



Civic Centre,  
Arnot Hill Park,  
Arnold,  
Nottinghamshire,  
NG5 6LU

# Agenda

## Environment and Licensing Committee

Date: **Tuesday 12 January 2021**

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Time: **2.00 pm**

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Place: **Virtual Meeting**

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For any further information please contact:

**Democratic Services**

[committees@gedling.gov.uk](mailto:committees@gedling.gov.uk)

0115 901 3844

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# Environment and Licensing Committee

## Membership

**Chair** Councillor Marje Paling

**Vice-Chair** Councillor Nicki Brooks

Councillor Pat Bosworth  
Councillor Boyd Elliott  
Councillor Roxanne Ellis  
Councillor Des Gibbons  
Councillor Julie Najuk  
Councillor Sam Smith  
Councillor Clive Towsey-Hinton  
Councillor John Truscott  
Councillor Paul Wilkinson

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## AGENDA

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- 1 **Apologies for Absence and Substitutions.**
  
- 2 **To approve, as a correct record, the minutes of the meetings held on 1 and 8 December 2020.** 5 - 9
  
- 3 **Declaration of Interests.**
  
- 4 **Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019 – Memorandum of Understanding 2020 Revision** 11 - 20  
  
Report of the Community Protection Manager.
  
- 5 **Any other item which the Chair considers urgent.**
  
- 6 **Exclusion of the Press and Public.**  
  
To move that under Section 100(A)(4) of the Local Government Act 1972 the public and press be excluded from the meeting during consideration of the ensuing report on the grounds that the report involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972.
  
- 7 **Application for a 1 Year Joint Hackney Carriage / Private Hire Drivers Licence - CP** 21 - 22  
  
Report of the Corporate Director of Environment, Communities and Leisure.
  
- 8 **Application for a one year Hackney Carriage/Private Hire Drivers Licence - TUR** 23 - 31  
  
Report of the Corporate Director of Environment, Communities and Leisure.

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## **MINUTES ENVIRONMENT AND LICENSING COMMITTEE**

**Tuesday 1 December 2020**

Councillor Marje Paling (Chair)

Present: Councillor Nicki Brooks                      Councillor Julie Najuk  
Councillor Pat Bosworth                      Councillor Sam Smith  
Councillor Boyd Elliott                      Councillor Clive Towsey-Hinton  
Councillor Roxanne Ellis                      Councillor John Truscott  
Councillor Des Gibbons                      Councillor Paul Wilkinson

Officers in Attendance: C Allcock, J Davies, A Dubberley, K Nealon and  
R Pentlow

### **42 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.**

None.

### **43 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 3 NOVEMBER 2020**

#### **RESOLVED:**

That the minutes of the above meeting, having been circulated, be approved as a correct record.

### **44 DECLARATION OF INTERESTS.**

None.

### **45 APPLICATION FOR STREET TRADING CONSENT AT EAGLES SQUARE ARNOLD**

Consideration was given to a report of the Director of Health and Community Wellbeing making an application for a Street Trading Consent for Arnold Market

#### **RESOLVED to:**

- 1) Approve the application made by Gedling Borough Council for a Street Trading Consent for the Arnold Market to trade in a consent street in Arnold as shown in the Appendix to the report;
- 2) Approve a departure from the Council's Street Trading Policy and that the consent be for a 12 month period; and

- 3) Delegate authority to the Director of Health and Community Wellbeing to approve or refuse all future applications for Street Trading Consent.

**46 TAXI LICENSING FEES FOR 2020/21**

Consideration was given to a report of the Director of Health and Community Wellbeing which presented the feedback on consultation about a proposal to increase the fees of taxi driver, operator and vehicle licences for 2020/21.

**RESOLVED that:**

In the light of the responses received to the consultation and in recognition of the continuing difficulties faced by the taxi trade locally the proposed increase in fees for 2020/21 be not implemented and the fees for drivers, vehicles, and operators remain at the 2019/20 rates for the rest of the 2020/21 financial year.

**47 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.**

None.

The meeting finished at 4.35 pm

Signed by Chair:  
Date:

**MINUTES  
ENVIRONMENT AND LICENSING COMMITTEE**

**Tuesday 8 December 2020**

Councillor Marje Paling (Chair)

Present:           Councillor Nicki Brooks                               Councillor Julie Najuk  
                  Councillor Pat Bosworth                           Councillor Clive Towsey-Hinton  
                  Councillor Roxanne Ellis                            Councillor John Truscott  
                  Councillor Des Gibbons                            Councillor Paul Wilkinson

Absent:                               Councillor Boyd Elliott and Councillor Sam Smith

Officers in Attendance:        C Allcock, A Dubberley and R Pentlow

**48           APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.**

Apologies for absence were received from Councillor Smith.

**49           DECLARATION OF INTERESTS.**

None received.

**50           ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.**

None.

**51           EXCLUSION OF THE PRESS AND PUBLIC.**

**RESOLVED:**

That, the Members being satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information that under Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during the consideration of the ensuing reports on the grounds that the report involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

**52           APPLICATION FOR A THREE YEAR HACKNEY  
CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - MI**

Consideration was given to a report of the Director of Health and Community Wellbeing, which had been circulated prior to the meeting, regarding an application for a three year joint Hackney Carriage/Private Hire Driver's Licence for MI.

MI attended the committee.

**RESOLVED:**

To defer consideration of the application until a future meeting of the committee so that Members can be provided with references in support of the applicant being a fit and proper person to hold a licence.

**53 APPLICATION FOR A ONE YEAR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - TUR**

Consideration was given to a report of the Director of Health and Community Wellbeing, which had been circulated prior to the meeting, regarding an application for a one year joint Hackney Carriage/Private Hire Driver's Licence for TUR.

TUR did not attend the meeting.

**RESOLVED:**

- 1) To defer consideration of the application until the January meeting to give TUR another opportunity to appear before the Committee; and
- 2) That if TUR does not appear, the application will be determined at the next Committee in his absence.

**54 APPLICATION FOR A ONE YEAR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - MS**

Consideration was given to a report of the Director of Health and Community Wellbeing, which had been circulated prior to the meeting, regarding an application for a one year joint Hackney Carriage/Private Hire Driver's Licence for MS.

MS attended the meeting along with his representative.

**RESOLVED:**

To defer consideration of the application until the outcome of the pending court case against MS is known.

The meeting finished at 4.15 pm



Signed by Chair:  
Date:

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## **Report to Environment and Licensing Committee**

**Subject:** Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019 – Memorandum of Understanding 2020 Revision

**Date:** 12 January 2021

**Author:** Community Protection Manager

### **Purpose**

To inform Members of changes to the Memorandum of Understanding (MoU) between the Council and the Department for Environment, Food and Rural Affairs (DEFRA), relating to the statutory requirement placed on all local authorities to submit information to DEFRA for the purposes of maintaining a database in relation to all Hackney Carriage and Private Hire Vehicles licensed by the Council.

To delegate authority to the Director of Health and Community Wellbeing to sign the MoUs biannually, as required by DEFRA subject to there being so significant changes to the MoU.

### **Key Decision**

This is not a key decision

### **Recommendation(s)**

#### **THAT:**

- 1) Members note the statutory provisions of the Air Quality (taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019, and associated statutory guidance.**
- 2) Members note the obligations placed on the Council under the Regulations as outlined in the amended Memorandum of Understanding, signed by the Community Protection and Pollution Control Manager.**
- 3) Members delegate authority to the Director of Health and Community Wellbeing to sign Memorandums of Understanding biannually unless there is a significant change to the MOU.**

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## 1 Background

- 1.1 The Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) regulations 2019 (“the regulations”) came into force on 1st May 2019. The purpose of the Regulations is to place a statutory duty on all Licensing Authorities in England and Wales to submit specific data to DEFRA on a regular basis for the purpose of creating and maintaining a national database of all licensed vehicles.

The data to be provided and contained in the database is:

- The Vehicle Registration
  - The issue date of the licence
  - The expiry date of the licence
  - Whether the vehicle is a taxi (Hackney Carriage) or a Private Hire Vehicle (PHV)
  - The name of the issuing Authority
  - The licence number
  - Whether the vehicle is Wheelchair Accessible
- 1.2 The Council has been submitting the required information to DEFRA since January 2020.
- 1.3 DEFRA produced an MoU outlining the terms by which the data will be submitted; this was signed December 2019 and reported to the Committee on 14<sup>th</sup> January 2020.
- 1.4 DEFRA have now revised the MoU attached at Appendix A. This was required to be signed and returned to DEFRA by 30 November 2020.
- 1.5 The wording of the MoU is substantially the same with the following changes:
1. The right reserved for DEFRA to audit has now been removed.
  2. The MoU will be reviewed biannually.
  3. The following clause has been inserted: *‘An extract of the Data may be used by Defra and shared with the Department for Transport to carry out analysis in order to inform the evaluation of local air quality plans to deliver compliance in nitrogen dioxide concentrations in the shortest possible time, and national compliance reporting.’*
  4. The Council will now be required to notify DEFRA of any inaccuracies **as soon reasonably practicable** after the discovery of an error.

## **2 Proposal**

It is proposed that;

- 2.1 Members note the statutory provisions of the Air Quality (taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019, and associated statutory guidance.
- 2.2 Members note the obligations placed on the Council under the Regulations as outlined in the amended Memorandum of Understanding, signed by the Community Protection and Pollution Control Manager.
- 2.3 Members delegate authority to the Director of Health and Community Wellbeing to sign Memorandums of Understanding biannually unless there is a significant change to the MOU.

## **3 Resource Implications**

- 3.1 None

## **4 Appendices**

- 4.1 Appendix A – Memorandum of Understanding

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## MEMORANDUM OF UNDERSTANDING

**Between:**

Department for Environment, Food and Rural Affairs (Defra)

**AND**

Gedling Borough Council

**In respect of:**

**Provision of taxi and private hire vehicle licensing data as required by the Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019**

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### **DEFINITIONS**

**Data Protection Legislation:** the GDPR, the LED, the DPA 2018 and any applicable national implementing Laws as amended from time to time, and all applicable Law about the processing of personal data and privacy;

**Controller, Processor, Processing, Data Subject, Personal Data, Special Categories of Personal Data, Personal Data Breach, Data Protection Officer** take the meaning given in the GDPR.

**Data Loss Event:** any event that results, or may result, in unauthorised access to Personal Data held by either party under this MoU, and/or actual or potential loss and/or destruction of Personal Data in breach of this MoU, including any Personal Data Breach.

**Data Subject Access Request:** a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

**DPA 2018:** Data Protection Act 2018

**GDPR:** the General Data Protection Regulation (*Regulation (EU) 2016/679*)

**LED:** Law Enforcement Directive (*Directive (EU) 2016/680*)

**Protective Measures:** appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

**Sub-processor:** any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement.

**Licensing Authority:** the licensing authority who is party to this agreement, Gedling Borough Council.

**Air Quality Regulations:** the Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019

## **1. Parties to this Memorandum of Understanding**

1.1. The Parties to this Memorandum of Understanding (MoU) are the Department for Environment, Food and Rural Affairs (Defra) and the Licensing Authority.

## **2. Purpose of this MoU**

2.1. The Purpose of this MoU is to clarify how the Parties will meet their respective obligations under Data Protection Legislation in relation to the processing of Personal Data as necessary to meet the requirements of the Air Quality Regulations. It explains how the parties will co-operate to ensure compliance with all relevant legislation.

## **3. Description of the Data and method of sharing**

3.1. The Air Quality Regulations specify the data that The Licensing Authority is required to share with Defra. The Regulations can be found at: [www.legislation.gov.uk/ukxi/2019/885/made](http://www.legislation.gov.uk/ukxi/2019/885/made).



- 3.2. The Air Quality Regulations specify the minimum frequency at which the Data must be shared with Defra. The Data must be transmitted to Defra at least once a week and additionally as requested for database development.
- 3.3. The Licensing Authority will transfer the Data to Defra using either an Application Programming Interface (API) or a CSV upload. In executing the transfer, both parties will comply with the security arrangements described in clause 9.

#### **4. The Licensing Authority's legal basis under the GDPR for sharing the Data with Defra**

- 4.1. The legal basis under Data Protection Legislation for The Licensing Authority to share Personal Data with Defra and Defra's further processing of the Personal Data for the Purpose is Article 6(1)(c) of the GDPR – i.e. the processing is necessary for compliance with a legal obligation to which the controller is subject.

#### **5. Accountability**

- 5.1. Defra is a separate Controller for the Data once received from The Licensing Authority and is responsible as a Controller for complying with Data Protection Legislation in relation to its further processing of the Data.

#### **6. Fairness and Transparency**

- 6.1. Both parties will provide appropriate privacy notices to data subjects, in accordance with the requirements of the GDPR and all relevant good practice guidance issued by the Information Commissioner's Office. Specifically, The Licensing Authority will inform data subjects that Licensing Authorities are required by Law to share the Data with Defra so that Defra can create a database. Defra may, under contracts or similar agreements, use third party organisations to process the data on its behalf. This will include the creation and provision of the database to support local authorities' ability to charge in relation to clean air zones.

#### **7. Accuracy of Shared Data**

- 7.1. The Licensing Authority will take all reasonable steps to ensure the accuracy and currency of the Data before it is transmitted to Defra. Where the Licensing Authority becomes aware of inaccuracies in the Data after its transmission to Defra, it will notify Defra of those inaccuracies as soon as reasonably practicable after the discovery and the parties will agree a suitable rectification plan.

- 7.2. Defra will take all reasonable steps to maintain the accuracy and currency of the Data and will notify The Licensing Authority if it becomes aware of any significant inaccuracies.

## **8. Retention of Shared Data**

- 8.1. Defra will retain the Data for a period not exceeding seven years for revenue purposes from the date received from The Licensing Authority subject to any relevant exemptions under Data Protection Legislation. Historical aggregated data will be retained indefinitely for scientific purposes, where aggregated data means information that has been collated for periodic reports.
- 8.2. An extract of the Data may be used by Defra and shared with the Department for Transport to carry out analysis in order to inform the evaluation of local air quality plans to deliver compliance in nitrogen dioxide concentrations in the shortest possible time, and national compliance reporting.
- 8.3. The data will be held securely by Defra on Amazon Web Services within the London region. At the end of that retention period, Defra will arrange for the secure destruction or deletion of the Data in accordance with set procedures.

## **9. Data Security**

- 9.1. The Licensing Authority will ensure the safe transmission of the Data to Defra, in accordance with the security requirements of Data Protection Legislation and industry good practice.
- 9.2. Defra will ensure that its Processing of the Data meets the requirements of Data Protection Legislation, HMG Security Policy Framework and Defra's Personal Information Charter.
- <https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs/about/personal-information-charter>
- 9.3. These same requirements shall apply equally to any Processor contracted by Defra.

## **10. Data Processors**

10.1. Defra will ensure that the requirements of Article 28 and 29 are met in relation to the use of a Processor or Sub Processor for the processing of the Data.

## **11. Transfer of the Data**

11.1. Defra agrees not to transfer the Data (including access to the Data) to any country outside the UK without the prior consent of The Licensing Authority. This includes transfers of the Data by or to a Processor or Sub Processor used by Defra.

## **12. Data subjects rights**

12.1. Each party will answer any data subject rights requests that are made to them for Data that they are processing as a Controller, in accordance with their obligations under the GDPR.

## **13. Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) Requests**

13.1. Each party will answer any FOIA or EIR requests that they receive, as appropriate, including any requests for information about: the Data for which they are the Controller, the Air Quality Regulations, or this MoU.

13.2. The party who has received the request will consult the other party where it considers that disclosure of information would, or would likely, impact on the interests of the other party.

13.3. The party who has received the request will take into account the views of the other party before deciding whether or not to disclose the information. Specifically, they will:

- a. Allow the other party a period of at least 5 working days to respond to the consultation;
- b. Not disclose any personal data that would breach Data Protection Legislation; and
- c. Not disclose information that would prejudice either the security of the Data or the security arrangements of the other party.

## 14. Data Loss Event

14.1. In relation to Data received from The Licensing Authority, Defra will notify The Licensing Authority immediately of any serious Data Loss Event that meets the threshold for notification to the Information Commissioner's Office or affected Data Subjects. Such notification will be to a contact nominated by the Licensing Authority. Less serious incidents will be reported on a monthly basis.

## 15. Agreement and signatories

15.1. The parties will review the terms of this MoU on a biannual basis, or sooner if necessary to reflect a material change to any of the provisions in this MoU.

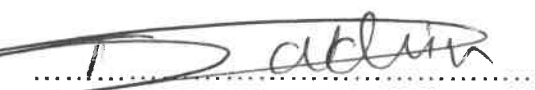
15.2. The parties enter into this MoU intending to honour its provisions, but the MoU does not constitute a legally binding contract and it does not affect the obligations that each party has under the legislation referred to in this MoU.

Signed on behalf of:

Defra

Gedling Borough Council

.....  
[name and position]

  
.....  
Director  
David Wakelin, Director for Health  
and Wellbeing

Date .....

Date .....

27 November 2020

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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