehicle to be licensed for 7 passenger seats this includes 1 passenger travelling in the front of the vehicle.
- 2.2 Mr O'Connor currently operates a mixed fleet of saloon vehicles and MPV vehicles and is having to turn down work from customers requesting 8 passenger seat vehicles. Mr O'Connor feels he is at a disadvantage as other private hire operators licensed with neighbouring Authorities such as Bridgend, Swansea and the Vale of Glamorgan allow 2 front passengers in minibus/MPV type vehicles.

3. Consideration

- 3.1 In April 2002 the Licensing & Public Protection Committee clarified the situation with regards to licensed seating arrangements in mini bus/MPV vehicles. It was concluded that in calculating passenger capacity only one seat in the front row should be utilised for the conveyance of members of the public, so as to ensure

the safety and comfort of both the public and the driver. The Cardiff Council Taxi Licensing Policy Statement was amended to reflect this decision.

3.2 The addition of a bench seat/double seat in the front of the taxi would result in one of the passengers being in very close proximity to the driver. This presents possible safety risks for the driver, especially if there is an altercation between the front seat passengers.

3.3 Front bench seats are also narrower than separate seats and it may not be comfortable for 2 passengers to sit in such close proximity to each other, especially if they are strangers. The current policy of the Committee is that rear bench seats must have a width of at least 54 inches, providing each passenger with a seating width of 18 inches. The front bench seat in a Ford Tourneo Custom Titanium is 32 inches providing each passenger with a seating width of only 16 inches.

4. **Achievability**

This report contains no equality personnel or property implications.

5. **Legal Implications**

5.1 The Council may impose such licence conditions as it considers reasonably necessary. Safety and comfort are legitimate considerations.

6. **Financial Implications.**

6.1 The licensing service is required to be self financing with all expenditure being met from fees and charges which are reviewed annually.

7. **Recommendation**

7.1 It is recommended that the application for exemption from the Council Policy be refused as the width of the bench seat does not permit room for two persons in accordance with the Council Policy.

Dave Holland

HEAD OF REGULATORY AND SUPPORTING SERVICES

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: None



Enforcement of Bus Lane and Moving Traffic Contraventions in Cardiff

Councillor Briefing Pack

Enforcement of Moving Traffic Contraventions

Basic Legislation Applying since 2004:

The Traffic Management Act 2004, Part 6,

- S73** **Contraventions subject to civil enforcement**
- (1) **schedule 7 specifies the road traffic contraventions that are subject to civil enforcement.**
 - (2) **these are —**
 - (a) **parking contraventions (see part 1 of the schedule);**
 - (b) **bus lane contraventions (see part 2 of the schedule);**
 - (c) **.....**
 - (d) **moving traffic contraventions (see part 4 of the schedule).**

Additional Legislation Applying in Wales since 2013:

The Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

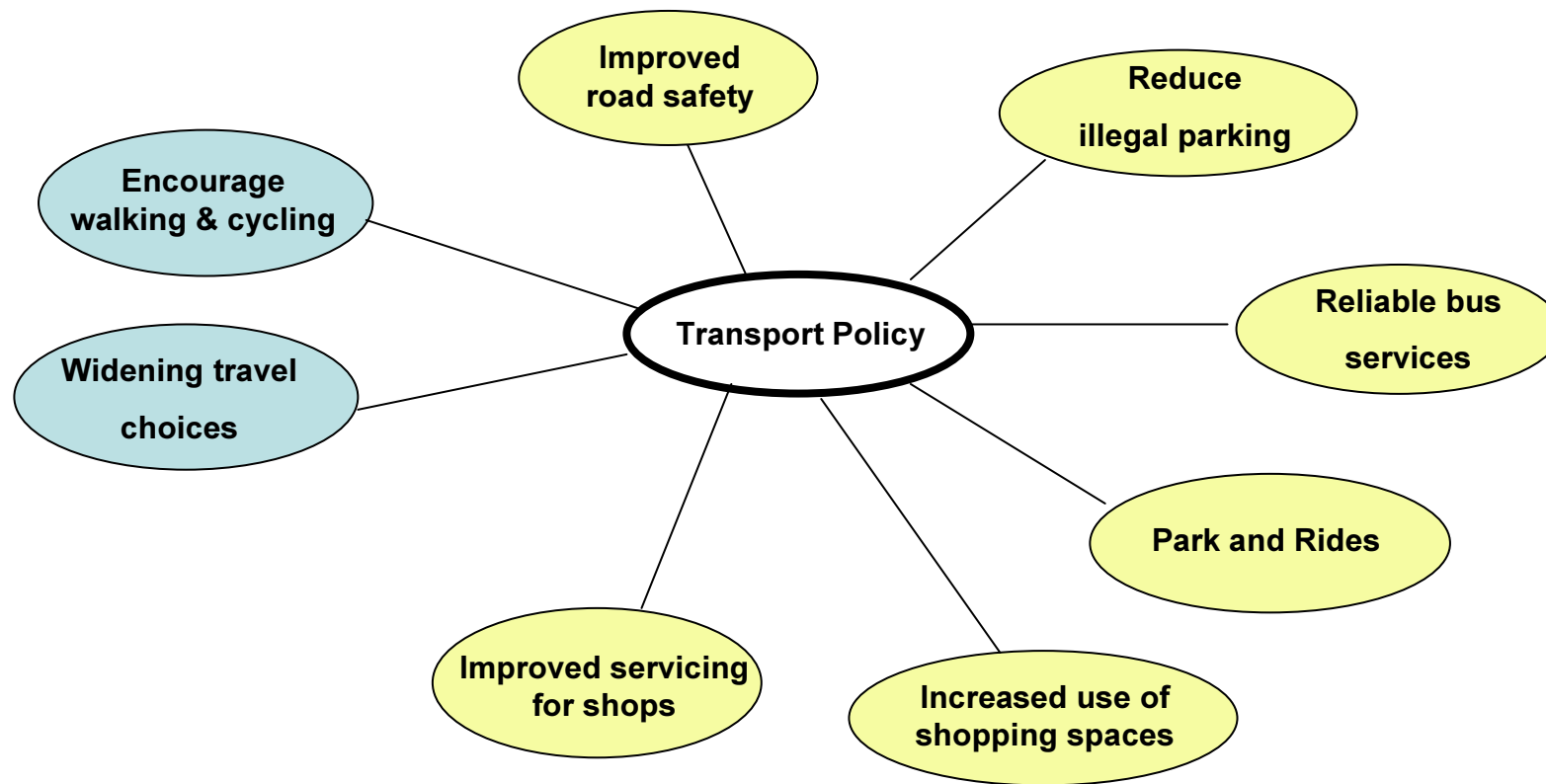
The Civil Enforcement of Road Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013



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All contraventions are “higher level” and attract a penalty charge of £70, to be consistent with the higher level parking contraventions.



MTC & CPE Interactions with Cardiff Council's Transportation Policies



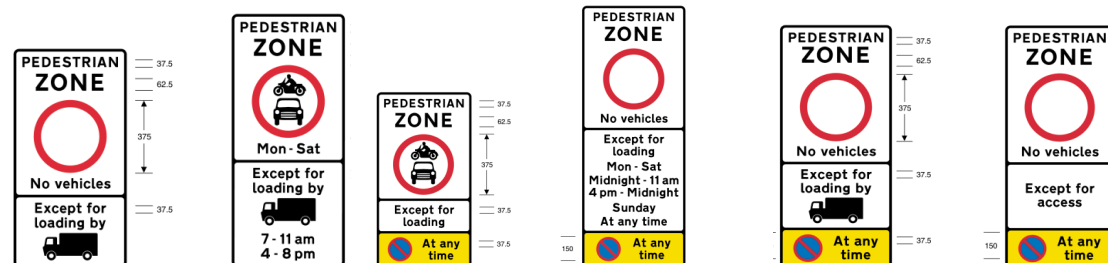
	Longer term influence
	Immediate influence

Enforcement of Moving Traffic Contraventions - Items which can be enforced by camera

Directed and Prohibited movements.



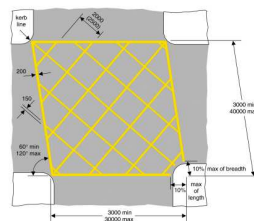
Pedestrian precincts



Bus and Cycle provisions.



Yellow box junctions.



Note: Special authorisation from WG being requested for "non-standard" shaped boxes.

Enforcement of Moving Traffic Contraventions in Cardiff



Contraventions must be enforced by camera (approved devices)

Bus lanes.



To ensure free movement of buses along bus lanes, especially at end of lane where illegal queuing can reduce advantage to buses and prevent them reaching the front of the bus lanes.

Yellow box junctions.

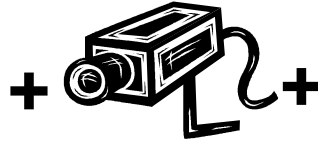


To discourage illegal waiting on yellow box junctions when exit is blocked, which prevents cross movement when signals change, adding to congestion, traffic delays and driver frustration.

Enforcement of Moving Traffic Contraventions



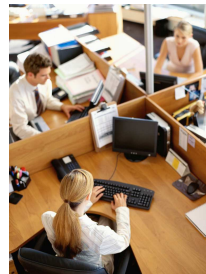
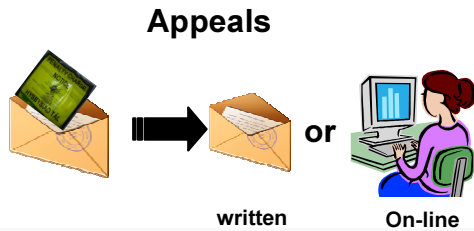
Enforcement by camera = PCN issued by post



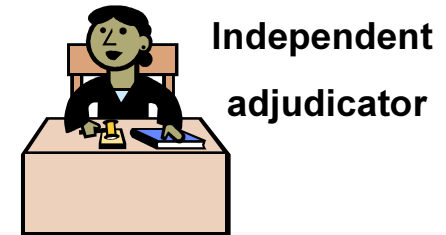
CEO review



Back office notice processing and appeals team



Council Appeals Team



Enforcement of Moving Traffic Contraventions in Cardiff



Penalty Charge Notice

The PCN/ Notice to Owner will contain some still photos showing the contravention taking place, plus a link to the web-site where the video clip can be viewed.

If the motorist requests an adjudication later on in the process, our evidence pack will also provide the still photos and the web-link so the adjudicator will be able to view the same video clip.



Enforcement of Moving Traffic Contraventions in Cardiff



Finally, some statistics and our enforcement strategy

- **60,000** parking penalties issued per year,
- **20-25%** of PCNs expected to return into appeals system, typically **15,000** cases per year
- giving rise to around **200** adjudications per year (0.003%)

- **200,000 – 300,000** bus lane and moving traffic contraventions anticipated per year from sample surveys.

- Back office gearing up for **60,000** MTC contraventions per year, with enforcement reduced to suit.

Proposed strategy –

Commence with:

- 8 bus lane camera fixed sites, plus
- 2 yellow box movable cameras, these to be moved to new sites perhaps bi-monthly, plus
- 1 CCTV enforcement car for school sites.



Add additional cameras over time via slow growth, and deploy across other sign types.

**CARDIFF COUNCIL
CYNGOR CAERDYDD**

Agenda No

PUBLIC PROTECTION COMMITTEE: 2nd December 2014

DETERMINATION OF AN APPLICATION TO CARDIFF CITY COUNCIL BY THE LLANDAFF SOCIETY TO REGISTER LAND AT THE ARLS FIELD LLANDAFF AS A TOWN OR VILLAGE GREEN

Report of the County Solicitor on behalf of the Council in its capacity as Registration Authority for the purposes of the registration of land in the Register of Town and Village Greens maintained by the Registration Authority

Purpose of report

1. Under the Commons Act 2006 the Council is the Registration Authority for the registration of land in the Register of Town and Village Greens maintained by the Council in its capacity as Registration Authority.
2. An application dated 19th February 2014 (“the Application”) was lodged by Mr Geoffrey Barton-Greenwood on behalf of the Llandaff Society (“the Applicant”) with Cardiff City Council for the registration of land at the Arls Field Llandaff (“the Application Land”) as a town or village green in the Register of Town and Village Greens maintained by the Council.
3. The applicable law is complex. For this reason and the fact that there is no formal right of appeal against a decision of the Registration Authority, a decision can be particularly vulnerable to legal challenge by means of judicial review. It is therefore essential for a Registration Authority to be able to demonstrate that it has acted in accordance with the principles of natural justice and proper administration so as to enable it to refute any suggestion or implication of bias.
4. In processing and deciding upon the Application the Registration Authority must act in accordance with the principles of natural justice and proper administration (“Wednesbury Principles”) in addition to observing formal statutory procedures and requirements.
5. Consideration needs to focus exclusively on legal issues rather than amenity or property issues and the decisions to be made need to turn on evidence and not on policy considerations.

6. The evidence produced by the Applicant and by the Cardiff Metropolitan University as objector has been considered as set out in the Appendix to this report and after applying the relevant legal tests to that evidence the recommendation is that the Council should not register the Application Land as a town or village green. The Public Protection Committee is therefore asked to determine the Application submitted by the Applicant under Section 15 of the Commons Act 2006.

Background documents

7. The following documents disclose important facts on which the recommendation is based and have been relied upon in preparing the report. Copies of these documents are available for inspection.

8. Application dated 19 February 2014 from Mr Geoffrey Barton-Greenwood on behalf of the Llandaff Society to register land at the Arls Field as a town or village green with supporting documentation.

9. Letter of objection dated 23 May 2014 from the Objector with supporting documentation.

10. Response to the letter of objection from the Applicant dated 14th July 2014.

Introduction

The Land

11. The Application Land is in Llandaff Cardiff. Llandaff Cathedral and the residential areas of Llandaff lie to the south. The River Taff lies to the north and west. The Objector's playing fields lie to the east. There is an adopted public footpath which runs between the Application Site and the Objector's Land and which links the Cathedral and residential areas with riverside walks.

Role of the Council

12. The Council is appointed by law as the Authority responsible for the registration of village greens. The constitution of the Council delegates this responsibility to the Public Protection Committee.

13. The Council must determine whether the Application Land is, in fact, a town or village green. The law on this is explained in this report. If the Application Land satisfies the requirements for a town or village green then the Council must register it.

The law of village greens

14. The test for determining whether the Application Land should be registered as a town or village green is set out under s15 of the Commons Act 2006 ('the Act') which states:

- (1) Any person may apply to the commons registration authority to register land to which this part applies as a town or village green in a case where subsection (2), (3) or (4) applies [subsection 2 is relevant in this application]
- (3) this subsection applies where:
 - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years.
 - (b) they continue to do so at the time of the application

It should be noted that the Act gives the registration authority no discretion. If all the conditions set out in section 15 are met then the Application land must be registered as a village green.

The Application

15. The Application submitted by Mr Geoffrey Barton-Greenwood on behalf of the Llandaff Society asserts that all of the conditions set out in s15 of the Act for the establishment of a town or village green have been met. The Application includes a bundle of signed witness statements from members of the public relating to their use of the Application Land. The claim is based on an assertion that the Application Land has been used by a significant number of local inhabitants, as of right for an unbroken period of 20 years up to the date of the Applicant's application.

Letter of objection

16. The letter of objection submitted by the Objector makes various contentions including the assertion that a significant number of inhabitants have walked the pathway which abuts the Application Land for the relevant period, but there has not been use of the Application Land which would satisfy the legal requirements for registration of a Town & Village Green.

The Applicants response

17. The Applicants responded to the letter of objection on the 14th July 2014 challenging the assertions made by the Objector.

18. Appendix

19. The appended report summarises the evidence produced by the Applicant and the Objector and applies the relevant legal tests to that evidence. The amount of evidence which refers to walking and dog walking along the adjacent pathway is considered to be a significant factor and the recommendation is that the Applicant has not established the matters required by s15(2) of the Act and that the Authority should register the land as a town or village green. That is to say that the Applicant has not shown that the Application Land has been used for lawful sports and pastimes throughout the relevant 20 year period to a sufficient extent and continuity to have created a town or village green.

Legal advice

20. The Committee must determine the matter and in doing so must have careful regard to the appended report, which applies the relevant legal tests to the evidence. Members of the Committee are reminded that it would be irrational in a legal sense not to accept the conclusions and recommendations in the appended report unless there are very good grounds for doing so. It is a matter for Committee but Members are advised to accept the report.

Financial advice

21. There are no financial implications arising from this report, save in so far as there could be a challenge to the committee's decision.

Recommendation

22. That on behalf of the Council as the Registration Authority, the Committee determine the application to register Ridgeway Green as a Town or Village Green under s15(2) of the Commons Act 2006.

Shaun Jamieson, County Solicitor, 6th November 2014

This report has been prepared in accordance with procedures approved by Corporate Managers.

The following appendix is attached

- Appendix 1 Report

**APPLICATION TO REGISTER LAND AT
THE ARLS FIELD, LLANDAFF, CARDIFF
AS A TOWN OR VILLAGE GREEN**

REPORT

1. REPORT

This Report relates to an Application (“the Application”) made under Section 15(1) of the Commons Act 2006 (“the 2006 Act”) to register land at the Arls Field, Llandaff, Cardiff (“the Land”) as a town or village green. Under the 2006 Act, Cardiff City Council, as the Registration Authority, is required to register land as a town or village green where the relevant statutory requirements have been met.

2. THE APPLICATION

- 2.1 The Application was made by Mr Geoffrey Barton-Greenwood on behalf of the Llandaff Society (“the Applicants”) and is dated 19th February 2014. Part 5 of the Application Form states that the Land sought to be registered is usually known as “the Arls Field, Llandaff Meadow”. A map was submitted with the Application attached to a Statutory Declaration which showed the Land subject to the Application outlined in red. In part 6 of the Application Form, the relevant “locality or neighbourhood within a locality” to which the claimed green relates is stated to be the “Llandaff Community” which is in effect the electoral ward of Llandaff shown edged green on a plan supplied.

- 2.2 The Application is made on the basis that Section 15(2) of the 2006 Act applies and the justification for the registration of the Land is set out in Part 7 of the Form. The Application is verified by a statutory declaration made on 19th February 2014. A statement in support was submitted with the Application and 35 witness statements and other documentary evidence has been received in support. Various copy planning objection letters were received, and those have not been considered as part of the application .
- 2.3 The Application was advertised by the Registration Authority as a result of which an objection together with supporting documentation was received on 23rd May 2014 (“the Objection”) on behalf of Cardiff Metropolitan University (“the Objectors”) who are the owners of the Land. The Applicants duly responded to the objections made on 14th July 2014. The Objectors replied to that response on 19th September 2014 saying that they had no further comments to make.
- 2.4 The writer of this report walked the public footpath adjoining the Land at lunchtime on 10th October 2014. A number of joggers ran past on the footpath. On one side of the path, were the open, grassed sports pitch areas of the Objector. On the other was the Land, which is fairly heavily overgrown with brambles and similar weeds

3. THE APPLICATION LAND

- 3.1 The Land is identified on the map submitted with the Application on which it is outlined in red.
- 3.2 It is a rectangular shaped parcel of land measuring approximately 0.9 hectares within Llandaff. It is an undeveloped site which generally comprises rough grassland with areas of bramble, knotweed and oak trees at the edges. Llandaff Cathedral and the residential area of Llandaff lies to the south. The River Taff is to the north and west. Cardiff Metropolitan University and its playing fields lie to the east. An

adopted footpath divides the eastern edge of the Land from the University playing fields. There is an adopted footpath around the whole circumference of the Land with four connecting paths to the west, south west and east.

4. CASE FOR THE APPLICANTS

Evidence in Support of the Application

The actual use of the Land by witnesses can be summarised as follows:

- 4.1 Mr Geoffrey Barton-Greenwood submitted two statements. His activities on the Land involve dog walking, nature study, picnics, play, maintaining an avenue of oaks beside the public footpath, and conducting guided tours around Llandaff.
- 4.2 Mr Martin Higgins has rambled over the Land and says that the Land has never been used as a playing field.
- 4.3 Mr John Higgins submitted two statements. He has walked his dog, nature watched and cycled at the Land.
- 4.4 Mr John L.Prior-Morris does not specify his own activities, but says that football has never been played on the Land.
- 4.5 Mr Karl Johansen does not specify his own activities. He says the Land has never been used for sports. He also refers to “ramblers, runners, cyclists, tourists and Cathedral visitors hoping to see the famous River Taff”.
- 4.6 Mrs Julia Dix refers to dog walking.
- 4.7 Dr Penny Llewellyn refers to walking her dogs “on and through the meadow” and says that it has never been a sports field.

- 4.8 Ms Alys Bryant does not mention her own activities
- 4.9 Ms Denise Micallef doesn't specify her activities.
- 4.10 Mr Jack MacDonald refers to dog walking and playing.
- 4.11 Mr James Cowan refers to walking and ghost walks.
- 4.12 Ms Kay Powell refers to walking for pleasure, viewing the Cathedral from the river and guiding walks for Insole Court.
- 4.13 Mr J. D. H. Gwyer-Roberts refers to dog walking, blackberry picking, picnicking and collecting hay.
- 4.14 Mr D F Paddison refers to dog walking.
- 4.15 Ms Norma Jarboe refers to dog walking and playing with the children.
- 4.16 Mr Bryan Hibbard doesn't specify his activities but says that the Land was never used as a playing field. He says that the meadow is bounded by a footpath and is "a popular circuit for short walking".
- 4.17 Mrs Katherine MacDonald refers to dog walking.
- 4.18 Ms Brenda and Mr John Isaacs say that they have "walked that path most weeks, either as part of a group of Cardiff Ramblers Association or as individuals".
- 4.19 Mr Nick Iles refers to walking the dog and "playing with him and a stick on the footpath and the meadow".
- 4.20 Ms Rosemary Iles refers to dog walking.
- 4.21 Mr William Iles doesn't specify his activities.

- 4.22 Mr Brian Western refers to dog walking.
- 4.23 Ms Alexandra Clifton-Thompson refers to walking and playing with her dog.
- 4.24 Mr Roy Honeywood refers to conducting birds surveys and walking for pleasure.
- 4.25 Dr John R. Kenyon refers to dog walking. He says that “although it may be difficult to cross the field, one can still walk round it”.
- 4.26 Mrs Elinor Back says that she has “regularly walked along the path by the rowing club, along the flood bank, through the woodland area to the bottom of the wood leading to the Cathedral and entered Llandaff Meadow by the kissing gate. I walk through the meadow and around the rugby pitch and then walk along the flood bank to Western Avenue and beyond”. She refers to meeting numerous other walkers, including ramblers, dog walkers, cyclists and joggers all enjoying the views.
- 4.27 Mr Philip Woodington refers to walking to the Cathedral, nature study, blackberry picking and playing cricket.
- 4.28 Ms Muriel Jeremy refers to nature studies and blackberry picking.
- 4.29 Ms Nerys Lloyd-Pierce doesn’t specify her activities, but says that the Land has never been a playing field.
- 4.30 Mr Norman Cunningham says that he has “like many others, enjoyed the very pleasant walk from the cathedral along the path of Arls Field to the river”. He never saw any sporting activity on the Land.
- 4.31 Mr Chris Hunt doesn’t mention his activities on the Land, but says it has never been a playing field.

4.32 Ms Pauline Grainger doesn't specify her activities.

4.33 Mrs Jennifer Cook doesn't specify her activities

Evidence Objecting to the Application

The Objectors evidence as to use of the Land may be summarised as follows:

4.34 Mr Ian Jones says that "it is acknowledged that members of the public (with and without dogs) have used the pathway that runs around the periphery of the land for a number of years and that the University has not taken issue with this usage. However the University does not accept that a significant number of local inhabitants have undertaken continuous oak tree maintenance and daily use of the field for recreational purposes".

4.35 Mr Greg Brown says that he has seen "members of the public walking on the footpath". He has "rarely seen anyone (with or without dogs)" on the Land.

4.36 Mr Sean Duggan says that he has "regularly seen people walking around the field on the outer path" but he does "not accept that you could meaningfully walk across the land as it is too overgrown. Sometimes I have seen dogs without their owners in the bushes and shrubs".

4.37 Mr Chris Jennings says that he has witnessed people walking around the periphery of the land with or without dogs.

4.38 Dr John Marsden says that he has recently "witnessed members of the public walking their dogs. I can confirm that those people were not going into the centre of the land, as it is too overgrown. The people were walking their dogs on the path that runs around the periphery of the land or on the cultivated rugby pitch".

- 4.39 Mr Paul Yeoman says that “Apart from seeing people walking on the footpath that runs around the outside of this land...I cannot recall anyone using the land for any other purpose”.
- 4.40. Mr David Hardacre says that “on one occasion a dog did jump out of the bush, but I have never seen anyone on the land itself. The only people I have seen would have been using the footpath around the land.”
- 4.41 John Hodge says “I was also aware that people would walk around the edge of the land”.

5. THE LEGAL FRAMEWORK

Commons Act 2006

- 5.1 The application was made pursuant to the Commons Act 2006. That Act requires each registration authority to maintain a register of town and village greens within its area. Section 15 provides for the registration of land as a town or village green where the relevant statutory criteria are established in relation to such land.
- 5.2 The Application seeks the registration of the Land by virtue of the operation of Section 15(2) of the 2006 Act. Under that provision, land is to be registered as a town or village green where:-
- “(a) *a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and*
- (b) *they continue to do so at the time of the application”.*
- 5.3 Therefore, for the Application to succeed, it must be established that:-

- (i) the Application Land comprises “land” within the meaning of the 2006 Act;
- (ii) the Land has been used for lawful sports and pastimes;
- (iii) such use has been for a period of not less than 20 years;
- (iv) such use has been by a significant number of the inhabitants of a locality or of a neighbourhood within a locality;
- (v) such use has been as of right; and
- (vi) such use continued at the time of the Application.

Burden and Standard of Proof

5.4 The burden of proving that the Land has become a village green rests with the Applicants. The standard of proof is the balance of probabilities.

Land

5.5 Any land that is registered as a village green must be clearly defined so that it is clear what area of land is subject to the rights that flow from village green registration.

Lawful Sports and Pastimes

5.6 This includes recreational walking, with or without dogs, and children’s play.

5.7 Lightman J. stated at first instance in Oxfordshire County Council –v- Oxford City Council at paragraph 102:-

“Recreational walking upon a defined track may or may not appear to the owner as referable to the exercise of a public right of way or a right to enjoy a lawful sport or pastime depending upon the context in which the exercise takes place, which includes the character of the land and the season of the year. Use of a track merely as an access to a

potential green will ordinarily be referable only to exercise of a public right of way to the green. But walking a dog, jogging or pushing a pram on a defined track which is situated on or traverses the potential green may be recreational use of land as a green and part of the total such recreational use, if the use in all the circumstances is such as to suggest to a reasonable landowner the exercise of a right to indulge in lawful sports and pastimes across the whole of his land. If the position is ambiguous, the inference should generally be drawn of exercise of the less onerous right (the public right of way) rather than the more onerous (the right to use as a green)."

Continuity and Sufficiency of Use over 20 Year Period

- 5.8 The qualifying use for lawful sports and pastimes must be continuous throughout the relevant 20 year period.
- 5.9 Further, the use has to be of such a nature and frequency as to show the landowner that a right is being asserted and it must be more than sporadic intrusion onto the land. It must give the landowner the appearance that rights of a continuous nature are being asserted.

Locality or Neighbourhood within a Locality

- 5.10 A "locality" must be a division of the County known to the law, such as a borough, parish or manor.

Significant Number

- 5.11 "Significant" does not mean considerable or substantial. What matters is that the number of people using the land in question has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation.

As of Right

5.12 Use of land “*as of right*” is a use without force, without secrecy and without permission.

6. APPLICATION OF THE LAW TO THE FACTS

The Land

6.1 There is no difficulty in identifying the Land sought to be registered.

Relevant 20 Year Period

6.2 For the purposes of Section 15(2) of the 2006 Act, the use must continue up until the date of the Application. Hence, the relevant 20 year period is the period of 20 years which ends at the date of the Application.

6.3 The Application Form and the accompanying statutory declaration are dated 19 February 2014. It follows that the relevant 20 year period for the purposes of Section 15(2) is February 1994 until February 2014.

Use of Land for Lawful Sports and Pastimes

6.4 It is contended by the Applicants that the Land has been used for various recreational activities during the 20 year period, such as dog walking, general walking, nature watching, children’s play, jogging, cycling, ghost walks, blackberry picking, picnicking and kite flying. The two consistent uses of the Land amongst witnesses has been walking and dog walking. There is evidence in support of the Application which says that no formal or organised games having taken place on the Land.

6.5 The fundamental issue is whether those activities have taken place on the Land to a sufficient extent and degree throughout the relevant 20

year period to enable town or village green rights to be established over the Land. Was the qualifying use of the Land for lawful sports and pastimes of such a nature and frequency throughout the relevant 20 year period to demonstrate to the Landowners that recreational rights were being asserted over the Land by the local community. It is insufficient for the qualifying use to have been merely sporadic or occasional in nature.

6.6 The Land is adjoined by the adopted public footpath. Walking along that footpath, whether with or without a dog, and for recreational purposes or otherwise, amounts to the exercise of a public right of way. Such use cannot itself be relied upon in support of the registration of a town or village green.

6.7 The footpath was used regularly during the 20 year period. In terms of whether people were walking the footpath with their dog on a regular walk or allowing their dogs to run across the Land, there is evidence from various witnesses.

Dr Penny Llewellyn refers to walking her dogs “on and through the meadow”.

Mr Nick Iles refers to playing with his dog with a stick “on the footpath and on the meadow”.

Those are the only two references to dogs running off the footpath and onto the Land

Mr Bryan Hibbard refers to “a popular circuit for short walks”

Mr & Mrs Isaacs refer to walking the path as ramblers.

Dr John Keynon refers to walking round the field rather than crossing it because it is difficult to cross.

Mrs Elinor Back regularly walked along the path.

Mr Norman Cunningham engaged in pleasant walks along the path.

Ten other witnesses refer to dog walking but do not mention their dogs running off the path and into the Land.

The objector's five witnesses all refer to use of the path but dispute any regular use of the Land.

- 6.8 The use of the Land for exercising dogs where such use merely involved the owners walking on the footpaths or other specific routes whilst their dogs ran over the Land must be discounted, in contrast to where owners themselves went onto the Land generally. Sullivan J. noted in *Laing Homes* at paragraph 103 in relation to dog walking that:-

“Once let off the lead a dog may well roam freely whilst its owner remains on the footpath. The dog is trespassing, but would it be reasonable to expect the landowner to object on the basis that the dog's owner was apparently asserting the existence of some broader public right, in addition to his right to walk on the footpath”

- 6.9 The balance of the evidence suggests that the use of the Land for walking and for dog walking was more akin to the exercise of a public right of way along the adopted footpath than the exercise of recreational rights over a village green and such use must be discounted from the qualifying use.

- 6.10 The use of the Land for lawful sports and pastimes has been sporadic and occasional during the relevant 20 year period, and insufficient on the balance of probabilities to demonstrate to a reasonable landowner that recreational rights were being asserted over the Land.

Consequently, that element of the statutory criteria has not been established.

Locality or Neighbourhood within a Locality

6.11 The electoral ward of Llandaff is capable of being a relevant locality for the purposes of Section 15(2) of the 2006 Act.

Use of the Land by a Significant Number of the Inhabitants of the Locality

6.12 The user must have been of such a nature to bring it to the attention of the reasonable landowner that a right of recreation was being claimed by the inhabitants of the particular identified locality,

6.13 Any recreational use, other than walking and dog walking along the adjacent footpath has been sporadic and insufficient to satisfy the test

RECOMMENDATION

That the Land has not been used for lawful sports and pastimes throughout the relevant 20 year period to a sufficient extent and continuity to have created a town or village green.

Geoff Shimell
Operational Manager
Legal Services

6th November 2014

**CITY OF CARDIFF COUNCIL
CYNGOR DINAS CAERDYDD**

Agenda No.

PUBLIC PROTECTION COMMITTEE: 2nd December 2014

Report of the Head of Regulatory and Supporting Services

STREET TRADING CONDITIONS – application to amend current conditions for St Mary Street

1. Background

- 1.1 The existing conditions attached to Street Trading licences and consents for St Mary Street were last approved by Committee in 2000, subject to minor amendments in November 2014, and are detailed in Appendix A of this report.
- 1.2 Street Trading legislation essentially regulates the sale of, or offer for sale of, anything in a street. The Council has designated St Mary Street as a ‘consent street’ for street trading purposes. The effect of this designation is that trading in St Mary Street is prohibited without first obtaining a “consent” from the Council. The responsibility of the licensing authority is to ensure that those individuals to whom consent is granted are conducting their business in a proper manner. In doing so, the authority is empowered to specify conditions that must be complied with. These conditions reflect the need to protect the public and the avoidance of nuisance.
- 1.3 A request has been received to modify the current conditions to allow the use of a vehicle to sell food at the St Mary Street market in the City centre. The current policy prohibits the presence of a vehicle at street markets unless it is for the purposes of loading or unloading. The applicant has requested permission to address the Committee on the matter with a view to changing the existing conditions.

2. The Proposal

The applicant operates a mobile pizza business. The operation entails the use of a three wheeled vehicle with a wood fired oven fitted into the body of the vehicle. The vehicle is relatively small, 1.5 m by 3.4m and the applicants believe that they can offer a unique dining experience to the people of Cardiff, but are prevented from doing so by the existing street trading conditions, in particular, Clause 8 of the current conditions. Details of the applicant’s submission are set out in Appendix B along with letters of support.

3. Street Trading Conditions

- 3.1 The full street trading conditions for St Mary Street are set out in Appendix A. The clause relevant to this request is:

Clause 8 - A licensed trader shall not leave his vehicle in the street in which he trades, apart from in approved parking spaces, except for the purpose of loading and unloading goods. Such loading and unloading shall be carried out as quickly as possible and the vehicle removed immediately on completion.

This clause is aimed primarily at minimising obstructions, public safety, and reducing any nuisance associated with noise and exhaust fumes. The Clause was originally incorporated into the conditions following representations from the Police and the Highways department of the Council.

- 3.2 A strict interpretation of the conditions would thus appear to prevent the applicant operating his business at street markets governed by these conditions. However, the applicant contends that the current conditions are inflexible, do not allow small, innovative businesses to trade in the City and do not allow Licensing officers any discretion when dealing with applications. Consequently, the applicant requests that the Committee consider the request for an amendment to the existing conditions.

4. Consultation

- 4.1 Consultation was undertaken with South Wales Police and the Council's Highways Department.
- 4.2 The Highway's Department were concerned that if this clause was removed from the Street Trading Licence Conditions it may have implications for the Traffic Regulations Order on fixed licence sites. It is therefore recommended that if the Committee are minded to approve the removal of this clause that it only applies to the St Mary Street/High Street Consent Conditions.
- 4.3 Highways also stated that the vehicle movements should be restricted to that of the traffic order in place, therefore the trading vehicle is only permitted on or off the site during the times that vehicles are permitted into the area to assemble/dismantle the stalls.

5. Achievability

This report contains no equality personnel or property implications.

6. Legal Implications

- 6.1 When granting a street trading consent the Council may attach such conditions to it as it considers reasonably necessary.
- 6.2 The relevant legislation imposes a general prohibition upon Consent Holders from trading from a van, other vehicle, stall, barrow, or cart. However it also says that the Council may include in a Street Trading consent permission for the Consent Holder to trade from a stationary van, cart, barrow, other vehicle, or portable stall.

Any such permission may be made subject to conditions as to location within the street and trading times.

7. Financial Implications.

- 7.1 The Council is empowered to charge such fees as it considers reasonable for the grant or renewal of a street trading licence or consent.

8. Recommendation

That the Committee considers the application to amend the existing St Mary Street/High Street Trading Consent conditions.

Dave Holland
HEAD OF REGULATORY AND SUPPORTING SERVICES

9th November 2014

This report has been prepared in accordance with procedures approved by Corporate Managers.

APPENDIX A

CITY AND COUNTY OF CARDIFF

ST MARY STREET/HIGH STREET: STREET TRADING CONSENT - STANDARD CONDITIONS LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 SCHEDULE 4



- General**
1. The grant of a Street Trading Consent shall not be deemed to give any approval or consent which may be needed under any By-law, enactment or regulation other than Part 3, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- For the avoidance of doubt, this includes the requirement to seek and obtain planning permission and/or advertisement consent.
- Commodities**
2. All commodities must comply with current Consumer Protection legislation. (For advice and information contact Trading Standards on 029 20872059).
- All merchandise sold from the receptacle/stall shall be of a good merchantable quality and sold at reasonable prices. The prices of all merchandise and services shall be either clearly marked or included on a price list to be displayed in a prominent position within the receptacle/stall visible to customers.
- The Consent holder shall immediately cease selling and remove from display at the receptacle/stall, any merchandise to which the Council shall object whether because of the nature of the merchandise, its quality or for any other reason.
- Day and Times**
3. Trading may only take place on the days and during the times specified on the Consent.
- Position**
4. The trader shall trade only from the position allocated to them by the market organiser Richard Eklof of Wigmores Bakery.
- Use of Site**
5. Where permission has been granted by the Council for a Consent Holder to use a receptacle/stall for the sale of goods, the receptacle/stall used for trading must be erected so as not to protrude or project outside the limits of the permitted area in any way.
- A trader or his assistant shall not cause or permit goods, or containers (except refuse containers used solely for the purpose) to be placed alongside or around a receptacle/stall or area approved under the Consent.
- The receptacle/stall shall not be left unattended on the site.
- The receptacle/stall shall not be used for any other purpose other than trading from the site.
- Nature and type**
6. Where permission has been granted by the Council for a Consent Holder to use a receptacle or stall for the sale of goods, such receptacle/stall must be

and size of receptacle/stall		of a type and style approved in writing by the Council and positioned entirely within the permitted area.
		The area occupied by the trader must not exceed 6 metres x 3 metres.
Removal	7.	Receptacles and stalls shall be easily and immediately removable.
		Traders or their assistants shall remove the receptacle/stall and goods for so long as may be necessary in the event of an emergency or in exercise of the Council's powers and duties, if reasonably required to do so by a police officer or a duly authorised officer of the Council.
		Traders or their assistants shall remove the receptacle/stall and goods within a reasonable time after the expiry of the time for trading specified in the Consent, if reasonably required to do so by a duly authorised officer of the council.
Trader's Vehicle	8.	A Consent Holder shall not leave his vehicle in the street in which he trades, apart from in approved parking spaces, except for the purpose of loading and unloading goods. Such loading and unloading shall be carried out as quickly as possible and the vehicle removed immediately on completion. This condition shall not apply when waiting restrictions are in force.
Consent holder	9.	<u>Fixed Unit</u>
		Where permission has been granted to trade from a receptacle or stall, the Consent Holder may employ any other person to assist in the conduct of the business, but may not let, assign or part with his interest or possession under this Consent or any part thereof but he may surrender it at any time. The rights granted by the Consent cannot be sublet, transferred or shared with any other person or party and is personal to the Consent Holder.
Personal attendance	10.	The Consent Holder shall be in attendance at the site and shall not appoint any other person to run the business on his behalf.
Offensive material	11.	The Consent Holder or his employees are forbidden to sell, display or wear any article which is or is intended to be offensive either in writing or pictures. <i>(If any doubt exists on whether an article/material could be considered offensive please contact the Licensing Section on Cardiff 029 20871651).</i>
Conduct	12.	Traders and any assistants employed by them shall ensure the public and Council officers are treated fairly and with courtesy.
		Traders shall ensure that their staff are competent, courteous and helpful.

Refuse and Waste	<p>13. The trader shall keep the site at all times clean and tidy and free from litter; provide adequate facilities for the hygienic storage of refuse, ensure that they do not become overfilled and at the end of each trading day and as often as may be necessary during the trading day properly dispose of all refuse including cooking oils etc. in an authorised manner. The trader shall comply with all requirements of the Environmental Protection Act 1990 with respect to Duty of Care. <i>(For advice and information contact the Environment Agency on 029 20770088). (For advice and information, on commercial waste arrangements, contact the Commercial Waste Section on 029 29775444)</i></p> <p>The trader shall collect and similarly properly dispose of all wrappings and litter within a 5 metre radius of the site (and beyond where it is the result of the trader's activities from the site) at the end of each trading day and as often as may be necessary during each trading day so as to keep and leave the street in a clean and tidy condition.</p> <p>The trader or his assistant shall comply with any directions given by the Council from time to time regarding the handling, storage and removal of the refuse.</p>
Food Hygiene	<p>14. The trader shall comply with all requirements of the Food Hygiene (Wales) Regulations 2006, General Food Regulations 2004, Regulation (EC) 852/2004 & Regulation 178/2002. All traders (food) shall give details to the appropriate registration authority having regard to Article 6 Regulation (EC) No 852/2004. <i>(For advice and information, contact Food Hygiene on 029 20871128).</i></p>
Nuisance	<p>15. The Consent Holder shall not undertake any action or activity on the street, including trading from the site in a manner which, in the opinion of the Council causes an obstruction in the street or constitutes a danger, nuisance, annoyance or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.</p>
Highway surface	<p>16. The trader or his assistant shall not make any excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description on or in the said surface.</p>
Display of Sign	<p>17. Where permission has been granted to trade from a receptacle or stall, the Consent Holder shall have legibly and prominently displayed on his receptacle/stall a notice showing his name and Consent number.</p>
Identification	<p>18. A trader must produce his/her Street Trading Consent and identification which includes name and address and date of birth to any authorised officer of the Council or any police officer in the course of their duty.</p>
Advertisements	<p>19. No advertisement shall be displayed on the receptacle or stall which relates to any goods, commodities or services other than those offered for sale or provided on that site.</p>
Liquefield Petroleum Gas	<p>20. Traders shall ensure that they comply with the requirements of the Council's guidance document on the safe use, handling, storage and transportation of Liquefied Petroleum Gas used in mobile catering units or similar units. <i>(For advice and information contact Health and Safety on Cardiff 029 2087 1126)</i></p>
Health & Safety	<p>21. The receptacle/stall shall be of sound construction and erected and maintained in a condition so as to protect the health and safety of employer, employees and members of the public.</p>
Health & Safety (Contd)	<p>If freestanding canopies, umbrella or any other portable structures are used, they must be erected and maintained in accordance with the manufacturers' instructions. Where ground sockets are used to secure such equipment, permission must be obtained from the Head of Highways and Parks, County Hall, Atlantic Wharf, Cardiff.</p>

Any electrical installation used in conjunction with the street trading unit must comply with the Electricity at Work Regulations 1989. Specifically, any appliances used in the installation must be subject to regular portable appliance testing, and the installation shall be protected at source, at the main junction or at the generator by a residual current device or some other equally suitable means of protection.

(For advice and information contact Health and Safety on Cardiff 029 20871126)

Safety of Equipment

22. Heat producing equipment (eg. Braziers) shall be so placed within the trading area as to offer maximum safety to the public. The position of such equipment in relation to other goods or materials shall be agreed with the Council's Officers.

Where mobile electrical generators are employed they shall be so positioned that :

- a) they do not present a danger to the passing public;
- b) they do not present a fire or similar hazard risk to the stall or goods displayed thereon;
- c) they do not cause any noise or fume nuisance;
- d) all petroleum spirit or other highly inflammable liquid used in connection with the generator shall be stored in a metal container with a secure leak proof cap not exceeding 23 litres or a plastic container not exceeding 5 litres capacity. The container to be labelled "Petroleum Spirit Highly Inflammable". The container shall be stored securely and remote from sources of ignition.

Amplification

23. No amplification equipment shall be used by the trader.

Directions by Council

24. The Consent Holder shall comply with all reasonable directions given by the Council or by any authorised Officer of the Council regarding any matter to which this Consent relates.

Revocation and refusal of Consent

25. In the event of any breach or non-compliance with the provisions of the Miscellaneous Provisions Act or the terms and conditions of this Consent by the Consent Holder (including any person associated with the Consent Holder), the Council may immediately revoke the Consent without notice and/or refuse to grant further Consents to the individuals concerned.

Offences

26. Any person who contravenes a condition imposed under the Consent shall be guilty of an offence. (Paragraph 7(9) Schedule 4 Local Government (Miscellaneous Provisions) Act 1982.

Advice and information

27. If you require any further advice and information relating to these Conditions, please contact the Licensing Section on Cardiff 029 20871651.

Ffwrnes
Flat 12 The Lansdowne
Beda Road
Cardiff
CF5 1LX

Mr David Holland
Regulatory Services
City Hall
Cardiff
CF10 3ND

Friday, October 24th 2014

Dear Sir,

We are writing to forward our request to Cardiff Council's licensing committee regarding a revision to the existing Street Trading Consent - Standard Conditions Local Government Act 1982 Schedule 4. Under the current conditions we are unable to participate at local street food markets on St. Mary Street, due to section 8 of the aforementioned policy. This rule prohibits the use of vehicles trading on the street and this, we feel, is unfair. We argue that our 'vehicle' should be permitted, as it is no larger than a trailer, produces less noise and emissions than a generator, and is a unique looking vehicle which would be a positive addition to the Cardiff street food scene, especially to the Castle area of the City.

To give you a clearer picture, here's a little about who we are. We are a new start up mobile pizza business called Ffwrnes and we're based in Canton, Cardiff. Our vehicle is a 3 wheeled Piaggio Ape(a regular fixture in little Italian towns), with a wood fired oven fitted into it's body. Although we're a new business we have had a very positive beginning, featuring at numerous festivals and community events this year. A recent WalesOnline poll voted us as the 3rd best pizza in Wales, ahead of many larger established brands. Our pizzas are made with the finest ingredients, using locally sourced produce and made to order. We have received a 5 star hygiene rating, reflecting the very high standards to which we operate. We feel that we offer a unique dining experience to the people of Cardiff and we'd like to do so regularly on the City centre streets and help put Cardiff firmly on the street food map.

The overall street trading licensing policy simply states that the use of a vehicle is prohibited without the permission of the council. The standard conditions for the market in question, however, state that vehicles must only be used for loading and unloading. We are sympathetic and understanding as to why these regulations were put in place, but we feel that the standard conditions don't offer ourselves and other small catering vehicles the opportunity to trade, neither do they allow council officers any discretion when dealing with applications.

We have enclosed supporting material that we feel reinforces our request to a review of the current policy, these include a letter of thanks from Principality following a community pizza making project at Albany Primary school, a letter of support echoing our views from Mark Drakeford AM and various pictures of the vehicle in question.

Finally, Thank you very much for your time and we look forward to hearing from you. We understand that this matter isn't as simple as 'changing a rule', however if you would be so kind as to consider our proposal it would be greatly appreciated. In the meantime if you would like to inspect the vehicle, speak to us in person or would like to visit please don't hesitate to contact us.

Kind regards,



Jeremy Phillips - Ffwrnes Pizza
ffwrnes@hotmail.com
07891 309450



Ffwrnes
Flat 12 The Lansdowne
Beda Road
Cardiff
CF5 1LX

ffwrnes@hotmail.com
07891 309450

Here is the vehicle in question, our 3 wheeled van, 'Smokey Pete' named by a competition winner.



We have appeared at numerous events throughout the Summer including Tŷ Hafan Family Fun Day (picture on the left), where we raised over £80 through pizza sales to support the charity.



Here is a view of the van open and fully operational with a shot of the final pizzas too. Please excuse the dodgy sunglasses though!



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Mark Drakeford AM

Cllr Jacqueline Parry
Chair of Licencing Committee
County Hall
Atlantic Wharf
Cardiff
CF10 4UW

06.10.2014

Dear Jackie,

I am writing to you in your role as the chair of Cardiff Council's licencing committee, with regard to the council's policy on the licencing of street trading.

A very specific issue has been raised with me by one of my constituents and I have been in contact with officers in order to try and identify a solution.

It has, however, raised a more general issue on which I would welcome your comments.

My constituent has contacted me as he has attempted, unsuccessfully, to gain a licence for his catering business to trade at one or more of Cardiff's street markets. Their business relies on specialist equipment, and they have adapted a small vehicle (1.5m x 3.4m) that incorporates this in a mobile unit.

The specific issue in this case is that Cardiff Council appear to have a street trading licencing policy with a number of sets of standard conditions, and some of these standard conditions place a blanket ban on the use of vehicles.

The overall street trading licencing policy simply states that the use of a vehicle is prohibited without the permission of the council. The standard conditions for the market in question, however, state that vehicles must only be used for loading and unloading, and must only be left in designated parking spaces. The reasoning appears to be that these conditions are in place to minimise obstructions to the public highway and to reduce the nuisance caused to local residents by the noise and exhaust fumes created by vehicles. This clearly suggests that the vehicles at which these conditions are directed are normal sized cars and vans, etc. Meanwhile, permission for the use of a trailer and/or a generator is possible providing these are less than 2m x 4m in size.

My constituent argues that the use of their 'vehicle' should be permitted, as it is no larger than a trailer, produces less noise and emissions than a generator, and therefore would seem to be within the conditions of the licencing policy, interpreted according to the spirit rather than the letter. Meanwhile, council officers maintain that they must enforce the standard conditions without any discretion and therefore they

Mark Drakeford AM

are unable to enter into a dialogue about whether there would be any circumstances in which the vehicle could be used for trading at a street market.

Although the details of this case are specific, it raises a more general point that I feel it would be very helpful if you could examine.

My understanding is that public bodies are not legally permitted to 'unduly fetter their own discretion,' i.e., if a public body is given discretion to act then it is not permissible to decide itself to entirely rule out that discretion.

Although the licencing policy itself still allows the council its discretion, it appears that the standard conditions rule out any discretion, and do not provide any obvious means by which those who wish to challenge the rules can appeal to the council to use that discretion.

I would be grateful for your views as to what discretion officers have in enforcing the standard licencing conditions for street trading; and how, if someone disputes the decisions of officers, they would be able to appeal?

If it would be useful to discuss the details of this case further, please contact my office on 029 20 22 3207 and ask to speak to my caseworker, Dan Butler.

Yours sincerely



Mark Drakeford
Assembly Member for Cardiff West

Principality Building Society
PO Box 89, Principality Buildings,
Queen Street,
Cardiff,
CF10 1UA

principality.co.uk
Tel: 0330 333 4000*

Ffwrnes
Flat 12
The Landsdowne
Beda Road
Cardiff
CF5 1LX

Wednesday 30th July 2014

Dear Jez,

Re: Albany Road Primary School Pizza Workshop

Please find enclosed a cheque for [REDACTED] as payment for the workshop you delivered at Albany Road Primary School.

The pizza making workshop was part of an exciting eco-mural project we were running with the school and was extremely well received by the pupils and the wider school community. Thanks to your help we were able to celebrate the completion of the mural in a very fitting way – championing local produce.

We received very good feedback on the pizzas and my colleagues reported back how impressed they were with your enthusiasm, commitment and skills in putting on the event at such short notice.

On behalf of the local team in Albany Road – a big thank you and we all look forward to working with you again soon. May I also take this opportunity to wish you all the very best with the tasty business venture and do not hesitate to get in touch if we can help you further or if you need a more detailed customer testimonial.

Kindest regards,



James Harper

Local Marketing Support Manager



**CITY OF CARDIFF COUNCIL
CYNGOR DINAS CAERDYDD**

Agenda No.

PUBLIC PROTECTION COMMITTEE: 2 December 2014

Report of the Head of Regulatory and Supporting Services

FITNESS CRITERIA FOR DRIVERS AND OPERATORS

1. Background

- 1.1 At its meeting of 5th August 2014 the Public Protection Committee considered a report which recommended replacing the Council's current guidance on the treatment of convictions, cautions and criminal charges in respect of new applicants and existing hackney carriage/private hire drivers, with the Directors of Public Protection Wales (DPPW) Licensing Technical Panel (LTP) 'Fitness Criteria for Drivers and Operators'.
- 1.2 It is envisaged that the LTP's Fitness Criteria will be adopted across Wales and will promote consistency. The Fitness Criteria is detailed in appendix A of this report.
- 1.2 Consultation with the hackney carriage and private hire trade has taken place and the only observation received was from Mr Mathab Khan of the Cardiff Hackney Carriage Association.

2. Consultation

- 2.1 The draft Fitness Criteria was emailed to several members of the hackney carriage and private hire trade and was discussed at the Taxi Forum on 28th October 2014.
- 2.2 Members of the Trade present at the Forum stated that they had no comment to make on the Fitness Criteria and other than Mr Khan's email, no further written or verbal responses were received.
- 2.3 Mr Khan's email in response to the draft Fitness Criteria stated:

'Thank you for the copy of the Taxi and Private hire Licensing Policy, Fitness criteria for drivers and operators.

However having had a cursory look at it, it must be said that some of it's recommendation is very arbitrary if not illegal.

Therefore before getting it approved by the Licensing Committee on 5 August 2014 may be it would be expedient to get it re-examined by a good barrister who is qualified to ensure that the recommendation made by the

Solicitor employed by the Council is compatible with European Court of Human Rights Laws.

The paragraphs which I consider arbitrary or incompatible is as follows; 13.3 and 15.1 and 16.1 on page 12 of the draft report.

By the way please note I am hoping to attend the meeting on 5 August if everything goes according to plan, however if for any reason I fail to attend the meeting, then I would like the committee members to consider my views as if, I am at present.'

- 2.4 Mr Khan attended August's Public Protection Committee and was given the opportunity to address the Committee, and had concerns regarding the legalities of the Fitness Criteria. However, a number of local authority and independent solicitors have been involved in the drafting of the LTP's Fitness Criteria to ensure that it fully complies with all relevant legislation.
- 2.5 A further email from Mr Khan was received on 24th November 2014 and is detailed in Appendix B.

4. Achievability

This report contains no equality personnel or property implications.

5. Legal Implications

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 states that the Council shall not grant a hackney carriage or private hire driver's licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence.
- 5.2 The same Act permits the Council to suspend, revoke, or refuse to renew a driver's licence if, since the grant of the licence, the driver has been convicted of an offence involving dishonesty, indecency, or violence; or has been convicted of an offence under, or failed to comply with, certain licensing statutory provisions; or for any other reasonable cause.
- 5.3 Section 62 of the Act allows the Council to suspend, revoke or refuse to renew an operator's licence if the applicant/licence holder has been convicted of an offence under or non compliance with the provisions of Part II of the Act; or grounds of any conduct on the part of the operator which appears to the Council to render him unfit, or due to any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted or any other reasonable cause.
- 5.4 It is reasonable for the Council to adopt guidelines to assist it in its exercise of the above powers. That will ensure overall consistency in decision making while still permitting flexibility for the merits of individual cases to be taken into account.

6. Financial Implications.

6.1 This report contains no financial implications

7. Recommendation

7.1 It is recommended that:

- a) The Fitness Criteria for Drivers and Operators be approved and implemented from 1st January 2015, and;
- b) The Head of Regulatory Services and Group Leader (Licensing) be delegated to make any necessary administrative changes that may be required.

Dave Holland

6 November 2014

HEAD OF REGULATORY AND SUPPORTING SERVICES

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: Report of Head of Regulatory & Supporting Services to the Public Protection Committee 5 August 2014: 'Fitness Criteria for Drivers and Operators'.

APPENDIX A



Cardiff Council

Taxi and Private Hire Licensing Policy Fitness Criteria for Drivers and Operators

DRAFT

DATE:

1.0 Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage/ private hire driver and or private hire operator's licence.
- 1.2 The aim of this policy is to protect the safety of the public. The Licensing Authority is concerned to ensure:
- That a person is a fit and proper person;
 - That the person does not pose a threat to the public;
 - That the public are safeguarded from dishonest persons;
 - The safeguarding of children and young persons;
 - The safeguarding of vulnerable persons;
 - That the public have confidence in their use of licensed vehicles.
- 1.3 This policy aims to provide guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:
- Applicants for driver / operator licences
 - Existing licensed drivers / operators whose licences are being reviewed
 - Licensing Officers and Police
 - Members of the Public Protection Sub-Committee
 - Magistrates and Crown Court hearing appeals against local authority decisions
- 1.4 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Public Protection Sub-Committee. Whilst officers and the Sub-Committee will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits** and, where the circumstances demand, the Sub-Committee/officer may depart from the guidelines.
- 1.5 Where applicants fail to disclose any previous convictions; cautions; warnings; penalty notices, orders or reprimands on their application form including any pending court proceedings or other matters they may be referred to the Public Protection Sub-Committee for determination.

2.0 General policy

- 2.1 Each case will be decided on its own merits.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
- a. Remain free of conviction for an appropriate period (as set out below); and
 - b. Show evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).
- 2.3 For the purposes of this Policy, "other matters to be considered" may include but are not limited to the following:
- a) Criminal / motoring convictions;
 - b) Court Martial;
 - c) Cautions;
 - d) Fixed penalty notices or other penalty notices;
 - e) Anti-social behaviour orders or other similar orders;
 - f) Breach of licensing conditions;
 - g) Formal Warnings or Reprimands;
 - h) Charges or matters awaiting trial;
 - i) Fitness and propriety.
- 2.4 Where an applicant has a conviction(s) or other matter(s) to be considered for a criminal offence, the council cannot review the merits of the conviction or other matter.
- 2.5 Where an applicant / licence holder has a conviction or other matter to be considered for an offence of aiding, abetting, attempting, conspiring, counselling, procuring, causing, permitting or inciting any of the criminal or motoring convictions / matters specified in this guidance, they will be considered relevant for the substantive matter.

3.0 Appeals

- 3.1 Any applicant who has been refused a driver / operator licence, or a licensed driver / operator whose licence has been suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of receipt of the notice.

4.0 Powers

- 4.1 Powers to grant driver / operator licences are contained within Section 51, Section 55 and Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 (the Act).
- 4.2 Powers to suspend, revoke or refuse to renew a driver's licence are contained within Section 61 of the Act, where the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.3 Section 61 (2B) allows the Licensing Authority, if it appears that in the interests of public safety, to suspend or revoke a driver's licence with immediate effect. A Decision Notice explaining why this decision has been taken will be issued to the driver and will have effect when the notice is given to the driver. The driver may appeal this decision but may not drive during the appeal period.
- 4.4 Section 62 of the Act allows the Licensing Authority to suspend, revoke or refuse to renew an operator's licence if the applicant/licence holder has been convicted of an offence under or non compliance with the provisions of Part II of the Act; or grounds of any conduct on the part of the operator which appears to the Council to render him unfit , or due to any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted or any other reasonable cause.
- 4.5 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the Licensing Authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

5.0 Consideration of disclosed criminal history

- 5.1 Under the provisions of Sections 51, 55, and 59, of the Act, the Licensing Authority is required to ensure that an applicant for the grant or renewal of a driver / operator licence is a 'fit and proper' person to hold such a licence. However, if an applicant / licence holder has any matters to be considered, the Licensing Authority may take into account:

- How relevant the offence(s) are to the licence being applied for;
- How serious the offence(s) were;
- When the offence(s) were committed;
- The date of conviction and age of applicant at time of conviction;
- Sentence imposed by the court;
- Whether they form part of a pattern of offending;
- Any other factors that might be relevant.

6.0 Violence

6.1 Licensed drivers have close regular contact with the public. A serious view will be taken with those who have a conviction(s) or other matter(s) to be considered involving violence. An application will normally be refused or existing licence suspended or revoked if the applicant / licence holder has a conviction for an offence that involved the loss of life.

6.2 In other cases anyone of a violent disposition is unlikely to be licensed until **at least 3 years** free of such conviction(s) or other matter(s) to be considered. However, given the range of the offences that involve violence, consideration must be given to the nature of the offence.

6.3 Unless there are exceptional circumstances, an application will normally be refused or existing licence suspended or revoked where the applicant / licence holder has a conviction for an offence such as:

- Murder;
- Manslaughter;
- Manslaughter or culpable homicide while driving;
- Terrorism offences;
- Or any similar offences or offences which replace the above.

6.4 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 10 years** prior to the date of application:

- Actual bodily harm which is racially / religiously aggravated;
- Arson;
- Assault Police;
- Common assault which is racially / religiously aggravated;
- Criminal damage which is racially / religiously aggravated;
- Grievous bodily harm with intent;

- Malicious wounding or grievous bodily harm which is racially aggravated;
- Possession of firearm;
- Resisting arrest;
- Riot;
- Robbery;
- Violent disorder;
- Similar offences or offences which replace the above.

6.5 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 3 years** prior to the date of application:

- Affray;
- Assault occasioning actual bodily harm;
- Common assault;
- Criminal damage;
- Obstruction;
- Possession of a weapon (or imitation weapon) or any other weapon related offence other than a firearm;
- S5 Public Order Act 1986 offence (harassment, alarm or distress);
- S.4 Public Order Act 1986 offence (fear of provocation of violence);
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress);
- Similar offences or offences which replace the above.

6.6 An application will normally be refused if an applicant has more than one conviction or other matter to be considered in the last **10 years** for an offence of a violent nature.

7.0 Sex and indecency offences

7.1 As licensed drivers often carry unaccompanied and vulnerable passengers, a firm line is to be taken with those who have convictions or other matters to be considered for sexual offences. An application will normally be refused or existing licence suspended or revoked for convictions or other matters to be considered for the more serious sexual offences. For other offences, applicants will be expected to show a substantial period free of conviction or other matter to be considered for such offences before an application will be approved.

7.2 Unless there are exceptional circumstances, an application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence such as:

- Assault by penetration;
- Exploitation of prostitution;
- Indecent assault;
- Offences involving children or vulnerable adults;
- Possession of indecent photographs, child pornography etc;
- Rape;
- Sexual assault;
- Trafficking for sexual or other exploitation;
- Similar offences or offences that replace the above.

7.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 7 years** prior to the date of application:

- Indecent exposure;
- Soliciting (kerb crawling);
- Similar offences or offences which replace the above.

7.4 In addition to the above the Licensing Authority is unlikely to grant a licence to any applicant who is currently on the Sex Offenders Register.

7.5 An application will normally be refused if an applicant has more than one conviction or other matter to be considered for a sexual offence.

8.0 Dishonesty

8.1 An applicant or existing licence holder is expected to be a trustworthy person. They deal with cash transactions and valuable property which may be left in their vehicles. Licence holders are required to deposit such property with police within 48 hours. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

8.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction or other matter to be considered is **less than 3 years** prior to the date of application:

- Benefit fraud;
- Burglary;
- Conspiracy to defraud;
- Forgery;
- Fraud;
- Handling or receiving stolen goods;
- Obtaining money or property by deception;
- Other deception;
- Taking a vehicle without consent;
- Theft;
- Similar offences or offences which replace the above.

9.0 Drugs

9.1 A serious view is taken of any drug related offence. The Licensing Authority will consider the nature and quantity of the drugs involved within the following offences:

- Cultivation of a controlled drug;
- Importation of a controlled drug;
- Production of a controlled drug;
- Supply of a controlled drug;
- Or similar offences.

9.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the above offences and has not been free of conviction(s) or other matters to be considered for **at least 5 years**.

9.3 An application will normally be refused or an existing licence suspended or revoked where the applicant has more than one conviction or other matter to be considered for offences related to the possession of drugs and has not been free of conviction or other matter to be considered for **at least 5 years**.

9.4 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has an isolated conviction or other matter to be considered for an offence related to the possession of

drugs within **the last 3 years**. Consideration should be given to the nature and quantity of the drugs involved.

- 9.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required. If the applicant was an addict then they would normally be required to show evidence of **3 years** free from drug taking.

10.0 Driving offences involving the loss of life

- 10.1 A very serious view is to be taken of any applicant or existing licence holder who has a conviction or other matter to be considered for a driving offence that resulted in the loss of life.

- 10.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the offences listed below and has not been free of conviction or other matter to be considered for **7 years**.

- Causing death by careless driving whilst under the influence of drink or drugs;
- Causing death by dangerous driving;
- Or any similar offences.

- 10.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the offences listed below and has not been free of conviction or other matter to be considered for **5 years**.

- Causing death by careless driving;
- Causing death by driving: unlicensed, disqualified or uninsured drivers.

11.0 Drink driving/driving under the influence of drugs

- 11.1 A serious view will be taken of a conviction(s) or other matter(s) to be considered for driving or being in charge of a vehicle while under the influence of alcohol / drugs. A single conviction or other matter to be considered may not result in an application being refused or an existing licence being suspended or revoked, provided that **at least 3 years** have elapsed since the ending of the disqualification. A conviction or other matter to be considered for 'refusing or failing to provide a specimen' will be treated in the same way.

11.2 Applicants with more than one conviction or other matter to be considered for driving or being in charge of a vehicle under the influence of alcohol / drugs or refusing or failing to provide a specimen are unlikely to be granted a licence unless a period of **10 years** has elapsed after the restoration of the driving licence following the last conviction or other matter to be considered.

12.0 Motoring Convictions

12.1 Major Traffic Offences

12.2 For the purposes of this Policy the following motoring offences are classed as 'Major Traffic Offences':

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court
DD40	Dangerous driving
DD90	Furious driving
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

12.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction or other matter to be considered for a major traffic offence and has not been free of the conviction or other matter to be considered for **at least 6 months**.

- 12.4 An applicant with more than one Major Traffic Offence, within the last 5 years will normally be refused and no further application should be considered until a period of **at least 3 years** free from such convictions or other matters to be considered have elapsed.
- 12.5 If any conviction or other matter to be considered for a Major Traffic Offence results in a disqualification, applicants should refer to the section of these guidelines entitled "disqualification".
- 12.6 **Disqualification from driving**
- 12.7 The Licensing Authority will treat a period of a disqualification as being that which a driver would have been eligible to serve, and may disregard the decision of a court to waive or reduce a disqualification period either on the grounds of exceptional hardship under S.35 of the Road Traffic Offenders Act 1988 or for "special reasons" under S.34 of the Road Traffic Offenders Act 1988.
- 12.8 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matter to be considered resulting in a period of disqualification of less than 56 days unless a period of **at least 6 months** has elapsed from the end of the disqualification period.
- 12.9 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matter to be considered resulting in a period of disqualification of up to 12 months unless a period of **at least 12 months** has elapsed from the end of the disqualification period.
- 12.10 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matters to be considered resulting in a period of disqualification of 12 months or more, unless a period of **at least 18 months** has elapsed from the end of the disqualification period.
- 12.11 The Licensing Authority will not normally grant an application for a private hire or hackney carriage driver's licence from a person who has been disqualified from driving for a period of 5 years or more, unless a period of **at least 7 years** has elapsed from the end of the disqualification period.
- 13.0 Minor Traffic Offences**
- 13.1 Other Traffic Offences not listed within this policy will be treated as 'Minor Traffic Offences'. A minor driving offence is one that incurs between 1 and 3 penalty points.

13.2 Where an applicant / licence holder has one conviction or other matter to be considered for a minor driving offence, this will not usually result in refusal or suspension / revocation.

13.3 More than one minor traffic conviction or other matter to be considered may result in a refusal, particularly where there are several convictions or other matters to be considered for the same offence e.g. speeding. A licensed driver may be referred to the Public Protection Sub-Committee where there are more than two offences.

14.0 Outstanding charges or summonses

14.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but in the interest of public safety the matter will be considered and may be deferred for determination until proceedings are concluded.

15.0 Non-conviction information

15.1 If an applicant or existing licence holder has been arrested or charged, but not convicted, for a serious offence which suggests he/she could be a danger to the public, consideration should be given to refusing or suspending / revoking the application / licence.

16.0 Repeat offending

16.1 While it is possible that an applicant may have a number of convictions or other matters to be considered that individually meet the above guidelines, an application will normally be refused where an applicant has a record of repeat offending which shows a lack of regard for the well being of others or for property, unless a period of **at least 10 years** has elapsed since the most recent conviction or other matters to be considered.

17.0 Breach of Legislation, Byelaw or Licence Condition

17.1 An applicant who has a conviction or other matters to be considered for a breach of legislation, byelaw or licence condition is unlikely to be granted a licence unless a period of **at least 12 months** has elapsed since the most recent breach.

17.2 An existing licence holder found to be in breach of legislation, byelaw or licence condition is on the first occasion, likely to be warned in writing as to future conduct, provided that the breach did not compromise the safety of passengers or that the public were not put at risk.

- 17.3 Where an existing holder is found to have more than one breach of licensing legislation, byelaw or licence condition, or a single serious breach, the Public Protection Sub-Committee may suspend or revoke the licence.
- 17.4 The above is irrespective of any legal proceedings which may be pending or have been taken.

DRAFT

Final version: Dated

Appendix B

Dear Chair/Councillors,
of Licensing & Public protection committee,

The reason I am the only person objected to the draft report (Policy statement) presented before the committee on 5 August 2014 is because currently I am the only member of the trade who represent vast majority of Hackney Carriage Drivers in Cardiff, and I am the only person who is fortunate enough to received the copy of the draft report.

First I would like to lodge a strong objection on Item number 4.3 As three taxi driver's licence was suspended based on false allegation, one of the driver suffered 15 months long suspension, second driver was suspended for nine months and third driver was suspended for 4 months. As result these drivers not only suffered huge financial loses, but also suffered irrecoverable loss of respect within their immediate family as well as taxi driver's society and the close knit community they live in.

Two of the falsely accused driver was on the brink of losing everything including their immediate family and one falsely accused driver's broke up with his prospective wife as result of the allegation.

Therefore suspending licence until the result of full investigation or outcome of the trial is finalised, is not only injudicious but also arbitrary, hence would highly appreciate if the committee members allow enough time to conclude the investigation before the licence is suspended.

Also as the representative of trade members I would also like to further object on Item number 12.8, 12.9, 12.10 based on the fact that nobody should be punished twice for same offence.

In addition to above I would also like to strongly object on Item number 17.1 as it is totally wrong to punish driver who has been exonerated by Court of Law.

Agenda Item 10

AGENDA ITEM

CARDIFF COUNCIL
CYNGOR CAERDYDD

PUBLIC PROTECTION SUB COMMITTEE: 2 DECEMBER 2014

REPORT OF THE HEAD OF REGULATORY & SUPPORTING SERVICES

SKIN PIERCING REGISTRATIONS

The Committee is requested to note that the following applications have been agreed in accordance with the Head of Regulatory and Supporting Services Delegated Authority.

Personal

Title Miss
First Name Chelsea
Surname Farley
Premises Name

Title Miss
First Name Jacqueline
Surname Zaslona
Premises Name The Therapy Centre

Title Ms
First Name Elizabeth Jane
Surname Henshaw
Premises Name

Title Ms
First Name Stacey
Surname Hone
Premises Name Facial & Cosmetic

Premises

Premises Name Tattoo U
Premises Street 88 Whitchurch Road
Premises Area Heath
Premises City Cardiff
Title Mr

First Name Anton
Surname Baker

Premises Name

Premises Street 53 The Philog
Premises Area Whitchurch
Premises City Cardiff
Title Miss
First Name Chelsea
Surname Farley

Premises Name

Premises Street 147 Habershon Street
Premises Area Splott
Premises City Cardiff
Title Ms
First Name Elizabeth Jane
Surname Henshaw

AGENDA ITEM

CARDIFF COUNCIL
CYNGOR CAERDYDD

PUBLIC PROTECTION SUB COMMITTEE: 2 DECEMBER 2014

REPORT OF THE HEAD OF REGULATORY & SUPPORTING SERVICES

STREET AND HOUSE TO HOUSE COLLECTION PERMIT APPLICATIONS

The Committee is requested to note that the following applications have been agreed in accordance with the Head of Regulatory and Supporting Services Delegated Authority.

Charity Name	Friends Of The Dogs (Wales)
Type of Collection	Carol Permit
Collection Date	20/12/2014
End Date	20/12/2014

Charity Name	Terrence Higgins Trust
Type of Collection	Carol Permit
Collection Date	01/12/2014
End Date	01/12/2014

Charity Name	Children with Cancer UK
Type of Collection	Carol Permit
Collection Date	04/11/2014
End Date	04/11/2014

Charity Name	Central Beacons Search and Rescue
Type of Collection	Carol Permit
Collection Date	13/12/2014
End Date	13/12/2014

Charity Name	UCKG Helpcentre
Type of Collection	Carol Permit
Collection Date	06/12/2014
End Date	06/12/2014

Charity Name	Sunshine Friends
Type of Collection	Carol Permit
Collection Date	19/12/2014
End Date	19/12/2014

Charity Name Age Cymru
Type of Collection Carol Permit
Collection Date 05/12/2014
End Date 05/12/2014

Charity Name Salvation Army
Type of Collection Carol Permit
Collection Date 06/12/2014
End Date 06/12/2014

Charity Name Salvation Army
Type of Collection Carol Permit
Collection Date 06/12/2014
End Date 06/12/2014

Charity Name Salvation Army
Type of Collection Carol Permit
Collection Date 13/12/2014
End Date 13/12/2014

Charity Name Salvation Army
Type of Collection Carol Permit
Collection Date 13/12/2014
End Date 13/12/2014

Charity Name Salvation Army
Type of Collection Carol Permit
Collection Date 20/12/2014
End Date 20/12/2014

Charity Name Salvation Army
Type of Collection Carol Permit
Collection Date 20/12/2014
End Date 20/12/2014

Charity Name Salvation Army
Type of Collection Carol Permit
Collection Date 24/12/2014
End Date 24/12/2014

Charity Name	Cancer Research UK
Type of Collection	Carol Permit
Collection Date	13/12/2014
End Date	13/12/2014
Charity Name	Concern Universal
Type of Collection	Carol Permit
Collection Date	06/12/2014
End Date	06/12/2014
Charity Name	Anthony Nolan Bone Marrow Trust
Type of Collection	Carol Permit
Collection Date	06/12/2014
End Date	06/12/2014
Charity Name	Barnardos
Type of Collection	Street Collection Permit
Collection Date	16/12/2014
End Date	20/12/2014
Charity Name	Tredegar Town Band Society
Type of Collection	Carol Permit
Collection Date	06/12/2014
End Date	07/12/2014
Charity Name	Tredegar Town Band Society
Type of Collection	Carol Permit
Collection Date	13/12/2014
End Date	14/12/2014
Charity Name	Tredegar Town Band Society
Type of Collection	Carol Permit
Collection Date	20/12/2014
End Date	21/12/2014
Charity Name	Dementia UK
Type of Collection	Carol Permit
Collection Date	05/12/2014
End Date	05/12/2014

Charity Name 3rd Rhiwbina Scout Group
Type of Collection Carol Permit
Collection Date 10/12/2014
End Date 10/12/2014

Charity Name Worldwide Cancer Research
Type of Collection Carol Permit
Collection Date 06/12/2014
End Date 06/12/2014

Charity Name Touch Trust
Type of Collection Carol Permit
Collection Date 01/12/2014
End Date 01/12/2014

Charity Name Alzheimers Society
Type of Collection Carol Permit
Collection Date 20/12/2014
End Date 20/12/2014

Charity Name Alzheimers Society
Type of Collection Carol Permit
Collection Date 17/12/2014
End Date 17/12/2014

Charity Name Alzheimers Society
Type of Collection Carol Permit
Collection Date 03/12/2014
End Date 03/12/2014

Charity Name Teenage Cancer Trust
Type of Collection Carol Permit
Collection Date 20/12/2014
End Date 20/12/2014

Charity Name Teenage Cancer Trust
Type of Collection Carol Permit
Collection Date 17/12/2014
End Date 17/12/2014

Charity Name	Teenage Cancer Trust
Type of Collection	Carol Permit
Collection Date	03/12/2014
End Date	03/12/2014
Charity Name	Childrens Society
Type of Collection	Carol Permit
Collection Date	06/12/2014
End Date	06/12/2014
Charity Name	Search and Rescue Dog Association (SARDA)
Type of Collection	Carol Permit
Collection Date	20/12/2014
End Date	20/12/2014
Charity Name	Society for the Protection of Unborn Children
Type of Collection	Carol Permit
Collection Date	13/12/2014
End Date	13/12/2014
Charity Name	British Red Cross
Type of Collection	Carol Permit
Collection Date	13/12/2014
End Date	13/12/2014
Charity Name	Ty Hafan
Type of Collection	House to House Collection Permit
Collection Date	01/01/2015
End Date	31/12/2015
Charity Name	Tenovus
Type of Collection	House to House Collection Permit
Collection Date	01/01/2015
End Date	31/12/2015
Charity Name	Tenovus
Type of Collection	House to House Collection Permit
Collection Date	01/12/2014
End Date	28/12/2014

Charity Name Kenyan Orphan Project
Type of Collection Carol Permit
Collection Date 06/12/2014
End Date 06/12/2014

Charity Name Action Against Hunger
Type of Collection Carol Permit
Collection Date 06/12/2014
End Date 06/12/2014

Charity Name Cancer Recovery Foundation UK
Type of Collection House to House Collection Permit
Collection Date 15/01/2015
End Date 15/12/2015

Charity Name Global Brigades UK
Type of Collection Carol Permit
Collection Date 06/12/2014
End Date 06/12/2014

Charity Name Society for the Protection of Unborn Children
Type of Collection Carol Permit
Collection Date 20/12/2014
End Date 20/12/2014

Charity Name British Red Cross
Type of Collection Carol Permit
Collection Date 20/12/2014
End Date 20/12/2014

Charity Name Teenage Cancer Trust
Type of Collection Carol Permit
Collection Date 18/12/2014
End Date 18/12/2014

Charity Name Teenage Cancer Trust
Type of Collection Carol Permit
Collection Date 21/12/2014
End Date 21/12/2014

Charity Name Alzheimers Society
Type of Collection Carol Permit
Collection Date 18/12/2014
End Date 18/12/2014

Charity Name Alzheimers Society
Type of Collection Carol Permit
Collection Date 21/12/2014
End Date 21/12/2014

Charity Name Tree Of Hope Childrens Charity
Type of Collection House to House Collection Permit
Collection Date 05/01/2015
End Date 31/12/2015

Charity Name Animal Aid
Type of Collection Carol Permit
Collection Date 20/12/2014
End Date 20/12/2014

Charity Name George Thomas Hospice
Type of Collection Carol Permit
Collection Date 24/12/2014
End Date

Charity Name George Thomas Hospice
Type of Collection House to House Collection Permit
Collection Date 21/12/2014
End Date 24/12/2014

Charity Name Bobath Childrens Therapy Centre Wales
Type of Collection Street Collection Permit
Collection Date 22/11/2014
End Date 22/11/2014

Charity Name Community Music Wales
Type of Collection Carol Permit
Collection Date 13/12/2014
End Date 13/12/2014

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