

To: Members of the Licensing  
Committee

Date: 18 September 2014

Direct Dial: 01824 712568

e-mail: dcc\_admin@denbighshire.gov.uk

Dear Councillor

You are invited to attend a meeting of the **LICENSING COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 24 SEPTEMBER 2014** in the **COUNCIL CHAMBER, COUNTY HALL, RUTHIN.**

Yours sincerely

G Williams  
Head of Legal and Democratic Services

## **AGENDA**

### **PART 1 - THE PRESS AND PUBLIC ARE INVITED TO ATTEND THIS PART OF THE MEETING**

#### **1 APOLOGIES**

#### **2 DECLARATION OF INTERESTS (Pages 7 - 8)**

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

#### **3 URGENT MATTERS AS AGREED BY THE CHAIR**

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

#### **4 MINUTES OF THE LAST MEETING (Pages 9 - 16)**

To receive the minutes of the Licensing Committee held on 11 June 2014 (copy enclosed).

#### **5 PROPOSED AMENDED PENALTY POINT POLICY AND PROCEDURE (Pages 17 - 30)**

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting an amended Penalty Point Policy and Procedure for approval.

**6 PROPOSED REVISED HACKNEY CARRIAGE BYELAWS** (Pages 31 - 38)

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting revised Byelaws relating to Hackney Carriage regulation for approval to consultation.

**7 PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE CODE OF GOOD CONDUCT** (Pages 39 - 44)

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the proposed Hackney Carriage and Private Hire Driver Code of Good Conduct for approval to consultation.

**8 PROPOSED AMENDED HACKNEY CARRIAGE AND PRIVATE HIRE DRESS CODE** (Pages 45 - 48)

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting an amended Hackney Carriage and Private Hire Driver Dress Code for approval to consultation.

**9 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2014/15** (Pages 49 - 50)

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the committee's forward work programme for approval.

**PART 2 - CONFIDENTIAL ITEMS**

It is recommended in accordance with Section 100A(4) of the Local Government Act 1972, that the Press and Public be excluded from the meeting during consideration of the following item(s) of business because it is likely that exempt information as defined in paragraphs 12 and 14 of Part 4 of Schedule 12A of the Act would be disclosed.

**10 DISPENSATION FROM REQUIREMENT TO DISPLAY PRIVATE HIRE VEHICLE LICENCE PLATES** (Pages 51 - 60)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of a request for dispensation from the requirement to display licence plates on a Private Hire Vehicle.

**11 APPLICATION FOR A LICENCE TO DRIVE PRIVATE HIRE VEHICLES - APPLICANT NO. 051260** (Pages 61 - 70)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of an application for a licence to drive private hire vehicles from Applicant No. 051260.

**12 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 00327** (Pages 71 - 88)

To consider a report by the Head of Planning and Public Protection (copy enclosed) seeking members' review of a licence to drive hackney carriage and private hire vehicles in respect of Driver No. 00327.

**13 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 045728** (Pages 89 - 102)

To consider a report by the Head of Planning and Public Protection (copy enclosed) seeking members' review of a licence to drive hackney carriage and private hire vehicles in respect of Driver No. 045728.

**MEMBERSHIP**

**Councillors**

Councillor Cefyn Williams (Chair)

Councillor Barry Mellor (Vice-Chair)

Joan Butterfield  
Bill Cowie  
Richard Davies  
Stuart Davies  
Hugh Irving

Pat Jones  
Win Mullen-James  
Peter Owen  
Arwel Roberts

**COPIES TO:**

All Councillors for information  
Press and Libraries  
Town and Community Councils

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## LICENSING COMMITTEE PROCEDURE FOR THE DETERMINATION OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE APPLICATIONS AND REVIEWS OF EXISTING LICENSED DRIVERS

STEP	DESCRIPTION
1.	The Chair to welcome and introduce the applicant/licence holder to all parties present.
2.	Solicitor to ask the applicant/licence holder to confirm that he/she has received the report and the Committee procedures. If applicant confirms same, move onto step 4.
3.	If it should occur that the applicant/licence holder states that the report has not been received, then such matter will be addressed at this stage. Members may wish to consider adjourning the matter, for a short period, in order for the applicant/licence holder to read the report.
4.	Head of Planning and Public Protection (or representative) briefly introduces the application/review
5.	The applicant/licence holder is requested to present his/her case  The applicant/licence holder can call any witnesses he/she chooses in support of the application, for which advance notice should have been given to the Licensing Officers.
6.	Committee Members can question the applicant/licence holder and or his witnesses
7.	Technical officers are invited to present any findings (Licensing/Community Enforcement, First Contact Team (Social Services), School Transport.)
8.	The Committee Members followed by the applicant/licence holder can ask questions of the technical officers
9.	The applicant/licence holder will be invited to make a final statement, if they so wish
10.	The following will be requested to leave the meeting whilst the application/review is discussed by Members – the applicant/licence holder, all third parties, Head of Planning and Public Protection, technical officers  NB The only people remaining should be – Committee Members, translator, committee’s legal adviser and the minute taker

11.	The committee members will consider the application/review taking into account the evidence heard
12	Should Committee Members prove it necessary to recommence the asking of questions and recall any party to provide further information or clarification, all persons who have withdrawn from the meeting will be invited to return. After the question(s) have been determined all third parties will be asked to withdraw again for Members to consider all evidence.
13.	When the Members have reached their decision, all parties will be recalled and the applicant/licence holder will be informed of the Members decision by the Chairman.
14.	The Chair will inform the applicant/licence holder of the decision reached. This will include any specific conditions or penalties which may have been imposed. If necessary the Council's Solicitor to provide further clarification of the decision and its implications to the applicant/licence holder.
15.	If the decision is to refuse or there is a decision to suspend or revoke, the Council's Solicitor to inform the applicant/licence holder of the right of appeal to the Magistrates' Court (the decision letter will also include these details).
16.	For an existing licensed driver (issued by Denbighshire), and the decision involves a resolution by the Committee to suspend or revoke the existing licence, Members may do so under either: <ul style="list-style-type: none"> <li>1. Section 61 (2A) of the Local Government (Miscellaneous Provisions) Act 1976.</li> <li>2. Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976. This decision will have IMMEDIATE EFFECT and can only be used when the grounds for suspension/revocation are a public safety matter.</li> </ul> <p>The Solicitor will explain to the licence holder the implications of the decision.</p>
17.	The applicant/licence holder will be informed of the decision in writing as soon as practicable.
18.	The applicant/licence holder will be invited to discuss any matter they are unsure of with Licensing Officers after the Committee



LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, (name)

a \*member/co-opted member of

(\*please delete as appropriate)

Denbighshire County Council

**CONFIRM** that I have declared a **\*personal / personal and prejudicial** interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:-

(\*please delete as appropriate)

Date of Disclosure:

Committee (please specify):

Agenda Item No.

Subject Matter:

Nature of Interest:

Signed

Date

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## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Russell House, Rhyl on Wednesday, 11 June 2014 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Bill Cowie, Richard Davies, Stuart Davies, Hugh Irving, Pat Jones, Barry Mellor, Win Mullen-James, Peter Owen, Arwel Roberts and Cefyn Williams

**Observer:** Councillor Meirick Davies

### ALSO PRESENT

Principal Solicitor (AL), Licensing Officers (NJ & JT), Senior Community Safety Enforcement Officer (TWE) and Committee Administrator (KEJ)

Planning Policy Manager (AL) and Planning Officer (CM) attended for Agenda Item 7.

#### 1 APOLOGIES

There were no apologies.

#### 2 APPOINTMENT OF CHAIR

In accordance with the appointment process written statements had been made available to the committee from Councillors Barry Mellor and Cefyn Williams for the position of Chair of the Licensing Committee for 2014/15. Councillor Joan Butterfield proposed, seconded by Councillor Pat Jones that Councillor Barry Mellor be appointed Chair. Councillor Stuart Davies proposed, seconded by Councillor Peter Owen that Councillor Cefyn Williams be appointed Chair. Following a ballot undertaken in accordance with Standing Order No. 14.4, it was –

**RESOLVED** that Councillor Cefyn Williams be appointed Chair of the Licensing Committee for the ensuing year.

#### 3 APPOINTMENT OF VICE CHAIR

The Chair invited nominations for Vice Chair of the Licensing Committee for 2014/15. Councillor Joan Butterfield proposed, seconded by Councillor Pat Jones that Councillor Barry Mellor be appointed Vice Chair. It was subsequently –

**RESOLVED** that Councillor Barry Mellor be appointed Vice Chair of the Licensing Committee for the ensuing year.

#### 4 DECLARATIONS OF INTEREST

Councillor Cefyn Williams declared a personal interest in Agenda Item 12 – Application for a Licence to Driver Hackney Carriage and Private Hire vehicles because he knew the applicant in question.

## **5 URGENT MATTERS**

No urgent matters had been raised.

## **6 MINUTES OF THE LAST MEETING**

The minutes of the Licensing Committee held on 5 March 2014 were submitted.

***RESOLVED** that the minutes of the meeting held on 5 March 2014 be received and confirmed as a correct record.*

## **7 DRAFT SUPPLEMENTARY PLANNING GUIDANCE - HOT-FOOD TAKEAWAYS**

The Planning Policy Manager and Planning Officer presented a report by the Head of Planning and Public Protection (previously circulated) seeking members' views on the draft Supplementary Planning Guidance (SPG) document on hot-food takeaways prior to its submission to Planning Committee and public consultation. The Local Development Plan Steering Group had requested the guidance be presented to the Licensing Committee in view of the clear links with licensing.

Members were advised of the need to update existing SPGs following adoption of the Local Development Plan in June 2013. Following a review of this particular guidance some minor changes had been proposed but the main change was the proposal to introduce a restriction on new hot-food takeaways within 400m of any school boundary. Officers elaborated upon other considerations within the document of particular interest to licensing and emphasised that the guidance would only apply to new planning applications and would not affect existing hot-food takeaway premises.

During consideration of the draft guidance discussion focused on the following –

- the committee supported the proposal to introduce an exclusion zone near schools and was keen for this restriction to be extended to mobile hot food businesses with greater controls exercised over mobile traders generally and proactive enforcement. Officers explained the legalities governing mobile traders advising they could not be regulated via the planning mechanism but through Street Trading Consents and Hawkers Licences. It was agreed that reference be made to street trading within the guidance clarifying those areas of responsibility and control. However, concerns remained that adequate controls could not be exercised over particular traders which fell outside the Council's legislative jurisdiction
- members reported upon existing traffic and parking problems experienced near established hot-food takeaways and lack of enforcement and officers provided assurances that consultation with Highways formed part of the planning process for new applications

- reference was made to paragraph 6.7 regarding litter and members felt that those measures should be strengthened and made mandatory if possible.

The Planning Policy Manager advised that members' comments would be put before Planning Committee in July when considering the draft document. She added that members would have a further opportunity to comment during the formal consultation stage.

**RESOLVED** that, subject to the above comments, the draft Supplementary Planning Guidance document on hot-food takeaways be received and noted.

## **EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED** that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 14 of Part 4 of Schedule 12A of the Act.

### **8 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 051261**

[This item was brought forward on the agenda with the consent of the Chair.]

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) an application received from Applicant No. 051261 for a licence to drive hackney carriage and private hire vehicles;
- (i) officers having not been in a position to grant the application in light of the information revealed following an enhanced disclosure from the Disclosure and Barring Service together with motoring convictions detailed on the applicant's DVLA Licence;
- (ii) a summary of the convictions disclosed having been provided which related to a number of offences spanning a period from 1988 to 2010 including incidents relating to traffic offences, drunkenness and other related offences and dishonesty;
- (iii) the Council's current policy with regard to the relevance of convictions, and
- (iv) the Applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

The Applicant was in attendance at the meeting and following introductions confirmed that he had received the report and committee procedures. The Licensing Officer (JT) provided a summary of the report and explained that the matter had been brought before the committee to assess the Applicant's suitability to hold a licence in light of the convictions disclosed.

The Applicant addressed the committee in support of his application elaborating upon his personal circumstances and recent move back to the area. Despite his convictions he described himself as a good person and expressed his desire to return to his profession as a taxi driver. The Applicant responded to questions from members regarding the potential anomaly on his criminal record disclosure and his own personal disclosure; the circumstances surrounding his most recent conviction, and his potential employment opportunities. Members also sought evidence of the Applicant's fitness to drive licensed vehicles and were advised of his recent employment history and assurances that references could be provided to attest to his good character. In making his final statement the Applicant hoped that he had answered members' questions to their satisfaction and that he would be given the opportunity to prove himself as a taxi driver.

The committee adjourned to consider the case and it was –

***RESOLVED*** that the application for a hackney carriage and private hire vehicle drivers licence from Applicant No. 051261 be granted.

The reasons for the Licensing Committee's decision were as follows –

Members considered the report and responses provided by the Applicant to questions. The committee found the Applicant to be genuine in his responses and accepted his assurances as to his future behaviour and consequently considered him to be a fit and proper person to hold a licence. In light of his previous convictions the Applicant was also issued with a warning as to his future conduct.

The committee's decision and reasons therefore were conveyed to the Applicant.

[Councillor Stuart Davies wished it to be recorded that he voted against the above resolution.]

## **OPEN SESSION**

Upon completion of the above business the meeting resumed in open session.

### **9 PROPOSED AMENDED PENALTY POINT POLICY AND PROCEDURE**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting an amended Penalty Point Policy and procedure for approval. [The existing penalty point scheme had not been implemented following its approval because of concerns at that time over the validity of such schemes.]

Officers reported upon the legalities of implementing a penalty point system and the need to ensure the scheme did not remove the authority's discretion and allowed for an appropriate appeals process. The policy aimed to improve standards in the hackney carriage and private hire trade and work in conjunction with other enforcement options to identify those individuals who repeatedly behaved in a manner which, if taken as a whole, indicated they were not fit and proper persons to hold a licence. Consultation had taken place and the views of the respondents had

been summarised in the report and taken into account when formulating the final document. Those respondents had also been invited to attend the meeting. Councillor Stuart Davies thought the committee should be consulted on policy issues and proposals prior to the licensed trade and other interested parties.

Members welcomed the introduction of a penalty point scheme as a means of improving behaviour and raising standards but were keen to ensure the scheme was equitable, particularly in the allocation of penalty points, and sought assurances in that regard. Officers confirmed the scheme was comparable with those implemented by other local authorities and advice had been sought from James Button, Solicitor on the reasonableness of the scale of points. Points would be allocated appropriately depending upon the circumstances of the offence.

At the Chair's invitation, Mr. Les Peake, Coastline Taxis addressed the committee expressing support for the scheme provided it was implemented and policed properly. He added that in order to maintain vehicle standards it would be necessary to prohibit cut price fare charging. Mr. Ian Armitage and Mr. Gareth Jones stated that they represented the views of a number of licensed drivers in Rhyl. The increase in the number of breaches subject to a penalty under the new scheme was highlighted (from 28 to 58) and although most of the proposals were supported there were a small number which caused concern. Of particular concern was the lack of provision for toilet breaks with taxi drivers being penalised for leaving their vehicle unattended on a taxi rank. Officers explained it was an offence to leave a vehicle unattended on a rank and the proposal attempted to address the abuse of ranks by drivers who had in the past left their vehicles to go shopping. A common sense approach would be taken to the allocation of points in all circumstances.

In light of the concerns raised by the taxi trade and poor response to consultation members felt the proposals required further detailed consideration before a final policy was approved. Consequently it was –

***RESOLVED*** that a special meeting be convened to consider the Penalty Point Scheme and Procedure in detail taking into account the views of the taxi and private hire trade.

At this juncture (11.00 a.m.) the meeting adjourned for a refreshment break.

## **10 PROPOSED HACKNEY CARRIAGE INTENDED USE POLICY**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting the Hackney Carriage Intended Use Policy for approval to full Council for adoption.

The difficulties associated with hackney carriages licensed by an authority undertaking private hire work outside of that council's area were highlighted, particularly for officers carrying out compliance and enforcement duties. The Directors of Public Protection Wales (DPPW) Licensing Technical Panel recognised the safety implications of vehicles operating predominantly in this manner and recommended a policy for adoption by all Welsh local authorities to ensure a

consistent and transparent approach across Wales when determining the intended use of hackney carriage vehicles. No objections had been received to the proposed policy following consultation.

Whilst accepting the policy members highlighted problems with its enforcement and implementation, particularly in terms of ascertaining the Applicants' true intentions for operating under the terms of the licence and reliance on assurances provided by them in that regard. It was requested that this point be made to the DPPW Licensing Technical Panel as author of the policy. Members also felt that hackney carriage proprietors found in breach of the policy should be severely dealt with.

**RESOLVED** that the proposed Hackney Carriage Intended Use Policy be supported and recommended to Full Council for adoption.

## **11 PROPOSED REVISED RELEVANCE OF CONVICTION POLICY FOR HACKNEY CARRIAGE AND PRIVATE HIRE OPERATORS AND DRIVERS**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting a revised Relevance of Conviction Policy for hackney carriage and private hire vehicle drivers and operators for approval.

Local authorities in Wales had been reviewing the guidance in respect of relevant convictions and had decided through the Directors of Public Protection Wales (DDPW) Licensing Technical Panel to recommend an updated guidance relevant to current situations arising in taxi licensing. The DPPW recommended the policy for adoption by all Welsh local authorities to ensure a consistent and transparent approach across Wales when determining whether or not an applicant or an existing licence holder was a fit and proper person to hold a hackney carriage or private hire driver/operator licence. Whilst officers and members would have regard to the guidelines each case would be considered on its individual merit and where circumstances demand the officer/committee may depart from the guidelines. No objections had been received to the proposed policy following consultation.

Members were content to accept the revised policy and it was –

**RESOLVED** that the revised Hackney Carriage and Private Hire Conviction Policy as detailed in Appendix B to the report be approved.

## **12 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2014/15**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme and members noted two minor amendments.

Councillor Joan Butterfield suggested that the amended Penalty Point Policy and Procedure be provisionally scheduled for the committee's September meeting.

**RESOLVED** that the Licensing Committee's work programme be approved.

## **EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED** that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 14 of Part 4 of Schedule 12A of the Act.

### **13 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 051260**

[Councillor Cefyn Williams declared a personal interest and left the meeting during consideration of this item. Councillor Barry Mellor (Vice Chair) took the Chair.]

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) an application received from Applicant No. 051260 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the application in light of the information revealed following an enhanced disclosure from the Disclosure and Barring Service;
- (iii) a summary of the convictions disclosed having been provided which related to a number of offences spanning a period from 1965 to 1995 including incidents relating to theft, traffic offences, drunkenness and other related offences and dishonesty;
- (iv) the Council's current policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

Members were advised that the Applicant was not in attendance but had submitted a letter (circulated at the meeting) in support of his application. The letter did not explain the Applicant's absence. Following consideration members agreed that the application be deferred to the committee's next meeting to provide a further opportunity for the Applicant to attend.

**RESOLVED** that the application for a hackney carriage and private hire vehicle drivers licence from Applicant No. 051260 be deferred to the committee's next meeting.

The meeting concluded at 11.40 a.m.

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	24 <sup>th</sup> September 2014
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Technical Officer (Licensing) <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706451
<b>SUBJECT:</b>	Proposed amended Penalty Point Policy and Procedure

## 1. PURPOSE OF THE REPORT

- 1.2 To present, to Members, an amended Penalty Point Policy and procedure for their consideration.

## 2. EXECUTIVE SUMMARY

- 2.1 For Members to consider approving an amended penalty point policy and procedure to secure further improvement in standards for Hackney Carriage Proprietors, Drivers and Vehicles and Private Hire Operators, Drivers and Vehicles.

## 3. BACKGROUND INFORMATION

- 3.1 Members will be aware that Officers presented a revised Penalty Point Policy and Procedure at the last Committee meeting in June (minutes of the meeting can be found within your committee papers). In light of the concerns raised by the taxi trade and low response to consultation members felt the proposals required further detailed consideration before a final policy was approved.
- 3.2 Members therefore resolved to convene a special meeting to consider the Penalty Point Scheme and Procedure, in detail, taking into account the views of the taxi and private hire trade. It was also suggested by one Member that this matter could be scheduled into the next diarized Committee in September.
- 3.3 Since the last meeting in June, Officers have reviewed the Penalty Point Policy and Procedure, together with list of breaches/infringements and have made some minor changes ie recalculated the amount of points and reduced the number of breaches by grouping together some breach

where appropriate. To support the inclusion of each breach within the Policy, Officers have also added justifications for each breach.

- 3.4 The views of licence holders were also taken into account following a recent workshop with Members and licence holders.
- 3.5 For Members information the main revised policy and procedure has not changed since Officers presented it in June. The only changes have been made to the appendix (list of breaches/infringements).
- 3.6 Members may recall that one of the Officer recommendations (within the June 2014 report) was to amend the scheme to run over a 12 month period rather than 24 months. The reasons for this recommendation was the trade felt it was unfair as there would be a higher risk that licence holders would be referred to committee and face further sanctions.
- 3.7 Officers would now suggest that this recommendation is retracted as having reviewed the scheme, along with Members and trade representatives, it was acknowledged that the most effective cycle would be one of 24 months and the points have been imposed appropriately for the scheme to be at its most effective.
- 3.8 The proposed revised Penalty Point Policy and Procedure (along with list of breaches/infringements) can be found at Appendix A.
- 3.9 If Members were minded to approve the Penalty Point Policy and Procedure, a grace period of one month would be sought from implementing the scheme to issuing penalty points. During this period Officers would provide advice and guidance to licence holders who commit a breach/infringement under the proposed policy.

#### 4. **CONSULTATION**

- 4.1 A further two week consultation on the revised Penalty Point Policy and Procedure has taken place with all licence holders. Members will be aware that they were also included in that consultation.
- 4.2 As a result of the further consultation, Officers received one written representation, which can be found at Appendix B (the contents of the representations were discussed at length at the workshop and the amendments have been made accordingly)
- 4.3 Following the consultation, Officers invited any interested licence holders to a workshop on the 24<sup>th</sup> July 2014, to discuss the Penalty Point Policy and Procedure in detail. Members were also invited to the workshop

- 4.4 For Members information, three Operators attended the workshop along with four Members.
- 4.5 During the workshop each breach/infringement was discussed at length along with the proposed penalty points to be imposed. Where it was felt necessary to amend the proposed penalty points the decision to amend was, in most cases, taken unanimously.

5. **RECOMMENDATION**

- 5.1 For Members to consider approving the revised Penalty Point Policy and Procedure found at Appendix A, and in doing so agree to replacing the existing Penalty Point Scheme currently found in the “Blue Book”.
- 5.2 To implement the scheme from the 1<sup>st</sup> November 2014, with a grace period of one month before enforcement of the scheme is introduced.

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# 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](http://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 BREACHES OR INFRINGEMENTS BY HACKNEY CARRIAGE AND PRIVATE HIRE OPERATORS, DRIVERS AND VEHICLE PROPRIETORS**

**SCALE OF PENALTY POINTS**

<b>REF No</b>	<b>BREACH/OFFENCE OR INFRINGEMENT</b>	<b>PENALTY POINTS</b>	<b>DRIVER</b>	<b>PROPRIETOR OR OPERATOR</b>
1	<p><b>Use/Cause/Permit</b> a vehicle to be driven with a defect contrary to Road Vehicle (Construction &amp; Use) Regs 1986 (as amended) (per defect):</p> <ul style="list-style-type: none"> <li>a) Defective tyres (including spare)</li> <li>b) Defective brakes</li> <li>c) Defective seat belts</li> <li>d) Defective steering</li> <li>e) Defective suspension</li> <li>f) Defective doors ( closing/ locking mechanism)</li> <li>g) Defective windscreen - cracked etc in drivers view</li> <li>h) Defective bodywork- sharp edges, corrosion likely to cause injury to persons</li> <li>i) Defective headlamps, brake lights, sidelights</li> <li>j) Defective windscreen wipers/washers</li> <li>k) Defective exhaust</li> <li>l) Defective horn</li> <li>m) Insecure battery which could be a fire risk.</li> </ul> <p><b>Note</b> – Officers will consider imposing points for the above breaches to either operator/driver or both dependant on the circumstances and evidence. For example, if the defect has been reported by the driver to the operator (evidence of daily checks required) then the operator will have points imposed. In certain circumstances this will not be appropriate ie when a driver has reported defective tyres but still drives</p>	<p><b>3 or 6 as detailed below)</b></p> <ul style="list-style-type: none"> <li>6</li> <li>6</li> <li>6</li> <li>6</li> <li>6</li> <li>6</li> <li>6</li> <li>6</li> <li>6</li> <li>6</li> <li>3</li> <li>3</li> <li>3</li> <li>3</li> <li>6</li> </ul>	<ul style="list-style-type: none"> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> </ul>	<ul style="list-style-type: none"> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> </ul>

	the vehicle, then both operator and driver will receive points as there is a serious safety issue.			
2	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	3	✓	✓
3.	Obstructing an authorised officer or Police Officer	10	✓	✓
4	Failure to carry an assistance dog without an exemption notice	3	✓	
5	Using or allowing a vehicle to be used subject to a suspension/revocation issued by an Authorised Officer or Police Officer	20		✓
6	Using an unlicensed vehicle or licensed vehicle without Insurance	20	✓	✓
7	Driver using a handheld mobile phone, handheld two way radio, whilst the vehicle is in motion	6	✓	
8	Presenting a licensed vehicle for testing in an unsafe or dangerous Condition	20		✓
9	Providing false or misleading information on licence application form / failing to provide relevant information or the relevant fee (including dishonoured cheques)	10	✓	✓
10	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.	3		✓
11	Operator failing to keep proper records or keep records in accordance with the licence conditions	3		✓
12	Failing to notify the Council of details of road traffic collision within 72 hours	3	✓	✓
13	Failure to behave in a civil and orderly manner (including rude or aggressive behaviour) to a member of the public, licensed driver or Officer of the Council or Police Officer	10	✓	✓
14	Plying for hire by private hire drivers.	10	✓	
15	Carrying more passengers than the capacity stated on the vehicle licence.	20	✓	
16	Failure to carry an up to date fire extinguisher.	3		✓
17	Failure to wear private hire/hackney carriage driver's badge.	3	✓	

18	Refusal to accept hiring without reasonable cause eg reasonable cause - when drunk or rude customer	3 or 6	✓	
19	Failure to observe rank discipline – taxi drivers (e.g. plying for hire outside the markings of one of the County's taxi ranks – parking in front or behind rank).	5	✓	
20	Failure to give assistance with loading/unloading luggage to or from any building or place, without reasonable cause eg temporary medical condition	3	✓	
21	Failure to attend punctually at appointed time and place without sufficient cause:			
	i.    During daytime	3	✓	
	ii.   During the hours of darkness	6	✓	
22	Leaving a Hackney Carriage unattended whilst on a designated rank, without reasonable cause eg quick toilet break	3	✓	
23	Failure to comply with the Driver Dress Code	3	✓	
24	Failure to comply with the Code of Good Conduct	5	✓	✓
25	Displaying any feature on a private hire vehicle that may suggest that it is a taxi vehicle.	5		✓
26	Failure to carry a legal spare wheel and tools or other method of repair eg foam/run flat tyre	3	✓	✓
27	Failure to display the external/internal licence plate or signs as required.	3		✓
28	Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle.	3		✓
29	Charging hackney carriage passenger more than the metered or agreed fare	6	✓	
30	Failure to return a vehicle licence plate within 7 days after Request	6		✓
31	Using a non-approved or non-calibrated taximeter	6		✓
32	Unreasonably prolonging a journey or any misconduct regarding the charging of fares	6	✓	
33	Failure to notify the Council, in writing, of any conviction,	6	✓	✓

	caution, fixed penalty or similar within 7 working days			
34	Failure to notify the Council, in writing, of a change of address within 7 working days	3	✓	✓
35	Failure to notify, in writing, a change in medical circumstances	6	✓	
36	Unsatisfactory condition of a vehicle (interior or exterior):			
	i) Dirty exterior	3		✓
	ii) Filthy and stained interior	6		✓
37	Driving or parking in a manner likely to cause inconvenience, distress or danger to members of the public eg tailgating/speeding/overtaking/furious driving	6	✓	
38	Parking in contravention of public highway parking restrictions including occupying/parking in a loading bay	5	✓	
39	Parking/stopping or picking up or dropping off passengers on zigzags of a pedestrian crossing or school entrance	6	✓	
40	Failing to display Hackney Carriage fare card in vehicle	3	✓	✓
41	Failure to present vehicle for inspection by an authorised officer at required time/location.	10		✓
42	Private Hire driver charging or attempting to charge more than the fare agreed with the customer by the operator	6	✓	
43	Private hire vehicle parking/waiting on a taxi rank	6	✓	
44	Smoking in a licensed vehicle, and allowing passengers to smoke in a licensed vehicle	10	✓	



History: This message has been replied to.

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Morning Nicky

Thank you for the chat.

Number 1 in Appendix 1.

I think this might be a problem because what it describes is a driver requiring to be an MOT tester.

Use/Cause/Permit a vehicle to be driven with a defect contrary to Road Vehicle (Construction & Use) Regs 1986 (as amended) This is fine.

Driver defect reporting. (any vehicle doing school contracts should have a defect reporting book as per T & C's)

As long as the driver has filled in his daily vehicle check book. Then most things are covered and if they break that day he needs to rectify them there and then or go to the garage.  
No points.

If the driver has reported a defect that can't be rectified by changing a bulb or getting a tire changed.  
Then it is the companies responsibility to get the repair carried out.

If the company send the driver out in a defective vehicle the company get points. (Unless it's a minor defect)  
If the company make no attempt to rectify the problem. ie book the vehicle into the garage (easily checked)  
Then the company get more points.  
If the a vehicle is sent out in an un roadworthy condition????  
If the driver takes a vehicle out in an un roadworthy condition???? (ie: serious defects, bald tires)  
As most of these drivers aren't employed by any company, they'll take the vehicle purely for the earnings.  
If a company made a driver take a un roadworthy vehicle out and threatened him/her with the sack then they have protection through the law. (un fair dismissal, constructive dismissal)

You should also put in that if a Company regularly turns up up for testing and have a lot of failures or caught for an unreasonable amount of defects on road side checks.  
This shows the company isn't in a position to service and maintain the number of vehicles that they have plates for.  
The Council should be able to reduce the number of plates held, which should be in line with the financial standing of the company.  
ie You should be able to easily service and maintain the number of vehicles you hold financially.  
This isn't my idea, this is something the traffic commissioner does when issuing O Licenses to truck and bus companies.

I think that covers your section one.

Wendy and I would like to be a part of your working group.

If you have any questions about the above please give me a ring.

Many Thanks

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	10 <sup>th</sup> September 2014
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Technical Officer (Licensing) <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706451
<b>SUBJECT:</b>	Proposed revised Hackney Carriage Byelaws

## 1. PURPOSE OF THE REPORT

- 1.2 To present, to Members, revised Byelaws relating to Hackney Carriage regulation, for their consideration.

## 2. EXECUTIVE SUMMARY

- 2.1 For Members to consider approving the Department for Transport Model Byelaws under Section 68 of the Town Police Clauses Act 1847.

## 3. BACKGROUND INFORMATION

- 3.1 The Council, as the Licensing Authority, has the responsibility under the Town Police Clauses Act 1847, and the Local Government (Miscellaneous Provisions) Act 1976 for the licensing of Hackney Carriages and their drivers.
- 3.2 Since reorganisation in 1996 the Council has exercised this responsibility through the Council's Hackney Carriage and Private Hire Licensing Conditions (The Blue Book) and through Byelaws relating to Rhyl and Prestatyn only.
- 3.3 Expert Legal advice has recommended that the Council adopt Byelaws which cover the whole of the County to ensure that they accurately reflect changes in legislation and to ensure a fair, transparent and consistent approach is taken when determining enforcement and other issues relating to hackney carriage vehicles and drivers.
- 3.4 Section 68 of The Town Police Clauses Act 1847 allows a local authority

to make Byelaws for regulating the conduct of the proprietors and drivers of Hackney Carriages within their authority area.

- 3.5 The Department for Transport has produced a set of Model Byelaws as a basis for local authorities to use and it is not the intention to deviate from these model Byelaws, which can be found at Appendix A.
- 3.6 Making byelaws under s68 of the Town Police Clauses Act 1847 is a Council function (as opposed to an Executive function) under the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007. A report will therefore need to be presented to Full Council at a later date if Members are minded to support the model Department for Transport Byelaws.
- 3.7 The current Byelaws relate to the Rhyl and Prestatyn only and were confirmed on the 25<sup>th</sup> January 1972 (for Rhyl) and the 18<sup>th</sup> April 1975 (for Prestatyn) by the Secretary of State. Should the Council adopt the model Byelaws the Rhyl and Prestatyn Byelaws will be repealed.

#### 4. **CONSULTATION**

- 4.1 Should Members be minded to support the proposed Department for Transport Model Byelaws, Officers will start formal consultation with all Hackney Carriage Proprietors and licensed drivers.
- 4.2 Any representations following the consultation will be reported to Full Council for Members consideration. Should Members be minded to adopt the Model Byelaws confirmation by the Welsh Assembly Government will then need to take place.

#### 5. **RECOMMENDATION**

- 5.1 For Members to support the proposed Department of Transport Model Byelaws found at Appendix A and authorise Officers to commence consultation as detailed in 4.1 above.



## BYELAWS

BYELAWS made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875 by **DENBIGHSHIRE COUNTY COUNCIL** with respect to hackney carriages in the county of Denbighshire

### INTERPRETATION

1. Throughout these byelaws:-

“the Council” - means the County Council of Denbighshire and “the District” - means the County of Denbighshire

**Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence, shall be displayed**

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage or on plates affixed thereto
- (b) A proprietor or driver of a hackney carriage shall: –
  - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire; and
  - (ii) not cause or permit the carriage to stand or ply for hire with any such painting marking or plate so defaced that any figure or material particular is illegible

**Provisions regulating how hackney carriages are to be furnished or provided**

3. The proprietor of a hackney carriage shall:-
  - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
  - (b) cause the roof or covering to be kept watertight;
  - (c) provide any necessary windows and a means of opening and

- closing not less than one window on each side;
- (d) cause the seats to be properly cushioned or covered;
  - (e) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
  - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
  - (g) provide means for securing luggage, if the carriage is so constructed as to carry luggage;
  - (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use and
  - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver;
4. The proprietor of a hackney carriage shall cause any taximeter with which the carriage is provided to be so constructed, attached and maintained as to comply with the following requirements, that is to say:-
- (a) the taximeter shall be fitted with a key flag or other device, the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
  - (b) such key flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
  - (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council;
  - (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
  - (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
  - (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges**

5. The driver of a hackney carriage provided with a taximeter shall:-
- (a) when standing or plying for hire, keep the key flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;

- (b) before beginning a journey for which a fare is charged for distance and time bring the machinery of the taximeter into action by moving the said key flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
  - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half –an-hour before sunrise and also at any other time at the request of the hirer
6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof or with the seals affixed thereto.
  7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
    - (a) proceed with reasonable speed to one of the stands appointed by the Council
    - (b) if a stand at the time of his arrival is occupied by the full number of carriages authorised to occupy it, proceed to another stand
    - (c) on arriving at a stand not already occupied by the full number of carriages station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction ; and
    - (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward
  8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.
  9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle
  10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place
  11. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage;
  12. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible

13. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:-
- (a) convey a reasonable quantity of luggage;
  - (b) afford reasonable assistance in loading and unloading;
  - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

**Provisions fixing the rates or fares to be paid for hackney carriages within the district and securing the due publication of such fares**

14. (i) The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by a combination of distance and time unless the hirer express at the commencement of the hiring his desire to engage by time.
- (ii) Where a hackney carriage furnished with a taximeter is hired by distance and time the proprietor or the driver thereof shall not be entitled to demand and take a fare greater than that recorded on the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter
15. (i) The proprietor of a hackney carriage shall cause a statement of the fares fixed by council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- (ii) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

**Provision securing the safe custody and re-delivery of any property accidentally left in hackney carriages and fixing the charges to be made in respect thereof**

16. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
17. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-

- (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to a Police Station in the district, and leave it in the custody of the officer in charge of the station on his giving a receipt for it;
- (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the Police Station, whichever be the greater) but not more than five pounds.

## **PENALTIES**

18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefor.

## **REPEAL OF BYELAWS**

- (i) The byelaws relating to hackney carriages in the Urban District of Rhyl which were made by Rhyl Urban District Council on the 16th day of November 1971 and which were confirmed by the Secretary of State on the 25<sup>th</sup> January 1972 and came into operation on the 1st day of March 1972; and
- (ii) The byelaws relating to hackney carriages in the former Urban District of Prestatyn which were made by of the Council of the Borough of Rhuddlan on the 11<sup>th</sup> day of February 1975 and which were confirmed by the Secretary of State on 18<sup>th</sup> April 1975 and came into operation on the 1<sup>st</sup> day of May 1975

in so far as such byelaws apply to the urban district areas of Rhyl and Prestatyn are hereby revoked.

The Common Seal of  
Denbighshire County Council was  
hereunto affixed in the presence of:

Chair.

Authorised Signatory.

Seal No.

The foregoing byelaws are hereby confirmed by the National Assembly for Wales and shall come into operation on the      day of      2014.

Signed by Authority of the Minister for Environment

Head of Transport Policy Division  
Welsh Assembly Government.

DRAFT



<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	10 <sup>th</sup> September 2014
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Technical Officer (Licensing) <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706451
<b>SUBJECT:</b>	Proposed Hackney Carriage and Private Hire Code of Good Conduct

## 1. PURPOSE OF THE REPORT

- 1.2 To present, to Members, a Code of Good Conduct for Hackney Carriage and Private Hire Drivers, for their consideration.

## 2. EXECUTIVE SUMMARY

- 2.1 For Members to consider approving a Hackney Carriage and Private Hire Code of Good Conduct to further improve standards for Hackney Carriage and Private Hire Drivers.

## 3. BACKGROUND INFORMATION

- 3.1 Officers are striving to improve the standards of licence holders. Complaints are regularly received from members of the public and fellow licence holders, regarding the behaviour of some drivers
- 3.2 A proposed Driver Code of Good Conduct has also been discussed for some time, to further improve the standard of our vocational licensed drivers. Again, the concerns and impression left with visitors (and residents) to the County when inappropriate behaviour takes place need to be addressed. By introducing a Code of Good Conduct, it will assist Officers in monitoring compliance of licence holders and take necessary enforcement action, where necessary.
- 3.3 The proposed Driver Code of Good Conduct can be found at Appendix A.

## 4. CONSULTATION

- 4.1 Should Members be minded to support the proposed revised Hackney

Carriage and Private Hire Code of Good Conduct, Officers will start formal consultation with all Licence Holders.

4.2 Officers will report back to Members, with the outcome of the consultation at the December Committee Meeting.

5. **RECOMMENDATION**

5.1 For Members to support the proposed Hackney Carriage and Private Hire Driver Code of Good Conduct found at Appendix A, and in doing so authorise Officers to commence consultation.



## **LICENSED DRIVER CODE OF GOOD CONDUCT**

In order to promote its licensing objectives as regards hackney carriage and private hire licensing, Denbighshire County Council proposes to adopt the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements produced by the Council.

### **1. RESPONSIBILITY TO THE TRADE**

Licence holders shall endeavour to promote the image of the Hackney Carriage and Private Hire trade by:

- (a) complying with this Code of Good Conduct;
- (b) complying with all the Conditions of their Licence, Hackney Carriage Byelaws and the Councils Hackney Carriage and Private Hire Licensing Policy;
- (c) behaving in a civil, orderly, non-discriminatory and responsible manner at all times

### **2. RESPONSIBILITY TO PASSENGERS**

Licence holders shall:

- (a) maintain their vehicles in a safe and satisfactory condition at all times;
- (b) keep their vehicles clean and suitable for hire to the public at all times;
- (c) attend punctually when undertaking pre-booked hiring;
- (d) assist, where necessary, passengers into and out of vehicles;
- (e) offer passengers reasonable assistance with luggage and other personal effects
- (f) when requested provide receipts to passengers
- (g) have no sexual contact with, or be sexually explicate either physically or verbally towards any passenger they are transporting
- (h) behave in a professional and respectful manner at all times

### **3. RESPONSIBILITY TO RESIDENTS**

To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:

- (a) not sound the vehicle's horn illegally;
- (b) keep the volume of music media/ radios to a minimum;
- (c) switch off the engine if required to wait;
- (d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood

#### **4. RESPONSIBILITIES AT RANKS AND OFFICES**

Licence holders shall:

- (a) Rank in an orderly manner and proceed along the rank promptly and in order
- (b) Remain in the vehicle
- (c) Not allow their music media players or radios to cause disturbance to residents

#### **5. GENERAL**

Drivers shall:

- (a) pay attention to personal hygiene and dress, in accordance with the dress code, so as to present a professional image to the public;
- (b) wear the badge provided by the Council on his person at all times when in charge of a licensed vehicle, such badge to be worn in a position and manner as to be plainly visible;
- (c) be polite, helpful and fair to passengers;
- (d) unless otherwise directed by the hirer the driver shall proceed to the destination by the shortest possible route;
- (e) not to drink or eat in the vehicle without the express consent of the hirer;
- (f) not without the express consent of the hirer play any radio or sound producing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle
- (g) drive with care and due consideration for other road users and pedestrians and in particular shall not use a hand held mobile phone whilst driving;
- (h) obey all Traffic Regulation Orders and directions at all time;
- (i) not to carry more passengers in a vehicle than it is licensed to carry.
- (j) not to carry, without the consent of the hirer, other persons in the vehicle
- (k) not to consume alcohol immediately before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle;
- (l) not drive while having misused legal or illegal drugs;
- (m) if the vehicle is fitted with a taxi meter, the fare recorded should not be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare
- (n) the proprietor or driver of a licensed vehicle shall not wilfully or negligently cause or suffer and such licence number to be concealed from public view while the vehicle is standing or plying for hire or at any other time whilst the vehicle is licensed.

- (o) the proprietor or driver of a Hackney carriage shall not tamper with or permit any person to tamper with any taxi meter with which the carriage is provided, with the fitting thereof, or with the seal affixed thereto
- (p) the proprietor or driver of a Hackney Carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such a carriage and shall not make use of the services of any person for the purpose
- (q) a driver shall not demand from any hirer or a Private Hire Vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a taxi meter and there has been no previous agreement as to the fare, the fare shown on the face of the taxi meter
- (r) respect authorised Officers during the execution of their normal duties

**PLEASE NOTE:**

**The Council shall take a very serious view of any driver being found to have had any alcohol or having misused any drugs whilst in charge of a licensed vehicle**

**IT IS AGAINST THE LAW TO SMOKE IN A LICENSED VEHICLE AND TO ALLOW PASSENGERS TO SMOKE WHILST IN A LICENSED VEHICLE.**

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	24 <sup>th</sup> September 2014
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Technical Officer (Licensing) <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706451
<b>SUBJECT:</b>	Proposed amended Hackney Carriage and Private Hire Driver Dress Code

## 1. PURPOSE OF THE REPORT

- 1.2 To present, to Members, an amended Hackney Carriage and Private Hire Driver Dress Code, for their consideration.

## 2. EXECUTIVE SUMMARY

- 2.1 For Members to consider approving an amended Hackney Carriage and Private Hire Driver Dress Code to improve standards for Hackney Carriage and Private Hire Drivers.

## 3. BACKGROUND INFORMATION

- 3.1 Members will be aware that the current hackney carriage and private hire condition book (“the blue book”) contains a Driver Dress Code which was approved by Members a number of years ago, which Members can find detailed below:-

The driver shall not at any time whilst acting as a licensed driver wear:-

- a. shorts, other than tailored Bermuda type shorts
- b. Micro mini skirts
- c. Vest type t-shirts
- d. Large hats or headgear
- e. Dirty, ripped or tie bleached jeans
- f. Any other dress which the Council deem unsuitable

- 3.2 A revised dress code has for some time been discussed due to safety concerns and the impression left with visitors (and residents) to the County when inappropriate clothing is worn. A balance must be found between drivers presenting a good image for the County without impacting on an individual’s freedom to wear clothes that are not

prescriptive.

- 3.3 The driver's dress code is aimed at ensuring safe footwear is worn at all times and improving the image of drivers without compromising their ability to wear their normal clothing.
- 3.4 The proposed revised Hackney Carriage and Private Hire Driver Dress Code can be found at Appendix A.

#### 4. **CONSULTATION**

- 4.1 Should Members be minded to support the proposed revised Hackney Carriage and Private Hire Vehicle Driver Dress Code, Officers will start formal consultation with all Licence Holders.
- 4.2 Officers will report back to Members, with the outcome of the consultation at the December Committee Meeting.

#### 5. **RECOMMENDATION**

- 5.1 For Members to support the proposed revised Hackney Carriage and Private Hire Driver Dress Code and in doing so, authorise Officers to commence formal consultation.

## **DRESS CODE FOR LICENSED DRIVERS**

1. The Council is committed to encouraging the professional image of the licensed trade. The Council considers that drivers should conform to a minimum standard of dress, as set out below, in order to:
  - a. raise and maintain the profile of the licensed trade;
  - b. promote confidence amongst members of the public to ensure passengers feel comfortable when using licensed vehicles;
  - c. promote public safety by ensuring the safe operation of licensed vehicles at all times and ensuring that licensing drivers are readily identifiable.
  - d. protect the licensed driver from any abuse or harm
  
2. The Council does not impose such standards by way of conditions to any licence. It is expected, however, that such standards will be maintained at all times.
  
3. Breaches of the Dress Code for Licensed Drivers will be dealt with by use of a Penalty Point System.
  
4. **ACCEPTABLE STANDARD OF DRESS WITHIN THIS CODE**
  - 4.1 **Tops**

Shirts, blouses, Polo T-shirts(with collar), should cover the shoulders and midriff and be capable of being worn inside trousers or skirts.  
Shirts or blouses can be worn with a tie or open-necked.
  
  - 4.2 **Trousers/Skirts/Shorts**

Skirts should be to the knee or below.  
Shorts may be worn if tailored and to the knee or below.
  
  - 4.3 **Footwear**

Footwear should fit around the heel of the foot
  
5. **UNACCEPTABLE STANDARDS OF DRESS WITHIN THIS CODE**
  - a. Bare chests, to include low cut tops;
  - b. Clothing or footwear which is unclean or damaged;
  - c. Clothing printed with words, logo or graphics which might offend;
  - d. Sports shirts e.g. football, or rugby or cricket tops or track suits;
  - e. No beachwear including footwear eg flipflops, mules
  - f. No pronounced heels
  - g. Headgear that partially or completely conceals the face or the identity of the licensed driver e.g. baseball caps;
  - h. Shorts above the knee
  - i. Hoodies
  - j. Short/mini skirts are not to be worn for personal safety reasons
  - k. Round neck t-shirts
  
6. The above lists are not exhaustive and Authorised Officers of the Council will assess whether standards of dress are acceptable or not. In such instances, the Officer's decision will have effect as though it were included in the above lists and the licensed drivers will be required to comply accordingly.

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# Agenda Item 9

**REPORT TO: LICENSING COMMITTEE**

**DATE: 24<sup>th</sup> September 2014**

**REPORT BY: THE HEAD OF PLANNING AND PUBLIC PROTECTION**

**SUBJECT: LICENSING COMMITTEE WORK PROGRAMME 2014/15**

<b>DATE</b>	<b>REPORT</b>	<b>COMMENT</b>
September 2014	Review of Hackney Carriage and Private Hire Policy: Driver Dress Code Code of Conduct	Report for Members consideration and approval for Officers to consult all interested parties
	Hackney Carriage Byelaws	Report for Members to consider adopting Model Byelaws
	Review of Hackney Carriage and Private Hire Penalty Point Policy and Procedure	Report for Members to approve the proposed policy
December 2014	Review of the existing Sex Establishment Policy	Report for Members consideration
	Review of Vehicle Specification Policy	Report for Members consideration
March 2015	Review of the existing Street Trading Policy	Report for Members consideration and approval for Officers to consult all interested parties
	The Scrap Metal Dealers Act 2013 Policy	Report for Members to approve the proposed North Wales Policy
	Sex Establishment Renewal	Report for Members to consider the renewal of existing Sex Establishment Licence
June 2015	Review of the existing Hackney Carriage and Private Hire Policy relating to Vehicles	Report for Members to consider and approve the proposed amendments to policy
September 2015	Review of the existing Hackney Carriage and Private Hire Policy relating to Operators	Report for Members to consider and approve the proposed amendments to policy



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