

To: Members of the Licensing  
Committee

Date: 27 November 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, 3 DECEMBER 2014** in the **COUNCIL CHAMBER, RUSSELL HOUSE, RHYL**.

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**

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 - 18)**

To receive the minutes of the Licensing Committee held on 24 September 2014 (copy enclosed).

#### **5 HACKNEY CARRIAGE AND PRIVATE HIRE CONDITIONS - PROPOSED AMENDMENTS RELATING TO TIPPING OF SEATS (Pages 19 - 28)**

To consider a report by the Head of Planning and Public Protection (copy enclosed) detailing proposals to amend conditions relating to the tipping of seats in licensed vehicles.

**6 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2014/15**  
(Pages 29 - 32)

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.

**7 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 14/0985/TXJDR** (Pages 33 - 36)

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 hackney carriage and private hire vehicles from Applicant No. 14/0985/TXJDR.

**8 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 047689** (Pages 37 - 74)

To consider a confidential 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. 047689.

**9 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 047857** (Pages 75 - 112)

To consider a confidential 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. 047857.

**10 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 048126** (Pages 113 - 152)

To consider a confidential 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. 048126.

## **MEMBERSHIP**

### **Councillors**

Cefyn Williams (Chair)

Barry Mellor (Vice-Chair)

Joan Butterfield

Pat Jones

Bill Cowie

Win Mullen-James

Richard Davies

Peter Owen

Stuart Davies

Arwel Roberts

Hugh Irving

### **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:  1. Section 61 (2A) of the Local Government (Miscellaneous Provisions) Act 1976. 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.  The Solicitor will explain to the licence holder the implications of the decision.
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

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### 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:

*(See the note below)\**

Signed

Date

\*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

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## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 24 September 2014 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Bill Cowie, Richard Davies, Stuart Davies, Pat Jones, Barry Mellor (Vice-Chair), Win Mullen-James and Cefyn Williams (Chair)

Observer – Councillor Meirick Davies

### ALSO PRESENT

Head of Legal, HR and Democratic Services (GW), Licensing Officers (NJ & JT), Licensing Enforcement Officer (HB), Senior Community Safety Enforcement Officer (TWE), Public Protection Business Manager (IM) and Committee Administrator (KEJ)

#### 1 APOLOGIES

Councillors Hugh Irving and Arwel Roberts

#### 2 DECLARATION OF INTERESTS

Councillor Cefyn Williams declared a personal and prejudicial interest in Agenda Item 11 – Application for a Licence to Drive Private Hire Vehicles, because he knew the applicant in question.

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

No urgent matters had been raised.

#### 4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 11 June 2014 were submitted.

**RESOLVED** that the minutes of the meeting held on 11 June 2014 be received and confirmed as a correct record.

#### 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.

#### 5 DISPENSATION FROM REQUIREMENT TO DISPLAY PRIVATE HIRE VEHICLE LICENCE PLATES

[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 for dispensation from the requirement to display licence plates on a Private Hire Vehicle;
- (ii) the Council's powers to grant a proprietor dispensation from displaying the licence plate taking into account the executive nature of the work along with the quality of the vehicle involved and where the vehicle would be operated;
- (iii) the applicant having provided full details of both the vehicle and nature of the business (Appendix A to the report), and
- (iv) other determining factors requiring consideration and suggested conditions (Appendix B to the report) should members be minded to grant the dispensation request.

The Licensing Officer provided a summary of the report which also recommended the production of a policy on private hire vehicle licence plate exemption to enable future applications to be considered in a consistent manner.

The Applicant was in attendance at the meeting and elaborated upon the operation and nature of his business and reasoning behind his request for dispensation. He confirmed he had read the proposed conditions to be attached to the dispensation if granted which included signing an undertaking that he fully understood and accepted those conditions. In determining the request for dispensation it was –

***RESOLVED that –***

- (a) the request for dispensation from the requirement to display the private hire vehicle licence plate and door stickers be approved subject to the conditions as detailed in Appendix B to the report, and*
- (b) officers be authorised to amend the committee's forward work programme to include a draft policy on Private Hire Vehicle Licence Plate Exemption to be scheduled at a future meeting.*

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

Having considered the report and submission of the Applicant members were satisfied that the nature of the work and quality of the vehicle involved met the criteria for exemption in this case. The conditions had been imposed in order to aid regulation and enforcement.

## **OPEN SESSION**

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

## **6 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.

Members were reminded they had received a revised policy at their last meeting but in light of concerns raised by the taxi trade and low response to consultation it was resolved that a special meeting be convened to consider the policy in detail taking into account the views of the taxi and private hire trade. A further two week consultation had taken place and officers had subsequently reviewed the policy and made some minor changes to the list of breaches/infringements taking into account the views of licence holders following a recent workshop with members. Officers were also recommending that the scheme be run over 24 months.

Members acknowledged the significant amount of time taken to review the policy, particularly the allocation of points for particular infringements, and were satisfied that all the issues raised previously had been dealt with. Consequently it was –

**RESOLVED** that –

- (a) *the revised Penalty Point Policy and Procedure as detailed in Appendix A to the report be approved to replace the existing Penalty Point Scheme currently found in the “Blue Book” – the Council’s Hackney Carriage and Private Hire Licensing Conditions, and*
- (b) *the scheme be implemented from the 1 November 2014, with a grace period of one month before enforcement of the scheme is introduced.*

## **7 PROPOSED REVISED HACKNEY CARRIAGE BYELAWS**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting revised Byelaws relating to Hackney Carriage regulation for approval to consultation.

The legal responsibilities and relevant legislation for licensing hackney carriages and their drivers had been detailed within the report. Existing byelaws related to Rhyl and Prestatyn and it was recommended that the Council adopt Byelaws covering the whole county to ensure they accurately reflected changes in legislation and that a fair, transparent and consistent approach was taken when determining enforcement and other issues relating to hackney carriage vehicles and drivers. The Department for Transport had produced a set of Model Byelaws which officers recommended for adoption subject to consultation with all hackney carriage proprietors and licensed drivers.

Members noted that following consultation any representations would be submitted to full Council for members’ consideration prior to adoption.

**RESOLVED** *that the proposed Department of Transport Model Byelaws as detailed in the appendix to the report be supported and officers be authorised to commence consultation with all hackney carriage proprietors and licensed drivers.*

## **8 PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE CODE OF GOOD CONDUCT**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting the proposed Hackney Carriage and Private Hire Driver Code of Good Conduct for approval to consultation.

The purpose of the Code was to further improve standards of hackney carriage and private hire drivers and would assist officers in monitoring compliance of licence holders and take enforcement action where necessary. It included the responsibilities of licensed drivers to the trade, passengers, and residents and at ranks and offices, together with some general responsibilities. If members approved the Code for consultation the outcome would be reported back to their next meeting.

Councillors Joan Butterfield and Barry Mellor highlighted the abundance of taxis operating in the Rhyl area which was leading to fractions between taxi drivers, particularly at ranks. Questions were raised regarding the management of the problem and enforcement of the Code, including order at taxi ranks. In light of these problems Councillor Mellor felt there would be merit in considering limiting the number of vehicle licences issued. The Licensing Enforcement Officer confirmed that taxi drivers operated an informal rank etiquette whereby customers were expected to take the first taxi at the front of a rank although this was not binding and the customer had a choice as to which vehicle they used. Whilst acknowledging there were more taxis than rank spaces available the licence holder had a responsibility to use ranks effectively as it was impractical for Enforcement Officers to police them full time. The Head of Legal, HR and Democratic Services added that reference to failure to observe rank discipline was included within the Penalty Point Scheme. In response to a request from Councillor Win Mullen-James officers agreed to insert timings during which it was unlawful to sound a vehicle's horn within the Code.

**RESOLVED** that, subject to members' comments above, the proposed Hackney Carriage and Private Hire Driver Code of Good Conduct as detailed in the appendix to the report be supported and officers be authorised to commence consultation thereon.

## **9 PROPOSED AMENDED HACKNEY CARRIAGE AND PRIVATE HIRE DRESS CODE**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting an amended Hackney Carriage and Private Hire Dress Code for approval to consultation.

The purpose of the Dress Code for licensed drivers was to improve standards and to address safety concerns and the impression left with both visitors and residents when inappropriate clothing was worn. The current Dress Code was extremely limited and during its review it was acknowledged that a balance must be struck

between drivers presenting a good image for the county without impacting on an individual's freedom to wear clothes that were not prescriptive.

Members considered the proposed acceptable standard of dress within the code together with unacceptable standards in order to encourage a professional image of the trade. Councillor Bill Cowie queried the difference between a round neck and open neck t shirt and the Licensing Officer explained that a collared t shirt was considered to be more professional. The committee supported the introduction of a stricter dress code despite noting some criticism in the local press in that regard. Members likened the professions of taxi drivers and bus drivers and noted that uniforms were a requirement for the latter and did convey a more professional and presentable image. It was noted that breaches of the dress code would be dealt with by use of the Penalty Point System.

**RESOLVED** that the proposed revised Hackney Carriage and Private Hire Driver Dress Code as detailed in the appendix to the report be supported and officers be authorised to commence formal consultation thereon.

## **10 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. It was confirmed that any requests from members for items to be included within the work programme could be made via the Chair.

**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.

## **11 APPLICATION FOR A LICENCE TO DRIVE PRIVATE HIRE VEHICLES - APPLICANT NO. 051260**

[Councillor Cefyn Williams declared a personal and prejudicial 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 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.

The Licensing Officer (JT) provided a summary of the report advising 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. She further advised that the Applicant was not in attendance and reminded members that the application had been deferred from the last meeting because the Applicant had failed to attend. Given that the Applicant had been provided with two opportunities to attend the hearing of his application, and in the absence of an explanation regarding his non-attendance, the committee agreed to proceed in his absence.

After careful deliberation it was –

***RESOLVED*** that the application for a private hire vehicle drivers licence from Applicant No. 051260 be refused.

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

The committee had considered the application solely on the facts as detailed within the report. The seriousness of the offences disclosed meant that the committee had not been satisfied that the Applicant was a fit and proper person to drive private hire vehicles. In the absence of any explanation given regarding his failure to disclose his convictions upon application and the nature of those convictions the committee was not happy to grant the application.

## **12 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 00327**

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

- (i) the suitability of Driver No. 00327 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) a complaint of assault having been made against the Driver in July 2014 which was subsequently investigated by Licensing Enforcement Officers (a summary of facts together with witness statements and associated documentation had been attached to the report);

- (iii) the North Wales Police having confirmed the Driver admitted to common assault during interview and had been issued with a Community Resolution Notice, and
- (iv) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Licensing Enforcement Officer (HB) detailed the facts of the case and advised that the Driver was in attendance at the meeting. The Driver addressed the committee in support of his licence review and elaborated upon the circumstances surrounding the incident and explained his version of events. He disputed a number of facts contained within the witness statement of the passenger involved together with the account provided by the complainant. He also questioned the credibility of the complainant and the complainant's conduct. To attest to his good character the Driver had provided written references for consideration and he elaborated upon his long serving career as a taxi driver without previous incident.

The Driver responded to members' questions regarding the bullying allegation; rank etiquette and the complainant's conduct. He also advised that he had been previously unaware that his actions amounted to common assault.

In his final statement the Driver elaborated upon the rank etiquette observed by taxi drivers but acknowledged that customers had a choice as to which vehicle they could use. He reiterated that neither passenger in this case had advised him that they wished to use a different vehicle.

At this juncture the committee adjourned to consider the case and it was –

***RESOLVED*** that a formal warning be issued to Driver No. 00327 as to his future conduct.

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

Members had carefully considered the contents of the report and submissions presented by the Driver in this case. It had been accepted by the Driver that he had committed common assault and that an altercation had taken place but the committee concluded that there was sufficient mitigation not to suspend or revoke the licence and that a formal warning as to future conduct was appropriate. The Driver was warned to ensure that he resolved any such matters through other means in future.

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

### **13 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 045728**

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

- (i) the suitability of Driver No. 045728 to hold a licence to drive private hire vehicles;
- (ii) a report having been received in July 2014 stating that the Driver had committed assault during an incident in June 2014 which was subsequently investigated by Licensing Enforcement Officers (a summary of facts together with witness statements and associated documentation had been attached to the report);
- (iii) the North Wales Police having confirmed that during interview the Driver had admitted the offence and was cautioned for Common Assault;
- (iv) the Driver having refused to attend interview with Licensing Enforcement Officers and had subsequently destroyed and returned his licensed driver badge, and
- (v) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Licensing Enforcement Officer (HB) detailed the facts of the case and advised that the Driver was not in attendance.

The committee adjourned to consider the case and it was –

***RESOLVED*** that the hackney carriage and private hire driver's licence issued to Driver No.045728 be revoked on public safety grounds.

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

The committee carefully considered the report and associated documentation and noted that the Driver had admitted common assault and a caution had been issued by the Police. Given the serious nature of the assault resulting in hospital treatment for the victim and the fact that no mitigation had been put forward by the Driver the committee considered the Driver was not a fit and proper person to hold a licence. As members could not be assured as to the public's safety the committee determined that the licence be revoked on the grounds of public safety.

The meeting concluded at 11.25 a.m.



<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	3rd December 2014
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection Services
<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>	Hackney Carriage and Private Hire Conditions – proposed Amendments relating to tipping of seats

## 1. PURPOSE OF THE REPORT

For Members to consider whether it is appropriate to remove an existing condition contained in the Hackney Carriage and Private Hire Licensing Conditions (Blue book) relating to seat tipping.

## 2. EXECUTIVE SUMMARY

- 2.1 The Council currently issue private hire licences to applicants whose vehicles fulfil the licensing criteria and vehicle specification (as detailed within the Blue Book). Officers are proposing to remove Condition 2.1(h) relating to seats in line with the latest Department for Transport guidance and following concerns raised by operators.
- 2.2 Officers have delegated authority to grant vehicle licences in line with current policy. On occasions, when a vehicle does not fulfil the vehicle specification, Officers must refer the matter to Members.

## 3. BACKGROUND INFORMATION

- 3.1 Members will recall that in recent months, Officers have had to refer a number of such applications that cannot comply with condition 2.1(h), to the Committee. Condition 2.1(h) referred to is detailed below:
- 3.2 *“all vehicles must be of a design and manufacture so that all passengers have a clear and unobstructed access to an exit in the event of an emergency. (Under no circumstance will any vehicle be licensed which would require any passenger to move or tip any seat to enter or egress from any seat they may occupy in the vehicle).”*

- 3.3 The above condition was included in the vehicle specification as it was recommended by the Department for Transport (DfT) at that time. The reason was that in the event of injury or death to a passenger, it may not be possible to tip a seat when it is occupied.
- 3.4 The most recent guidance issued by the DfT no longer makes reference to the tipping of seats in relation to private hire vehicles. The current DfT best practice guidance relating to vehicles is shown at Appendix A.
- 3.5 Checks with our neighbouring authorities confirm that this requirement has been removed from their vehicle specification as a result of the above mentioned changes to DfT guidance. The overriding opinion is that vehicle licences will be granted for the amount of passengers which the DVLA V5 registration document deems appropriate.
- 3.6 Car manufacturers and the DVLA specify a number of seats for a particular vehicle. These vehicles will have been tested to current EU standards with the intention of carrying the stated number of passenger.
- 3.7 In the past applicants/proprietors have been expected to modify vehicles, for example removal of seats thereby reducing the number of passengers the vehicle can accommodate, to comply with the Blue Book or be referred to committee. The latter can result in a lengthy delay in a vehicle application being determined and therefore applicants are left with no option but to modify the vehicle to comply with the vehicle specification.
- 3.8 For Members information all previous applications that did not fulfil condition 2.1(h) and opted for their application to be referred to Committee for consideration, were approved.
- 3.9 At this stage, Officers would propose that Members consider the removal of condition 2.1(h) relating to private hire vehicles only, with further investigation and consideration being given for hackney carriage vehicles, given the potential impact the removal of this condition may have on the hackney carriage fleet, for example larger vehicles on ranks taking up more than one space. Officers would report back to a future meeting once a thorough review of the hackney carriage vehicle specification has been completed.
- 3.10 Other considerations to bear in mind when reviewing the removal of this condition for hackney carriage vehicles would be that the vehicle specification (detailed in the current hackney carriage and private hire conditions), for hackney carriage differs from that of private hire.
- 3.11 For Members information, the vehicle specification for Private Hire is that

the Council will consider any Society of Motor Manufacturers and Traders designated 4 and 5 door lower medium estate, or upper medium/large saloon or estate car, MPV, SUV, minibus and the like. The vehicle specification for Hackney Carriage is the Council will consider any conventional 4 or 5 door saloon or estate car, purpose built London Cabs, or other purpose built or adapted taxis.

#### **4. CONSULTATION**

- 4.1 Should Members be minded to support the proposed removal 2.1(h) of the Hackney Carriage and Private Hire Licensing Conditions, Officers will start formal consultation with all Hackney Carriage Proprietors and Private Hire Operators and licensed drivers.
- 4.2 Any representations following the consultation will be reported back to the Licensing Committee at a future date for Members consideration.

#### **5. RECOMMENDATION**

- 5.1 For Members to support the proposals as detailed in 3.9 above and for Officers to start formal consultation with all licence holders

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## **APPENDIX 1**

### **VEHICLES**

#### **Specification Of Vehicle Types That May Be Licensed**

1. The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as taxis or PHVs. Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority license a range of vehicles.
2. Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.
3. It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. But of course the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).
4. The owners and drivers of vehicles may want to make appropriate adaptations to their vehicles to help improve the personal security of the drivers. Licensing authorities should look favourably on such adaptations, but, as mentioned in paragraph 35 below, they may wish to ensure that modifications are present when the vehicle is tested and not made after the testing stage.

#### **Tinted windows**

30. The minimum light transmission for glass in front of, and to the side of, the driver is 70%. Vehicles may be manufactured with glass that is darker than this fitted to windows rearward of the driver, especially in estate and people carrier style vehicles. When licensing vehicles, authorities should be mindful of this as well as the large costs and inconvenience associated with changing glass that conforms to both Type Approval and Construction and Use Regulations.

#### **Imported vehicles: type approval (see also “stretched limousines”, paras 40-44 below)**

31. It may be that from time to time a local authority will be asked to license as a taxi or PHV a vehicle that has been imported independently (that is, by somebody other than the manufacturer). Such a vehicle might meet the local authority's criteria for licensing, but the local authority may nonetheless be uncertain about the wider rules for foreign vehicles being used in the UK. Such vehicles will be subject to the 'type approval' rules. For

passenger cars up to 10 years old at the time of first GB registration, this means meeting the technical standards of either:

- a European Whole Vehicle Type approval;
- a British National Type approval; or
- a Individual Vehicle Approval.

Most registration certificates issued since late 1998 should indicate the approval status of the vehicle. The technical standards applied (and the safety and environmental risks covered) under each of the above are proportionate to the number of vehicles entering service. Further information about these requirements and the procedures for licensing and registering imported vehicles can be seen at [www.businesslink.gov.uk/vehicleapprovalschemes](http://www.businesslink.gov.uk/vehicleapprovalschemes)

### **Vehicle Testing**

32. There is considerable variation between local licensing authorities on vehicle testing, including the related question of age limits. The following can be regarded as best practice:

- **Frequency Of Tests.** The legal requirement is that all taxis should be subject to an MOT test or its equivalent once a year. For PHVs the requirement is for an annual test after the vehicle is three years old. An annual test for licensed vehicles of whatever age (that is, including vehicles that are less than three years old) seems appropriate in most cases, unless local conditions suggest that more frequent tests are necessary. However, more frequent tests may be appropriate for older vehicles (see 'age limits' below). Local licensing authorities may wish to note that a review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emissions test. This finding, perhaps suggests that emissions testing should be carried out on ad hoc basis and more frequently than the full vehicle test.
- **Criteria For Tests.** Similarly, for mechanical matters it seems appropriate to apply the same criteria as those for the MOT test to taxis and PHVs\*. The MOT test on vehicles first used after 31 March 1987 includes checking of all seat belts. However, taxis and PHVs provide a service to the public, so it is also appropriate to set criteria for the internal condition of the vehicle, though these should not be unreasonably onerous.

\*A manual outlining the method of testing and reasons for failure of all MOT tested items can be obtained from the Stationary Office see <http://www.tsoshop.co.uk/bookstore.asp?FO=1159966&Action=Book&From=SearchResults&ProductID=0115525726>

- **Age Limits.** It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old.

- Number Of Testing Stations. There is sometimes criticism that local authorities provide only one testing centre for their area (which may be geographically extensive). So it is good practice for local authorities to consider having more than one testing station. There could be an advantage in contracting out the testing work, and to different garages. In that way the licensing authority can benefit from competition in costs. (The Vehicle Operators and Standards Agency – VOSA – may be able to assist where there are local difficulties in provision of testing stations.)

33. The Technical Officer Group of the Public Authority Transport Network has produced Best Practice Guidance which focuses on national inspection standards for taxis and PHVs. Local licensing authorities might find it helpful to refer to the testing standards set out in this guidance in carrying out their licensing responsibilities. The PATN can be accessed via the Freight Transport Association.

### **Personal security**

34. The personal security of taxi and PHV drivers and staff needs to be considered. The Crime and Disorder Act 1998 requires local authorities and others to consider crime and disorder reduction while exercising all of their duties. Crime and Disorder Reduction Partnerships are also required to invite public transport providers and operators to participate in the partnerships. Research has shown that anti-social behaviour and crime affects taxi and PHV drivers and control centre staff. It is therefore important that the personal security of these people is considered.
35. The owners and drivers of vehicles will often want to install security measures to protect the driver. Local licensing authorities may not want to insist on such measures, on the grounds that they are best left to the judgement of the owners and drivers themselves. But it is good practice for licensing authorities to look sympathetically on - or actively to encourage - their installation. They could include a screen between driver and passengers, or CCTV. Care however should be taken that security measures within the vehicle do not impede a disabled passenger's ability to communicate with the driver. In addition, licensing authorities may wish to ensure that such modifications are present when the vehicle is tested and not made after the testing stage.
36. There is extensive information on the use of CCTV, including as part of measures to reduce crime, on the Home Office website (e.g. <http://scienceandresearch.homeoffice.gov.uk/hosdb/cctv-imaging-technology/CCTV-andimaging-publications>) and on the Information Commission's Office website ([www.ico.gov.uk](http://www.ico.gov.uk)). CCTV can be both a deterrent to would-be trouble makers and be a source of evidence in the case of disputes between drivers and passengers and other incidents. There is a variety of funding sources being used for the implementation of security measures for example, from community safety partnerships, local authorities and drivers themselves.
37. Other security measures include guidance, talks by the local police and conflict avoidance training. The Department has recently issued guidance for taxi and PHV drivers to help them improve their personal security. These can be accessed on the Department's website at: <http://www.dft.gov.uk/pgr/crime/taxiphv/>.

In order to emphasise the reciprocal aspect of the taxi/PHV service, licensing authorities might consider drawing up signs or notices which set out not only what passengers can expect from drivers, but also what drivers can expect from passengers who use their service. Annex B contains two samples which are included for illustrative purposes but local authorities are encouraged to formulate their own, in the light of local conditions and circumstances. Licensing authorities may want to encourage the taxi and PHV trades to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships.

### **Vehicle Identification**

38. Members of the public can often confuse PHVs with taxis, failing to realise that PHVs are not available for immediate hire and that a PHV driver cannot be hailed. So it is important to distinguish between the two types of vehicle. Possible approaches might be:

- a licence condition that prohibits PHVs from displaying any identification at all apart from the local authority licence plate or disc. The licence plate is a helpful indicator of licensed status and, as such, it helps identification if licence plates are displayed on the front as well as the rear of vehicles. However, requiring some additional clearer form of identification can be seen as best practice. This is for two reasons: firstly, to ensure a more positive statement that the vehicle cannot be hired immediately through the driver; and secondly because it is quite reasonable, and in the interests of the travelling public, for a PHV operator to be able to state on the vehicle the contact details for hiring;
- a licence condition which requires a sign on the vehicle in a specified form. This will often be a sign of a specified size and shape which identifies the operator (with a telephone number for bookings) and the local licensing authority, and which also has some words such as 'pre-booked only'. This approach seems the best practice; it identifies the vehicle as private hire and helps to avoid confusion with a taxi, but also gives useful information to the public wishing to make a booking. It is good practice for vehicle identification for PHVs to include the contact details of the operator.
- Another approach, possibly in conjunction with the previous option, is a requirement for a roof-mounted, permanently illuminated sign with words such as 'pre-booked only'. But it can be argued that any roof-mounted sign, however unambiguous its words, is liable to create confusion with a taxi. So roof-mounted signs on PHVs are not seen as best practice.

### **Environmental Considerations**

39. Local licensing authorities, in discussion with those responsible for environmental health issues, will wish to consider how far their vehicle licensing policies can and should support any local environmental policies that the local authority may have adopted. This will be of particular importance in designated Air Quality Management Areas (AQMAs), Local authorities may, for example, wish to consider setting vehicle emissions standards for taxis and PHVs. However, local authorities would need to carefully and thoroughly



assess the impact of introducing such a policy; for example, the effect on the supply of taxis and PHVs in the area would be an important consideration in deciding the standards, if any, to be set. They should also bear in mind the need to ensure that the benefits of any policies outweigh the costs (in whatever form).

### **Stretched Limousines**

1. Local licensing authorities are sometimes asked to license stretched limousines as PHVs. It is suggested that local authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats -have a legitimate role to play in the private hire trade, meeting a public demand. Indeed, the Department's view is that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle and that any authorities which do adopt such practices are leaving themselves open to legal challenge. A policy of excluding limousines creates an unacceptable risk to the travelling public, as it would inevitably lead to higher levels of unlawful operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators. The Department has now issued guidance on the licensing arrangements for stretched limousines. This can be accessed on the Department's web-site at <http://www.dft.gov.uk/pgr/regional/taxis/stretchlimousines.pdf>.
2. The limousine guidance makes it clear that most operations are likely to fall within the PHV licensing category and not into the small bus category. VOSA will be advising limousine owners that if they intend to provide a private hire service then they should go to the local authority for PHV licences. The Department would expect licensing authorities to assess applications on their merits; and, as necessary, to be proactive in ascertaining whether any limousine operators might already be providing an unlicensed service within their district.
3. Imported stretched limousines were historically checked for compliance with regulations under the Single Vehicle Approval (SVA) inspection regime before they were registered. This is now the Individual Vehicle Approval (IVA) scheme. The IVA test verifies that the converted vehicle is built to certain safety and environmental standards. A licensing authority might wish to confirm that an imported vehicle was indeed tested by VOSA for IVA before being registered and licensed (taxed) by DVLA. This can be done either by checking the V5C (Registration Certificate) of the vehicle, which may refer to IVA under the "Special Note" section; or by writing to VOSA, Ellipse, Padley Road, Swansea, SA1 8AN, including details of the vehicle's make and model, registration number and VIN number.
4. Stretched limousines which clearly have more than 8 passenger seats should not of course be licensed as PHVs because they are outside the licensing regime for PHVs. However, under some circumstances the SVA regime accepted vehicles with space for more than 8 passengers, particularly where the precise number of passenger seats was hard to determine. In these circumstances, if the vehicle had obtained an SVA certificate, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than 8 passengers, bearing in mind that refusal may encourage illegal private hire operation.

1. Many councils are concerned that the size of limousines prevents them being tested in conventional MoT garages. If there is not a suitable MoT testing station in the area then it would be possible to test the vehicle at the local VOSA test stations. The local enforcement office may be able to advise (contact details on <http://www.vosa.gov.uk>).

## **QUANTITY RESTRICTIONS OF TAXI LICENCES OUTSIDE LONDON**

1. The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet'.
2. Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.
3. Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	3rd December 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>	Forward Work Programme 2014/15

## 1. PURPOSE OF THE REPORT

- 1.2 To advise Members of some minor changes to the Forward Work Programme for 2014/15 that was originally approved in March 2014.

## 2. EXECUTIVE SUMMARY

- 2.1 A proposed revised Forward Work Programme is attached, at Appendix 1, for Members to consider and approve.

## 3. BACKGROUND INFORMATION

- 3.1 Members will be aware that at the March Licensing Committee, Members approved an 18 month Forward Work Programme.
- 3.2 Following an Internal Audit of the taxi licensing procedures, actions were recommended to improve our background checks for taxi licensing. These recommendations meant immediate changes to our existing processes needed to be devised and implemented. A full review of the hackney carriage and private hire driver process has therefore taken place e.g. Disclosure and Barring Service (DBS) checks, the DVLA driver licence checking service, School Contracts and Social Services, adding a number of additional elements to the licensing process, which has in turn increased Senior Officer workload.
- 3.3 The Policing and Crime Act 2009 which came into effect at the end of 2011 brought the licensing of premises which provide sexual entertainment into the same regime that licences Sex Shops and Sex Cinemas (the Local Government (Miscellaneous Provisions) Act 1982). It is therefore imperative that a thorough review of the Sex Establishment Policy is undertaken to ensure that it still meets the needs of the

residents of Denbighshire and is fit for purpose.

- 3.4 Taking all the above into consideration, Officers would now like to make some minor changes to the Forward Work Programme, as detailed below:
1. Move the Sex Establishment review report which was scheduled for this meeting to the March 2015 meeting to coincide with the renewal of the existing Sex Establishment Licence.
  2. To also bring back a report on the outcome of the proposed revised Driver Dress Code and Code of Good Conduct following the consultation and scheduled workshop session

4. **RECOMMENDATION**

- 4.1 For Members to note the contents of the report and to approve the amendments to the Forward Work Programme, as detailed at 3.4 above.

**REPORT TO: LICENSING COMMITTEE**

**DATE: 3<sup>rd</sup> December 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>
December 2014	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
	Review of the existing Sex Establishment Policy	Report for Members consideration
	Driver Dress Code Policy	Report for Members consideration following consultation
	Code of Good Conduct Policy	Report for Members consideration following consultation
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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