

To: Members of the Licensing
Committee

Date: 26 February 2015

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, 4 MARCH 2015** 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 - 18)

To receive the –

- (a) minutes of the Licensing Committee held on 3 December 2014 (copy enclosed), and
- (b) minutes of the Special Licensing Committee held on 12 January 2015 (copy enclosed).

5 PROPOSED AMENDED HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER DRESS CODE (Pages 19 - 28)

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 consideration and approval.

6 PROPOSED CODE OF GOOD CONDUCT FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS (Pages 29 - 34)

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

7 HACKNEY CARRIAGE AND PRIVATE HIRE CONDITIONS - PROPOSED AMENDMENTS RELATING TO TIPPING OF SEATS FOR PRIVATE HIRE VEHICLES (Pages 35 - 38)

To consider a report by the Head of Planning and Public Protection (copy enclosed) seeking approval of the removal of condition 2.1(h) contained within the hackney carriage and private hire conditions relating to seat tipping.

8 REVIEW OF SEX ESTABLISHMENT POLICY (Pages 39 - 42)

To consider a report by the Head of Planning and Public Protection (copy enclosed) regarding amendments to the regime authorising the licensing of premises that provide sexual entertainment.

9 REVIEW OF STREET TRADING POLICY (Pages 43 - 48)

To consider a report by the Head of Planning and Public Protection (copy enclosed) recommending a review of the existing Street Trading Policy.

10 SCRAP METAL DEALERS ACT 2013 - UPDATE ON THE PROPOSED POLICY (Pages 49 - 50)

To consider a report by the Head of Planning and Public Protection (copy enclosed) updating members on progress with preparing a Scrap Metal Dealers Policy.

11 LICENSING COMMITTEE WORK PROGRAMME 2015 (Pages 51 - 52)

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 & 13 of Part 4 of Schedule 12A of the Act would be disclosed.

12 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - STREET TRADING CONSENT APPLICATION (Pages 53 - 68)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of an application received for Street Trading Consent.

MEMBERSHIP

Councillors

Cefyn Williams (Chair)

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: 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

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, Russell House, Rhyl on Wednesday, 3 December 2014 at 9.30 am.

PRESENT

Councillors Bill Cowie, Win Mullen-James, Peter Owen, Arwel Roberts and Cefyn Williams (Chair)

ALSO PRESENT

Principal Solicitor (AL); Licensing Officers (NJ & JT); Licensing Enforcement Officer (HB); Senior Community Safety Enforcement Officer (TWE); Public Protection Business Manager (IM), and Committee Administrator (KEJ)

PRELIMINARY ISSUE - LICENCE REVIEWS (AGENDA ITEMS 8 AND 9)

Prior to commencement of the meeting some members expressed reservations that two licence reviews had been submitted for determination despite pending criminal proceedings which could result in them being brought back to committee and/or could prove detrimental in an appeal situation. The Principal Solicitor advised that the trial's outcome was largely irrelevant given that the committee was not tasked with considering the guilt or otherwise of the drivers but whether they were considered fit and proper to hold a licence on the basis of the allegations raised and the information being put to them. For the committee there were different considerations and very different elements of law. She was satisfied that the committee had sufficient information to determine the licence reviews. In terms of the matter being brought back to committee, the nature of any conviction in this case would result in officers determining the matter under delegated authority. Members had mixed views on whether the matter should proceed to hearing at this stage and following debate the committee agreed to defer consideration of the two licence reviews pending the outcome of the criminal proceedings. It was also agreed that a special meeting of the committee be convened as soon as possible thereafter to determine the licence holders' suitability.

The committee's decision was conveyed separately to the licensed drivers concerned. The Chair noted arguments against deferral put forward by Driver No. 047857's legal representative but denied her request to proceed with the review before the outcome of the trial was known. It was also noted that an application for adjournment in this case had been made by the legal representative of Driver No. 047689.

1 APOLOGIES

Councillors Joan Butterfield, Richard Davies, Stuart Davies, Hugh Irving, Pat Jones and Barry Mellor

2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

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 24 September 2014 were submitted.

Accuracy – Councillor Peter Owen advised that his apologies for absence had not been recorded within the minutes.

RESOLVED that, subject to the above, the minutes of the meeting held on 24 September 2014 be received and confirmed as a correct record.

5 HACKNEY CARRIAGE AND PRIVATE HIRE CONDITIONS - PROPOSED AMENDMENTS RELATING TO TIPPING OF SEATS

The Licensing Officer (JT) submitted a report by the Head of Planning and Public Protection (previously circulated) detailing proposals to amend conditions relating to the tipping of seats in licensed vehicles.

Officers explained the reasoning behind the proposal to remove condition 2.1(h) relating to the tipping of seats in private hire vehicles to allow access and egress from the vehicle following the latest Department of Transport guidance (attached to the report) and concerns raised by operators. In light of the impact on the hackney carriage fleet and differing vehicle specification it was recommended that a review of the hackney carriage specification be carried out and the findings reported back to a future meeting for members' consideration.

Members considered the Department of Transport guidance and also noted that all previous private hire vehicle applications submitted to the committee because they did not fulfil condition 2.1(h) had been approved. In terms of the timescale for the proposed hackney carriage specification review officers advised of the intention to commence the process and report back to committee as soon as possible.

RESOLVED that –

- (a) *proposals to remove condition 2.1(h) contained in the Hackney Carriage and Private Hire Licensing Conditions relating to the tipping of seats be supported and formal consultation commence with all licence holders thereon, and*
- (b) *a review of the hackney carriage vehicle specification relating to the removal of the condition relating to the tipping of seats be carried out and the findings reported back to a future meeting of the committee for consideration.*

6 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2014/15

A report by the Head of Planning and Public Protection was submitted (previously circulated) detailing some minor changes to the Licensing Committee's future work programme since its approval in March 2014.

Officers reported upon work undertaken following an internal audit of taxi licensing procedures in order to improve background checks for taxi licensing together with new legislation requiring a review of the Sex Establishment Policy. Members noted the impact of those requirements on the work programme and suggested changes to the work programme as a result. Consequently it was –

RESOLVED that the report be noted and the proposed amendments to the work programme as detailed within paragraph 3.4 of the report 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.

7 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 14/0985/TXJDR

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

- (i) an application received from Applicant No. 14/0985/TXJDR for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the application due to the Applicant's accrual of 10 valid penalty points on this DVLA Drivers Licence;
- (iii) a summary of the motoring endorsements having been provided together with details of the Applicant's previous history as a licensed driver;
- (iv) the Council's current policy with regard to the relevance of convictions, and
- (v) the Applicant having been requested to attend the meeting in support of his application and to answer members' questions thereon.

The Licensing Officer (NJ) provided a summary of the report and advised that the Applicant was not in attendance but regularly worked away from home which might explain his absence.

The committee adjourned to consider the application and it was –

RESOLVED that the application for a hackney carriage and private hire vehicle drivers licence from Applicant No. 14/0985/TXJDR be granted with a formal warning issued as to his future conduct.

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

The committee noted the type and nature of motoring convictions accrued by the Applicant together with his previous history and on that basis considered him to be a fit and proper person to hold a hackney carriage and private hire vehicle drivers licence. However, in light of the number of penalty points accrued it was also considered appropriate that a formal warning be issued as to his future conduct.

8 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 047689

A written application for adjournment had been made on behalf of Driver No. 047689. Notwithstanding that request the matter had been considered as a preliminary issue immediately prior to the meeting and Driver No. 047689 had been informed of the outcome. Consequently members –

RESOLVED that the review of the licence to drive hackney carriage and private hire vehicles issued to Driver No. 047689 be deferred pending the outcome of the criminal proceedings in this case.

9 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 047857

The committee had considered whether or not to proceed with the licence review as a preliminary issue immediately prior to the meeting. The decision to defer the matter had been conveyed to Driver No. 047857 and his legal representative who had argued in favour of the review being heard. The request to proceed with the review hearing at this time had been denied. Consequently members –

RESOLVED that the review of the licence to drive hackney carriage and private hire vehicles issued to Driver No. 047857 be deferred pending the outcome of the criminal proceedings in this case.

10 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 048126

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

- (i) the suitability of Driver No. 048126 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) a complaint having been made against Driver No. 048126 on 23 September 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), and
- (iii) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Senior Community Safety Enforcement Officer (TWE) presented the report and confirmed that the Applicant was not present despite being invited to attend. Members took the opportunity to raise questions with officers regarding the facts of the case and sought clarification on a number of issues.

The committee adjourned to consider the application and it was –

RESOLVED that the hackney carriage and private hire vehicle driver's licence issued to Driver No. 048126 be revoked on public safety grounds with immediate effect.

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

The committee carefully considered the evidence presented including the nature of the complaint and use of the hackney carriage vehicle. Members found that the Driver had behaved inappropriately and had breached his position of trust as a taxi driver and therefore considered he was not a fit and proper person to hold a licence. In addition the committee considered that his actions had brought the Council into disrepute. In view of the nature and seriousness of the incident the committee could not be assured as to the public's safety and determined that the licence be revoked on the grounds of public safety.

The meeting concluded at 10.35 a.m.

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LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in Conference Room 1a, County Hall, Ruthin on Monday, 12 January 2015 at 10.00 am.

PRESENT

Councillors Joan Butterfield, Bill Cowie, Richard Davies, Stuart Davies, Hugh Irving, Barry Mellor, Peter Owen, Arwel Roberts and Cefyn Williams (Chair)

ALSO PRESENT

Principal Solicitor (AL); Public Protection Business Manager (IM); Licensing Enforcement Officer (HB); Senior Community Safety Enforcement Officer (TWE) and Committee Administrator (KEJ)

1 APOLOGIES

Councillors Win Mullen-James and Pat Jones

2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

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.

4 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 047857

[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) the suitability of Driver No. 047857 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) an allegation of assault having been made against Driver No. 047857 on 11 August 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 Licensing Committee on 3 December 2014 having deferred consideration of the Driver's suitability pending the outcome of criminal proceedings in this case (details of which had been attached as a supplementary report), and
- (iv) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver was in attendance at the meeting accompanied by his legal representative and his employer. Following introductions the Driver confirmed he had received the report and committee procedures. The Licensing Enforcement Officer (HB) introduced the report and detailed the facts of the case. CCTV footage of the incident subject of the report was shown to the Licensing Committee and replayed a number of times throughout the hearing at members' request.

The Driver's legal representative submitted a number of written references attesting to her client's good character and advised that he had been working as a taxi driver without previous incident. She explained the circumstances surrounding her client's plea basis at the Magistrates Court and his willingness to accept his part in the incident and take responsibility for his actions. In further mitigation she detailed her client's version of events leading up to and during the incident captured on CCTV together with his genuine remorse. In considering the evidence presented she highlighted a number of anomalies in the witness statements provided and argued against the credibility of those witnesses which could not be relied upon. Consequently she argued that, taking into account the circumstances of the case, her client's reaction was understandable, albeit completely out of character, and that he was a fit and proper person to hold a taxi licence.

Members put questions to the Driver regarding his version of events including his view of the incident and outcome of the criminal proceedings in this case. The Driver acknowledged that his conduct had been unacceptable, expressing his deep regret over the incident and was extremely apologetic. The Driver had the full support of his employer who spoke on his behalf and responded to questions regarding his employment confirming he was a valued employee. He also referred to his frustrations regarding elements of the Rhyl taxi trade in general causing dissent and friction between licensed drivers.

The legal representative made a final statement summing up her earlier submissions attesting to her client's good character, highlighting the extreme situation he had faced, and his sincere regret and willingness to take responsibility for his actions. She appealed to the committee not to remove the licence arguing there was no legal basis to suspend or revoke in this case.

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

RESOLVED that a formal warning be issued to Driver No. 047857 regarding the seriousness of the incident and to his future conduct.

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

During deliberations members considered the seriousness of the incident and whilst grave concerns were expressed over the Driver's behaviour in this case, his version of events and mitigation was accepted by the Licensing Committee, and he was considered fit and proper to hold a licence. Members had considered the Driver humble and genuinely sorry for his actions which he had taken responsibility for. The references attesting to the Driver's good character and valuable service had also been taken into account. However, whilst understandable, the behaviour exhibited by the Driver whilst on duty was clearly unacceptable and had brought the Council into disrepute. Consequently it was agreed to issue the Driver with a formal warning regarding the seriousness of the incident and to his future conduct.

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

5 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 047689

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

- (i) the suitability of Driver No. 047689 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) an allegation of assault having been made against Driver No. 047689 on 11 August 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 Licensing Committee on 3 December 2014 having deferred consideration of the Driver's suitability pending the outcome of criminal proceedings in this case (details of which had been attached as a supplementary report), and
- (iv) the Driver having been requested to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver was in attendance at the meeting and following introductions confirmed he had received the report and committee procedures. The Licensing Enforcement Officer (HB) introduced the report and detailed the facts of the case. CCTV footage of the incident subject of the report was shown to the Licensing Committee and replayed a number of times throughout the hearing at members' request.

In mitigation the Driver submitted a written statement from his Solicitors which included reference to the outcome of the criminal proceedings in this case and the circumstances surrounding the offence. Given those details together with the time lapse since the incident during which the Driver had continued to drive taxis it was submitted that revocation of the Driver's licence would be unjust in this case. The Driver also explained his version of the events leading up to the incident and talked

members through the CCTV footage, denying the assault allegation and stressing his innocence of any wrongdoing.

Members questioned the Driver regarding the evidence which had been presented and his conduct before, during and after the incident. The Driver responded to members' questions and denied the assault allegation but expressed regret over confronting his assailant and further elaborated upon his intentions and actions during the incident. In expressing his remorse the Driver recognised how the incident would be perceived by the public and he also accepted he should have handled the situation differently. He referred to his desire to continue his profession as a taxi driver and provided firm assurances regarding his future conduct.

In his final statement the Driver said that he enjoyed his job and was good at it and he appealed to the committee not to revoke his licence.

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

RESOLVED that Driver No. 047689 be warned as to the seriousness of the incident and a final written warning be issued as to his future conduct.

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

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

Members carefully considered all the evidence presented and the Driver's submissions in support of his case and response to questions. It was considered that the Driver had instigated the incident and members were very critical of his behaviour which had brought the Council into disrepute. Concerns were also raised that the Driver had been brought before the committee previously relating to conduct issues. In assessing the Driver's suitability as a licensed driver members had taken into account that elements of the CCTV footage were inconclusive but the Driver had taken some responsibility for the events which had occurred. It was also acknowledged that he had continued to drive since then without incident and had expressed remorse for his actions. Consequently members decided to issue a final warning that the Driver was at risk of losing his licence in the event of any future transgressions.

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

[During the meeting a statement had been submitted regarding the state of the taxi industry in Denbighshire and the Chair asked licensing officers to look into the matters raised and provide the committee with a response thereto.]

The meeting concluded at 12.55 p.m.

REPORT TO:	Licensing Committee
DATE:	4 th March 2015
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	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 and approval.

2. EXECUTIVE SUMMARY

- 2.1 For Members to consider approving an amended licensed driver dress code to enable licensed drivers to project the professional image that is in keeping with the needs of customers and the County.

3. BACKGROUND INFORMATION

- 3.1 Members will be aware that Officers presented a revised driver dress code at the meeting in September 2014. Members resolved to authorise Officers to start formal consultation on the proposed revised dress code for drivers and to report back to a future meeting on the outcome of the consultation.
- 3.2 Since the matter was discussed at the meeting in September, Officers have consulted with all licence holders on the proposed dress code. As a result of the consultation, one written response was received and can be found below:

"I welcome the dress code that you have brought in but I personally do not think it goes far enough I would like to point out that shorts of any description should be banned altogether. My reasons for this as follows first of all is most times the shorts that are worn are very unsightly and also quite a few drivers like to sport off there tattoos . Which i am sure the general public do not wish to see my other reason is you should set up a model based upon the coach Drivers and arriva bus drivers who are always smartly turned out . Also the is need to

take on board personal hygiene some driver smell very bad I have heard one customer who needed a shower after being picked up by one Rhyl Taxi Driver . Also you need to address whether the drivers are clean shaven or if they sport a full beard that it is trimmed neatly. I hope these suggestions are of some use to you"

- 3.3 In addition to the written consultation with all licence holders, Officers arranged a workshop session and invited all licence holders. Out of approximately 400 licensees, 6 attended the workshop session. Although the attendance figures were slightly disappointing, all licence holders that attended were fully engaged and their contribution was valued by Officers.
- 3.4 As part of the workshop session, Officers prepared a justification document, which was discussed, point by point, at length. This document can be seen at Appendix A. For Members information a further column has been added to the document capturing all the comments that were made at the workshop.
- 3.5 The views and comments made by licence holders have been fully considered and where it was felt necessary to amend the proposed dress code, the decision to amend was, in most cases, taken unanimously
- 3.6 The proposed revised Hackney Carriage and Private Hire Driver Dress Code can be found at Appendix B.
- 3.7 If Members were minded to approve the Driver Dress Code, it is proposed to implement it from 1st May 2015.
- 3.8 The existing Penalty Point Policy and Procedure will be implemented to enforce any breaches of the Hackney Carriage and Private Hire Driver Dress Code.

4.

RECOMMENDATION

4.1

For Members to consider approving the revised Hackney Carriage and Private Hire Driver Dress Code found at Appendix B, and in doing so agree to replacing the existing Dress Code currently found in the "Blue Book".

4.2

To implement the Dress Code from the 1st May 2015.



APPENDIX A LICENSED DRIVER PROPOSED DRESS CODE WORKSHOP



The Council’s objective in establishing a dress code is to enable our licensed drivers to project the professional image that is in keeping with the needs of customers and the county.

A few interesting facts

A good standard of dress for everyone in the licensed trade may give customers a favorable impression of you and your company.

First impressions are often long lasting. Like it or not, your appearance is the first thing that people see. Assumptions are often made about your ability to provide a high level of service, based on the way you're dressed. When you dress appropriately, you send a message to your customers that you're a capable driver.

A person can accept you or reject you in the first 30 seconds, based on appearance alone. Studies show inappropriate dressing or grooming causes 40 percent of job rejection.

No	Unacceptable Standard of Dress	Reasons	Comments made at workshop together with proposed changes
1	Bare chests, to include low cut tops	it could potentially make the driver vulnerable and open to inappropriate remarks and	All attendees in agreement – no changes proposed

		abuse. It could also be embarrassing to customers.	
2	Clothing or footwear which is unclean or damaged	The clothes a person wears to work affects how you are perceived by customers. This doesn't mean every driver needs to spend a fortune on a wardrobe. Dressing appropriately means choosing clothes that convey an image of being serious about your job.	All attendees in agreement – no changes proposed
3	Clothing printed with words, logo or graphics which might offend	Logo's and graphics which may seem acceptable by the person who is wearing it, may offend others. As licensed drivers are providing a service to the public they must consider the public interests.	All attendees in agreement – no changes proposed
4	Sports shirts e.g. football, or rugby or cricket tops or track suits	An appropriate dress code helps you (and your business) establish standards that every driver can easily follow. Dressing in appropriate attire enables you (and your company) to project a professional image, sending a message that you're trustworthy and knowledgeable.	Lengthy discussion took place on this point – it was agreed that sport shirts could potentially cause conflict between driver and passenger. It was therefore supported – no changes proposed
5	No beachwear including footwear eg flipflops, mules	Driving in flip flops or sandals or a similar design is by far the most dangerous footwear to drive in. Pedals can easily get caught between the sole of your foot and the flip flop leading to a reduction of control of the vehicle and an increase in the amount of time it takes to brake. Flip flops can easily fall off whilst driving and get caught between or under the pedals. The focus of the driver is then to locate the flip flop, taking the attention off the	Again, this point was discussed at length and it was suggested that “beachwear” needs to be clarified. It is therefore proposed to change this item to: No beachwear including footwear eg flipflops, mules, swim/beach shorts, bathing costumes/sleeveless vest tops etc

		<p>road. Driving in flip flops is a cause of road accidents.</p> <p>The Highway Code states you must not wear footwear that prevents you from using the foot controls in the correct manner</p>	
6	No pronounced heels	<p>Dangers associated with driving in high heel shoes or boots can be the heel getting caught in the floor carpet or mat just as you are going to brake, therefore impeding reaction time or preventing the brake being pressed altogether. Driving in high heels can also be dangerous due to the heel of the foot not resting on the floor of the car. Having the heel of your foot resting on the car floor allows a driver to move from the accelerator to the brake faster and easier and to apply pressure on the pedals. Driving in high heels can slow a drivers reaction down</p>	All attendees in agreement – no changes proposed
7	Headgear that partially or completely conceals the face or the identity of the licensed driver e.g. baseball caps	<p>The wearing of headgear is unacceptable as the identity of a driver can be concealed. Some headgear also looks unprofessional. Religious headgear is exempt from this restriction.</p>	<p>Lengthy discussion on this item. Licensees felt quite strongly that when they were waiting for a fare/customer/ assisting them with luggage etc, especially during cold weather, that they should be allowed to wear headgear. It was accepted that it was not appropriate to wear headgear whilst carrying passengers.</p> <p>It is therefore proposed to make the following changes:</p> <p>Whilst passengers are in the vehicle, no headgear that partially or completely conceals the face or</p>

			the identity of the licensed driver shall be worn e.g. baseball caps/wooly hats (to also include hooded tops and “hoodies”). Religious headgear or wearing headgear for medical reasons is exempt (doctor’s note may be required)
8	Shorts above the knee	The wearing of shorts above the knee is not appropriate for a couple of reasons 1. It may send the wrong impression to your customers which could put you at risk of abuse 2. Customers may feel uncomfortable and embarrassed	All attendees in agreement – no changes proposed
9	Hoodies	The wearing of hoodies is seen as being scruffy and unprofessional	Lengthy discussion took place again over this proposal. It was suggested that the wearing of hoodies was no different to wearing any other type of headgear and this item should be incorporated with number 7 above. It is therefore proposed to include hooded tops in number 7 above and to remove number 9 from the dress code.
10	Short/miniskirts are not to be worn for personal safety reasons	The wearing of short/miniskirts is not appropriate for a couple of reasons 1. It may send the wrong impression to your customers which could put you at risk of abuse 2. Customers may feel uncomfortable and embarrassed.	All attendees in agreement – no changes proposed

11	Round neck t-shirts	Your style of dress sends a message to your potential customers. For example, if you greet your customers in a round neck t-shirt and jeans, you may be sending your customers a message of incompetence.	<p>Lengthy discussion took place over this proposal. Licence holders disagreed strongly with the justification for point 11, arguing the point that you can get expensive round neck t-shirts that look presentable whereas you can get cheap polo t-shirts (with a collar) that can look quite shabby after a very short length of time.</p> <p>It is therefore proposed to the following changes:</p> <p>To remove number 11 from the Dress Code .</p>
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Have you considered introducing branded workwear within your workforce? You could be entitled to a tax rebate. For further details visit the [hmrc.gov.uk](https://www.hmrc.gov.uk) website



APPENDIX B

DRESS CODE FOR HACKNEY CARRIAGE AND PRIVATE HIRE 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 the Penalty Point Policy and Procedure.

4. **ACCEPTABLE STANDARD OF DRESS WITHIN THIS CODE**
 - 4.1 **Tops**
 - i. All tops should cover the shoulders and midriff and be capable of being worn inside trousers/skirts/shorts.
 - ii. Shirts or blouses can be worn with a tie or open-necked.

 - 4.2 **Skirts/Shorts**
 - i. Skirts should be to the knee or below.
 - ii. Shorts may be worn if tailored and to the knee or below.

 - 4.3 **Footwear**
 - i. Footwear should fit around the heel of the foot.
 - ii. No footwear should be worn that prevents you from using the foot controls in the correct manner

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, swim/beach shorts, bathing costumes etc
 - f. No pronounced heels
 - g. Whilst passengers are in the vehicle, no headgear that partially or completely conceals the face or the identity of the licensed driver shall be worn e.g. baseball caps, woolly hats (to also include hooded tops and “hoodies”). Religious headgear or wearing headgear for medical reasons is exempt (doctor’s note may be required);
 - h. Shorts above the knee

- i. Short/miniskirts are not to be worn for personal safety reasons
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.

REPORT TO:	Licensing Committee
DATE:	4 th March 2015
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Proposed Code of Good Conduct for Hackney Carriage and Private Hire Drivers

1. PURPOSE OF THE REPORT

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

2. EXECUTIVE SUMMARY

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

3. BACKGROUND INFORMATION

- 3.1 Members will be aware that Officers presented a proposed Driver Code of Good Conduct at the meeting in September 2014. Members resolved to authorise Officers to start formal consultation on the proposed code for drivers and to report back to a future meeting on the outcome of the consultation.
- 3.2 Since the matter was discussed at the meeting in September, Officers have consulted with all licence holders on the proposed Code of Good Conduct. As a result of the consultation, no responses were received.
- 3.3 In addition to the written consultation with all licence holders, Officers arrange a workshop session and invited all licence holders. Out of approximately 400 licensees, 6 attended the workshop session. Although the attendance figures were slightly disappointing, all licence holders that attended were fully engaged and their contribution was valued by Officers.

- 3.4 During the workshop session, Officers and licensees discussed each section of the Code of Good Conduct, and it was agreed that no amendments were necessary.
- 3.5 The proposed Hackney Carriage and Private Hire Driver Code of Good Conduct can be found at Appendix A.
- 3.6 If Members were minded to approve the Hackney Carriage and Private Hire Code of Good Conduct it is proposed to implement it from 1st May 2015.
- 3.7 The existing Penalty Point Policy and Procedure will be implemented to enforce any breaches of the Hackney Carriage and Private Hire Driver Code of Good Conduct.

4. **RECOMMENDATION**

- 4.1 For Members to consider approving the Hackney Carriage and Private Hire Driver Code of Good Conduct found at Appendix A, and to further approve the implementation date of the 1st May 2015.

APPENDIX A

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 (Rule 112 of Highway Code states not to sound horn when stationary on a road (any time), or when driving in a built-up area between 11.30 pm and 7.00 am);
- (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) not to smoke at any time in a licensed vehicle (whether carrying passengers or not), or allowing passengers to smoke in a licensed vehicle;

- (n) 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
- (o) 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.
- (p) 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
- (q) 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
- (r) 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
- (s) 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

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REPORT TO:	Licensing Committee
DATE:	4 th March 2015
LEAD OFFICER:	Head of Planning and Public Protection Services
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Hackney Carriage and Private Hire Conditions – proposed Amendments relating to tipping of seats for Private Hire Vehicles

1. PURPOSE OF THE REPORT

For Members to consider approving the removal of an existing condition contained in the Hackney Carriage and Private Hire Licensing Conditions (Blue book) relating to seat tipping, following consultation.

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 at the last meeting in December 2014, Officers presented a report proposing to remove Condition 2.1(h) which relates to Private Hire vehicles and access for passengers. As a reminder for Members, 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 At the last meeting, Officers presented Members with the Department for Transport (DfT) current best practice guidance relating to vehicles, which unlike previous DfT guidance documents, does now not mention tipping of seats or direct access requirements for licensed vehicles.
- 3.4 Members are also aware that there have been a number of occasions whereby vehicle applications, that do not fall within the current policy due to access issues, have been referred to this Committee, all of which have been approved.
- 3.5 Should Members be minded to approve the removal of Condition 2.1(h) in respect of Private Hire vehicles only, it would prevent any future delays in private hire vehicle applications being considered.
- 3.6 As previously reported at the last meeting, at this stage, Officers are only proposing that Members consider approving 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.
- 3.7 Should Members be minded to approve the removal of Condition 2.1 (h) Officers would report back to a future meeting once a thorough review of the hackney carriage vehicle specification has been completed.

4. CONSULTATION

- 4.1 Consultation on the proposal to remove condition 2.1 (h) has taken place with all private hire and hackney carriage operators, proprietors and drivers. As a result of the consultation two representations were received and can be viewed as follows:

“I would welcome the removal of condition 2.1 (h) from the conditions book. As I have mentioned before if a vehicle comes out of the factory with 8 seats in it, then it would have already passed a lot of safety standards.”

“this is long overdue in 2014 there has been 10 high court cases were drivers have taken the council to court the councils have lost every case on the grounds that the manufacturer has spent millions of pound developing a safe vehicle inspected by Devra and passed for production and sold as a safe vehicle only for local councils have turned them down

on unsafe for carrying a given passenger capacity, you only have look locally the taxi and private hire rules and regulation with Conway County Council and Denbighshire are totally different why? they are both following the same guided lines for safe public transport if the two councils amalgamate in the future how will they get over the different guided lines ? “

5. RECOMMENDATION

- 5.1 For Members to approve the removal of condition 2.1(h) contained within the hackney carriage and private hire conditions (blue book) with immediate effect.

REPORT TO:	Licensing Committee
DATE:	4th March 2015
LEAD OFFICER:	Head of Planning & Public Protection
CONTACT OFFICER:	Licensing Officer licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Review of Sex Establishment Policy

1. PURPOSE OF THE REPORT

To inform Members of amendments to the regime that authorises the licensing of premises that provide sexual entertainment.

To request that Members consider whether a change to the existing Sex Establishment Policy is necessary.

2. EXECUTIVE SUMMARY

The Local Government (Miscellaneous Provisions) Act 1982 makes provision for the licensing of sex establishments by local authorities. In the context of the Act, a “sex establishment” means a sex cinema, a sex encounter establishment or a sex shop.

At the Licensing Panel held on 19th September 2001, Members resolved to formally adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 19th November 2001.

Section 27 of the Policing and Crime Act 2009 reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities the power to regulate such venues as sex establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

3. POWER TO MAKE THE DECISION

Local Government (Miscellaneous Provisions) Act 1982.

4. BACKGROUND

- 4.1 When Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 was originally adopted, Members resolved that each application should be considered on its own merits whilst taking account of certain criteria which included, the locality of the premises, the hours of opening, etc
- 4.2 Since 2005, applications for lap dancing clubs have been licensable under the Licensing Act 2003. However, the results of a 2008 consultation with local authorities highlighted concerns that this legislation did not give communities sufficient powers to control where lap dancing clubs were established. In order to address such concerns, section 27 of the Policing and Crime Act was introduced in 2010.
- 4.3 The Licensing Act does not allow for objections to be made on such grounds as the number of premises in the area, the suitability of a premises to provide such activities or the potential character of the area.
- 4.4 Section 27 gives local authorities increased powers to control the number and location of lap dancing clubs and similar venues. These powers are not mandatory and will only apply where they have been specifically adopted. Where adopted, these provisions will allow local authorities to refuse an application on wider grounds than those permitted under the Licensing Act 2003, giving local people a greater say over the regulation of lap dancing clubs and similar venues in their area.
- 4.5 Section 27 sets out the meaning of a “sexual entertainment venue” as *“any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”*; “relevant entertainment” is defined as *“any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).*
- 4.6 Whilst each application should be taken on its own merits, the definition of relevant entertainment would be likely to apply to the following forms of entertainment:
- Lap Dancing
 - Pole Dancing

- Table Dancing
- Strip Shows
- Peep Shows
- Live Sex Shows

5. CONSULTATION

- 5.1 Should Members be minded to adopt the provisions of section 27, it will be necessary to undertake a public consultation prior to implementation.

6. COST IMPLICATIONS

- 6.1 In the event that the amendments made by section 27 of the Policing and Crime Act are adopted, a premises where licensable activities as defined by the Licensing Act 2003 take place will still need to be licensed under that Act. This means that the vast majority of lap dancing clubs or similar venues will require both a sexual entertainment venue licence and a Premises Licence.

7. IMPLICATIONS ON OTHER POLICY AREAS

Section 17 of the Crime and Disorder Act places a duty on local authorities to consider issues of crime and disorder when making licensing related decisions. When considering this, matter, Members will wish to give regard to all relevant factors, including any implications associated with the potential for the decision to impact upon issues of crime and disorder within the locality.

8. CONSIDERATION

- 8.1 Members may consider the following points pertinent to their deliberations:

- Whilst there is currently no issue with this type of premises in Denbighshire, Members may well consider the adoption of these powers as a preventative measure for any future premises.
- If Members choose not to adopt these powers, the Council must continue to rely solely on the Licensing Act 2003 to control such premises
- The Licensing Act only permits representations to be made which relate to one or more of the licensing objectives, namely:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

9. RECOMMENDATION

- 9.1** That having considered the contents of this report, members may resolve to request that officers compile a draft, revised Sex Establishment Policy that is fit for purpose, to be presented to them at a future Meeting, prior to undertaking a public consultation.
- 9.2** That Members consider adopting the provisions of section 27 of the Policing and Crime Act 2009, such provisions to be incorporated within the draft revised Sex establishment Policy.

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REPORT TO:	Licensing Committee
DATE:	4 th March 2015
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Public Protection Business Manager 01824 706066
SUBJECT:	Review of Street Trading Policy

1. PURPOSE OF THE REPORT

- 1.2 For Members to consider the current street trading regime, current difficulties with the regime and suggested improvements to better regulate and support street trading within the County.

2. EXECUTIVE SUMMARY

- 2.1 To seek the views of Members on the existing street trading regime and to seek approval to consult on a new street trading policy.

3. BACKGROUND INFORMATION

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the selling, exposing or offering articles for sale in a street. The relevant Part of the Act was re-adopted by the Council in June 2002. The definition of a "street" is wide ranging and includes any road, footway, beach or other area to which the public have access without paying and service areas as defined under Section 329 of the Highways Act 1980.

- 3.2 Certain types of trade are legally exempt from the need to obtain a street trading consent or are regulated by other means or authorities they include:

- Trade by a person acting as a Pedlar under the Authority of a pedlar's certificate granted, under the Pedlars Act 1871, by the any Police Authority
- Trade by a news vendor, selling newspapers and periodicals (The

Big Issue falls in to this category)

- Trade carried on at premises used as petrol filling station or carried on at a premises used as a shop or in a street adjoining the premises so used and as part of the business or shop (subject to highway regulations)
- Trade carried out as a “rounds man”: for example a milkman who would be defined as a tradesman with specified customers, a specified route and delivering to order. (Ice cream vans will not fall into this category and will be expected to gain consent.)
- Any trading carried out on a market or fair operated under a charter or by regulation either directly by a Council or by a third party agent acting on behalf of a Council.

- 3.3 The current application process delegates the granting of all Street Trading consents to the Head of Planning & Public Protection Services in consultation with the Chair of Denbighshire Licensing Committee.
- 3.4 The enforcement of street trading in the County has been made more difficult since there is no clear published Street Trading Policy. Previous Committee resolutions (Appendix A), along with the Licensing Team’s operational guidance have served as the Council practice and policy.
- 3.5 The current Operational Guidance sets out the standards for determining applications for, and the enforcement of, street trading activities for the whole of Denbighshire.
- 3.6 Any person wishing to trade on streets in the County needs to apply for consent from the Licensing Authority. This is because the Licensing Authority has designated all streets in Denbighshire as “Consent Streets” for street trading purposes.
- 3.7 An exception to this is that streets in and around Rhyl & Prestatyn Town Centres are designated as “Prohibited Streets” where no trading is allowed to take place.
- 3.8 Trunk Roads do not come under the control of the Denbighshire County Council for street trading purposes. These are under the control of the North Wales Trunk Road Agency.

- 3.9 We are proposing that a street trading policy should be introduced which clearly sets out the Authority's stance on street trading. It should be noted that the UK Government is currently drafting legislation which could impact on the regulation of street trading. Therefore, any future policy will take into account any new legislative requirements whilst also considering any relevant guidance.
- 3.10 We are also seeking views of Members on, and proposing changes to, the delegations for determining street trading applications. The delegation of reviewing and granting applications that meet any new policy could be given to the Public Protection Manager, with only more contentious application being elevated up to The Head of Planning & Public Protection Services in consultation with the Chair of Denbighshire Licensing Committee or the full Licensing Committee.
- 3.11 Should Members be minded to review the Street Trading Policy they may wish to ask Officers to fully review all fees and charges so as to provide a clear fee structure for all aspects of street trading covered by the proposed policy.

4. **RECOMMENDATION**

- 4.1 That Members authorise Officers to draft a Street Trading Policy that is fit for purpose.
- 4.2 Should Members be minded to review the Street Trading Policy, they may wish to consider nominating a Member of the Licensing Committee to liaise with Officers whilst the draft policy is being developed and authorise Officers to undertake any necessary consultation before presenting Members with a proposed Street Trading Policy.

Appendix A

Committee Date	Purpose of Report	Resolution
6 June 2002	To consider re-adoption of part 3, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 as it relates to the street trading, thereby strengthening the Council's legal position in enforcing the provisions of the Act.	<ul style="list-style-type: none"> • Chair of the Licensing Committee in conjunction with the relevant officers, be authorised to readopt Part 3, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 relating to street trading for the whole of the County.
9 September 2002	To consider amending the Council's current policy regarding street trading in Rhyl	<ul style="list-style-type: none"> • subject to there being no adverse comments in response to the requisite public notice, the following streets in Rhyl be designated as "consent" streets for the purposes of Part III, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 as relates to street trading with effect from 5th November, 2002 :- <ul style="list-style-type: none"> • High Street - part • Sussex Street - part • Market Street - part • East Parade - part • East Promenade - part • West Parade - part • West Promenade - part • traders will only be permitted to trade in those "consent" streets as detailed above by prior consent of the council subject to specific terms and conditions; • applications for street traders licences shall not be granted to any trader who would be selling any goods or articles considered to be in direct competition with the local retail outlets; • the Head of Public Protection and Regulatory Services be granted delegated powers to deal with applications for street traders licences in consultation with the Chair of the committee, and • the officers report back to the next meeting of the committee with details of the implications and systems to be

		implemented in administering the statutory procedures for issuing and refusing applications for consent to trade together with a site plan identifying the specific parts of those streets designated as consent streets.
5 November 2002	To report on the implications and systems to be implemented in administering the resolution to designate streets in Rhyl as “consent” streets for the purposes of Street Trading.	<ul style="list-style-type: none"> • subject to the inclusion that charitable organisations be exempt from paying the fee for street trading consent, the consent system as outlined in the report of the Head of Public Protection and Regulatory Services be approved
15 March 2011	To introduce changes to the way that street trading is regulated within Denbighshire.	<ul style="list-style-type: none"> • every street in Denbighshire be designated a consent street, except for those already identified as a prohibited street subject to there being no objections during the consultation period and • the fees and charged more closely reflect the work required to issue permits, regulate and enforce street trading, as detailed in the fee structure adopted by Conwy CBC
8 June 2011	To consider amending the Council’s current policy regarding street trading within the whole of Denbighshire To determine charges for issuing street trading consents	<ul style="list-style-type: none"> • with effect from 1 August 2011 every street in Denbighshire be designated a consent street, except for those already identified as a prohibited street; • notice of the above resolution be published in a newspaper for two consecutive weeks, and • the charges for issuing Street Trading Consents as detailed in Appendix A to the report and reproduced below be adopted – <ul style="list-style-type: none"> - 1 day Permit £50 - 1 week Permit £150 - 1 month Permit £225 - 3 month Permit £650 - 6 month Permit £1200 - Annual Permit £2000

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REPORT TO:	Licensing Committee
DATE:	4 th March 2015
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Scrap Metal Dealers Act 2013 – Update on the proposed Policy

1. PURPOSE OF THE REPORT

- 1.2 To up-date Members on the progress made with regards to preparing a Scrap Metal Dealers Policy.

2. EXECUTIVE SUMMARY

- 2.1 Members will be aware that they agreed, within the Forward Work Programme, to consider an All Wales policy for the Scrap Metal Dealers licensing regime.

3. BACKGROUND INFORMATION

- 3.1 The Council has a statutory responsibility under the Scrap Metal Dealers Act 2013 for licensing, compliance and enforcement in relation to scrap metal dealers.
- 3.2 The Act is prescriptive in the requirements for an application but not regarding the process. There is no statutory requirement to provide a policy document.
- 3.3 The provision of a policy and guidance provides applicants and other agencies with a benchmark of the licensing authority's expectations and will assist them in understanding statutory requirements and in submitting complete and accurate applications thereby alleviating unnecessary work and delay.
- 3.4 Representatives from the Licensing Expert Panel (LEP) have been working on an all Wales policy and a final version of the policy was presented to the LEP on the 21st January 2015. It was agreed to circulate to all Welsh licensing authorities for comments.

3.5 Officers will hopefully be able to present the proposed all Wales policy, once the final version has been approved by the LEP on the 22nd April 2015, to Members, at a future meeting later this year.

4. **RECOMMENDATION**

4.1 For Members to note the contents of the report.

REPORT TO: LICENSING COMMITTEE

DATE: March 2015

REPORT BY: THE HEAD OF PLANNING AND PUBLIC PROTECTION

SUBJECT: LICENSING COMMITTEE WORK PROGRAMME 2015

DATE	REPORT	COMMENT
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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