

At: Aelodau'r Pwyllgor Trwyddedu

Dyddiad: 5 Mehefin 2014

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Annwyl Gynghorydd

Fe'ch gwahoddir i fynychu cyfarfod y **PWYLLGOR TRWYDDEDU, DYDD MERCHER, 11 MEHEFIN 2014** am **9.30 am** yn **SIAMBR Y CYNGOR, TY RUSSELL, Y RHYL**.

SYLWCH: BYDD SESIWN HYFFORDDI ANFFURFIOL AR GYFER YR AELODAU YN SYTH AR ÔL Y CYFARFOD YNGLŶN Â'R ACHOS APÊL DIWEDDAR

Yn gywir iawn

G Williams

Pennaeth Gwasanaethau Cyfreithiol a Democrataidd

AGENDA

RHAN 1 - GWAHODDIR Y WASG A'R CYHOEDD I'R RHAN HON O'R CYFARFOD

1 YMDDIHEURIADAU

2 PENODI CADEIRYDD

Penodi Cadeirydd y Pwyllgor Trwyddedu ar gyfer y flwyddyn i ddod.

3 PENODI IS-GADEIRYDD

Penodi Is-Gadeirydd y Pwyllgor Trwyddedu ar gyfer y flwyddyn i ddod.

4 DATGAN CYSYLLTIAD

Aelodau i ddatgan unrhyw gysylltiad personol neu gysylltiad sy'n rhagfarnu mewn unrhyw fater a nodwyd i'w ystyried yn y cyfarfod hwn.

5 MATERION BRYD FEL Y'U CYTUNWYD GAN Y CADEIRYDD

Rhybudd o eitemau y dylid, ym marn y Cadeirydd, eu hystyried yn y cyfarfod fel materion brys yn unol ag Adran 100B (4) Deddf Llywodraeth Leol, 1972.

6 COFNODION Y CYFARFOD DIWETHAF (Tudalennau 7 - 10)

Derbyn cofnodion y Pwyllgor Trwyddedu a gynhaliwyd ar 5 Mawrth 2014 (copi wedi'i amgáu).

7 CANLLAWIAU CYNLLUNIO ATODOL DRAFFT – SIOPAU PRYDAU PAROD POETH (Tudalennau 11 - 24)

Ystyried adroddiad gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (copi wedi'i amgáu) yn gofyn am farn yr aelodau ar y ddogfen Canllawiau Cynllunio Atodol drafft ar siopau prydau parod poeth cyn yr ymgynghoriad cyhoeddus.

8 POLISI A GWEITHDREFN DIWYGIEDIG PWYNTIAU COSB ARFAETHEDIG (Tudalennau 25 - 44)

Ystyried adroddiad gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (copi wedi'i amgáu) yn cyflwyno Polisi a gweithdrefn Pwyntiau Cosb diwygiedig i'w cymeradwyo.

9 POLISI DEFNYDD BWRIEDIG CERBYDAU HACNI ARFAETHEDIG (Tudalennau 45 - 52)

Ystyried adroddiad gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (copi wedi'i amgáu) yn cyflwyno Polisi Defnydd Bwriedig Cerbydau Hacni i'w gymeradwyo i'r Cyngor Llawn ei fabwysiadu.

10 POLISI PERTHASEDD COLLFARNAU DIWYGIEDIG ARFAETHEDIG AR GYFER GWEITHREDWYR A GYRWYR CERBYDAU HACNI A CHERBYDAU HURIO PREIFAT (Tudalennau 53 - 72)

Ystyried adroddiad gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (copi wedi'i amgáu) yn cyflwyno Polisi Perthnasedd Collfarnau diwygiedig ar gyfer gyrwyr a gweithredwyr cerbydau hacni a cherbydau hurio preifat i'w gymeradwyo.

11 RHAGLEN GWAITH I'R DYFODOL Y PWYLLGOR TRWYDDEDU 2014/15 (Tudalennau 73 - 76)

Ystyried adroddiad gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (copi wedi'i amgáu) yn cyflwyno rhaglen gwaith i'r dyfodol y pwyllgor i'w gymeradwyo a rhoi'r wybodaeth ddiweddaraf i'r aelodau ar faterion perthnasol.

RHAN 2 - EITEMAU CYFRINACHOL

GWAHARDD Y WASG A'R CYHOEDD

Argymhellir, yn unol ag Adran 100A (4) Deddf Llywodraeth Leol 1972, y dylid gwahardd y Wasg a'r Cyhoedd o'r cyfarfod yn ystod trafod y materion canlynol oherwydd y tebygolrwydd y caiff gwybodaeth eithriedig, fel y diffinnir ym Mharagraff 12 ac 14 Rhan 4 o Atodlen 12A y Ddeddf, ei datgelu.

12 CAIS AM DRWYDDED I YRRU CERBYD HACNI A CHERBYDAU HURIO PREIFAT - YMGEISYDD RHIF 051260 (Tudalennau 77 - 86)

Ystyried adroddiad cyfrinachol Pennaeth Cynllunio a Diogelu'r Cyhoedd (copi wedi'i amgáu) yn gofyn i aelodau benderfynu ar gais am drwydded i yrru cerbyd hacni a cherbydau hurio preifat gan Ymgeisydd Rhif 051260.

13 CAIS AM DRWYDDED I YRRU CERBYD HACNI A CHERBYDAU HURIO PREIFAT - YMGEISYDD RHIF 051261 (Tudalennau 87 - 96)

Ystyried adroddiad cyfrinachol Pennaeth Cynllunio a Diogelu'r Cyhoedd (copi ynghlwm) yn gofyn i aelodau benderfynu ar gais am drwydded i yrru cerbyd hacni a cherbydau hurio preifat gan Ymgeisydd Rhif 051261.

AELODAETH

Y Cynghorwyr

Joan Butterfield
William Cowie
Richard Davies
Stuart Davies
Hugh Irving
Pat Jones

Barry Mellor
Win Mullen-James
Peter Owen
Arwel Roberts
Cefyn Williams

COPIAU I'R:

Holl Gynghorwyr er gwybodaeth
Y Wasg a'r Llyfrgelloedd
Cynghorau Tref a Chymuned

Mae tudalen hwn yn fwriadol wag

**PWYLLGOR TRWYDDEDU
GWEITHDREFN ER MWYN PENDERFYNU AR GEISIADAU AM
DRWYDDEDAU GYRWYR CERBYDAU HACNI A CHERBYDAU HURIO
PREIFAT AC ADOLYGU GYRWYR TRWYDDEDIG PRESENNOL**

CAM	DISGRIFIAD
1.	Dylai'r Cadeirydd groesawu a chyflwyno'r ymgeisydd/deilydd y drwydded i bawb sy'n bresennol.
2.	Dylai'r Cyfreithiwr ofyn i'r ymgeisydd/deilydd y drwydded i gadarnhau ei fod/bod wedi derbyn yr adroddiad a gweithdrefnau'r Pwyllgor. Os yw'r ymgeisydd yn ateb yn gadarnhaol, dylid symud ymlaen at gam 4.
3.	Pe digwydd i'r ymgeisydd/deilydd y drwydded ddweud nad yw wedi derbyn yr adroddiad, yna dylid cyfarch y mater yn awr. Gallai'r Aelodau fod eisiau ystyried gohirio'r mater, am gyfnod byr, er mwyn i'r ymgeisydd/deilydd y drwydded gael cyfle i ddarllen yr adroddiad.
4.	Dylai Pennaeth Cynllunio a Diogelu'r Cyhoedd (neu gynrychiolydd ar ei ran) gyflwyno'r cais/adolygiad yn fras
5.	Gofynnir i'r ymgeisydd/deilydd y drwydded gyflwyno ei achos/hachos Gall yr ymgeisydd/deilydd y drwydded alw unrhyw dyst y mae'n eu dewis i gefnogi ei gais/chais, a dylid rhoi rhybudd ymlaen llaw i'r Swyddogion Trwyddedu ynglŷn â hynny.
6.	Gall Aelodau'r Pwyllgor holi'r ymgeisydd/deilydd y drwydded ac /neu ei dystion ei thystion.
7.	Gwahoddir swyddogion technegol i gyflwyno unrhyw ganfyddiadau (Gorfodaeth Trwyddedu/Cymunedol, Tîm Cyswllt Cyntaf (y Gwasanaethau Cymdeithasol), Cludiant Ysgolion.)
8.	Gall Aelodau'r Pwyllgor ac yna'r ymgeisydd/deilydd y drwydded ofyn cwestiynau i'r swyddogion technegol
9.	Gwahoddir yr ymgeisydd/deilydd y drwydded i gyflwyno sylwadau i gloi, os ydynt yn dymuno gwneud hynny.
10.	Gofynnir i'r canlynol adael y cyfarfod tra trafodir y cais/yr adolygiad gan yr Aelodau - yr ymgeisydd/deilydd y drwydded, pob trydydd parti, Pennaeth Cynllunio a Diogelu'r Cyhoedd, swyddogion technegol. DS yr unig rai a ddylai fod yn weddill yw – Aelodau'r Pwyllgor, cyfieithydd, cynghorydd cyfreithiol y pwyllgor a'r sawl sy'n cymryd y cofnodion.

11.	Dylai aelodau'r pwyllgor roi ystyriaeth i'r cais/adolygiad gan roi cyfrif am y dystiolaeth a glywyd.
12.	Pe bai'n angenrheidiol i Aelodau'r Pwyllgor alw unrhyw barti yn eu holau i'w holi neu i ofyn iddynt ddarparu rhagor o wybodaeth neu egluro rhywbeth, gwahoddir pawb a fydd wedi ymneilltuo o'r cyfarfod yn eu holau. Wedi i'r cwestiwn (cwestiynau) gael eu hateb gofynnir i bob trydydd parti ymneilltuo unwaith eto er mwyn i'r Aelodau gael ystyried y dystiolaeth i gyd.
13.	Pan fo'r Aelodau wedi dod i benderfyniad, gelwir yr holl bartïon yn eu holau a chaiff yr ymgeisydd/deilydd y drwydded wybod beth yw penderfyniad yr Aelodau gan y Cadeirydd.
14.	Bydd y Cadeirydd yn rhoi gwybod i'r ymgeisydd/deilydd y drwydded o'r penderfyniad y daethpwyd iddo. Bydd hyn yn cynnwys unrhyw amodau neu gosbau sydd wedi eu gosod. Os oes angen, dylai Cyfreithiwr y Cyngor gyflwyno eglurhad pellach ynglŷn â'r penderfyniad a'i oblygiadau i'r ymgeisydd/deilydd y drwydded.
15.	Os mai'r penderfyniad yw gwrthod neu os oes penderfyniad i atal neu ddirymu, dylai Cyfreithiwr y Cyngor roi gwybod i'r ymgeisydd/deilydd y drwydded am yr hawl i apelio i Lys Ynadon (bydd y llythyr penderfyniad hefyd yn cynnwys y manylion hyn).
16.	Ar gyfer gyrrwr sydd eisoes wedi ei drwyddedu (a bod y drwydded wedi ei rhoi gan Sir Ddinbych), a bod penderfyniad y Pwyllgor yn ymwneud ag atal neu ddirymu'r drwydded bresennol, gall yr Aelodau wneud hynny naill ai o dan: 1. Adran 61 (2A) Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976. 2. Adran 61 (2B) Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976. Daw'r penderfyniad hwn i rym YN SYTH ac ni ellir ei ddefnyddio ond pan fo'r sail dros atal/dirymu yn fater sy'n ymwneud â diogelwch y cyhoedd. Bydd y Cyfreithiwr yn esbonio goblygiadau'r penderfyniad wrth ddeilydd y drwydded.
17.	Caiff yr ymgeisydd/deilydd y drwydded ei hysbysu o'r penderfyniad yn ysgrifenedig cyn gynted ag y bo'r ymarferol bosibl.
18.	Caiff yr ymgeisydd/deilydd y drwydded ei wahodd/gwahodd i drafod unrhyw fater y mae'n ansicr yn ei gylch gyda Swyddogion Trwyddedu yn dilyn y Pwyllgor.

PWYLLGOR TRWYDDEDU

Cofnodion cyfarfod o'r Pwyllgor Trwyddedu a gynhaliwyd yn Siambr y Cyngor, Neuadd y Sir, Rhuthun, Dydd Mercher, 5 Mawrth 2014 am 9.30 am.

YN BRESENNOL

Y Cyngorwyr Joan Butterfield, William Cowie, Richard Davies, Stuart Davies, Pat Jones, Barry Mellor, Peter Owen, Arwel Roberts a Cefyn Williams (Cadeirydd)

HEFYD YN BRESENNOL

Prif Gyfreithiwr (AL), Swyddog Trwyddedu (NJ & JT) a Gweinyddwr Pwyllgor (KEJ)

1 YMDDIHEURIADAU

Y Cyngorwyr Hugh Irving a Win Mullen-James.

2 DATGAN CYSYLLTIAD

Ni ddatganwyd unrhyw gysylltiad personol na chysylltiad sy'n rhagfarnu.

3 MATERION BRYG FEL Y'U CYTUNWYD GAN Y CADEIRYDD

Dim.

4 COFNODION Y CYFARFOD DIWETHAF

Cyflwynwyd cofnodion y Pwyllgor Trwyddedu a gynhaliwyd ar 4 Rhagfyr 2013 a'r Pwyllgor Trwyddedu Arbennig a gynhaliwyd ar 20 Rhagfyr 2013.

Materion yn Codi - 20 Rhagfyr 2013

Tudalen 16 - Eitem rhif 4 Adolygu Trwydded (Gyrrwr Rhif 046,577) - Mewn ymateb i gwestiwn gan y Cadeirydd cadarnhaodd y swyddogion bod llythyr o ymddiheuriad wedi cael ei anfon at y teithiwr dan sylw a bod copi wedi'i gyflwyno i'r Adran Drwyddedu.

PENDERFYNWYD derbyn a chymeradwyo cofnodion y cyfarfodydd a gynhaliwyd ar 4 Rhagfyr 2013 a 20 Rhagfyr 2013 fel cofnod cywir.

Gwahardd y wasg a'r cyhoedd

PENDERFYNWYD dan ddarpariaethau Adran 100A Deddf Llywodraeth Leol 1972, gwahardd y Wasg a'r Cyhoedd o'r cyfarfod ar gyfer yr eitemau canlynol ar y sail y byddai gwybodaeth eithriedig yn debygol o gael ei datgelu fel y'i diffinnir ym Mharagraffau 12 ac 14 Rhan 4 Atodlen 12A y Ddeddf.

5 CAIS AM DRWYDDED I YRRU CERBYD HACNI A CHERBYDAU HURIO PREIFAT - YMGEISYDD RHIF 043844

[Dygwyd yr eitem hon yn ei blaen o fewn trefn y rhaglen gyda chydsyniad y Cadeirydd]

Cyflwynwyd adroddiad cyfrinachol gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (a gylchredwyd eisoes) ar –

- (i) cais a dderbyniwyd gan Ymgeisydd Rhif 043,844 am drwydded i yrru cerbyd hacni a cherbydau hurio preifat yn dilyn adfer ei Drwydded DVLA;
- (ii) roedd y Pwyllgor Trwyddedu a gynhaliwyd ar 27 Mehefin 2013 wedi dirymu trwydded yr Ymgeisydd i yrru cerbydau hacni a cherbydau hurio preifat ar ôl iddo gael ei wahardd rhag gyrru am chwe mis o dan y drefn cyfansymio;
- (iii) roedd yr Ymgeisydd hefyd cael ei ddwyn gerbron y Pwyllgor Trwyddedu i adolygu ei drwydded ym mis Rhagfyr 2012 ac Ionawr 2013;
- (iv) polisi presennol y Cyngor mewn perthynas â pherthnasedd collfarnau, a
- (v) gofynnwyd i'r Ymgeisydd fod yn bresennol mewn cyfarfod i gefnogi ei gais ac ymateb i gwestiynau aelodau ar hynny.

Roedd yr Ymgeisydd yn bresennol ac yn dilyn cyflwyniadau cadarnhaodd ei fod wedi derbyn yr adroddiad a gweithdrefnau'r pwyllgor. Crynhodd y Swyddog Trwyddedu (JT) yr adroddiad ac eglurodd bod y mater wedi cael ei ddwyn gerbron y pwyllgor i asesu addasrwydd yr Ymgeisydd i ddal trwydded o gofio ei hanes fel gyrrwr trwyddedig.

Eglurodd yr Ymgeisydd yr amgylchiadau a arweiniodd at ei waharddiad, gan gynnwys ei drosedd foduro olaf ym mis Hydref 2012, ac roedd yn awyddus i dawelu meddwl y pwyllgor nad oedd yn goryrru'n rheolaidd. Ychwanegodd ei fod wedi dysgu gwers galed ac wedi dioddef caledi o ganlyniad i'r gwaharddiad. Roedd yr Ymgeisydd wedi parhau i weithio i'r un cwmni mewn rôl wahanol yn ystod ei gyfnod o waharddiad a dywedodd fod ei gyflogwr a chwsmeriaid yn awyddus iddo ddychwelyd i weithio fel gyrrwr tacsî. Yn olaf, hysbysodd yr Ymgeisydd yr aelodau ei fod wedi mwynhau bod yn yrrwr tacsî ac yn dymuno parhau â'r proffesiwn.

Mewn ymateb i gwestiynau'r aelodau eglurodd yr Ymgeisydd yr amgylchiadau o gwmpas ei gollfarn goryrru a chyfeiriodd at y defnydd priodol o gyflymder yn yr Adroddiad Asesiad Gyrruwr a gynhyrchwyd ym mis Ionawr 2013 yn dilyn cwblhau'r Cwrs Ymwybyddiaeth Gyrru. Cadarnhaodd hefyd nad oedd ganddo unrhyw gollfarnau moduro arfaethedig.

Yn ei ddatganiad terfynol, cyflwynodd yr Ymgeisydd eirida gan ei gyflogwr yn cadarnhau at ei gymeriad da a gafodd ei ddarllen allan gan y Cadeirydd. Ychwanegodd ei fod wedi bod yn gyrru am bedair blynedd ar hugain ac nad oedd erioed wedi bod mewn damwain, gan bwysleisio ei fod yn yrrwr diogel.

Ar y pwynt hwn torrodd y pwyllgor i ystyried yr achos a -

PHENDERFYNWYD bod y cais am drwydded i yrru cerbyd hacni a cherbydau hurio preifat gan ymgeisydd rhif 041213 yn cael ei roi.

Dyma oedd y rhesymau am benderfyniad y Pwyllgor Trwyddedu –

Ystyriodd yr Aelodau yr adroddiad yn ofalus a chyflwyniad yr Ymgeisydd o blaid ei gais, gan gynnwys ei eirida. Wrth benderfynu ar addasrwydd yr Ymgeisydd, roedd y pwyllgor yn derbyn eglurhad yr Ymgeisydd ynglŷn â'i gollfarnau gyrru ac o'r farn ei fod wedi talu'r pris yn y cyswllt hwnnw. Roedd ei eirida hefyd wedi cyfrannu llawer tuag at gefnogi ei gefnogi; roedd ei gyflogwyr wedi dangos cred ynddo a'i werthfawrogi fel cyflogai ac wedi parhau i'w gyflogi mewn rôl weinyddol drwy gydol ei waharddiad gyrru. Nodwyd hefyd y byddai caniatáu'r cais yn cydymffurfio â pholisi'r Cyngor mewn perthynas â pherthnasedd collfarnau. O ganlyniad, mynegodd aelodau hyder yng ngallu'r Ymgeisydd i gludo aelodau o'r cyhoedd yn ddiogel a phenderfynwyd caniatáu'r cais. Fodd bynnag, cafodd yr Ymgeisydd ei rybuddio y byddai unrhyw gamwedd yn y dyfodol yn cael ei drin yn ddifrifol.

Felly cafodd penderfyniad y pwyllgor a'r rhesymau eu cyfleu i'r Ymgeisydd.

SESIWN AGORED

Ar ôl cwblhau trafod y materion uchod, parhaodd y cyfarfod mewn sesiwn agored.

6 CAIS I ADNEWYDDU TRWYDDED SEFYDLIAD RHYW

Cyflwynodd y Swyddog Trwyddedu (JT) adroddiad gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (a ddosbarthwyd yn flaenorol) yn gofyn am benderfyniad yr aelodau am gais i adnewyddu trwydded sefydliad rhyw a dderbyniwyd oddi wrth Adult World mewn perthynas ag eiddo a leolir yn 43 - 47 Queen Street, Y Rhyl.

Cyfeiriodd y Swyddog Trwyddedu at y telerau talu ar gyfer y ffi adnewyddu ac er mwyn eglurder gwnaethpwyd newid i eiriad yr argymhelliad. Mewn ymateb i gwestiynau cadarnhaodd y Swyddog Trwyddedu y ffioedd ar gyfer ceisiadau am drwyddedau newydd ac i adnewyddu trwyddedau a dywedodd byddai'r ffioedd hynny yn cael eu hadolygu cyn bo hir.

PENDERFYNWYD caniatáu'r cais i adnewyddu Trwydded Sefydliad Rhyw mewn perthynas ag eiddo yn 43 - 47 Queen Street, Y Rhyl gyda'r opsiwn o dalu'r ffi adnewyddu o £2,600 mewn deg rhandaliad misol.

7 RHAGLEN GWAITH I'R DYFODOL Y PWYLLGOR TRWYDDEDU 2014/15

Cyflwynwyd adroddiad gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (a gylchredwyd eisoes) yn rhoi'r newyddion diweddaraf i'r aelodau ar faterion perthnasol a chyflwyno rhaglen gwaith i'r dyfodol y Pwyllgor Trwyddedu i'w chymeradwyo. Roedd y rhaglen waith yn cynnwys adolygiadau o bolisiâu trwyddedu ynghyd â chynigion i fabwysiadu polisiâu rhanbarthol newydd.

Ymhelaethodd y Swyddog Trwyddedu (NJ) ar feysydd penodol o'r adroddiad a nododd yr aelodau yr ymgynghoriad sydd ar y gweill ar ddau bolisi a ddrafftwyd gan Banel Technegol Trwyddedu Cymru Gyfan. Teimlai'r Cynghorydd Stuart Davies y dylid ymgynghori gydag aelodau yn y lle cyntaf cyn deiliaid trwyddedau a phartion eraill sydd â diddordeb.

PENDERFYNWYD bod yr adroddiad yn cael ei nodi a bod Rhaglen Waith i'r Dyfodol y Pwyllgor Trwyddedu ar gyfer 2014/15 fel y'i nodwyd yn Atodiad 1 i'r adroddiad yn cael ei chymeradwyo.

Daeth y cyfarfod i ben am 10.15 a.m.

Adroddiad i'r: Pwyllgor Trwyddedu

Dyddiad y Cyfarfod: 11 Mehefin 2014

Aelod / Swyddog Arweiniol: Cyng. David Smith, Parth Cyhoeddus
Angela Loftus, Rheolwr Polisi Cynllunio a Gwarchod y
Cyhoedd

Awdur yr Adroddiad: Claire MacFarlane, Swyddog Cynllunio

Teitl: Canllaw Cynllunio Atodol Drafft – Siopau Tecawê Poeth

1. Am beth mae'r adroddiad yn sôn?

1.1 Mae'r adroddiad hwn yn cyd-fynd â'r ddogfen Canllawiau Cynllunio Atodol (CCA) drafft ar siopau tecawê poeth a fydd, os byddant yn cael eu mabwysiadu, yn cael eu defnyddio wrth benderfynu ar geisiadau cynllunio.

2. Beth yw'r rheswm dros lunio'r adroddiad hwn?

2.1 Darparu gwybodaeth, a gofyn am sylwadau, ynglŷn â chynnwys y CCA drafft cyn ceisio cymeradwyaeth gan y Pwyllgor Cynllunio i gynnal ymgynghoriad cyhoeddus.

2.2 Mae Aelodau o'r Grŵp Llywio Aelodau Cynllun Datblygu Lleol (CDLI) wedi gofyn bod y CCA drafft yn cael ei gyflwyno i'r Pwyllgor Trwyddedu cyn ei gymeradwyo gan y Pwyllgor Cynllunio.

3. Beth yw'r Argymhellion?

3.1 Yr argymhelliad yw bod y Pwyllgor Trwyddedu yn derbyn yr adroddiad hwn a'r CCA drafft er gwybodaeth, ac yn darparu sylwadau i lywio'r drafft terfynol ar gyfer ymgynghoriad.

4. Manylion yr adroddiad.

4.1 Ar ôl mabwysiadu'r CDLI ar 4 Mehefin, 2013, cytunodd y Cyngor i ddwyn ymlaen y gyfres bresennol o CCA, gan gynnwys CCA 11 – Siopau Tecawê Poeth. Fodd bynnag, o ystyried y gwahaniaethau rhwng y Cynllun Datblygu Unedol (CDU) blaenorol a pholisïau'r CDLI, a newid yn y cyd-destun ers i'r CCA presennol gael ei fabwysiadu yn 2003, ystyrir ei bod yn briodol i gynhyrchu CCA wedi'i ddiweddarau ar y pwnc hwn. Os bydd yn cael ei fabwysiadu, bydd y CCA yn ystyriaeth gynllunio berthnasol wrth asesu ceisiadau cynllunio.

4.2 Mae'r CCA yn ategu polisïau Cynllun Datblygu Lleol trwy ddarparu arweiniad pellach (ar gyfer y Cyngor, datblygwyr a'r cyhoedd) ar leoliadau derbynol a

materion gweithredol y mae'n rhaid cael sylw fel rhan o unrhyw gais cynllunio. Bwriedir i gario ymlaen â rhan fwyaf o'r gofynion a gynhwysir yn y CCA presennol. Y prif newid yn y canllawiau yw'r bwriad i gyflwyno cyfyngiad ar siopau tecawê poeth newydd o fewn 400m i unrhyw ffin ysgol.

4.3 Bydd y CCA drafft yn cael ei gyflwyno i'r Pwyllgor Cynllunio ar 30 Gorffennaf am gymeradwyaeth i ymgynghori. Byddai'r cyfnod ymgynghori cyhoeddus yn para o leiaf 8 wythnos a disgwylir iddo ddechrau ym mis Medi 2014. Bydd canlyniadau'r ymgynghoriad yn cael eu hadrodd yn ôl i'r Pwyllgor Cynllunio gyda CCA terfynol i'w mabwysiadu.

5. Sut mae'r penderfyniad yn cyfrannu at y Blaenoriaethau Corfforaethol?

5.1 *Blaenoriaethau corfforaethol 2012-17.* Ar ôl ei fabwysiadu, bydd y CCA yn cyfrannu at flaenoriaeth ganlynol y Cyngor:

- Datblygu'r economi leol - drwy ddarparu cyfarwyddyd ar gyfer busnesau sy'n ceisio datblygu siopau tecawê yn Sir Ddinbych.

6. Faint fydd yn ei gostio a sut bydd yn effeithio ar wasanaethau eraill?

6.1 Ni ragwelir bydd derbyn yr adroddiad hwn er gwybodaeth, a mabwysiadu dilynol y CCA yn creu unrhyw gost ychwanegol.

7. Beth yw prif gasgliadau'r Asesiad Effaith ar Gydraddoldeb a gynhaliwyd am y penderfyniad? Dylid cynnwys yr Asesiad o Effaith ar Gydraddoldeb a gwblhawyd fel atodiad i'r adroddiad.

7.1 Ni chredir bod angen AEC ar gyfer yr adroddiad gwybodaeth hwn. Mae'r canllawiau a gynhwysir yn y CCA drafft yn ategu'r polisiau yn y Cynllun Datblygu Lleol, y gwnaethpwyd AEC llawn ar ei gyfer ym mis Mai 2011.

8. Pa ymgynghoriadau a gynhaliwyd gydag Archwilio ac eraill?

8.1 Bydd ymgynghoriad cyhoeddus ffurfiol yn cael ei gynnal yn dilyn cymeradwyaeth gan y Pwyllgor Cynllunio. Ymgynghorwyd yn anffurfiol ar y CCA drafft gyda swyddogion yn y Gwasanaeth Tai a Datblygu Cymunedol, Gwasanaeth Cynllunio a Gwarchod y Cyhoedd, y Gwasanaeth Addysg, Gwasanaethau Prifffyrdd ac Amgylcheddol ac Iechyd Cyhoeddus Cymru.

8.2 Mae mewnbwn ar gynnwys y CCA hefyd wedi cael ei ddarparu trwy gyfrwng sesiwn gweithdy a gynhaliwyd gyda Grŵp Llywio Aelodau'r CDLI.

9. Datganiad y Prif Swyddog Cyllid

9.1 Dylai unrhyw gostau sy'n gysylltiedig â'r canllawiau hyn gael eu cynnwys o fewn y cyllidebau presennol.

10. Pa risgiau sy'n bodoli ac a oes unrhyw beth y gallwn ei wneud i'w lleihau?

10.1 Heb CCA wedi'i ddiweddarau, ni fydd y Cyngor yn gallu gweithredu'r gofynion y mae'n eu hystyried yn angenrheidiol wrth benderfynu ar geisiadau cynllunio ar gyfer siopau tecawê poeth. Mae'r CCA presennol yn ategu polisiau yn y Cynllun Datblygu Unedol, a ddisodlwyd gan y CDLI ym Mehefin 2013, ac mae felly wedi dyddio.

11. Pŵer i wneud y Penderfyniad

11.1 Deddf Cynllunio a Phrynu Gorfodol (2004).

Mae tudalen hwn yn fwriadol wag

DENBIGHSHIRE COUNTY COUNCIL

SUPPLEMENTARY PLANNING GUIDANCE: HOT FOOD TAKEAWAYS

MAY 2014

1. INTRODUCTION

- 1.1 This note is one of a series of Supplementary Planning Guidance notes (SPGs), amplifying the development plan policies and other issues in a clear and concise format with the aim of improving the design and quality of new development. The notes are intended to offer broad guidance which will assist members of the public and officers in discussions prior to the submission of planning applications and assist officers in handling and members in determining planning applications.

2. STATUS AND STAGES IN PREPARATION

- 2.1 The Council's SPGs are not part of the adopted development plan. The Welsh Government has confirmed that following public consultation and subsequent Local Planning Authority (LPA) approval, SPG can be treated as a material planning consideration when LPAs, Planning Inspectors and the Welsh Government determine planning applications and appeals. This SPG document was formally approved for consultation by Denbighshire County Council's Planning Committee on XXXX.
- 2.2 These notes have been prepared in accordance with guidance contained in Planning Policy Wales (November 2012); Local Development Plans Wales (December 2005); and Welsh Government Technical Advice Notes.

3. BACKGROUND

- 3.1 This SPG is intended to assist with proposals for hot food takeaways. In dealing with these the Council seeks to balance the need to find beneficial use for vacant shops, the commercial interests and requirements of such proposals with the need to safeguard the viability and character of the commercial area or ensuring acceptable amenity standards to residents of nearby properties.
- 3.2 The Town and Country Planning (Use Classes) Order 1987 subdivides different types of use into separate Classes of Use. Hot food takeaways (along with restaurants, public houses, cafes and wine bars) fall within Class A3. Hot food takeaways are defined as establishments whose primary business is the sale of hot food for consumption off the premises. In determining the primary use of the premises, consideration will be given to:

- The proportion of space designated for food preparation and other servicing in relation to designated customer circulation space
- The number of tables or chairs to be provided for customer use.

3.3 The table below provides examples of the shop types that would normally be considered as hot food takeaways. However, this list is not exhaustive.

Examples of hot food takeaway shop types	Examples of shop types not considered as hot food takeaways
Chicken shops	Restaurants
Fish and chip shops	Cafes
Pizza shops	Public houses
Kebab shops	Wine bars
Chinese, Indian or other takeaway shops	Night clubs
Drive-through premises	

4. PLANNING POLICY

- 4.1 Potential applicants should refer to refer to policies RD 1 and PSE 8 of the Council’s Local Development Plan (LDP) which outlines the general policies and criteria under which such proposals are determined. The broad aims of these policies, in respect of hot-food takeaways, are:
- To enhance the vitality and viability of town centres
 - To prevent an unacceptable imbalance of retail and non-retail uses
 - To locate hot-food takeaways where they maintain the viability and character of the surrounding area.

5. GENERAL LOCATION

- 5.1 In assessing the suitability of the location of proposals, the following guidance will apply:
- Generally such proposals are acceptable in defined town centres subject to their satisfying the criteria in LDP policy PSE 8.
 - Hot food takeaways may also be considered acceptable outside of defined town centres (and within development boundaries). However the Council will ensure that the number and concentration of such units does not detract from the function, character and attractiveness of the centre.
 - Particular care needs to be exercised in locating such uses in or near primarily residential areas, including residential accommodation above or adjacent to the proposal.

- 5.2 **Proposals for new hot food takeaways will not be allowed within 400 metres of the boundary of a school or tertiary college.** The close proximity of such outlets to schools can tempt children to consume cheap energy-dense and nutrient-poor foods. The Welsh Health Survey (2012) found that 34% of children in Wales are overweight or obese, which has significant implications for long-term health and associated costs to health services.
- 5.3 The Healthy Eating in Schools (Wales) Measure 2009 places a duty on Local Authorities and school's governing bodies to take action to promote healthy eating by pupils. This is supported by the 'Appetite for Life' guidelines on food and nutrition standards in schools, which can be undermined by the provision of hot food takeaway outlets close to schools. NICE public health guidance 'Prevention of cardiovascular disease' (2010) and the 'All Wales Obesity Pathway' (2010) also recommend that Local Authorities should limit the number of fast food outlets in specific areas, such as close to schools.

6. OTHER CONSIDERATIONS

- 6.1 Having established the general suitability of the location in policy terms the other main issues in relation to hot food takeaways can be summarised as follows:

- Noise and disturbance;
- Concentration / clusters of similar uses;
- Hours of opening;
- Traffic, Parking and Access;
- Smells, and;
- Litter.

The majority of these concerns can be mitigated by condition and careful thought to the location and operation of the takeaway use.

6.2 Noise and Disturbance

- Takeaways generate frequent comings and goings of customers, whether by foot or by car.
- Such activity may generate noise that becomes a nuisance from customers congregating on the street, car doors slamming and car radios where the proposed use is located in a primarily residential area, although problems may arise where the use is located in a town centre with flats above.
- For the above reasons, planning permission is generally not granted in primarily residential areas.
- Adequate noise insulation measures will need to be undertaken to the walls and ceiling of the property, before the use commences.

6.3 Concentration / Clusters of Similar Uses

- Generally across the County these uses are dispersed. However, there are pockets where there is concentration of such uses, including premises (pubs/clubs/restaurants) which have a distinctive character and late night opening. Different considerations may apply here in respect of additional uses and opening hours.
- Concentrations or clusters of such uses should be avoided as they often have an adverse impact on the character of an area.

6.4 Hours of Opening

- Whereas most businesses usually operate from approximately 9.00 a.m. to 5.30 p.m., hot food takeaways tend not to open until lunch time and owners may request that the premises be permitted to remain trading until the early hours of the following morning.
- It is often necessary to use planning conditions to limit the opening hours to minimise disturbance to the surrounding community. However, one set of time limits would not be appropriate throughout the County because areas vary so much. An application must be determined on its own merits. It may be acceptable for proposed hot food takeaways in areas where late night opening occurs to remain trading until midnight or beyond. Other town centres/locations should be more controlled, whereas proposals which have residential properties in the vicinity should not remain trading until late evening in the interests of the amenity of local residents.

6.5 Traffic, Parking & Access

- Hot food takeaways located in the larger town centres will probably attract a large number of customers by foot. However, those on main routes out of towns and in local shopping parades or village centres will attract a large proportion of car-borne customers requiring short stay parking very close to the property. Properties outside town centres should, therefore, have a readily accessible vehicular parking area in close proximity to the site (e.g. lay-by to the front). A rear service yard or a public car park some distance away is unlikely to be used and properties on double yellow lines outside town centres are normally unsuitable.
- Adequate visibility for cars entering and leaving the premises will be required and proposals at or near junctions especially traffic - controlled junctions are unlikely to be supported, especially if there are no off-street parking or servicing arrangements.

6.6 Smells

- Cooking smells from takeaways can cause amenity problems for nearby residents
- Problems relating to smells should be mitigated by the installation of suitably designed extraction facilities.

- The actual design will vary from premises to premises, but all should be located to the rear of the property, with a colour and design such that the unit does not appear as an incongruous feature in the street scene. It is normally considered that modern equipment, combined with high level ventilation is adequate to reduce smell nuisance to tolerable levels except in the most sensitive of location.
- A condition requiring that a scheme for the extraction of cooking odours be approved by the local planning authority, and that the equipment be installed prior to the use commencing, will be attached to planning approval. The use of charcoal filters will not be acceptable.
- Where practicable and especially in conservation areas or on listed buildings, a flue liner inside an existing chimney should be used.

6.7 Litter

- However careful the owner/operator, hot food takeaways have a tendency to generate litter. Whilst this is essentially outside his/her control the proprietor should make every effort to keep the area around the premises litter-free. A legal agreement to that effect is one solution, perhaps offered by the developer, for example some larger national chains.
- Where appropriate, a condition to require the operator to provide (at his/her expense) containers for the deposit of litter, in accordance with details to be submitted to the Local Authority, will be attached to planning approval.

7. PLANNING PERMISSION

- 7.1 Hot food takeaways (along with restaurants, public houses, cafes and wine bars) fall within Class A3 which allow the use of a property for the sale of food or drink for consumption off the premises. Hence, it would be possible to change a property currently selling one type of hot food, e.g. fish and chips, to one selling a different type of hot food, e.g. Chinese take-away, without requiring planning permission. However, if it is intended to use a property as a hot food take-away which is currently not used for that purpose then a change of use planning application will be required. Operators of bakery shops and sandwich shops which sell a small proportion of hot food would not normally be required to apply for planning permission as a hot food take-away, depending on the scale of the operation.

8. OTHER LEGISLATION

- 8.1 Proposals will also require any approvals under other legislation e.g. Environmental Protection, and Building Regulations. Applicants must ensure compliance with these requirements.

9. CONTACTS

Planning & Public Protection Policy Team

Tel: 01824 706916

Email: ldp@denbighshire.gov.uk

Development Management Team

Tel: 01824 706727

Email: planning@denbighshire.gov.uk

Draft Supplementary Planning Guidance -
Hot-food takeaways
11th June 2014

Equality Impact Assessment

Draft Supplementary Planning Guidance - Hot-food takeaways

Contact: Angela Loftus, Planning & Public Protection Service
Updated: 11/06/14

1. What type of proposal / decision is being assessed?

A new or revised policy

2. What is the purpose of this proposal / decision, and what change (to staff or the community) will occur as a result of its implementation?

The purpose of this report is to provide information, and seek comments, on a revised draft Supplementary Planning Guidance for hot-food takeaways. Approval will subsequently be sought from Planning Committee to carry out a public consultation, after which the adopted revised SPG will replace the existing SPG on hot-food takeaways.

3. Does this proposal / decision require an equality impact assessment? If no, please explain why.

*Please note: if the proposal will have an impact on people (staff or the community) then an equality impact assessment **must** be undertaken*

No	The report is an information report on proposed updated planning guidance relating to the development of new hot-food takeaways. The content of the SPG does not set policy but merely provides additional explanation and information for Members, Officers and developers in applying the LDP policies. The LDP underwent a full EqIA in 2010.
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4. Please provide a summary of the steps taken, and the information used, to carry out this assessment, including any engagement undertaken

(Please refer to section 1 in the toolkit for guidance)

The Denbighshire Local Development Plan (LDP) is the overarching policy document under which all SPG sit and this underwent an EqIA in 2010.
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5. Will this proposal / decision have a positive impact on any of the protected characteristics (age; disability; gender-reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation)?
(Please refer to section 1 in the toolkit for a description of the protected characteristics)

No

6. Will this proposal / decision have a disproportionate negative impact on any of the protected characteristics (age; disability; gender-reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation)?

No

7. Has the proposal / decision been amended to eliminate or reduce any potential disproportionate negative impact? If no, please explain why.

No	Not required
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8. Have you identified any further actions to address and / or monitor any potential negative impact(s)?

No	Not required
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Action(s)	Owner	By when?

9. Declaration

Every reasonable effort has been made to eliminate or reduce any potential disproportionate impact on people sharing protected characteristics. The actual impact of the proposal / decision will be reviewed at the appropriate stage.

Review Date:	December 2014
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Name of Lead Officer for Equality Impact Assessment	Date
Angela Loftus	11.06.14

Please note you will be required to publish the outcome of the equality impact assessment if you identify a substantial likely impact.



ADRODDIAD I'R:	Pwyllgor Trwyddedu
DYDDIAD:	11 Mehefin 2014
SWYDDOG ARWEINIOL:	Pennaeth Cynllunio a Gwarchod y Cyhoedd
SWYDDOG CYSWLLT:	Uwch Swyddog Trwyddedu licensing@denbighshire.gov.uk 01824 706451
TESTUN:	Polisi a Gweithdrefn Pwyntiau Cosb diwygiedig

1. PWRPAS YR ADRODDIAD

- 1.2 Cyflwyno fersiwn diwygiedig o'r Polisi a'r Weithdrefn Pwyntiau Cosb, i Aelodau ei ystyried.

2. CRYNODEB GWEITHREDOL

- 2.1 I Aelodau ystyried cymeradwyo'r fersiwn diwygiedig o'r polisi a'r weithdrefn pwyntiau cosb i sicrhau gwelliant pellach yn safonau Perchnogion a Gyrwyr Cerbydau Hacni, Gyrwyr a Gweithredwyr Cerbydau Hurio Preifat.

3. GWYBODAETH GEFNDIR

- 3.1 Bydd Aelodau'n ymwybodol fod llyfr amodau cerbydau hacni a hurio preifat ("y Llyfr Glas") yn cynnwys cynllun pwyntiau cosb a gymeradwywyd gan Aelodau nifer o flynyddoedd yn ôl. Ni chafodd y cynllun hwn erioed ei weithredu oherwydd bod pryderon ar y pryd ynghylch a oedd cynllun o'r fath yn gyfreithlon, yn arbennig o ran troseddau a allai fod wedi eu hystyried eisoes trwy Lysoedd Ynadon neu trwy bwyntiau cosb sefydlog ar drwyddedau gyrru. Mae'r cynllun Pwyntiau Cosb presennol i'w weld yn Atodiad A.
- 3.2 Roedd cyfraith achosion diweddar, R (cais Singh) v Cyngor Dinas Caerdydd [2012] EWCH 1852 (Gwein) yn ystyried cyfreithlondeb cynlluniau pwyntiau cosb ar gyfer trwyddedau gyrwyr tacsis. Canfu Ustus Singh nad oedd cyflwyno a gorfodi cynllun pwyntiau cosb yn anghyfreithlon mewn egwyddor.
- 3.3 Rydym hefyd wedi cael cyngor cyfreithiol arbenigol y gellir mabwysiadu polisi Pwyntiau Cosb.

- 3.4 Er ei bod yn gyfreithlon mabwysiadu cynllun pwyntiau cosb ni ddylai hynny ddisodli disgresiwn yr awdurdod. Ni ddylai ddirymu trwydded yn awtomatig, gan y byddai hynny'n golygu nad oes lle i arfer disgresiwn na barn. Dylid cael proses apelio briodol.
- 3.5 Bu'n arfer i'r swyddog awdurdodedig sy'n delio â gorfodi cerbydau hacni a hurio preifat ddelio ag achosion o dorri polisi a / neu ddeddfwriaeth trwy ddull gorfodi graddol yn amrywio o gyngor ar lafar i atal/ddirymu'r drwydded.
- 3.6 Prif gyfrifoldeb y cyngor o dan y ddeddfwriaeth drwyddedu yw sicrhau mai dim ond 'pobl addas a phriodol' sy'n dod (ac sy'n parhau i fod) yn yrwyr neu weithredwyr cerbydau hacni neu hurio preifat trwyddedig. Gwneir hyn i sicrhau diogelwch y rhai sy'n defnyddio'r gwasanaethau hyn a'r cyhoedd yn gyffredinol.
- 3.7 Pwrpas y Cynllun Pwyntiau Cosb yw rhestru'r gyrwyr, perchnogion neu weithredwyr cerbydau hynny sy'n ymddwyn dro ar ôl tro mewn ffordd, sydd o'i ystyried yn gyffredinol, yn dangos nad ydynt yn bobl addas a phriodol i ddal trwydded. Mae hefyd yn fodd i swyddogion allu rhestru a chofnodi achosion difrifol yn ogystal ag achosion ar lefel cymharol isel o natur annerbyniol. Bydd y Cynllun yn gweithredu fel cofnod o ymddygiad unigolyn trwyddedig, a bydd yn cynnig canllawiau i'r Cyngor wrth benderfynu a yw unigolyn yn "addas a phriodol" i ddal y drwydded berthnasol.
- 3.8 Nid yw'n fwriad defnyddio'r Cynllun Pwyntiau Cosb ar ei phen ei hun, ond hytrach ar y cyd ag opsiynau gorfodi eraill. Mae'n cynnig dull gorfodi ffurfiol, graddol a thryloyw. Bydd yn gwella lefel cydymffurfio o fewn y fasnach drwyddedu, ac yn helpu i wella safonau a diogelwch gyrwyr trwyddedig. Bydd hefyd er budd gorau'r cyhoedd sy'n teithio, gan ddiogelu eu lles a'u buddiannau.
- 3.9 Bwriad y Cynllun Pwyntiau Cosb yw cyfeirio gyrwyr/gweithredwyr/perchnogion yn ôl gerbron Aelodau'r Pwyllgor Trwyddedu unwaith y mae deilydd trwydded wedi cyrraedd 20 neu fwy o bwyntiau, i roi cyfle i'r deiliaid trwydded gyflwyno sylwadau cyn bod penderfyniad yn cael ei wneud i gymryd unrhyw gamau pellach ai peidio.
- 3.10 Mae'r fersiwn diwygiedig o'r Polisi a'r Weithdrefn Pwyntiau Cosb i'w weld yn Atodiad B.

4. YMGYNGHORI

- 4.1 Yn groes i'r arfer, gofynnodd Swyddogion am gymeradwyaeth gan Bennaeth Cynllunio a Gwarchod y Cyhoedd, i wro oddi wrth ein Proses Polisi presennol, ac ymgynghorwyd â'r partion masnachu a budd trwyddedig cyn ei gyflwyno i Aelodau'r Pwyllgor Trwyddedu. Pwrpas y newid hwn oedd lleihau unrhyw oedi wrth i Aelodau wneud penderfyniad ynglŷn â'r polisi pwysig hwn, a rhag gorfod adrodd yn ôl eto i Aelodau ar ôl i'r cyfnod ymgynghori ddod i ben.
- 4.2 Bydd Aelodau'n ymwybodol eu bod wedi eu cynnwys fel rhan o'r broses ymgynghori, ynghyd â'r holl Aelodau Etholedig, Cyngorau Tref a Chymuned, yr holl ddeiliaid trwyddedau a'r cymdeithasau masnach.
- 4.3 O ganlyniad i'r ymgynghori, nid ydym wedi derbyn unrhyw wrthwynebiadau i'r Polisi Perthnasedd Collfarnau arfaethedig.
- 4.4 Mae'n werth nodi bod un o'r prif weithredwyr Tacsis yn y Sir yn cefnogi'n llawn y Polisi Perthnasedd Collfarnau, a'i fod wedi cael gwahoddiad i'r cyfarfod, ynghyd â'r holl unigolion eraill a wnaeth ymateb i'r ymgynghoriad.

5. ARGYMHELLIAD

- 5.1 Bod Aelodau'n ystyried y fersiwn diwygiedig o'r Polisi a'r Weithdrefn Pwyntiau Cosb sydd i'w weld yn Atodiad B, a thrwy wneud hynny, cytuno ei fod yn disodli'r Cynllun Pwyntiau Cosb presennol sydd i'w weld yn Atodiad A.
- 5.2 Cymeradwyo ymhellach argymhellion y Swyddog fel y manylir yng ngholofn olaf Atodiad C i'r adroddiad hwn.
- 5.3 Gweithredu'r cynllun o 1 Awst 2014, gyda chyfnod o ras o un mis cyn gorfodi'r cynllun.

Mae tudalen hwn yn fwriadol wag

EXISTING PENALTY SYSTEM

- In an attempt to ensure all licensees and vehicles remain suitable to carry members of the public, the Council has adopted a penalty system
- The chart below shows how the system works
- Should licenses be suspended or revoked, the licensee always has the right of appeal. This is achieved by lodging an appeal with a Magistrates Court within 21 days of the written notice of suspension or revocation
- The imposing of penalty points is not negotiable
- Licensees will receive notification in writing of the reason for penalty points and the number of points obtained
- The minimum period of suspension will be 20 days
- This period may increase and is mainly dependant on how points were obtained

EXAMPLE: A driver reaching 20 points made up of relatively minor offences will be suspended for 20 days

For more major offences, a period of 60 days may be warranted

Officers will keep records of this to maintain continuity

LICENCE	OFFENCE	PENALTY	MAX	
DRIVER	Failure to notify convictions and/or driving offences	10	20	*
	Failure to notify change of name and/or address	3	20	
	Failure to notify medical condition	10	20	
	Speeding (in any vehicle)	As endorsed multiplied by 2	20	
LICENCE	OFFENCE	PENALTY	MAX	
	Other endorsed traffic offences	As endorsed	20	*
	Failure to display ID badge	6	20	*
	Overcharging	10	20	
	Overloading	20	20	
	Plying for hire illegally	20	20	
	Non-compliance of dress code	3	20	
	Refusal to carry Assistance Dog	4	20	
OPERATOR/ HC PROP	Failure to keep proper records of bookings	4	20	
	Using an unlicensed vehicle	20	20	
	Employing an unlicensed driver	20	20	
	Failure to keep record of vehicle and drivers	4	20	

	Failure to ensure vehicle attends at appointed time	5	20	
	Failure to notify criminal convictions	10	20	
	Failure to display current fares, if applicable	7	20	
	Failure to notify change of Operating address	6	20	
PRIVATE HIRE VEHICLE AND HACKNEY CARRIAGE LICENSEE	Failure to display official plate(s) door stickers	10	20	
	Failure to comply with advertisement conditions	5	20	
	Failure to report damage to vehicle	4	20	
	Failure to ensure vehicle is clean and tidy	2-6	20	*
	Failure to ensure vehicle meets Construction & Use Regs	2-20	20	*
	Failure to notify adaptation to vehicle	5	20	
	Failure to carry fire extinguisher and/or first aid kit	7	20	
	Failure to notify criminal convictions	10	20	
	Failure to comply with Council's fixed scale of fares	5-10	20	*
ALL LICENSEES	Failure to comply with Authorised officer or Constable, or failure to assist	7	20	

- * Convictions: this is dependent on the relevance of the conviction. Serious offences may warrant an immediate revocation of licence, regardless of penalty points obtained not reaching 20.
- * Driving offence: serious driving offences, such as without due care, failing to stop after an accident, driving whilst under the influence of drink or drugs may warrant an immediate suspension or revocation regardless of penalty points obtained not reaching 20.
- * Failing to display the identification badge: customers, parents and Officers of the Council and Police must be able to see that drivers are properly licensed.
- * Clean, tidy, Construction & Use: this could mean anything from a bulb missing on number plate light to having four illegal tyres. Licensing Officer to determine penalty points.
- * Failure to comply with Council's fares: this could range from not having a meter in the Hackney Carriage to having a meter with an incorrect tariff. Licensing Officer to determine penalty points
 - **Penalty points obtained will be deleted if no further points have been gained within 2 years (date taken from the most recent "offence")**
 - **The Council reserve the right to suspend and revoke licences under the provisions of the relevant legislation regardless of the penalty points obtained not reaching 20**
 - **The maximum of 20 can be made up of all offences**
 - **Points obtained will be kept strictly confidential, held by the Licensing Officer, and will not be divulged to any other person**

PENALTY POINT POLICY AND PROCEDURE

1 INTRODUCTION

- 1.1 The existing hackney carriage and private hire conditions were approved in March 2011. Officers are reviewing the set of conditions and are making incremental changes to the condition book. The existing conditions makes reference to an existing Penalty Point procedure.
- 1.2 This document details a revised Penalty Point procedure used by the Council to deal with minor breaches or infringements of legislation or unacceptable behaviour committed by those licensed as Drivers and Operators and vehicle proprietors, in much the same way that points can be attached to a DVLA driving licence.

2 POLICY STATEMENT

- 2.1 The aim of this policy is to improve the levels of compliance of licensing regulations and requirements and to help raise standards, safety and the protection of members of the public affected by the actions of licensed drivers and operators and vehicle proprietors.
- 2.2 The Council is committed to ensure that only fit and proper persons become, and remain, as hackney carriage and private hire drivers and Operators and vehicle proprietors.
- 2.3 The procedure also seeks to improve the level of transparency and consistency in which the licensing system is administered and enforced.

3. PURPOSE OF THE PROCEDURE

- 3.1 The penalty point procedure is designed to work in conjunction with other enforcement options, identifying those drivers, operators or vehicle proprietors who repeatedly behave in a manner which, if taken as a whole, indicates that they are not fit and proper persons to hold a licence.
- 3.2 The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 (the relevant legislation covering such licences), only allows for the suspension or revocation of a licence, or the prosecution of a licence holder where they commit an offence under the above legislation. Therefore there is no system in place to deal with minor breached or infringements, which in isolation are not serious enough to warrant the suspension or revocation of a licence.

4. WHO IS COVERED BY THE PROCEDURE

- 4.1 Penalty Points may be awarded against anyone holding a hackney carriage and private hire driver licence or a Private Hire Operator Licence

or Vehicle Proprietor.

5. ISSUING OF PENALTY POINTS

- 5.1** Officers will investigate allegations of offences, by licensed operators, drivers or vehicles owners. When considering what action to take the Council officers will take into account all available and appropriate evidence, such as eye witness accounts and their reliability, the views of the licence holder who may be affected by the outcome of the investigation, etc.. The outcome of investigations may result in a wide range of potential actions. This procedure deals with the option of penalty points. For other enforcement action please refer to the relevant procedures.
- 5.2** Once the conclusion to issue penalty points, letters will be sent to all persons/organisations involved in the allegation(s) detailing the findings and decision of the Council officer. A record of the decision will be kept on the relevant licensed driver's, licensed vehicle owner's, or operator's file, including copies of any "Penalty Points Notice(s)" issued, where applicable.
- 5.3** The points will be issued by an Officer or the Committee will be confirmed in writing within 14 days of their issue.
- 5.4** Any points incurred under the Scheme are completely separate from any points which may be attached by the Police, through fixed penalty notices, or the Courts, through convictions to DVLA driving licences.
- 5.5** Confirmed infringements or breaches will act as an ongoing record of a driver's, licensed vehicle owner's or operator's behaviour and conduct, so as to ascertain whether they are a fit and proper person to hold such a licence.
- 5.6** Where a licence holder accumulates 20 or more penalty points in a 24 month rolling period (a period of 24 consecutive months determined on a rolling basis with a new 24 month period beginning each day) the matter will be referred to the Council's Licensing Committee. The Committee will be required to determine whether the driver or operator is a fit and proper person. The following action can be taken by the Committee:
- i. Take no action
 - ii. Issue a warning
 - iii. Issue additional penalty points
 - iv. Suspend a licence as a punitive sanction
 - v. Suspend a licence to correct a fault, defect, or breach
 - vi. Revoke or refuse to renew a licence
- 5.7** Periods of suspension will be determined by the Licensing Committee and will depend on the nature of the offence, breach, or infringement and the individual's compliance history. A determination will also be made as to whether the suspension or revocation is on the grounds of public safety, thereby having immediate effect.

- 5.8** Where a driver, proprietor or operator reaches the 20 points and is referred to the Committee it will not preclude all relevant information being disclosed. This will include any other penalty points, complaints, warnings, and suspensions etc. The 20 points will be a referral trigger.
- 6. A BREACH OR INFRINGEMENT IS DISCOVERED**
- 6.1** If there is good evidence that there was a breach or inappropriate behaviour and it is considered appropriate to do so, the licence holder will be issued with a penalty point notice.
- 6.2** The penalty point notice will describe the infringement or breach, date and time it took place, and how many points have been issued to the licence holder.
- 6.3** The Council reserve the right to not impose penalties points under this scheme where in the opinion of the Officers the allegations are either frivolous, vexatious or repetitious, or made, in the Officers opinion, to further personal grievances or which are not made within a reasonable time period, to be determined by the Council depending on the individual circumstances, of the breach having occurred.
- 7. HOW TO REPORT AN INFRINGEMENT**
- 7.1** Complaints from members of the public, residents or businesses concerning any breaches of conduct will be subject to investigation by Officers, and only where there is clear, verifiable evidence of an infringement eg a photograph of an illegally parked vehicle, then the Council may issue a penalty point notice based on that evidence. These investigations may be dealt with by way of issuing penalty points under this scheme or in serious cases automatic referral to the Licensing Committee.
- 7.2** A form that guides how to report an infringement is available on the Council's website at www.denbighshire.gov.uk/licensing/taxis
- 8. INFRINGEMENTS/BREACHES COVERED BY THE SCHEME**
- 8.1** A full list of infringements and breaches covered by this Scheme can be found at Appendix 1.
- 9. APPEALS**
- 9.1** If no appeal is lodged within 10 days of receiving the Notice, then the Council will take the view that the licence holder has accepted the penalty points.
- 9.2** If a licensee wishes to appeal against the issue of a "penalty points notice" he/she must do so in writing, stating the reasons of the appeal, within 10 working days from the date of issue of such a notice, to the

Council's Head of Planning and Public Protection or in his/her absence the Public Protection Manager, who, in consultation with the Chairman of the Licensing Committee, will have the discretion to:-

- i. uphold the Council Officer's decision – retain the number points on the "penalty points notice"; or
- ii. cancel the issue of the "penalty points notice" to the licensee.

9.3 There is no appeal beyond the decision made by the Head of Public Protection. However, should a licensee be subsequently reported to the Licensing Committee for accumulating 20 penalty points, he/she has the opportunity to raise the validity of the points issued.

10. RE-APPLYING FOR A LICENCE

10.1 If a licence holder has had their licence revoked, they may apply for a new licence, but its Council Policy that such an application under the Penalty Point Scheme will not be entertained until a suitable period from the date of revocation has elapsed, as detailed below:

- i. where the penalty points which resulted in the revocation included any infringements that attracted 10 or more points, then this period will be 24 months
- ii. where none of the infringements individually attracted more than 10 points, then this period is reduced to twelve months

10.2 It should not be assumed that an application for a new licence, following revocation under this Scheme, will automatically be granted. Any application will be subject to the Council's normal application process and consideration of whether the applicant is a fit and proper person to hold a licence.

11. DELEGATION OF FUNCTIONS

11.1 The Head of Planning and Public Protection Public Protection can delegate authority to the Public Protection Manager to issue penalty points in accordance with this policy. The Public Protection Manager can also delegate this function to an authorised Officer of the Council.

12. REVIEW OF THE SCHEME

12.1 This Policy will be reviewed every three years. Notwithstanding this, the policy will continue to be evaluated and may be updated at any time, subject to the appropriate consultation.

APPENDIX 1 – PENALTY POINT SCHEME

FOR MINOR BREACHED OR INFRINGEMENTS BY HACKNEY CARRIAGE AND PRIVATE HIRE OPERATORS, DRIVERS AND VEHICLE PROPRIETORS

SCALE OF PENALTY POINTS

REF No	BREACH/OFFENCE OR INFRINGEMENT	PENALTY POINTS
1	Use/Cause/Permit a vehicle to be driven with a defect contrary to Road Vehicle (Construction & Use) Regs 1986 (as amended) (per defect)	10
2	Serious contravention of a Road Traffic Act requirement or other legislation relating to vehicle, driver or operator licensing eg hackney carriage charging more than the prescribed fee	10
3	Failing to produce Certificate of Compliance, MOT certificate, driving licence or insurance certificate, which is valid on the day of request, within 7 days of being requested	5
4.	Obstructing an authorised officer of Police Officer	10
5	Failure to carry an assistance dog without an exemption notice	5
6	Using or allowing a vehicle to be used subject to a suspension issued by an Authorised Officer or Police Officer	10
7	Using a vehicle for which the licence has been suspended or revoked	10
8	Using an unlicensed vehicle or licensed vehicle without Insurance	10
9	Driver using a handheld mobile phone, handheld two way radio, eating or drinking whilst the vehicle is in motion	5
10	Presenting a vehicle for testing in an unsafe or dangerous Condition	10
11	Providing false or misleading information on licence application form / failing to provide relevant information or the relevant fee (including dishonoured cheques)	10
12	Failure to submit a licensed vehicle that is 5 years old, or more for a 6 monthly MoT and provide documented proof to the Council that it has passed such a test. The Council will expect to see documentary evidence that such a test has been carried out within 4 weeks of the due date of the MoT test.	5
13	Operator failing to keep proper records or keep records in accordance with the licence conditions	5
14	Failing to notify the Council of details of road traffic collision within the prescribed time limit	5
15	Minor abusive behaviour to a member of the public or a licensed driver	10
16	Failure to behave in a civil and orderly manner (including rude or aggressive behaviour)	10
17	Using insulting or threatening words or disrespectful behaviour towards any Officer of the Council	10
18	Plying for hire by private hire drivers.	10
19	Carrying more passengers than the capacity stated on the vehicle licence.	10
20	Failure to carry an up to date fire extinguisher.	5

21	Failure to carry an up to date first aid kit	5
22	Failure to wear private hire or hackney carriage driver's badge.	5
23	Refusal to accept hiring without reasonable cause e.g. drunk or rude customer	5
24	Failure to observe rank discipline – taxi drivers (e.g. plying for hire outside the markings of one of the County's taxi ranks).	5
25	Failure to give assistance with loading/unloading luggage to or from any building or place.	5
26	Failure to attend punctually at appointed time and place without sufficient cause.	5
27	Leaving a Hackney Carriage unattended whilst on a designated rank	5
28	Failure to comply with the Driver Dress Code	5
29	Failure to comply with the Code of Good Conduct	5
30	Displaying any feature on a private hire vehicle that may suggest that it is a taxi vehicle.	5
31	A licensed vehicle with illegal tyres	10
32	Failure to carry a legal spare wheel and tools.	5
33	Failure to use authorised roof light on a hackney carriage vehicle.	5
34	Failure to display the external/internal licence plate or signs as required.	5
35	Displaying unsuitable or inappropriate sited signs or advertisements in or on the vehicle.	5
36	Presenting a vehicle for testing in an unsafe or dangerous condition	10
37	Charging hackney carriage passenger more than the metered or agreed fare	10
38	Failure to return a vehicle licence plate within 7 days after request	5
39	Using a non-approved or non-calibrated taximeter	5
40	Unreasonably prolonging a journey or any misconduct regarding the charging of fares	10
41	Failure to notify the Council, in writing, of any conviction, caution, fixed penalty or similar within 7 working days	10
42	Failure to attend punctually at appointed time and place without reasonable cause	5
43	Failure to carry Driver/Vehicle Conditions in vehicle	5
44	Displaying unsuitable, inappropriate or unauthorised signs or advertisements in or on a vehicle	5
45	Failure to notify the Council, in writing, of a change of address within 7 working days	5
46	Failure to notify, in writing, a change in medical circumstances	5
47	Unsatisfactory condition of a vehicle (interior or exterior)	5
48	Any other offence/breach/infringement not specifically covered in this scheme	5-10
49	Driving or parking in a manner likely to cause inconvenience, distress or danger to	5

	members of the public	
50	Parking in contravention of public highway parking restrictions	5
51	Parking/stopping or picking up or dropping passengers on zigzags of a pedestrian crossing or school entrance	10
52	Sounding the vehicle horn to announce arrival or to tout for business	5
53	Failing to display Hackney Carriage fare card in vehicle	5
54	Occupying/parking in a loading bay	5
55	Failure to present vehicle for inspection by an authorised officer at required time/location	5
56	Private Hire driver charging or attempting to charge more than the fare agreed with the customer by the operator	10
57	Private hire vehicle parking/waiting on or near of a taxi rank without a booked fare	5
58	Contravention of any byelaw or condition not specified above	5-10

Mae tudalen hwn yn fwriadol wag

APPENDIX C

PROPOSED REVISED PENATY POINT POLICY AND PROCEDURE

Section of Policy	Summary response received:	Officer's comments	Officer's recommendations
Appeals 9.1 & 9.2	Proof will be required that the appellants has received the required notice before points are accepted	Officers will endeavour to hand deliver any notice, but where this is not possible the notice will be sent recorded delivery.	No change
Two year span regarding accumulating penalty points Tudalen 39	Find this unfair due to the driver's badge and plate lasting only 12 months. Suggest 12 months rather than 2 years.	Officers have discussed at length this issue, with the interested parties, and consideration has been given to trial the scheme for an agreed timescale with regards to imposing points over a 12 month period rather than 2 years	Recommend the following amendment to 5.6: For a trial period of 12 months, where a licence holder accumulates 20 or more penalty point in a 12 month rolling period (a period of 12 consecutive months determined on a rolling basis with a new 12 month period beginning each day). The matter will be referred back to Members of the Committee in 12 months time for review of the scheme.
Delegation of Functions	Is it wise to delegate authority under this	Senior Officers have delegated authority	No change

11.1	part of the proceedings to an individual?	to carry out a number of functions within the remit of the service and in this instance for the scheme to run effectively it is important that they are authorised to issue penalty points where necessary	
Appendix 1 - general	Why are all points either 5 or 10, with nothing higher , lower or in between?	This scheme is going to be a challenge to administer and by only imposing 5 and 10 points, it will ease any administrative burdens.	No change
Ref No. 3 - Failing to produce Certificate of compliance etc	This is low, subject to proof of receipt of notice	Officers feel this is the correct amount of point imposed	No change recommended
Ref No. 8 – Using an unlicensed vehicle or licensed vehicle with insurance	Not high enough	In certain circumstances, other enforcement action may be the most appropriate action ie prosecution/referral to police	No change recommended
Ref No. 12 – Failure to submit a licensed vehicle that is 5 years old or more for a 6 monthly MOT	Our company have enormous difficulty in testing vehicles since the Bodelwyddan garage has opened. Due to where it's situated 56 miles round trip away from us. Our work is school transport and social service for DCC. Our contracts are mainly feeders to large buses around farms, and country roads. We cannot fit the tests in at the garage at Bodelwyddan during term time, as there is not enough time to come back in time for school. It was devastating to be told last August that Bodelwyddan garage could not carry out any tests during August as their garage staff were taking their holidays. At present we are taking	All vehicles under 5 years old are required to undergo a 6 monthly compliance at any Council authorised testing station . Once vehicles are over 5 years old, one of the 6 monthly compliance tests must be carried out at Fleet Services. The other 6 monthly compliance test can be undertaken at any Council authorised testing station. The purpose of this is to ensure consistency throughout the testing regime.	The whole taxi and private hire policy (Blue Book) are being reviewed and the testing regime will form part of this review. No change recommended

Total 40

	the vehicles at 7pm to Bodelwyddan for testing, after taking the vehicles back to their drivers we are arriving home approx. 11pm. There must be a better solution.		
Ref No. 25 – Failure to give assistance with loading/unloading luggage to or from any building or place	Slightly high. Courteous as it may be, they are hired as drivers not personal assistants ?	Licensed drivers should act in a professional manner at all times, and offer assistance to any passenger	No change recommended
Ref No.27 – Leaving a hackney carriage unattended whilst on a designated rank	Nature calls at any time. Drivers have to leave their vehicles to smoke and take a break as most drivers work 12 hours or more. A good 99% of drivers make sure vehicle is in that their unattended sight	If a driver has left his/her vehicle for a comfort break or smoke, then they are not available for immediate hire and are not able to move up the rank. Some Drivers have in the past abused the use of the ranks by leaving their vehicles unattended at a rank for more than a comfort/smoking break eg visit to shops etc. It is the opinion of Officers that in these circumstances vehicles should find alternative parking when not available for hire. It is also an offence under legislation to leave a vehicle unattended on a rank. Officers will use their discretion when considering imposing such points.	No change recommended
Ref No. 32 – Failure to carry a legal spare wheel and tools	There is a legal obligation re spare wheel. Does this also apply to tools?	Yes, without the appropriate tool a damaged tyre/wheel cannot be removed.	No change recommended
Ref No. 39 – Using a non-approved or non-calibrated taximeter	Is this consistent with Penalty Point No. 2	No 2 and 39 are different. Point 39 is when the proprietor has not had his/her taximeter calibrated to the Council's table of fares and charges	No change recommended
Ref No. 49 – Driving or parking in a	Too lenient?	Officers agree that for parts of this	Recommend the

manner likely to cause inconvenience, distress or danger to members of the public		infringement eg danger to members of the public, a more stringent penalty should be imposed	following amendment: 5-10 points
Ref No. 50 – Parking in contravention of public highway parking restrictions	Parking at the rear of the taxi rank. There is insufficient space for the amount of taxis that are now operating in Rhyl. This problem has been ongoing for years. In the daytime drivers are asked to move on by Traffic Wardens or Police Officers. At night the rules are different. There are no Traffic Wardens and the Police have more important issues to deal with. Therefore we find this unfair and unenforceable	There are double yellow lines at the rear of the Rhyl High Street rank which drivers continually ignore and use for extra “rank” space. This is an on-going issue that has been raised with Highways and solutions are being looked at. Due to a taxi being parked on yellow lines behind the rank, resulted in a road traffic collision. Parking at the rear of a rank can cause serious obstruction.	No change recommended
Ref No.52 – Sounding the vehicle horn to announce arrival or to tout for business	Draconian perhaps	It is an offence to sound your horn between the hours of 23:00 and 06:00. Officers feel that this can cause annoyance to neighbours	No change recommended
Ref No. 54 – Occupying/parking in a loading bay	After consultation with the Traffic Wardens, any vehicle can park for 10 minutes in any Loading area, therefore the proposed penalty points would be illegal	Some Drivers are continually abusing the “10 minute rule” and are moving on when requested, but then returning after 10 minutes. This is an on-going matter that is causing massive problems especially on the Rhyl High Street Rank as there is a loading bay immediately in front of the rank. Officers will use their discretion when considering imposing such points.	No change recommended
Ref No. 55 – Failure to present vehicle for inspection by an authorised office at required time/location	Slightly low?	Officers take on board the comments received	Recommend the following amendment: 10 points
General comments	Support the Council in the		

	implementation of this policy. Frankly if anyone objects to the implementation of this policy, they obviously have things to hide, or operate in a way not deemed appropriate as per the policy. You have our full support on this initiative.		
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Mae tudalen hwn yn fwriadol wag



ADRODDIAD I'R:	Pwyllgor Trwyddedu
DYDDIAD:	11 Mehefin 2014
SWYDDOG ARWEINIOL:	Pennaeth Cynllunio a Gwarchod y Cyhoedd
SWYDDOG CYSWLLT:	Uwch Swyddog Trwyddedu licensing@denbighshire.gov.uk 01824 706451
TESTUN:	Polisi arfaethedig Defnydd Bwriedig o Gerbydau Hacni

1. PWRPAS YR ADRODDIAD

- 1.2 Cyflwyno Polisi arfaethedig Defnydd Bwriedig o Gerbydau Hacni, i Aelodau ei ystyried.

2. CRYNODEB GWEITHREDOL

- 2.1 I Aelodau ystyried cymeradwyo polisi ynglŷn â thrwyddedau defnydd bwriedig o gerbydau hacni a roddir yn y Sir.

3. GWYBODAETH GEFNDIR

- 3.1 Mae aelodau Panel Technegol Trwyddedu Cyfarwyddwyr Gwarchod y Cyhoedd Cymru wedi cydnabod bod Awdurdodau'n derbyn nifer sylweddol o geisiadau ac ymholiadau gan berchnogion a gyrwyr cerbydau hacni sy'n byw y tu allan i ardal y Cyngor.
- 3.2 Mae'n gwbl gyfreithlon i gerbyd hacni a drwyddedwyd gan un awdurdod drefnu i hurio'i gerbyd ymlaen llaw (hurio preifat) y tu allan i ardal yr awdurdod. Gallai hyn arwain at sefyllfa lle mae nifer sylweddol o gerbydau hacni a drwyddedwyd gan awdurdod yn cymryd gwaith hurio preifat yn gyfan gwbl y tu allan i ardal y Cyngor hwnnw.
- 3.3 Er nad yw'r sefyllfa bresennol yn anghyfreithlon, nid yw'n ddelfrydol o safbwynt gorfodaeth fod cerbydau gweithredu'n bennaf y tu allan i ardal awdurdod lleol lle trwyddedwyd hwy. Mae hyn yn ei gwneud yn anos i Swyddogion fonitro a gorfodi gyrwyr.
- 3.4 Nid yw Swyddogion Gorfodaeth yn gallu cyflawni dyletswyddau cydymffurfio neu orfodi mewn ardaloedd Awdurdodau Lleol eraill. Hefyd

mae'n anodd iawn monitro cerbydau os mai prin y maent yn gweithredu o fewn eu hardal. Gallai hyn arwain at broblemau sylweddol o ran diogelwch.

- 3.5 Ar hyn o bryd nid yw'r awdurdod yn rhoi ystyriaeth p'un ai a yw unigolion sy'n ymgeisio am drwyddedau cerbydau hacni'n bwriadu defnyddio eu cerbyd, os caiff ei drwyddedu, yn bennaf ar gyfer hurio preifat y tu allan i'r Sir. Hefyd, nid oes gan y Cyngor ar hyn o bryd unrhyw ffordd o ganfod a yw perchennog cerbyd hacni'n bwriadu gweithredu o fewn y Sir neu os defnyddir y cerbyd yn bennaf ar gyfer gwaith hurio preifat y tu allan i'r Sir.
- 3.6 Cydnabu Panel Technegol Trwyddedu Cyfarwyddwyr Gwarchod y Cyhoedd Cymru oblygiadau diogelwch cerbydau a weithredai yn y modd y nodir uchod a chyfeiriodd at ddyfarniad Uchel Lys yn achos Cyngor Dinas Newcastle v Cyngor Berwick upon Tweed [2008] wrth lunio polisi. Gwnaed y datganiadau canlynol yn y dyfarniad hwn -
- a) *“Roedd yn fwriad y dylai'r system drwyddedu weithredu mewn ffordd fel mai'r awdurdod sy'n trwyddedu'r cerbydau hacni yw'r awdurdod ar gyfer yr ardal lle mae'r cerbydau hynny'n cael eu defnyddio'n gyffredinol”*
 - b) *“Mae hawl gan awdurdod trwyddedu, sy'n cyfarwyddo'i hun yn briodol, ac yn wir mae'n rheidwydd arno i roi ystyriaeth i'r ffaith fod yr ymgeisydd yn bwriadu defnyddio'r cerbyd hacni hwnnw'n bennaf, neu'n llwyr, ymhell o ardal yr awdurdod ”*
 - c) *“Rhaid iddo fod yn ddymunol i awdurdod sy'n rhoi trwyddedau i gerbydau hacni allu cyfyngu ar roi'r trwyddedu hynny i berchnogion a gyrwyr sy'n bwriadu gyrru cerbyd yn ardal yr awdurdod hwnnw”*
 - d) *“Tra na allaf ar y funud feddwl ei fod yn rhesymol rhoi trwydded i'r rhai sy'n bwriadu gweithredu eu cerbydau hacni ymhell o [ardal yr awdurdod hwnnw] rwy'n amharod i ddweud ei fod yn gwbl yn anghyfreithlon”*
 - e) *“Fe fydd perchnogion sy'n dymuno defnyddio eu cerbydau mewn ardaloedd gwahanol awdurdodau ac yn yr achos hwnnw nid oes amheuaeth y bydd hyblygrwydd wrth arfer disgrisiwn. Bydd materion fel ble mae'r perchennog wedi ei leoli ac o ble y daw'r rhan fwyaf o'r busnes yn faterion o bwys i'w hystyried”.*
- 3.7 Mae Cyfarwyddwyr Gwarchod y Cyhoedd Cymru'n argymhell bod y polisi'n cael ei fabwysiadu gan bob Awdurdod Lleol yng Nghymru. Gwneir hyn er mwyn sicrhau dull cyson a thryloyw trwy Gymru wrth benderfynu ynglŷn â'r defnydd bwriedig o gerbydau hacni.

YMGYNGHORI

4. Yn groes i'r arfer, gofynnodd Swyddogion am gymeradwyaeth gan Bennaeth Cynllunio a Gwarchod y Cyhoedd, i wyro oddi wrth ein Proses

- 4.1 Polisi presennol, ac ymgynghorwyd â'r partion masnachu a budd trwyddedig cyn ei gyflwyno i Aelodau'r Pwyllgor Trwyddedu. Pwrpas y newid hwn oedd lleihau unrhyw oedi wrth i Aelodau wneud penderfyniad ynglŷn â'r polisi pwysig hwn, a rhag gorfod adrodd yn ôl eto i Aelodau ar ôl i'r cyfnod ymgynghori ddod i ben.
 - 4.2 Bydd Aelodau'n ymwybodol eu bod wedi eu cynnwys fel rhan o'r broses ymgynghori, ynghyd â'r holl Aelodau Etholedig, Cyngorau Tref a Chymuned, yr holl ddeiliaid trwyddedau a'r cymdeithasau masnach.
 - 4.3 O ganlyniad i'r ymgynghori, nid ydym wedi derbyn unrhyw wrthwynebiadau i'r Polisi Perthnasedd Collfarnau arfaethedig.
 - 4.4 Mae'n werth nodi bod un o'r prif weithredwyr Tacsis yn y Sir yn cefnogi'n llawn y Polisi Perthnasedd Collfarnau, a'i fod wedi cael gwahoddiad i'r cyfarfod, ynghyd â'r holl unigolion eraill a wnaeth ymateb i'r ymgynghoriad..
5. **ARGYMHELLIAD**
- 5.1 Bod Aelodau'n cefnogi'r Polisi arfaethedig ar gyfer Defnydd Bwriedig ac yn argymhell bod y Cyngor Llawn yn mabwysiadu'r polisi hwnnw.

Mae tudalen hwn yn fwriadol wag

INTENDED USE POLICY FOR HACKNEY CARRIAGE VEHICLES

Applications for the new grant of a hackney carriage licence

Applicants for new licences will be expected to demonstrate a bona fide intention to ply for hire within the Denbighshire County under the terms of the licence for which an application is being made.

There will be a presumption that applicants who do not intend to entirely or predominantly ply for hire within Denbighshire will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its merits.

Even where the applicant intends to ply for hire entirely or predominantly in Denbighshire, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

Applications for the renewal of a hackney carriage licence

Section 60 of Local Government (Miscellaneous Provisions) Act 1976 also gives the Council a broad discretion to refuse to renew a licence for any reasonable cause and this intended use policy will also apply for renewals in the same way as for the grant of the licence. Each application will be decided on its merits.

Applications for the transfer of a hackney carriage licence

Should the hackney carriage licence be transferred to another proprietor during the term of the licence, the new proprietor will be asked to inform the Council whether he has a bona fide intention to use the vehicle to ply for hire within Denbighshire. New proprietors should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation. Where there is a failure to provide the requested information, the Council will give serious consideration to exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming, in addition to its powers under section 73.

New proprietors of licensed hackney carriages will be expected to have a bona fide intention to ply for hire within Denbighshire under the terms of the licence in respect of the vehicle being transferred.

If the new proprietor of a licensed hackney carriage is found to have no intention to ply for hire entirely or predominantly within Denbighshire and/or intends to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will

be compromised) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976. Where the new proprietor proposes to operate remotely from the administrative area of Denbighshire there will be a presumption that his licence will be revoked. Each case will however be decided on its merits.

Applications for the replacement of a hackney carriage licence

When a proprietor replaces a licensed vehicle, applicants seeking the grant of hackney carriage licence for a vehicle intended to replace another licensed vehicle will be asked to inform the Council of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire entirely or predominantly within Denbighshire will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire entirely or predominantly in Denbighshire if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.

Where a licence has been granted under the terms that the applicant intends to ply for hire entirely or predominantly within Denbighshire but is subsequently found not to be plying for hire entirely or predominantly in Denbighshire and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) there will be a presumption that the licence will be revoked.

Each application will be decided on its merits. However the presumptions that intended use is to ply for hire entirely or predominantly within Denbighshire will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not compromise the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

Reasons for intended use Policy

The Council of Denbighshire wishes to ensure that applications for the grant of hackney carriage licences are determined in accordance with the guidance given by the High Court in its judgment, and the Declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008].

The Council is required to register the name of the new proprietor of a vehicle. It seems to the Council also to open up an obvious route to

circumvent the decision of the High Court, unless precautionary steps are taken. It is intended to put the Council in a position to respond responsibly to the transfer of a Denbighshire hackney carriage into the name of someone who operates outside the Denbighshire County or remotely from it.

Unless there has been a change in the proprietor's intentions with regard to plying for hire within the administrative area of Denbighshire, there should be no reason why he/she should not be granted a licence for a replacement vehicle. On the other hand, an applicant who obtained the first licence on the expressed intention of plying for hire entirely or predominantly within the administrative area of Denbighshire, and who on application to replace that vehicle with another discloses that he/she no longer so intends, effectively engages the presumption against grant that is mentioned earlier.

Mae tudalen hwn yn fwriadol wag



ADRODDIAD I'R:	Pwyllgor Trwyddedu
DYDDIAD:	11 Mehefin 2014
SWYDDOG ARWEINIOL:	Pennaeth Cynllunio a Gwarchod y Cyhoedd
SWYDDOG CYSWLLT:	Uwch Swyddog Trwyddedu licensing@denbighshire.gov.uk 01824 706451
TESTUN:	Polisi diwygiedig Perthnasedd Collfarnau Gweithredwyr a Gyrwyr Cerbydau Hacni a Hurio Preifat arfaethedig

1. PWRPAS YR ADRODDIAD

- 1.2 Cyflwyno fersiwn diwygiedig o Bolisi Perthnasedd Collfarnau i Weithredwyr a gyrwyr cerbydau hacni a hurio preifat, i Aelodau ei ystyried.

2. CRYNODEB GWEITHREDOL

- 2.1 I Aelodau ystyried cymeradwyo polisi diwygiedig ynghylch perthnasedd collfarnau i Yrwyr a Gweithredwyr Cerbydau Hacni a Hurio Preifat.

3. GWYBODAETH GEFNDIR

- 3.1 Bydd Aelodau'n ymwybodol ein bod ni fel Awdurdod wedi mabwysiadu canllawiau ar gollfarnau perthnasol fel rhan o lyfr amodau cerbydau hacni a hurio preifat (Llyfr Glas). Mae'r canllawiau hyn wedi eu defnyddio gan Aelodau a Swyddogion, i'w helpu i benderfynu ynglŷn â cheisiadau ar gyfer trwyddedau gyrru gan unigolion sydd â cholffarnau perthnasol ar eu hadroddiadau Gwasanaeth Datgelu a Gwahardd. Mae canllawiau presennol y Cyngor ar berthnasedd collfarnau i'w gweld yn Atodiad A.
- 3.2 Mae Awdurdodau Lleol yng Nghymru wedi bod yn adolygu'r canllawiau o safbwynt collfarnau perthnasol, ac wedi penderfynu trwy Banel Technegol Trwyddedu Cyfarwyddwyr Gwarchod y Cyhoedd Cymru, i argymhell diweddar'u'r canllawiau sy'n berthnasol i sefyllfaoedd presennol sy'n codi wrth drwyddedu tacsis. Mae'r canllawiau diwygiedig a gynigir i'w gweld yn Atodiad B.

- 3.3 Mae Cyfarwyddwyr Gwarchod y Cyhoedd Cymru'n argymhell bod y polisi'n cael ei fabwysiadu gan bob Awdurdod Lleol yng Nghymru. Gwneir hyn er mwyn sicrhau dull cyson a thryloyw trwy Gymru wrth benderfynu a yw ymgeisydd neu ddeiliaid trwydded presennol yn unigolyn addas a phriodol i ddal trwydded gyrwyr/gweithredwr cerbyd hacni neu hurio preifat.
- 3.4 Nod y polisi hwn yw diogelu'r cyhoedd. Mae'r Awdurdod Trwyddedu am sicrhau:
- Bod yr unigolyn yn addas a phriodol;
 - Nad yw'r unigolyn yn fygythiad i'r cyhoedd;
 - Bod y cyhoedd yn cael eu diogelu rhag pobl anonest;
 - Bod plant a phobl ifanc yn cael eu diogelu;
 - Bod pobl sy'n agored i niwed yn cael eu diogelu;
 - Bod y cyhoedd yn gallu bod yn hyderus wrth ddefnyddio cerbydau trwyddedig.
- 3.5 Os bydd gan Swyddogion bwerau dirprwyedig i roi trwyddedau, byddant yn cyfeirio at y canllawiau hyn wrth wneud penderfyniad i roi trwydded ai peidio. Ym mhob achos arall bydd ceisiadau am drwyddedau'n cael eu cyfeirio i sylw'r Pwyllgor Trwyddedu. Tra bydd Swyddogion ac Aelodau'n ystyried y canllawiau sydd yn y polisi hwn, bydd pob achos yn cael ei ystyried ar sail ei deilyngdod ei hun, ac os bydd amgylchiadau'n gofyn am hynny, gall y Pwyllgor/Swyddog wyro oddi wrth y canllawiau.

4. **YMGYNGHORI**

- 4.1 Yn groes i'r arfer, gofynnodd Swyddogion am gymeradwyaeth gan Bennaeth Cynllunio a Gwarchod y Cyhoedd, i wyro oddi wrth ein Proses Polisi presennol, ac ymgynghorwyd â'r partïon masnachu a budd trwyddedig cyn ei gyflwyno i Aelodau'r Pwyllgor Trwyddedu. Pwrpas y newid hwn oedd lleihau unrhyw oedi wrth i Aelodau wneud penderfyniad ynglŷn â'r polisi pwysig hwn, a rhag gorfod adrodd yn ôl eto i Aelodau ar ôl i'r cyfnod ymgynghori ddod i ben.
- 4.2 Bydd Aelodau'n ymwybodol eu bod wedi eu cynnwys fel rhan o'r broses ymgynghori, ynghyd â'r holl Aelodau Etholedig, Cynghorau Tref a Chymuned, yr holl ddeiliaid trwyddedau a'r cymdeithasau masnach.
- 4.3 O ganlyniad i'r ymgynghori, nid ydym wedi derbyn unrhyw wrthwynebiadau i'r Polisi Perthnasedd Collfarnau arfaethedig.

4.4 Mae'n werth nodi bod un o'r prif weithredwyr Tacsis yn y Sir yn cefnogi'n llawn y Polisi Perthnasedd Collfarnau, a'i fod wedi cael gwahoddiad i'r cyfarfod, ynghyd â'r holl unigolion eraill a wnaeth ymateb i'r ymgynghoriad.

5. **ARGYMHELLIAD**

5.1 Bod Aelodau'n cymeradwyo ac yn mabwysiadu'r fersiwn diwygiedig o'r Polisi Perthnasedd Collfarnau i Yrwyrr/Gweithredwyr Cerbydau Hacni a Hurio Preifat sydd yn Atodiad B yr adroddiad hwn.

Mae tudalen hwn yn fwriadol wag

THE REHABILITATION OF OFFENDERS ACT 1974

(EXCEPTIONS) (AMENDMENT) ORDER 2002

The above Order places a requirement on all taxi drivers and applicants for a licence to drive taxis, to disclose ALL previous convictions.

The Rehabilitation of Offenders Act, 1974, (as regards to “spent” convictions), does now not apply to taxi drivers.

If you would like to discuss the affect a conviction may have on your application, you can speak to the Licensing Manager, in confidence, on 01824 706451.

Denbighshire County Council

Guidelines Relating to the Relevance of Convictions

Hackney Carriage and Private Hire Vehicle Drivers

GENERAL POLICY

1. Each case will be decided on its own merits.
2. A person with a conviction or convictions need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 - 5 years, according to the circumstances, before an application is considered.
3. In cases or more serious offences which have lead to a term of imprisonment, the time periods given will run from the date the applicant was released from prison or detention centre or similar establishment, and not the date of conviction.
4. The following examples afford a **general guide** on the action to be taken where convictions or police cautions are revealed.
5. In all cases the overriding concern should be the protection of the public.
6. In all cases, the Rehabilitation of Offenders Act 1974 will be adhered to regarding convictions classed as being “spent”.
7. Where, in these guideline, an “application” is mentioned, this also refers to a “re-application” upon revocation of a current licence.

TRAFFIC OFFENCES

- ◆ Convictions for minor traffic offences, such as obstruction, contravention of waiting regulations etc should not prevent a person from making an application.
- ◆ If an applicant has previously accrued sufficient penalty points to require a period of disqualification, and has not been required to undergo a further driving test, then a licence may be granted after its restoration, with a strict warning as to the high standards that are required of licensed drivers.

- ♦ If an applicant has had a driving licence revoked following six or more penalty points accrued during the first two years since passing their driving test, then a period of 12 months free of further conviction **after** passing a further driving test should have elapsed before an application is considered.
- ♦ If an applicant has been ordered to retake a driving test after a period of disqualification for other offences which attract penalty points, then 6 months free of conviction, **after** passing the driving test, should have elapsed before an application is considered.

TRAFFIC OFFENCES INVOLVING DISQUALIFICATION

- ♦ An isolated conviction for driving without due care and attention should not prevent a person from making an application.
- ♦ If an applicant has been convicted of an offence of dangerous driving, or other offence involving obligatory disqualification, and ordered to take an extended driving test at the end of the period of disqualification, a period of 12 months free of conviction, **after** passing the driving test, should have elapsed before an application is considered.

DRIVING WITHOUT INSURANCE OR DRIVING WHILST DISQUALIFIED

- ♦ As licensed drivers are responsible for the safety of members of the public who are travelling in their vehicles, a serious view will always be taken of a conviction for driving without insurance or driving whilst disqualified.
- ♦ An applicant will generally have to show a period of at least 6 months free of conviction from these types of offences before an application is considered.
- ♦ If an applicant has been disqualified from driving as a result of convictions of this type, then the 6 months period shall run from the date of restoration of the licence.
- ♦ If an applicant has more than 1 conviction of this type within the last 3 years, then a period of 12 months, from the date of restoration of the licence, must have elapsed before an application is considered.

PLYING FOR HIRE

- ♦ This is regarded as a serious offence as the vehicle insurance may be invalidated if the driver is found guilty of plying for hire in a vehicle other than a hackney carriage in the controlled district.
- ♦ A period of at least 6 months free of convictions should be shown before an application is considered.
- ♦ If a licence is granted, a strict warning will be given as to the conduct expected of licensed drivers.

FAILING TO WEAR IDENTIFICATION BADGE

- ♦ A serious view will be taken of a person convicted of failing to wear the identification badge whilst acting as a licensed driver.
- ♦ An isolated conviction will not prevent an application being considered, however, if granted then a strict warning will be given as to the conduct expected of a licensed driver.
- ♦ If an applicant has been convicted of this offence more than once, then a period of 3 months free of conviction shall have elapsed before an application is considered.

DRUNKENNESS AND OTHER RELATED OFFENCES

I) WITH A MOTOR VEHICLE

- ♦ A serious view will always be taken of convictions of driving or being in charge of any vehicle whilst under the influence of drink or drugs or failing to provide a specimen for analysis.
- ♦ If an applicant has been disqualified and ordered to take either an extended driving test or a driving test, then a period of 12 months free of conviction **after** passing the necessary test, should have elapsed before an application is considered.

- ◆ If no further driving test has been ordered, then 6 months free of conviction after the restoration of the driving licence, should have elapsed before an application is considered.
- ◆ If the offence arose as a result of the persons being in charge of, or driving a licensed vehicle and ordered to take a further test, then a period of 2 years free of conviction after passing the necessary test should have elapsed before an application is considered.
- ◆ If no driving test has been ordered, then a period of 12 months free of conviction, after the restoration of the licence should have elapsed before an application is considered.
- ◆ If an applicant has more than 1 conviction of this type then grave doubts should arise as to the applicants suitability to hold a licence.
- ◆ At least 3 years must elapse after the restoration of the driving licence and passing any further driving tests if required, before an application is considered.
- ◆ If there is **any** suggestion that the applicant is an alcoholic or illegal drug user, a special medical examination should be arranged by a medical practitioner nominated by the Council.
- ◆ This examination must be certified as satisfactory before an application is considered.
- ◆ If it is ascertained that the applicant is an alcoholic or illegal drug user then no application will be considered until 5 years has elapsed after any treatment has been completed.

ii) NOT IN A MOTOR VEHICLE

- ◆ An isolated conviction for a drink related offence should not debar an applicant from obtaining a licence
- ◆ A number of convictions for this type of offence may indicate a medical problem necessitating further examination as mentioned before.
- ◆ In some cases a warning will be given as to the standards expected of licensed drivers.

iii) DRUGS

- ◆ An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of conviction before an application is considered, or 5 years after detoxification treatment if the applicant was an addict

INDECENCY OFFENCES

- ◆ Applicants with conviction for indecent exposure, indecent assault, importuning, or of any offence of a sexual nature should be refused a licence until a period of 3- 5 years free from conviction has elapsed.
- ◆ If the applicant was required to register on the National Sex offenders Register as a result of an offence, then no application will be considered whilst the applicant remains on the Register.
- ◆ An applicant with more than one conviction of this type of offence will not be considered suitable to license until a period of at least 5 years has elapsed following the most recent conviction.
- ◆ If a conviction of this type arose as a result of the person acting as a licensed driver then no application will be considered for at least 5 years after the conviction or, if longer, the conclusion of the sentence imposed.
- ◆ In all cases, if a licence is granted, then it will reduce to 6 months, after which time the person must undergo another criminal record check
- ◆ If no further convictions have been obtained, the next licence will be issued for the usual 12 months
- ◆ If further convictions have been obtained with the 6 month period of licence, no further application will be considered until a period of at least 5 years free of conviction has elapsed.

VIOLENCE

- ◆ A firm line will be taken with applicants with conviction for grievous bodily harm, wounding, assault or any other type of offence of a violent nature.

- ♦ An applicant must be free of convictions for at least 3 years before an application is considered.
- ♦ In all cases, if a licence is granted, a strict warning will be given as to the standards expected of licensed drivers

DISHONESTY

- ♦ A serious view will be taken of any conviction involving dishonesty.
- ♦ In general a period of 3-5 years free of conviction should be required before an application is considered.

POLICE CAUTIONS

- ♦ A Police caution is considered and administered where a person comes to the notice of the Police for the first time, and the person admits the offence.
- ♦ A Police caution is considered to be similar to a conviction, as, if the person is convicted at court of a similar offence within 5 years of the caution being administered, then the caution can be brought to the attention of the court and any sentence passed would be regarded as being a second conviction and, therefore, a higher sentence may be imposed.
- ♦ In general, an application showing a caution may be considered and approved but the overriding consideration should be the protection of the public.

OTHER OFFENCES

- ♦ Where a binding order, anti-social behaviour order or a restraining order has been imposed by a court, no application will be considered whilst that order is still current.
- ♦ A period free of at least 6 months (or 12 months for anti-social behaviour orders) of convictions must have elapsed, after expiry of the order, before an application is considered.
- ♦ In general, the overriding consideration should be the protection of the public.

SERIOUS OFFENCES

If an offence or conviction is deemed to be “serious”* and if granting a licence would be of detriment to the protection of the public, the Council will **not** grant a licence, subject to each application being considered on its own merits. * *to be determined by the Head of Planning and Public Protection Services.*

CONVICTION POLICY

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 and/or private hire driver / operator 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 Licensing Committee/ Panel (or other relevant decision making body)
- 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 licensing committee/panel (or other relevant decision-making body). Whilst officers and the committee/panel 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 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 Licensing 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 24 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 Licensing 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 Licensing 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.

Final version: Dated 13th September 2013

Mae tudalen hwn yn fwriadol wag

ADRODDIAD I'R:	Pwyllgor Trwyddedu
DYDDIAD:	11 Mehefin 2014
SWYDDOG ARWEINIOL:	Pennaeth Cynllunio a Gwarchod y Cyhoedd
SWYDDOG CYSWLLT:	Uwch Swyddog Trwyddedu trwyddedu@sirddinbych.gov.uk 01824 706451
TESTUN:	Rhaglen Gwaith i'r Dyfodol 2014/15

1. PWRPAS YR ADRODDIAD

- 1.2 Cyngori Aelodau am rai mân newidiadau i Raglen Gwaith i'r Dyfodol 2014/15 a gymeradwywyd yn wreiddiol Mawrth 2014.

2. CRYNODEB GWEITHREDOL

- 2.1 Mae Rhaglen Gwaith i'r Dyfodol arfaethedig ynghlwm, yn Atodiad 1, i'r Aelodau ei hystyried a'i chymeradwyo.

3. GWYBODAETH GEFNDIR

- 3.1 Bydd yr Aelodau'n ymwybodol yng nghyfarfod diwethaf y Pwyllgor Trwyddedu, cymeradwyodd yr Aelodau Rhaglen Gwaith i'r Dyfodol o 18 mis.

3.2

Hoffai swyddogion yn awr wneud rhai mân newidiadau fel y nodir isod:

1. Symud yr adroddiad Polisi Delwyr Metel Sgrap i gyfarfod mis Medi. Mae'r polisi arfaethedig yn cael ei ddrafftio gan Banel Technegol Trwyddedu Cymru Gyfan a rhagwelwyd y byddai'r Polisi wedi cael ei gwblhau ac ar gael i'r Aelodau ei ystyried yng nghyfarfod mis Mehefin. Yn anffodus, mae'r polisi yn dal i gael ei adolygu ac felly bwriedir cyflwyno'r polisi i'r Aelodau yng nghyfarfod mis Medi.
2. I'w ychwanegu i gyfarfod mis Medi, mae adroddiad newydd i'r Aelodau ystyried caniatáu Model Is-ddeddfau Cerbydau Hacni yr Adran Drafndiaeth ar gyfer y Sir gyfan.

4.

ARGYMHELLIAD

4.1

Bod yr Aelodau'n nodi cynnwys yr adroddiad ac yn cymeradwyo'r newidiadau i'r Rhaglen Gwaith i'r Dyfodol, fel y manylir yn 3.2 uchod.

Adroddiad i'r: PWYLLGOR TRWYDDEDU

Dyddiad: 11 Mehefin 2014

Pennaeth Cynllunio a Gwarchod y Cyhoedd

TESTUN: RHAGLEN GWAITH Y PWYLLGOR TRWYDDEDU 2014/15

Dyddiad	ADRODDIAD	Sylwadau
Mehefin 2014	Adolygu'r polisi cerbydau hacni a cherbydau hurio preifat: Polisi Euogfarnau Polisi Defnydd Arfaethedig System Pwyntiau Cosb.	Adroddiad i'r Aelodau er mwyn cymeradwyo'r polisiau arfaethedig
Medi 2014	Adolygu'r polisi cerbydau hacni a cherbydau hurio preifat: Cod Gwisg Gyrwyr Cod Ymddygiad	Adroddiad i'r Aelodau er mwyn cymeradwyo'r polisi arfaethedig
	Polisi Deddf Delwyr Metel Sgrap 2013	Adroddiad i'r Aelodau er mwyn cymeradwyo Polisi arfaethedig Gogledd Cymru.
	Is-ddeddfau Cerbydau Hacni	Adroddiad i'r Aelodau ystyried mabwysiadu Model Is-ddeddfau
Rhagfyr 2014	Adolygu Polisi Sefydliad Rhyw Cyfredol	Adroddiad i'r Aelodau ei ystyried
Mawrth 2015	Adolygu Polisi Masnachu ar y Stryd	Adroddiad i'r Aelodau ei ystyried a chymeradwyo fod y Swyddogion yn ymgynghori â'r partïon â diddordeb
	Adnewyddu Sefydliad Rhyw	Adroddiad i'r Aelodau i ystyried adnewyddu Trwydded Sefydliad Rhyw cyfredol
Mehefin 2015	Adolygu Polisi Cerbyd Hacni a Cherbydau Hurio Preifat cyfredol yn ymwneud â Cherbydau	Adroddiad i'r Aelodau i ystyried a chymeradwyo diwygiadau arfaethedig i'r polisi
Medi 2015	Adolygu Polisi Cerbyd Hacni a Cherbydau Hurio Preifat cyfredol yn	Adroddiad i'r Aelodau i ystyried a chymeradwyo diwygiadau arfaethedig i'r

	ymwneud â Gweithredwyr	polisi
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Yn rhinwedd Paragraff(au) 12, 14 Rhan 4, Atodlen 12A
Deddf Llywodraeth Leol 1972.

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