

2. As described by my colleague Mary Justine Fuller, on 9th December 2015, at a full Council meeting, Guildford Borough Council approved an updated Taxi and Private Hire Licensing Policy, following a public consultation exercise. The policy included a number of changes to improve public confidence in the trade, such as a professional qualification for all licensed drivers and a livery requirement for hackney carriage vehicles. In the officer's report to the Council, the benefits of the policy identified were that it:

- **“Improves identification: Vehicles are clearly identifiable as a taxi.**
- **Safety and security: Customers can be confident that the taxi is properly licensed and meets the necessary safety standards. This is particularly important to women and vulnerable clients.**
- **Increases trade: It can improve customer confidence and customers are happier to hail a liveried taxi rather than a take a chance on an un-liveried one.**
- **Creates local identity: A local livery creates a strong local identity, which in the case of cities like London and New York becomes one that is recognised across the world.**
- **Helps professionalise the service: A local livery coupled with clear driver training and vehicle training and vehicle standards helps to create a more professional service.**
- **Enables easier enforcement: Taxi drivers raise regular concern about the loss of trade to alleged touting by private hire vehicles and to taxi vehicles licensed by other Boroughs. A clear and identifiable livery makes enforcement much easier.”**

Signed.....

3. This statement concerns the involvement of the Licensing team at Guildford Borough Council and a Mr Benn Michael SIMMONDS, a hackney carriage proprietor who is appealing the livery condition attached to his hackney carriage licence in consequence of the policy. Mr SIMMONDS is the joint proprietor of this vehicle along with Mrs Gayle SIMMONDS.

4. This licence is licence number is HCV185 and relates to a Ford Mondeo registration LL60 RPV. The licence was granted on 25th February 2016. Previously Mr SIMMONDS had licensed an accessible type vehicle, a Peugeot Expert E7 taxi, which was last granted on the 3 July 2015. I attach to this statement as exhibit MS/01 a copy of the application form submitted by Mr SIMMONDS, and as exhibit MS/02 a copy of licence number HCV185 issued on the 25 February 2016.

5. The licence was granted to Mr SIMMONDS upon his vehicle meeting the Council's livery policy, which Mr SIMMONDS took the decision to comply with. The conditions attached to this licence make no mention of livery, as this is Council Policy which Mr SIMMONDS had already complied with in order to obtain the licence.

6. I discussed Mr SIMMONDS' circumstances with him in January 2016 following his request to licence his vehicle whilst it did not comply with the new livery policy due to a short delay between the adoption of the policy and the availability of the vehicle wrapping vinyl in the Guildford Borough Council colours. Mr SIMMONDS advised that he was incurring the expense of paying the finance on his new vehicle in addition to hiring a licensed vehicle so that he could work and earn.

Signed.....

7. In addition he believed that the new livery policy was not required as it was under appeal in a different case in the Magistrates' Court. (In the event, this appeal was dismissed by the Court.)

8. In Mr SIMMONDS' case at the time of his application I considered departure from the policy in his circumstances, but I decided not to do so. I considered that to allow a departure from the policy would undermine the reasons for having it set out above. I also wished to ensure that the implementation of the policy was not delayed or any grounds given to a small number of objectors who may have disagreed with the policy by making a decision to deviate from the policy requirements, unless the reasons to do so did not detract from the rationale for having the policy. In any case, Mr SIMMONDS advised that he was hiring another licensed vehicle in order to work, and so was not unable to work as a result of the Council's decision.

9. I advised Mr SIMMONDS that the Council would not depart from the livery policy and that should he feel that the Council is being unreasonable in requiring his vehicle to meet the new livery policy, then the Council could refuse his application giving him the subsequent right of appeal. This decision was communicated to Mr SIMMONDS in an email on the 13 January 2016 which I attach as exhibit MS/03.

10. I received an email reply from Mr SIMMONDS also on the 13 January 2016 which I attach to this statement as exhibit MS/04. In his email Mr SIMMONDS advises that he does not wish to go down the route of appeal to the Magistrates.

Signed..........

11. As a result of Mr SIMMONDS accepting in his email dated 13 January 2016 that he wished to apply livery to his vehicle and did not wish to challenge the Council in Court, we waited for Mr SIMMONDS to present his vehicle meeting the livery policy requirements before granting his licence.

12. Mr SIMMONDS liveried his vehicle and was granted a hackney carriage licence on the 25 February 2016.

13. It is worth noting that the Council has showed discretion to Mr SIMMONDS in this case as his vehicle was over the five year age policy at the time the licence was granted as it was first registered on the 6 January 2011. The Council's policy also requires any vehicle licensed for the first time as a hackney carriage or private hire vehicle to be under 5 years old from the date of first registration.

14. As part of the new livery policy, the Council approved a financial contribution to hackney carriage proprietors who adopt the livery before the 9 July 2016 of 25% of the cost, up to a value of £315. Mr SIMMONDS has taken the Council up on this policy and has been paid £315 towards the cost of applying livery to his vehicle. I attach to this statement as exhibit MS/05 a copy of the application from Mr SIMMONDS for a contribution towards the cost of applying livery to his vehicle.

Signed 

15. On the 23 March 2016 Guildford Borough Council received a summons from Mr SIMMONDS lodging an appeal against conditions attached to his licence. The summons details his appeal against conditions which are not part of his licence, such as conditions relating to private hire vehicles, and a challenge to the livery policy which he had previously taken the decision to comply with.

16. This appeal has been submitted despite Mr SIMMONDS previously indicating to the Council in his email dated 13 January 2016 that he would apply livery to his vehicle and did not wish to appeal to the Courts. This was after Mr SIMMONDS had been given advice by the Council that he could appeal any Council's decision of refusing to licence a hackney carriage vehicle which did not comply with the livery policy.

17. The current situation, therefore, is that Mr. Simmonds is appealing a condition that his vehicle comply with the livery policy, even though he has himself complied with the livery policy, his vehicle is livered in accordance with the policy, and the Council has paid part of the cost of the exercise.

18. I would respectfully ask the Court to dismiss Mr. Simmonds' appeal.

STATEMENT OF TRUTH

The contents of this statement are true to the best of my knowledge and belief.

.....

Signed: MICHAEL WILLIAM SMITH

Dated: 24 June 2016

Signed .....



APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE

Please complete all sections in **BLOCK CAPITALS** and in **black ink** and submit the form to the Licensing Team at Millmead House with all other documentation listed below after telephoning 01483 444371 to make an appointment.

You will be required to produce:

1. V5C Registration document
2. Bill of sale or proof of purchase if the vehicle is being licensed for the first time
3. Any HP Agreement in place at the time of the appointment
4. Proof of European Whole Vehicle Type Approval (Wheelchair accessible vehicles only)
5. HPI Report if the vehicle is being licensed for the first time and the vehicle has had a previous owner
6. Current insurance certificate covering private hire use
7. Valid MOT Test Certificate if the vehicle is over one year old
8. The test pass certificate issued by Woking Road Depot
9. Payment of the fee, by debit or credit card. Please note, we do not accept cash.

If any of the above are missing at the time of the appointment, we will be unable to complete the application or issue a licence or plate. We do not accept applications except by appointment.

IT IS AN OFFENCE TO MAKE FALSE STATEMENTS ON THIS FORM

I/we the owner(s) of the vehicle stated below, hereby apply for it to be licensed as a hackney carriage vehicle. I/we certify that the particulars given below are correct and complete to the best of my/our knowledge and I/we understand that I am/we are liable to prosecution if I/we make any statements falsely. I/we undertake to notify the Council of any change in these particulars during the currency of the licence.

Signed (First named applicant) : [Signature] Date: 05/1/16
 Signed (Proprietor 2) : [Signature] Date: 05/1/16
 Signed (Proprietor 3) : Date:
 Signed (Proprietor 4) : Date:

1. Vehicle details: Plate No: HCV (Office use only): 185
 Registration number: LL 60 RPV Date of registration: 06/01/2011
 Make: FORD Model: MONDEO
 Body type: ~~PURPOSE BUILT TAXI~~ / ~~SALOON~~ / ESTATE / ~~HATCHBACK~~ / ~~MPV~~ (please delete as appropriate)
 Fuel type: DIESEL Is the vehicle wheelchair accessible: ~~YES~~ / NO (please delete as appropriate)

2. Applicant's Details: (The applicant must be the owner, or one of the owners, of the vehicle as shown on the Registration Document, Bill of Sale and on any HP or Lease Agreement).
 Surname : Mr/Mrs/Miss/Ms: SIMMONDS
 ALL First or other Names: BENN MICHAEL
 Address: 3 DUNMORE PARK BARN GUILDFORD
 Postcode: GU2 8LA
 Telephone No. (Home) (Mobile) 07226378437
 E-mail address: DSimmonds1@btinternet.com
 Age: 41 Date of Birth: 01/04/74 Place of Birth: GUILDFORD



3. All other proprietors:

- (1) Surname ~~Mr/Mrs/Miss/Ms~~: MRS SIMMONDS All other names: GAYLE
 Address: 2 DUNMORE PARK BARN
 E-mail address: _____
 Age: 42 Date of Birth: 13/07/73 Place of Birth: OXFORD
- (2) Surname Mr/Mrs/Miss/Ms: _____ All other names: _____
 Address: _____
 E-mail address: _____
 Age: _____ Date of Birth: _____ Place of Birth: _____
- (3) Surname Mr/Mrs/Miss/Ms: _____ All other names: _____
 Address: _____
 E-mail address: _____
 Age: _____ Date of Birth: _____ Place of Birth: _____



4. Is any other person concerned in the keeping, employing or letting to hire of the vehicle? **YES / NO**
 If YES, please give the name and address of the person(s) and their type of interest and involvement with the vehicle: _____



5. Is the vehicle the subject of a Hire Purchase Agreement or a Leasing Agreement? **YES / NO**
 If YES, who is named in the agreement as the hirer or lessee of the vehicle?
MR BENN SIMMONDS MRS GAYLE SIMMONDS

6. Where will the vehicle normally be kept when not in use (address):
2 DUNMORE PARK BARN GUILDFORD SURREY
GU2 8LA

7. Do you intend to drive this vehicle yourself? **YES / NO**
NO



8. Do you intend to rent the vehicle to another person? **YES / NO**
 If YES, please give details of the licensed driver(s): _____




9. Please list ALL current drivers: _____

10. Which operator (radio circuit) will this vehicle be controlled by (if any): N/A

Please note -- if any of the information provided above changes during the licence term, you MUST notify the licensing team as soon as possible, either by emailing licensing@guildford.gov.uk or writing to the Licensing Team, Millmead House, Millmead, Guildford, Surrey, GU2 4BB

APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE

REQUIREMENTS AND CONDITIONS

- This application is for a licence for a hackney carriage vehicle to be licensed to ply for hire within Guildford Borough Council. The maximum duration of this licence, by law, is one year, although the licence may be issued for a shorter time if deemed appropriate by the Council. A separate licence is required for the driver of a hackney carriage.
- The Council attach **conditions** to the grant of a hackney carriage vehicle licence, details of which are available separately as are details of the **byelaws** that are also in force.
- Particular attention should be paid to the conditions regarding the **age and type of vehicle that may be licensed as a hackney carriage vehicle**, and the requirements in relation to **signs, meters, fire extinguisher and first aid kit**. Please note, any new vehicle needs to be wheelchair accessible unless it is a like-for-like replacement.
- A mechanical inspection of the vehicle will take place at Woking Road Depot, Woking Road, Guildford, GU1 1QE. **To book an appointment, please telephone 01483 505050.**
- Once the vehicle has passed the mechanical inspection an appointment should be made with the Licensing Team by telephoning 01483 444371. The team is located at Millmead House, Millmead, Guildford, Surrey GU2 4BB. A completed application will need to be handed in with all other relevant documents (detailed on the application form). Failure to produce the required documents may result in a delay in issuing the licence, or the application being refused. The current licence fee will be payable, by debit or credit card.
- If an application is refused, you will be informed of the reasons and informed of your right of appeal to a Magistrate's Court.
-  We will respect your personal data and deal with it in accordance with the Data Protection Act 1998. Any forms you complete that contain personal data will contain information as to how we will use the data you supply.
- If you have any questions regarding this application, or want information regarding other licences, please contact the Licensing Team by emailing licensing@guildford.gov.uk or calling 01483 444371.
- **YOU CANNOT USE A VEHICLE AS A HACKNEY CARRIAGE UNTIL THE LICENCE AND LICENCE PLATE ARE ISSUED.** THE LICENCE WILL PERMIT THE VEHICLE TO PLY FOR HIRE IN GUILDFORD BOROUGH ONLY.



DATA PROTECTION ACT 1998.

The Data Controller in respect of the personal data contained in this application is the Clerk and Solicitor, Guildford Borough Council. The data will be used primarily to process your application and in connection with the issue of a Hackney Carriage Licence. The Council has a duty to protect the public funds it administers, and to this end we may share the data within the Council for the prevention and detection of fraud. We may also share this information with other bodies administering public funds solely for these purposes and with the Police in respect of the prevention and detection of crime.

Under Section 42 Town Police Clauses Act 1847, the local authority are required to maintain a register of hackney carriages, including the following details, which are available for inspection by members of the public:

1. The name and address of every person who is a proprietor or part proprietor of the vehicle.
2. The date on which and the period for which it is granted.
3. If the licence has a serial number, that number.
4. Details of every offence committed by any proprietor or driver.

For office use only

Reg. Doc Bill of sale Insurance MOT Council Test
 HP Agreement HPI Doc E-Type Cert

Fee: £ 48.00 Receipt No: 00356308 MOP: Debit Date:

Licence GRANTED / RENEWED / REFUSED

If granted/renewed: Licence No: HCV 185 Valid From: to:

For change of vehicle: Licence No: HCV Valid From: to:
 Previous Vehicle Registration:
 Reason for changing:
 Expiry date on Plate:
 Date changed back (if applicable):

If refused: Date notice of refusal issued:
 Last date for appeal:
 Reason for refusal:



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PART II
TOWN POLICE CLAUSES ACT 1847

Hackney Carriage Licence **No. HCV185**

THE COUNCIL OF THE BOROUGH OF GUILDFORD hereby licence the vehicle of which particulars are given below to ply for hire within the Borough subject to the statutory provisions, byelaws and conditions for the time being in force and to the special conditions endorsed hereon.

Registration Number: **LL60 RPV**

Make: **Ford**

Model: **Mondeo**

Licensed for maximum **4** passengers

Colour: **Pantone 321**

Licence valid from **25 Feb 2016**

Expires... 30 Jun 2016

unless otherwise suspended or revoked by the Council.

Summary of Special Conditions or Exemptions:

Proprietor(s) holding the licence:

Benn Michael SIMMONDS

8 Dunmore Park Barn Guildford Surrey GU2 8LA

Gayle SIMMONDS

8 Dunmore Park Barn Guildford Surrey GU2 8LA

This licence is issued conditionally upon the licensee paying to the Council all payments due in respect of this licence. Should any cheque not be honoured then the licence shall be null and void and of no effect, in that event the licensee must re-apply for a licence to the Council.

WARNING It is a serious offence to drive without a valid licence for which the Council ALWAYS prosecutes.

Standard Conditions and any Special Conditions attached to this licence are printed on the reverse or are attached.

Justine Fuller

Environmental Health Manager

Dated: 23 March 2016

**STANDARD HACKNEY CARRIAGE LICENCE CONDITIONS ATTACHED TO THE ISSUE OF
HACKNEY CARRIAGE LICENCE HCV185**

The holder of a hackney carriage vehicle licence shall:

- ensure that the vehicle is kept clean and tidy, free of damage and in good working order at all times;
 - Ensure suitable storage for passenger's luggage, ideally separated from the passenger compartment, should be provided. Luggage carried must be suitably secured in place. Estate type vehicles shall have an appropriate guard fitted between the passenger and the luggage compartments.
 - inform the Council's licensing team within 72 hours of any accident involving the licensed vehicle;
 - notify the Council, in writing, within 7 days, of
 - a) changes to any details provided on the application form e.g. address, name, etc
 - b) changes to insurance for the vehicle;
 - notify the Council, in writing, within 14 days of the sale of a licensed vehicle
 - ensure the vehicle complies with the vehicle testing requirements and vehicle inspection standard in Appendix 7;
 - ensure the Council's licence plate and internal plate are displayed on the vehicle at all times;
 - not display advertising on the vehicle without first obtaining the Council's written approval;
 - ensure no modifications shall be made to the vehicle without consent from the Council.
-

IMPORTANT NOTE

The above conditions are additional to the relevant requirements of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, the more important of which are summarised as follows:

- (i) The proprietor(s) must not employ as driver any person who does not hold a Hackney Carriage Drivers Licence (1847 Act, Section 47).
- (ii) If the proprietor of a hackney carriage transfers his interest in it to another person he must within 14 days give to the Council written notice of the name and address of the new proprietor (1976 Act, Section 49).
- (iii) The proprietor must present the vehicle for mechanical inspection within such period and at such place as the Council by notice reasonably require (1976 Act, Section 50).
- (iv) The proprietor of the vehicle involved in an accident affecting the safety, performance or appearance of the vehicle or the comfort or convenience of its passengers shall report the accident to the Council as soon as possible and, in any case, within 72 hours. This is in addition to the normal obligation to notify the Police. (1976 Act, Section 50).
- (v) The vehicle licence and insurance certificate must be produced to an authorised officer of the Council on request (1976 Act, Section 50).
- (vi) Authorised officers of the Council (or Police Officers) may carry out 'spot checks' and may require further examination of the vehicle (1976 Act, Section 68).
- (vii) A hackney carriage must not be left unattended in any street or place of public resort or entertainment (1847 Act, Section 62).

On Wed, 13 Jan, 2016 at 9:11 am, Mike Smith
<Mike.Smith@guildford.gov.uk> wrote:
Good morning Mr Simmonds,

Thank you for your email.

I regret that the recent articles in the press have caused some confusion amongst the trade regarding the livery.

The appeal scheduled to be heard at the Magistrates Court on the 26 January is not a legal challenge to the entire livery Policy. This is not permissible via this route. The correct legal mechanism to challenge the whole Policy is to seek a Judicial review through the Administrative Courts. The appeal relates to the conditions imposed on the appellant's individual licence, and not conditions attached to every licence issued by the Council.

Any licence holder is permitted to appeal the award of conditions on their licence within 21 days of the licence being issued. Similarly, should the Council suspend, revoke or refuse a licence then this individual decision can be appealed to the Magistrate's Court within the same time period. However any vehicle currently licensed has two years in order to comply with livery requirements, currently licensed vehicles will remain to be licensed, without livery, until our timescale for adoption has passed. Should the Council refuse to licence the appellants vehicle, without livery, after the adoption period has finished, or impose conditions on the vehicle's licence relating to livery at this point, then this would be the appropriate time to make an appeal against this individual Council decision. The Magistrates Court does not create a binding legal precedent and hence even if the appeal is successful it would still be down to individual licence holders to separately challenge the livery policy via this route.

Therefore, the Council's legal position is that the livery Policy still applies and any new vehicle, or change of vehicle must be liveried before a licence is granted. I appreciate and thank you for trying to engage reasonably with us regarding this matter. I regret that our only route should you not wish to wait the short period of time to livery your vehicle now would be for us to refuse your application to change you vehicle and for you to appeal this individual decision to the Magistrates Court. It is not for me to give you legal advice, however the risks involved in this, aside from the cost and time, are that should the Court dismiss your appeal, due to the age of your vehicle approaching the 5 year rule, that you may be left with a vehicle which you cannot licence should you apply to licence it again at a later date. As I mentioned previously we have a number of suppliers who we envisage will be able to offer livery very shortly.

Thanks and Regards,

Mike Smith
Licensing Team Leader
Health and Community Care Services

Telephone: 01483 444 387
Fax: 01483 444 546
Email: mike.smith@guildford.gov.uk

www.guildford.gov.uk
Guildford Borough Council
Millmead House
Guildford
Surrey GU2 4BB

Follow us on Twitter [@GuildfordBC](https://twitter.com/GuildfordBC)

From: B SIMMONDS1 [mailto:]
Sent: 13 January 2016 10:10
To: Mike Smith
Subject: Re: RE:Local Government (Miscellaneous Provisions) Act 1976 [UNC]

Hi Mike

Do you have a time scale as your short time is not mentioned in figures. Many of the wrapping suppliers are say 6 to 7 weeks from commissioning of the colour. This is the problem I have. I have tested my car and have the pass certificate before the 5 year rule and i was ready to get the car wrapped straight away. It is the council that is stopping this process not me. I'm sure the magistrate route is something we both do not want to go down. My concerns are as I have said before. This should of been in place ready for the 9th December 2015. We are the now in the middle of January and by the time this get sorted I would have lost 2 months off my current license that I have paid for and 2 month would have passes out of the discount period that was give by the councilors. (Concerns for other drivers.)

I do appreciate that you are doing your best to resolve this matter, and I am trying to deal with this reasonably to back on the road with the least amount of hassle.

I also have my insurance company that want a copy of the plate certificate. They have informed me that they will cancel in 7 days if they don't have it. Are you able to help on this matter.

Kind regards
Benn Simmonds

Sent from Yahoo Mail on Android

	GUILDFORD BOROUGH	Hackney Carriage Livery Contribution Application Form
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On 9 December 2015, Guildford Borough Council agreed a new Taxi and Private Hire Policy including the approval of full vehicle livery in pantone 321 for all Licensed Hackney Carriages.

The Council also approved a contribution of 25% towards the cost of applying the livery, up to a maximum of £315, for vehicles adopting the livery before 9 July 2016. Vehicle proprietors can claim the contribution from the Council after the livery has been applied to the vehicle. Proprietors should complete this form and return it to Guildford Borough Council with the original receipt for the livery from an approved supplier, to allow us to take a copy and to present their vehicle for inspection by a Licensing Officer.

Only the vehicle proprietor may apply for a contribution towards the livery. Please ensure the receipt is issued in the name of at least one of the Vehicle proprietors and contains the full details of the vehicle which has been liveried.

Upon receipt of a completed application form, the Council will pay the contribution via bank transfer to the account detailed in this form.

Vehicle Proprietor Applying for Contribution

Name	BEAN SIMMONDS
Address	8 DUNMORE PARK BARN GUILDFORD SURREY GU2 8LA
Email	bsimmonds1@btinternet.com
Telephone number	0788 6378437

Vehicle Details

Licence number	185
Registration number	LL60RPV
Vehicle make & model	FORD MONDEO


Livery Provider

Company	SURREY VINYL WRAPS
Total Cost	£1400.

Bank Details for Refund

Name of Bank	METRO BANK GUILDFORD.
Name of account holder	BENN MICHAEL SIMMONDS
Account sort code	23-05-80
Account number	17485229

I hereby apply to Guildford Borough Council for a contribution towards the cost of Hackney Carriage Livery. I understand that the Council will contribute up to 25% of the total cost of fitting the livery to the vehicle, up to a maximum value of £315. I understand that the Council will not cover any unforeseen costs, such as travel to/from the livery provider, lost earnings whilst the vehicle is having livery applied or any damage incurred to the vehicle by the livery. I understand that the Council is not responsible for addressing complaints about the quality or standard of the livery or provider, and that I must discuss any complaint with the livery provider.

Signed	
Date	25/2/16
Print name	BENN SIMMONDS

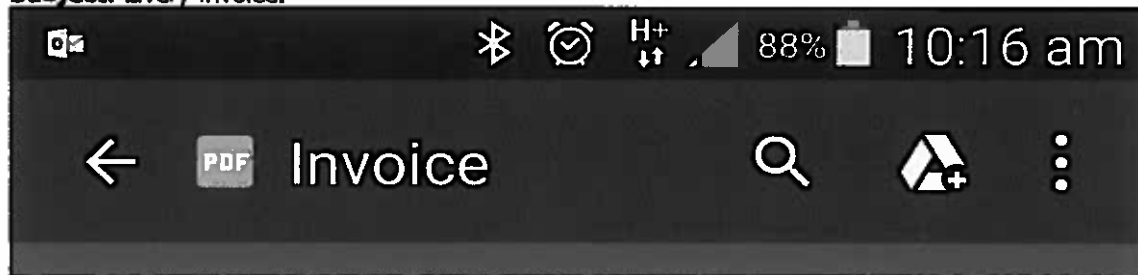
For Official Use Only		
Application Received	Date	Officer
Receipt Checked & Copy Taken	Date	Officer
Livery Specification Checked	Date	Officer
Approved for Contribution	Date	Officer
Passed to Finance	Date	Officer
Refund Amount	£	

From: B SIMMONDS1 [mailto:bsimmonds1@btinternet.com]

Sent: 25 February 2016 10:17

To: Gemma Savage

Subject: Livery Invoice.



Invoice

Invoice No: 922
Date: 24 February 2016
Terms: NET 0
Due Date: 24 February 2016

Chessington Business Centre
Co- Lane
Chessington, Surrey KT9 1SD

07766 203 203
info@surreyvinylwraps.co.uk
www.surreyvinylwraps.co.uk

Bill To: Ben Simmonds

Description	Amount
Full vinyl wrap in Avery supreme 321c Pantone with livery for guildford borough taxi	£1,400.00*

* Excludes non-taxable item

Subtotal	£1,400.00
VAT (0.00%)	£0.00
Total	£1,400.00
Paid	£1,400.00
Balance Due	£0.00

PAID