

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 10 June 2015 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Bill Cowie, Richard Davies, Hugh Irving, Barry Mellor, Peter Owen, Pete Prendergast, Arwel Roberts and Cefyn Williams

### ALSO PRESENT

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

#### 1 APOLOGIES

Councillor Win Mullen-James

#### 2 APPOINTMENT OF CHAIR

Nominations were sought for the position of Chair of the Licensing Committee for 2015/16. Councillor Hugh Irving proposed, seconded by Councillor Peter Owen that Councillor Cefyn Williams be appointed Chair. Councillor Joan Butterfield proposed, seconded by Councillor Pete Prendergast that Councillor Barry Mellor be appointed Chair. Following a secret ballot it was –

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

#### 3 APPOINTMENT OF VICE CHAIR

The Chair invited nominations for Vice Chair of the Licensing Committee for 2015/16. Councillor Joan Butterfield proposed, seconded by Councillor Pete Prendergast that Councillor Barry Mellor be appointed Vice Chair. It was subsequently –

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

#### 4 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

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

No urgent matters had been raised.

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

The minutes of the Licensing Committee held on 4 March 2015 were submitted.

***RESOLVED** that the minutes of the meeting held on 4 March 2015 be received and confirmed as a correct record.*

## **7 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER DRESS CODE UPDATE REPORT**

The Public Protection Manager (IM) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting members with representations received following their decision to prohibit licensed drivers from wearing shorts under the Driver Dress Code approved at the committee's last meeting.

There had been significant media interest in the decision and a petition entitled "Petition for continued Wearing of Shorts by Taxi Drivers in Denbighshire" had been handed to the Council in May 2015. In light of the representations received and given the wording of the draft Dress Code subject of the consultation to allow tailored shorts to the knee, members were asked to consider whether sufficient consultation or discussion had been given to prohibit shorts being worn.

Members debated the merits of the decision to prohibit drivers from wearing shorts and there were mixed views in this regard. Councillors Joan Butterfield, Bill Cowie and Barry Mellor spoke in favour of lifting the ban and allowing tailored shorts to the knee but no denim or sports shorts. Taking into account the views of the taxi trade this amendment was considered reasonable to ensure the comfort of the driver during hot weather whilst still projecting a professional image of the trade. It was noted that the consultation had been based on permitting tailored shorts to the knee and that proposal had been accepted by those licence holders who attended the workshop session. Consequently it was not considered necessary to re-consult on that proposal. Councillor Hugh Irving spoke in favour of retaining a total ban on wearing shorts to promote a professional image of the trade and he made comparisons to the dress code/uniforms of other organisations and referred to taxi professions in other countries. He felt taxi drivers should meet similar standards to ensure a favourable impression on customers and visitors to the area. He also highlighted the difficulty of adjudicating on the diversity of shorts worn. Other members responded that it was unfair to make comparisons with much larger organisations and different professions, particularly given that many drivers were self-employed. It was also noted that the Council's own dress code allowed shorts to be worn provided they were smart and professional.

Councillor Hugh Irving proposed, seconded by Councillor Peter Owen to keep the Dress Code as agreed on 4 March 2015. Councillor Joan Butterfield proposed, seconded by Bill Cowie to amend the Dress Code to allow tailored shorts to the knee but be a bit more prescriptive i.e. no denim or sports shorts. Upon being put to the vote it was –

***RESOLVED** that officers be asked to amend the Hackney Carriage and Private Hire Vehicle Dress Code to allow tailored shorts to the knee but be a bit more prescriptive, i.e. no denim or sports shorts.*

## **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 13 of Part 4 of Schedule 12A of the Act.*

### **8 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/0269/TXJDR**

[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. 15/0269/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following accrual of 20 penalty points under the Council's penalty point scheme for smoking in a smoke free vehicle on two separate occasions in January 2015;
- (ii) the Driver having been reported for the two smoking offences together with one offence of littering and issued with three fixed penalty notices (a summary of facts together with associated witness statements and documentation had been attached to the report), and
- (i) 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 and confirmed he had received the report and committee procedures. The Enforcement Officer introduced the report and detailed the facts of the case. In cases where 20 or more penalty points had been accrued in a 24 month period the matter was referred to committee for review.

The Driver addressed the committee and accepted he was responsible for the breaches as detailed within the report and apologised for his actions. He referred to his personal circumstances at the time of the incidents by way of explanation but accepted that did not excuse his behaviour. In response to questions the Driver advised that he recognised the seriousness of the situation and gave assurances that he had since given up smoking and there would be no repeat offence. He had been a licensed driver for fifteen years with an unblemished record and provided a good service for customers. In making his final statement the Driver again apologised for his actions and provided assurances as to his future conduct.

The committee adjourned to consider the case and it was –

**RESOLVED** that a warning be issued to Driver No. 15/0269/TXJDR as to his future conduct.

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

Members considered the report and responses provided by the Driver to questions. The Committee had found the Driver to be honest about the incident and genuine in his remorse. Assurance had been taken from the Driver's previous good conduct and the fact that he had since given up smoking. The committee accepted the Driver's assurances regarding his future behaviour and considered a formal warning to be appropriate in this case.

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

## **9 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 14/0459/TXJDR**

[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. 14/0459/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following accrual of 20 penalty points under the Council's penalty point scheme for presenting a licensed vehicle for test in an unsafe and dangerous condition;
- (ii) details of the defects noted following presentation of the vehicle for a Compliance/MOT test had been included within the report together with associated witness statements and documentation, and
- (ii) 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 and confirmed he had received the report and committee procedures. The Enforcement Officer introduced the report and detailed the facts of the case. In cases where 20 or more penalty points had been accrued in a 24 month period the matter was referred to committee for review.

The Chair read out a written statement submitted by the Driver in support of his licence review in which he acknowledged the vehicle defects and his responsibility in that regard. The Driver explained the issues had arisen out of ignorance and he had since been made fully aware of the necessary requirements. The vehicle had undergone extensive repair and had passed the necessary tests. Further assurance could be taken from the repair and maintenance contract on the vehicle. The Driver responded to questions regarding previous maintenance of the vehicle and measures taken to ensure it was fit for use. He also acknowledged the seriousness of the offence. In his final statement the Driver provided assurances regarding future maintenance of the vehicle.

The committee adjourned to consider the case and it was –

**RESOLVED** that the hackney carriage and private hire vehicle drivers licence issued to Driver No. 14/0459/TXJDR be suspended on the grounds of public safety for a period of two weeks.

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

During deliberations members carefully considered the evidence presented and the Driver's submissions in support of his licence review. The committee found that notwithstanding the mechanical defects, the Driver must have known the vehicle had defects since some were clearly visible. Serious concerns were expressed that the Driver had knowingly driven a licensed vehicle with defects and had placed the public at risk. However credit had been given to the Driver for ensuring the defects had been rectified and the vehicle had since passed the necessary tests. Assurance had also been taken from the vehicle maintenance/repair contract secured for the vehicle. Consequently the committee considered a two week suspension on public safety grounds to be reasonable in this case.

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

As an aside members expressed concern that responsibility for the condition of licensed vehicles remained solely with the owner/driver and considered taxi companies should also take responsibility when sub-contracting work. The committee asked that officers further investigate this issue and report back thereon.

At this juncture (11.10 a.m.) the meeting adjourned for a refreshment break.

## **OPEN SESSION**

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

### **10 PROPOSED PRIVATE HIRE PLATE EXEMPTION POLICY**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) recommending approval of the proposed Private Hire Plate Exemption Policy for formal consultation.

Officers reported upon the legalities governing the issue and display of private hire identification plates including the Council's discretion to grant dispensation from displaying licence plates. The proposed policy would enable the Council to make transparent decisions and provide guidance to potential applicants on suitable exemptions. Members supported the policy as a means of providing a consistent approach when dealing with requests for plate exemption and it was –

**RESOLVED** that –

- (a) *the proposed Private Hire Plate Exemption Policy, as detailed in Appendix A to the report, be supported and approved for formal consultation, and*

- (b) *following consultation officers report back any responses to Full Council for consideration and approval of the proposed new policy.*

## **11 HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE POLICY REVIEW**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) updating members on the review of the existing Hackney Carriage and Private Hire Vehicle policy and proposed future actions.

The review would examine the suitability of all vehicles and include the existing age policy, upper age policy, whether a vehicle colour policy was appropriate, and vehicle accessibility. In terms of vehicle specification and testing it was suggested that officers from Fleet Services attend a future meeting of the committee to provide advice and guidance on vehicle safety and regulations, in particular the testing of vehicles. An action plan had been prepared to progress the review and members were asked to nominate one or two representatives to attend the planned workshop sessions in order to facilitate that process and provide input at an early stage.

**RESOLVED** that –

- (a) *the contents of the report be noted and Fleet Service be invited to the committee's September meeting to provide a presentation on vehicle specification and testing, and*
- (b) *Councillors Pete Prendergast and Cefyn Williams (Chair) be nominated to attend the scheduled workshop sessions as detailed in the action plan (Appendix B to the work programme report).*

## **12 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2015/16**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the priorities of the Licensing Section together with the proposed work programme for the Licensing Committee for 2015/16.

Officers elaborated upon the priorities identified which had been included in the work programme together with a series of action plans including a timescale for completion over the next eighteen months. In light of discussions at the recent member training event it was recommended that the regulation of hackney carriage vehicles be removed from the work programme. Whilst accepting the reasons not to pursue a restriction on taxi numbers Councillor Joan Butterfield reiterated her concerns regarding ranks and advised that she would take the matter up directly with the Highways Department together with the impact of the proposal to introduce a programme of dimming street lighting in the county.

**RESOLVED** that –

- (a) *the regulation of Hackney Carriage Vehicles be removed from the Forward Work Programme for 2015/16, and*

*(b) the Licensing Committee's forward work programme and priorities for the Licensing Section for 2015/16 be approved.*

The meeting concluded at 11.45 a.m.