

At: Aelodau'r Pwyllgor Trwyddedu

Dyddiad: 3 Mawrth 2016

Rhif Union: 01824 712568

ebost: dcc_admin@denbighshire.gov.uk

Annwyl Gyngorydd

Fe'ch gwahoddir i fynychu cyfarfod y **PWYLLGOR TRWYDDEDU, DYDD MERCHER, 9 MAWRTH 2016** am **9.30 am** yn **SIAMBR Y CYNGOR, TY RUSSELL, Y RHYL**.

Yn gywir iawn

G Williams
Pennaeth Gwasanaethau Cyfreithiol a Democrataidd

AGENDA

RHAN 1 – GWAHODDIR Y WASG A'R CYHOEDD I FOD YN BRESENNOL AR GYFER Y RHAN HON O'R CYFARFOD

1 YMDDIHEURIADAU

2 DATGANIADAU O GYSYLLTIAD (Tudalennau 7 - 8)

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

3 MATERION BRYD FEL Y'U CYTUNWYD GAN Y CADEIRYDD

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

4 COFNODION Y CYFARFOD DIWETHAF (Tudalennau 9 - 14)

Derbyn cofnodion y Pwyllgor Trwyddedu a gynhaliwyd ar 2 Rhagfyr 2015 (copi'n amgaaedig).

5 POLISI GWERTHWYR METEL SGRAP ARFAETHEDIG (Tudalennau 15 - 38)

I ystyried adroddiad gan Bennaeth Cynllunio a Gwarchod y Cyhoedd (copi'n amgaeedig) yn cyflwyno Deddf Delwyr Metel Sgrap 2013 - Datganiad o Bolisi Trwyddedu, i'w ystyried a'i gymeradwyo ar gyfer ymgynghori.

6 YSTYRIED HYFFORDDIANT I YRWYR TRWYDDEDIG (Tudalennau 39 - 40)

I ystyried adroddiad gan Bennaeth Cynllunio a Gwarchod y Cyhoedd (copi'n amgaeedig) ynghylch cyflwyno hyfforddiant ymwybyddiaeth diogelu gorfodol ar gyfer gyrwyr a gweithredwyr trwyddedig.

7 ADOLYGIAD O BOLISI A GWEITHDREFN PWYNTIAU COSB CYFREDOL (Tudalennau 41 - 50)

I ystyried adroddiad gan Bennaeth Cynllunio a Gwarchod y Cyhoedd (copi'n amgaeedig), yn cyflwyno Polisi a Gweithdrefn Pwyntiau Cosb diwygiedig i'w cymeradwyo.

8 RHAGLEN GWAITH I'R DYFODOL Y PWYLLGOR TRWYDDEDU (Tudalennau 51 - 52)

Ystyried adroddiad gan Bennaeth Cynllunio a Gwarchod y Cyhoedd (copi'n amgaeedig) yn cyflwyno rhaglen gwaith i'r dyfodol y pwyllgor i'w chymeradwyo.

RHAN 2 - MATERION CYFRINACHOL

Argymhellir, yn unol ag Adran 100A (4) Deddf Llywodraeth Leol 1972, y dylid gwahardd y Wasg a'r Cyhoedd o'r cyfarfod yn ystod trafod y mater(ion) busnes canlynol oherwydd y tebygolrwydd y caiff gwybodaeth eithriedig, fel y'i diffinnir ym mharagraffau 12 ac 13 Rhan 4 o Atodlen 12A y Ddeddf, ei datgelu.

9 GOLLYNGIAD O'R GOFYNIAD I ARDDANGOS PLATIAU TRWYDDED CERBYDAU HURIO PREIFAT (Tudalennau 53 - 68)

I ystyried adroddiad cyfrinachol gan Bennaeth Cynllunio a Gwarchod y Cyhoedd (copi'n amgaeedig) yn gofyn am benderfyniad yr aelodau ynghylch cais am ollyngiad o'r gofyniad i arddangos platiau trwydded ar gerbyd hurio preifat.

10 ADOLYGIAD O DRWYDDED I YRRU CERBYDAU HACNI A CHERBYDAU HURIO PREIFAT - GYRRWR RHIF 15/1123/TXJDR (Tudalennau 69 - 88)

Ystyried adroddiad cyfrinachol gan Bennaeth Cynllunio a Gwarchod y Cyhoedd (copi'n amgaeedig) yn gofyn i aelodau adolygu trwydded i yrru cerbydau hacni a cherbydau hurio preifat o ran Gyrrwr Rhif 15/1123/TXJDR.

11 ADOLYGIAD O DRWYDDED I YRRU CERBYDAU HACNI A CHERBYDAU HURIO PREIFAT - GYRRWR RHIF 15/0427/TXJDR (Tudalennau 89 - 122)

Ystyried adroddiad cyfrinachol gan Bennaeth Cynllunio a Gwarchod y Cyhoedd (copi'n amgaaedig) yn gofyn i aelodau adolygu trwydded i yrru cerbydau hacni a cherbydau hurio preifat o ran Gyrrwr Rhif 15/0427/TXJDR.

AELODAETH

Y Cynghorwyr

Cefyn Williams (Cadeirydd)

Barry Mellor (Is-Gadeirydd)

Joan Butterfield

Win Mullen-James

Bill Cowie

Pete Prendergast

Richard Davies

Arwel Roberts

Stuart Davies

Huw Williams

Hugh Irving

COPIAU I'R:

Holl Gynghorwyr er gwybodaeth

Y Wasg a'r Llyfrgelloedd

Cynghorau Tref a Chymuned

Mae tudalen hwn yn fwriadol wag

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

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

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

DEDDF LLYWODRAETH LEOL 2000

Cod Ymddygiad Aelodau

DATGELU A CHOFRESTRU BUDDIANNAU

Rwyf i,
(enw)

*Aelod /Aelod cyfetholedig o
(*dileuer un)

Cyngor Sir Ddinbych

YN CADARNHAU fy mod wedi datgan buddiant ***personol / personol a sy'n rhagfarnu** nas datgelwyd eisoes yn ôl darpariaeth Rhan III cod ymddygiad y Cyngor Sir i Aelodau am y canlynol:-
(*dileuer un)

Dyddiad Datgelu:

Pwyllgor (nodwch):

Agenda eitem

Pwnc:

Natur y Buddiant:

(Gweler y nodyn isod)*

Llofnod

Dyddiad

Noder: Rhowch ddigon o fanylion os gwelwch yn dda, e.e. 'Fi yw perchennog y tir sy'n gyfagos i'r cais ar gyfer caniatâd cynllunio a wnaed gan Mr Jones', neu 'Mae fy ngŵr / ngwraig yn un o weithwyr y cwmni sydd wedi gwneud cais am gymorth ariannol'.

Mae tudalen hwn yn fwriadol wag

PWYLLGOR TRWYDDEDU

Cofnodion cyfarfod o'r Pwyllgor Trwyddedu a gynhaliwyd yn Siambr y Cyngor, Neuadd y Sir, Rhuthun, Dydd Mercher, 2 Rhagfyr 2015 am 9.30 am.

YN BRESENNOL

Y Cyngorwyr Bill Cowie, Richard Davies, Hugh Irving, Barry Mellor (Is-Gadeirydd), Win Mullen-James, Pete Prendergast, Arwel Roberts, Cefyn Williams (Cadeirydd) a Huw Williams

HEFYD YN BRESENNOL

Pennaeth Cynllunio a Gwarchod y Cyhoedd (GB), Prif Gyfreithiwr (AL), Swyddogion Trwyddedu (NJ a JT), Uwch Swyddog Gorfodaeth Diogelwch Cymunedol (TWE) a Gweinyddwr y Pwyllgor (KEJ)

PWYNT O SYLW

Cytunodd y Cadeirydd i amrywio trefn y rhaglen i ddarparu ar gyfer unigolion sy'n bresennol ar gyfer eitemau penodol.

1 YMDDIHEURIADAU

Y Cyngorwyr Joan Butterfield a Stuart Davies

2 DATGANIADAU O GYSYLLTIAD

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

3 MATERION BRYN FEL Y'U CYTUNWYD GAN Y CADEIRYDD

Ni chafwyd unrhyw faterion bryn.

4 COFNODION Y CYFARFOD DIWETHAF

Cyflwynwyd cofnodion cyfarfod y Pwyllgor Trwyddedu a gynhaliwyd ar 23 Medi 2015.

***PENDERFYNWYD** y dylid derbyn a chymeradwyo cofnodion y cyfarfod a gynhaliwyd ar 23 Medi 2015 fel cofnod cywir.*

Gwahardd y wasg a'r cyhoedd

***PENDERFYNWYD** dan ddarpariaethau Adran 100A Deddf Llywodraeth Leol 1972, gwahardd y Wasg a'r Cyhoedd o'r cyfarfod ar gyfer yr eitem fusnes ganlynol ar y sail y byddai gwybodaeth eithriedig yn debygol o gael ei datgelu fel y'i diffinnir ym Mharagraffau 12 ac 13 Rhan 4 Atodlen 12A o'r Ddeddf.*

5 CAIS AM DRWYDDED I YRRU CERBYD HACNI A CHERBYDAU HURIO PREIFAT - YMGEISYDD RHIF 15/1074/TXJDR

Cyflwynwyd adroddiad cyfrinachol gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (a ddisbarthwyd yn flaenorol) ynglŷn â –

- (i) chais a ddaeth i law gan Ymgeisydd Rhif 15/1074/TXJDR am drwydded i yrru cerbyd hacni a cherbydau hurio preifat;
- (ii) swyddogion heb fod mewn sefyllfa i ganiatáu'r cais yng ngoleuni'r collfarnau a ddatguddiwyd yn dilyn datgeliad manwl i'r Gwasanaeth Datgelu a Gwahardd (DBS), yn ymwneud â throeddau a gyflawnwyd rhwng 1998 a 2014 nad oedd wedi cael eu datgelu gan yr Ymgeisydd;
- (iii) manylion a gafwyd o ganlyniad i archwiliad arferol o drwydded DVLA yr Ymgeisydd a oedd wedi eu datgelu gan yr Ymgeisydd;
- (iv) polisi presennol y Cyngor mewn perthynas â pherthnasedd collfarnau, ac
- (v) estyn gwahoddiad i'r Gyrrwr ddod i'r cyfarfod i gefnogi ei gais ac i ateb cwestiynau'r aelodau ar hynny.

Cadarnhaodd yr Ymgeisydd ei fod wedi cael yr adroddiad a gweithdrefnau'r pwyllgor. Cyflwynodd y Swyddog Trwyddedu'r (JT) adroddiad gan fanylu ar ffeithiau'r achos.

Esboniodd yr Ymgeisydd amgylchiadau'r troeddau cynharach a gyflawnwyd yn ei ieuenctid, a chyfeiriodd at ei newid mewn cymeriad a chyfrifoldebau rhianta cyfredol. Eglurodd hefyd yr amgylchiadau ynglŷn â'i rybudd diweddar gan yr heddlu a'i gyswllt â'i alwedigaeth bresennol. Cyflwynodd yr Ymgeisydd gwahanol fathau o ddogfennau i gefnogi ei gais, gan gynnwys llythyr gan Heddlu Gogledd Cymru yr oedd wedi'i gynhyrchu i ddangos cymeriad da. Wrth ymateb i gwestiynau, dywedodd yr Ymgeisydd, am fod y troeddau wedi'u cyflawni mor bell yn ôl, nid oedd yn credu eu bod angen eu datgelu. Cadarnhaodd y swyddogion bod 'gyrrwr tacsî' yn broffesiwn wedi'i eithrio o dan y Ddeddf Adsefydlu Troeddwy'r ac felly roedd yn ofynnol i ymgeiswyr ddatgelu collfarnau sydd wedi darfod. Wrth wneud ei ddatganiad terfynol, mynegodd yr Ymgeisydd edifeirwch dros ei orffennol a rhoddodd sicrwydd ynghylch ei ymddygiad yn y presennol a'r dyfodol.

Ymddeolodd y pwyllgor i ystyried y cais, ond cafodd ei ohirio hyd nes cafwyd cadarnhad o'r llythyr a gyflwynwyd gan yr Ymgeisydd gan Heddlu Gogledd Cymru. Wedi ailddechrau'r trafodion, rhoddwyd gwybod i'r pwyllgor bod y llythyr yn ddilys a -

PHENDERFYNWYD bod y cais am drwydded i yrru cerbyd hacni a cherbydau hurio preifat gan ymgeisydd rhif 15/1074/TXJDR yn cael ei roi.

Roedd y rhesymau dros benderfyniad y Pwyllgor Trwyddedu fel a ganlyn -

Roedd yr Aelodau'n fodlon ar yr esboniad a roddwyd gan yr Ymgeisydd ynghylch ei gollfarnau blaenorol ac wedi ystyried y wybodaeth ychwanegol a gyflwynwyd, yn dangos ei fod yn berson addas a phriodol i ddal trwydded.

6 ADOLYGIAD O DRWYDDED I YRRU CERBYDAU HACNI A CHERBYDAU HURIO PREIFAT - GYRRWR RHIF 15/1142/TXJDR

Cyflwynwyd adroddiad cyfrinachol gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (a ddsbarthwyd yn flaenorol) ynglŷn ag –

- (i) addaswyd Gyrrwr Rhif 15/1142/TXJDR i ddal trwydded i yrru cerbyd hacni a cherbydau hurio preifat yn dilyn cronriad o 9 pwynt cosb ar ei Drwydded Yrru DVLA o fewn cyfnod pedwar mis am oryrru;
- (ii) y Gyrrwr wedi datgelu 6 o'r pwyntiau cosb wrth adnewyddu ei drwydded ond wedi methu â datgelu'r gollfarn mwyaf diweddar am oryrru, ac
- (iii) estyn gwahoddiad i'r Gyrrwr ddod i'r cyfarfod i gefnogi ei adolygiad o'i drwydded ac i ateb cwestiynau'r aelodau ar hynny.

Cadarnhaodd y Gyrrwr ei fod wedi cael yr adroddiad a gweithdrefnau'r pwyllgor. Cyflwynodd y Swyddog Trwyddedu'r (JT) adroddiad gan fanylu ar ffeithiau'r achos.

Cyflwynodd y Gyrrwr ei achos ac eglurodd amgylchiadau pob un o'r tair trosedd am oryrru a'i amgylchiadau personol a threfniadau byw yn ystod y cyfnod hwnnw. YN ei ddatganiad lliniarol, dywedodd fod ei sbidomedr wedi bod yn ddiffygiol ac wedi hynny cafodd un newydd, a thra byddai wedi dadlau yn erbyn un o'r troseddau goryrru, roedd yn rhy hwyr i apelio erbyn hynny. Wrth ymateb i gwestiynau ynghylch ei fersiwn ef o'r digwyddiadau, ymhelaethodd ynghylch amgylchiadau pob trosedd yn cadarnhau nad oedd yn cludo teithwyr a oedd yn talu ar y pryd; nid oedd wedi cael cynnig cwrs goryrru yn lle pwyntiau cosb, ac nid oedd wedi cael cyfle i ddatgelu'r gollfarn mwyaf diweddar am oryrru oherwydd amgylchiadau personol. O ran ei sbidomedr, cyfaddefodd y Gyrrwr nad oedd wedi meddwl darparu tystiolaeth o'r diffyg gerbron y pwyllgor. Wrth wneud datganiad terfynol, cyfeiriodd y Gyrrwr at ei awydd i barhau i yrru cerbydau trwyddedig.

Gohiriwyd y pwyllgor i ystyried yr achos a -

PHENDERFYNWYD bod y cais i adnewyddu trwydded i yrru cerbyd hacni a cherbydau hurio preifat gan ymgeisydd rhif 15/1142/TXJDR yn cael ei roi, gyda rhybudd ffurfiol yn cael ynghylch ei ymddygiad yn y dyfodol.

Roedd y rhesymau dros benderfyniad y Pwyllgor Trwyddedu fel a ganlyn -

Rhoddodd yr Aelodau ystyriaeth ofalus i'r dystiolaeth a gyflwynwyd yn yr achos hwn, ynghyd â'r esboniad a roddwyd gan y Gyrrwr yn ei ddatganiad lliniarol. Roedd safbwyntiau cymysg ynglŷn â hygrededd fersiwn y Gyrrwr o ddigwyddiadau, ond ar y cyfan derbyniwyd nad oedd unrhyw deithwyr a oedd yn talu yn cael eu cludo ar adeg y troseddau, ac y gallai'r sbidomedr fod yn ddiffygiol. O ganlyniad, ystyriodd

yr aelodau'r Gyrrwr i fod yn berson addas a phriodol i ddal trwydded, a theimlasant y byddai rhybudd difrifol ynghylch ei ymddygiad yn y dyfodol yn ddigonol yn yr achos hwn.

Cafodd penderfyniad y pwyllgor a'r rhesymau felly eu cyfleu i'r Gyrrwr.

Ar y pwynt hwn (10.40 am) cafwyd egwyl ar gyfer lluniaeth.

7 ADOLYGIAD O DRWYDDED I YRRU CERBYDAU HACNI A CHERBYDAU HURIO PREIFAT - GYRRWR RHIF 15/0833/TXJDR

Cyflwynwyd adroddiad cyfrinachol gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (a ddsbarthwyd yn flaenorol) ynglŷn ag –

- (i) addasrwydd Gyrrwr Rhif 15/0833/TXJDR i ddal trwydded i yrru cerbyd hacni a cherbydau hurio preifat yn dilyn cronni 20 o bwyntiau cosb o dan gynllun pwyntiau cosb y Cyngor am gyflwyno cerbyd heb drwydded;
- (ii) manylion ac amgylchiadau yn gysylltiedig â'r drosedd wedi'u rhoi (roedd crynodeb o ffeithiau ynghyd â datganiadau tyst cysylltiedig a dogfennaeth ynghlwm wrth yr adroddiad), ac
- (iii) estyn gwahoddiad i'r Gyrrwr ddod i'r cyfarfod i gefnogi ei adolygiad o'i drwydded ac i ateb cwestiynau'r aelodau ar hynny.

Roedd y Gyrrwr yn bresennol yn y cyfarfod, ynghyd â'i gynrychiolydd a chadarnhaodd ei fod wedi derbyn yr adroddiad a gweithdrefnau'r pwyllgor. Cyflwynodd yr Uwch Swyddog Gorfodi Diogelwch Cymunedol (TWE) yr adroddiad gan fanylu ar ffeithiau'r achos. Mewn achosion pan fo 20 neu fwy o bwyntiau cosb wedi eu cronni mewn cyfnod o 24 mis caiff y mater ei gyfeirio at y Pwyllgor i'w adolygu.

Esboniodd cynrychiolydd y Gyrrwr ei bod yn arfer anfon nodyn atgoffa i adnewyddu at ddeiliaid trwyddedau, nad oedd wedi digwydd yn yr achos hwn. Roedd methu adnewyddu yn esgeulustod gwirioneddol ar ran y gyrrwr, yr ymddiheurodd amdano, ac ers hynny roedd wedi cymryd camau i sicrhau na fyddai'r mater yn cael ei ailadrodd drwy fuddsoddi mewn trefnwr i'w osod ar y wal i weithredu fel cymorth cof.

Bu'r Aelodau'n holi'r Gyrrwr ar amgylchiadau'r achos a rhoddwyd sicrwydd bod y cerbyd yn cael ei gadw mewn cyflwr perffaith a'i fod yn cael archwiliadau rheolaidd, ond roedd dyddiad dod i ben y drwydded wedi'i esgeuluso. Roedd llythyr gan gwmni yswiriant y gyrrwr (a ddsbarthwyd yn y cyfarfod) yn rhoi gwybod na fu toriad yn yr yswiriant, a phe bai hawliad wedi codi yn ystod y cyfnod dod i ben, byddai wedi cael ei drin yn ôl ei deilyngdod. O ran y nodiadau atgoffa i adnewyddu, cadarnhaodd y swyddogion ei fod yn arferol anfon nodiadau atgoffa ond oherwydd y system â llaw a ddefnyddiwyd ar y pryd, nid oedd modd cadarnhau a anfonwyd nodyn atgoffa yn yr achos hwn, neu i ble y byddai wedi cael ei anfon.

Wrth wneud datganiad terfynol, ailadroddodd cynrychiolydd y Gyrrwr bod y methiant i adnewyddu'r drwydded wedi bod yn esgeulustod gwirioneddol ac roedd dull bellach ar waith i sicrhau na fyddai'n digwydd eto. Cyfeiriodd at ymddygiad blaenorol da'r Gyrrwr a'r buddsoddiad a roddodd yn y cerbyd, a'r gwaith cynnal a chadw parhaus arno.

Gohiriwyd y pwyllgor i ystyried yr achos a -

PHENDERFYNWYD rhoi rhybudd ffurfiol i Yrrwr Rhif 15/0833/TXJDR ynglŷn â'i ymddygiad yn y dyfodol.

Roedd y rhesymau dros benderfyniad y Pwyllgor Trwyddedu fel a ganlyn -

Ystyriodd yr Aelodau'r adroddiad a'r achos a gyflwynwyd gan y Gyrrwr a'i ymateb i gwestiynau. Roedd yn amhosibl penderfynu a oedd y gyrrwr wedi cael y nodyn atgoffa i adnewyddu oherwydd y broses a oedd ar waith ar y pryd, a'i fod wedi newid cyfeiriad. Fodd bynnag, cyfrifoldeb y Gyrrwr oedd sicrhau bod ganddo drwydded ddilys ar waith bob amser. Derbyniodd y pwyllgor nad oedd unrhyw ymgais bwriadol i dwyllo a nodwyd y camau a gymerwyd gan y Gyrrwr i liniaru unrhyw ddiffyg yn y dyfodol. O ganlyniad, ystyriodd yr aelodau'r Gyrrwr i fod yn berson addas a phriodol i ddal trwydded, a theimlasant y byddai rhybudd llym yn addas yn yr achos hwn. Ymhellach at hynny, atgoffwyd y Gyrrwr i wneud gwiriadau dyddiol ar ei gerbyd, a fyddai'n cynnwys gwirio dyddiad dod i ben plât ei drwydded. Byddai unrhyw ymddangosiad pellach gerbron y pwyllgor yn cael ei ystyried yn fater difrifol iawn.

SESIWN AGORED

Ar ôl cwblhau'r busnes uchod, aildechreuodd y cyfarfod mewn sesiwn agored.

8 POLISI ARFAETHEDIG CERBYDAU HACNI A CHERBYDAU HURIO PREIFAT

Cyflwynodd y Swyddog Trwyddedu (NJ) adroddiad gan Bennaeth Cynllunio a Gwarchod y Cyhoedd (a ddosbarthwyd yn flaenorol), yn ceisio cymeradwyaeth y Polisi Arfaethedig Cerbydau Hacni a Cherbydau Hurio Preifat ar gyfer ymgynghoriad cyhoeddus.

Adroddodd y Swyddogion ar y broses adolygu a oedd yn cynnwys dwy sesiwn weithdy gyda'r fasnach tacsis, aelodau etholedig a'r Gwasanaethau Fflyd, gan ddilyn gyda chyflwyniad yn y Pwyllgor Trwyddedu diwethaf gan y Gwasanaethau Fflyd. Roedd y broses adolygu wedi arwain at y polisi drafft a oedd yn nodi'r polisiâu, manyleb cerbydau, amodau a gweithdrefnau roedd y Cyngor yn dymuno eu cymhwyso wrth ymarfer ei swyddogaeth trwyddedu cerbydau. Tynnwyd sylw'r Aelodau at y prif newidiadau a oedd wedi'u hamlygu mewn atodiad ar wahân er mwyn eglurder. Yn dilyn ymgynghoriad cyhoeddus, byddai unrhyw sylwadau perthnasol yn cael eu dwyn yn ôl gerbron y pwyllgor.

PENDERFYNWYD -

- (a) *cymeradwyo'r Polisi Arfaethedig Cerbydau Hacni a Cherbydau Hurio Preifat fel y manylir yn Atodiad 1 yr adroddiad ar gyfer ymgynghoriad cyhoeddus, ac*
- (b) *yn dilyn ymgynghoriad, adroddiad yn ôl ar y drafft terfynol o'r Polisi Cerbydau Hacni a Cherbydau Hurio Preifat ynghyd ag unrhyw sylwadau perthnasol, i gael eu cyflwyno yn ôl i'r pwyllgor i'w cymeradwyo'n ffurfiol.*

9 RHAGLEN GWAITH I'R DYFODOL Y PWYLLGOR TRWYDDEDU

Cyflwynwyd adroddiad gan bennaeth Cynllunio a Gwarchod y Cyhoedd (a ddsbarthwyd ymlaen llaw) ynglŷn â rhaglen gwaith i'r dyfodol y Pwyllgor Trwyddedu ar gyfer 2016.

Byddai adroddiad yn ôl yn dilyn ymgynghori ar y Polisi Cerbydau Hacni a Cherbydau Hurio Preifat drafft, fel y cytunwyd arno'n gynharach yn y rhaglen, yn cael ei gynnwys yn y rhaglen waith ar gyfer mis Mehefin.

PENDERFYNWYD cymeradwyo rhaglen waith y Pwyllgor Trwyddedu.

Daeth y cyfarfod i ben am 11.40am.

ADRODDIAD I'R:	Pwyllgor Trwyddedu
DYDDIAD:	9 Mawrth 2016
SWYDDOG ARWEINIOL:	Pennaeth Cynllunio a Gwarchod y Cyhoedd
SWYDDOG CYSWLLT:	Uwch Swyddog Technegol (Trwyddedu) trwyddedu@sirddinbych.gov.uk 01824 706451
TESTUN:	Polisi Arfaethedig Delwyr Metel Sgrap

1. PWRPAS YR ADRODDIAD

- 1.2 Cyflwyno Datganiad Polisi Trwyddedu - Deddf Delwyr Metel Sgrap 2013 i'r Aelodau i'w ystyried.

2. CRYNODEB GWEITHREDOL

- 2.1 I'r Aelodau ystyried cymeradwyo'r Polisi Delwyr Metel Sgrap i alluogi Swyddogion i ymgynghori, gyda'r partïon perthnasol, cyn ei gyflwyno i'w fabwysiadu gan y Cyngor Llawn.

3. GWYBODAETH GEFNDIROL

- 3.1 Mae'r Cyngor wedi cymeradwyo'r broses ymgeisio ynghyd â dirprwyo pwerau a ffioedd ar gyfer y rhai sydd angen trwydded o dan Ddeddf Delwyr Metel Sgrap 2013.
- 3.2 Mae'n ofynnol yn awr bod polisi i arwain penderfyniadau cyson ar draws y Sir ac i gynorthwyo Swyddogion i orfodi darpariaethau Deddf Delwyr Metel Sgrap 2013.
- 3.3 Bydd y polisi hefyd yn rhoi arweiniad i ymgeiswyr newydd, deiliaid trwyddedau presennol, ac aelodau o'r cyhoedd ynglŷn â sut y bydd y Cyngor yn gweinyddu a gorfodi gofynion Deddf Delwyr Metel Sgrap 2013.
- 3.4 Mae Panel Technegol Trwyddedu Cymru Gyfan wedi bod yn gweithio ar Bolisi y gellir ei weithredu ar draws Cymru, fydd yn darparu dull cyson i Ddeiliaid Trwydded (y gellir eu trwyddedu gan nifer o Awdurdodau Lleol ar yr un pryd), o ran gweithdrefnau, cydymffurfiaeth a gorfodi. Mae copi

o Bolisi Cymru Gyfan ar gael yn Atodiad A.

4. **ARGYMHELLIAD**

- 4.1 I gymeradwyo Datganiad Polisi Trwyddedu - Deddf Delwyr Metel Sgrap 2013 (ynghlwm fel Atodiad A).
- 4.2 I gymeradwyo cyfnod ymgynghori addas i'w gynnal gyda'r rhai sydd wedi'u trwyddedu gan Sir Ddinbych o dan gylch gwaith Deddf Delwyr Metel Sgrap 2013, Heddlu Gogledd Cymru, Heddlu Trafnidiaeth Prydain, Cyfoeth Naturiol Cymru a Chymdeithasau Diwydiant.
- 4.3 I awdurdodi Swyddogion i ystyried unrhyw ymatebion perthnasol a dderbynnir i'r ymgynghoriad a lle bo'n berthnasol bod y polisi'n cael ei ddiwygio'n briodol cyn ei gyflwyno i'r Cyngor Llawn.

Scrap Metal Dealers
Policy Document

December 2014

Tudalen 17

1.0 Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is suitable to hold a Scrap Metal Dealers Licence.
- 1.2 The aims of the policy are to ensure the following :
- a person licensed as a scrap metal dealer is a fit and proper person
 - the process Denbighshire County Council follow to licence a scrap metal dealer is transparent, fair and proportionate
 - the public including vulnerable persons are safeguarded from dishonest persons
- 1.3 The power of issue, review and enforcement of the licences are vested in Cabinet and duly authorised officers from the Planning and Public Protection Department.
- 1.4 This policy provides guidance to any person with an interest in the business of Scrap Metal Dealers and Motor Salvage Operators, in particular, but not exclusively:
- Applicants for Scrap Metal Dealers Licences
 - Existing licensed Scrap Metal Dealers/Motor Salvage Operators
 - * Licensing Officers
 - * Members of Cabinet (or other relevant decision making body)
 - Magistrates hearing appeals against local authority decisions
- 1.5 Where licensing officers have delegated powers they will utilise these guidelines when making a decision to grant, refuse, revoke or vary a licence. Whilst Officers and the Council's Cabinet will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, Cabinet/Officer may depart from the guidelines.**

2.0 Legislation and Policy Guidance

- 2.1 In assessing an application for a Site Licence or a Collector's Licence the Council will have regard to the following legislation and guidance:
- Scrap Metal Dealers Act 2013
 - Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013

- Scrap Metal Dealers Act (2013) (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013
- The Scrap Metal Dealers Act 2013 Determining suitability to hold a scrap metal dealer's licence –Home Office
- The Scrap Metal Dealers Act 2013 Supplementary Guidance – Home Office
- Local Government Association Guide to the Scrap Metal Dealers Act 2013

2.2 The Scrap Metal Dealers Act 2013 replaces the previous registration system under the Scrap Metal Dealers Act 1964 and the Motor Salvage Operators Regulations 2002 and establishes a new licensing regime. Every scrap metal dealer is required to have a licence and operating without one is a criminal offence. The definition of scrap metal dealers now also incorporates motor salvage operators.

2.3 A scrap metal dealer is defined under the Act as someone whose business consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought; or carries on a business as a motor salvage operator.

2.4 In order for anyone to carry on business as a scrap metal dealer they have to have a licence. Licences last for 3 years. There are two types of licences:

> **Site licence** – all sites where a licensee carries on a business as a scrap metal dealer have to be identified, and a site manager has to be named for each site. The licence allows the licensee to transport scrap metal to and from those sites from any local authority area.

> **Collectors licence** – this allows the licensee to operate as a collector in the area of the issuing licensing authority only. It does not allow the collector to operate in any other local authority, so a separate licence has to be obtained from each council area the collector wishes to operate in. The licence does not authorise the licensee to operate a site; to do so they will need a site licence from the relevant local authority.

2.5 A dealer can only hold one type of licence in any one local authority area. They cannot hold both a site and mobile collectors licence from the same Local Authority. A person may hold more than one licence issued by different Authorities.

3.0 Application Procedure:

3.1 When the Council is considering an application, it will have regard to:

- The Scrap Metal Dealers Act 2013;
- Any supporting regulations

- Guidance issued by the Secretary of State
- This Statement of Licensing Policy

3.2 This does not undermine the rights of any person to apply under the 2013 Act for a licence and have the application considered on its individual merits.

3.3 A person carrying on, or proposing to carry on, a business as a scrap metal dealer may apply to the Council to be licensed. The application must be in writing and contain the necessary information.

3.4 A local authority may request that an applicant provide such other information, as it considers relevant, for the purpose of considering the suitability of an applicant.

3.5 The application must be accompanied by the fee, set by the Council, under guidance from the Secretary of State with the approval of the Treasury.

3.6 If the applicant fails to provide the information requested, including the additional supporting documentation, the Council may refuse the application as not valid.

3.7 Where the Council is satisfied that an applicant is suitable, it must issue a licence.

4.0 Conditions

4.1 The ability to impose conditions is limited, conditions can only be imposed where the applicant or any site manager has been convicted of a relevant offence or where the council is revoking a licence when a condition can be imposed, until the revocation comes into effect. One or both of the following conditions can be imposed, the conditions specify that:

- the dealer can receive scrap metal only between 09:00 and 17:00
- any scrap metal received has to be kept in the form the dealer received it for a set period of time, which cannot be more than 72 hours.

5.0 Right to make representation

5.1 Where it is proposed to refuse an application or vary/revoke a licence, the applicant or licensee will be notified as soon as is reasonably practicable what the council proposes and the reasons for it.

5.2 The notice will give the applicant/licensee the opportunity within 14 days to either :

- a) make representations **or**
- b) inform the Authority of their intention to do so

- 5.3 If the applicant/licensee informs the Authority they wish to make representations then they will be permitted a further 14 days to do so. These representations will then be heard in a Licensing Hearing.
- 5.4 If the applicant/licensee informs the Authority they wish to make oral representations then these will be heard at a Licensing Hearing within 21 days.
- 5.5 If at the Hearing the Council refuses the application the applicant will be given a notice of the decision which includes information on the grounds for the decision. The notice will include information about the appeal process.

6. Variation of Licence

6.1 An applicant can, on application, apply to the Council to vary licence by changing it from one type to another. The variation application must be made to reflect changes to:

- Site licence – name of licensee, the sites, site manager
- Collector's licence – name of licensee

The variation can amend the name of the licensee but not transfer the licence to another person.

6.2 Application is to be made to the issuing authority and contain particulars of the changes to be made to the licence.

7. Revocation of Licence

7.1 The authority may revoke a scrap metal licence if it is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified in the licence.

7.2 The authority may revoke a licence if it is satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence.

7.3 The authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on a business as a scrap metal dealer.

7.4 A revocation or variation under this section comes into effect when no appeal under section 16.9 is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.

7.5 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:

a) that, until a revocation under this section comes into effect, the licence is subject to one or both of the conditions set out in section 7.2; or

b) that a variation under this section comes into effect immediately.

8.0 Appeals

8.1 Appeals against a decision taken by the Council to refuse an application or renewal, revoke a licence or condition or vary the licence are to the Magistrates' Court. They must be made within 21 days of the applicant being given notice of the decision.

8.2 On an appeal under this section, the Magistrates' Court may

- a) confirm, vary or reverse the Councils' decision and
- b) give such directions as it considers appropriate having regard to the provisions of the Scrap Metal Dealers Act 2013.

8.6 The Council must comply with any direction given by the Magistrates' Court.

8.7 The Council need not comply with any such directions

- a) until the time for making an application under section 111 of the Magistrates' Court Act 1980 (application by way of case stated) has passed, or
- b) if such an application is made, until the application is finally determined or withdrawn.

9. Register of Licences

9.1 National Resource Wales must maintain a register of scrap metal licences issued by authorities in Wales.

9.2 Each entry must record:

- a) the name of the authority which issued the licence;
- b) the name of the licensee;
- c) any trading name of the licensee;
- d) the address of the site identified in the licence;
- e) the type of licence; and
- f) the date on which the licence is due to expire.

9.3 The registers are to be open for inspection to the public.

10. Notification Requirements

10.1 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the authority to which the application was made of any

changes which materially affect the accuracy of the information which the applicant has provided in connection with the application.

- 10.2 A licensee who is not carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority within 28 days.
- 10.3 If a licence is issued to a business under a trading name the licensee must notify the authority which issued the licence of any change to that name within 28 days.
- 10.4 An authority must notify the National Resource Wales, of –
- a) any notification given to the authority under section 11.2 or 11.3;
 - b) any variation made by the authority under section 8 (variation of type of licence or matters set out in licence); and
 - c) any revocation of the authority of a licence.
- 10.5 Notification under subsection 11.4 must be given within 28 days of the notification, variation or revocation in question.
- 10.6 Where the authority notifies the National Resource Wales under subsection 11.4, the body must amend the register under section 10 accordingly.

11.7 Display of Licence

- 11.1 Once granted a copy of a site licence must be displayed at each site identified in the licence in a prominent place in an area accessible to the public.
- 11.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of the dealer's business. This must be displayed in a manner which enables it to be easily read from outside the vehicle.

12. Verification of Supplier's Identity

- 12.1 Before receiving scrap metal the dealer must verify the person's full name and address, by reference to documents or data from a reliable and independent source.
- 12.2 If suitable verification is not obtained the scrap metal dealer or site manager, or any person who has been delegated responsibility by the dealer or site manager shall be guilty of an offence

13. Payment for Scrap Metal

- 13.1 A scrap metal dealer must only pay for scrap metal by either:
- a) a cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or

b) electronic transfer of funds (authorised by a credit, debit card or otherwise).

13.2 Payment includes payment in kind – with goods or services.

14. Records: Receipt of Metal

14.1 If any metal is received in the course of the dealer's business the dealer must record the following information:

- a) description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features;
- b) date and time of receipt;
- c) the registration mark of the vehicle delivered by;
- d) full name and address of person delivering it;
- e) full name of the person making payment on behalf of the dealer.

14.2 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.

14.3 If payment is made via cheque, the dealer must retain a copy of the cheque.

14.4 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer, or (if no receipt identifying the transfer) record particulars identifying the transfer.

15. Records: Disposal of Metal

15.1 The Act regards the metal to be disposed of:

- a) whether or not in the same form it was purchased;
- b) whether or not the disposal is to another person;
- c) whether or not the metal is despatched from a site.

15.2 Where the disposal is in the course of business under a site licence, the following must be recorded:

- a) description of the metal, including its type (or types is mixed), form and weight;
- b) date and time of disposal;
- c) if to another person, their full name and address;
- d) if payment is received for the metal (by sale or exchange) the price or other consideration received.

15.3 If disposal is in the course of business under a collector's licence, the dealer must record the following information:

- a) the date and time of the disposal;
- b) if to another person, their full name and address.

16. Records: Supplementary

- 16.1 The information in sections 15 and 16 must be recorded in a manner which allows the information and the scrap metal to which it relates to be readily identified by reference to each other.
- 16.2 The records mentioned in section 15 must be marked so as to identify the scrap metal to which they relate.
- 16.3 Records must be kept for a period of 3 years beginning with the day on which the metal is received or (as may be the case) disposed of
- 16.4 If a scrap metal dealer fails to fulfil a requirement under section 15 and 16 or this section each of the following is guilty of an offence:
- a) the scrap metal dealer;
 - b) if the metal is received at or (as the case may be) despatched from a site, the site manager;
 - c) any person who, under arrangements made by a person within paragraph (a) or
 - d) has responsibility for fulfilling the requirement.
- 16.5 It is a defence for a person within subsection 17.4 (a) or (b) who is charged with an offence under this section to prove that the person
- a) made arrangements to ensure that the requirement was fulfilled, and
 - b) took all reasonable steps to ensure that those arrangements were complied with.

17. Compliance

- 17.1 The Act provides a Police Constable and an Officer from the Council with a right to enter and inspect the premises of licensed and unlicensed scrap metal dealers without notice to the site manager. However the Act does not provide an Officer of the Council with the power to inspect premises of licensed and unlicensed scrap metal dealers outside the area of the authority.
- 17.2 Compliance will be based on the principles that businesses should:
- Receive clear explanations from regulators of what they need to do and by when;
 - Have an opportunity to resolve differences before compliance action is taken, unless immediate action is needed;
 - Receive an explanation of their right of appeal.
- 17.3 The council recognises the interest of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law.

However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.

18. Closure of Unlicensed Sites

18.1 Interpretation:

A person with an interest in a premises is the owner, leaseholder or occupier of the premises. Local authority powers are exercisable only in relation to premises in the authority's area.

18.2 Closure Notice

Not applicable if the premises are residential premises. A constable or the local authority must be satisfied that the premises are being used by a scrap metal dealer in the course of business and that the premises are not a licensed site.

A 'closure notice' may be issued by a constable or local authority which states they are satisfied of the above, the reasons for that, that the constable or local authority may apply to the court for a closure order and specifies the steps which may be taken to ensure that the alleged use of the premises ceases.

The notice must be given to the person who appears to be the site manager of the premises and any person who appears to be a director, manager or other officer of the business in question. The notice may also be given to any person who has an interest in the premises.

The notice must be given to a person who occupies another part of any building or structure of which the premises form part and the constable or local authority believes at the time of giving the notice, that the person's access to that other part would be impeded if a closure order were made in respect of the premises.

18.3 Cancellation of Closure Notice

A constable or an officer of the local authority may cancel a closure notice. This takes effect when it is given to any one of the persons to whom the closure notice was given.

18.4 Application for Closure Order

When a closure notice has been given, a constable or the local authority may make a complaint to the justices of the peace for a closure order. This may not be made less than 7 days after the date on which the closure notice was given or more than 6 months after that date.

A complaint under this paragraph may not be made if the constable or authority is satisfied that the premises are not (or are no longer) being used by a scrap metal dealer in the course of business and there is no reasonable

likelihood that the premises will be so used in the future. The justice may issue a summons to answer to the complaint. This must be directed to anyone whom the closure notice was given and must include the date, time and place at which the complaint will be heard.

18.5 Closure Order

A closure order requires that a premises be closed immediately to the public and remain closed until a constable or the local authority makes a termination of closure order by certificate. The use of the premises by a scrap metal dealer in the course of business be discontinued immediately and that any defendant pay into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

The closure order may include a condition relating to the admission of persons into the premises, the access by persons to another part of any building or other structure of which the premises form part.

A closure order may include such provision as the court considers appropriate for dealing with the consequences if the order should cease to have effect. As soon as practicable after the closure order is made, the complainant must fix a copy of it in a conspicuous position on the premises in respect of which it was made.

A sum ordered to be paid into court under a closure order is to be paid to the designated officer for the court.

18.6 Termination of Closure Order by Certificate

Once a closure order has been made and a constable or local authority is satisfied that the need for the order has ceased a certificate may be made. This ceases the closure order and any sum paid into a court is to be released by the court to the defendant.

As soon as is practicable after making a certificate, a constable or local authority must give a copy to any person against whom the closure order was made, give a copy to the designated officer for the court which made the order and fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

A copy of the certificate must be given to any person who requests one.

18.7 Discharge of Closure Order by Court

A closure order may be discharged by complaint to a justice of the peace. This can be done by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was given.

The court will make a discharge order if it is satisfied that there is no longer a need for the closure order. The justice may issue a summons directed to a constable as the justice considers appropriate or the local authority, requiring that person appear before the magistrates' court to answer to the complaint.

If a summons is issued, notice of the date, time and place at which the complaint will be heard must be given to all persons to whom the closure notice was given (other than the complainant).

18.8 Appeal

Appeal may be made to the Crown Court against:

- a) a closure order;
- b) a decision not to make a closure order;
- c) a discharge order;
- d) a decision not to make a discharge order.

The appeal must be made before the end of 21 days beginning with the day on which the order or decision in question was made. An appeal under a) or b) may be made by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

An appeal under b) and c) may be made by a constable or the local authority.

18.9 Enforcement of Closure Order

A person is guilty of an offence, without reasonable excuse, if they permit a premises to be open in contravention of a closure order, or fails to comply with, or does an act in contravention of a closure order.

If the closure order has been made, a constable or a person authorised by the local authority may (if necessary using reasonable force) enter the premises at any reasonable time, and having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

If the owner, occupier or other person in charge of the premises requires the officer to produce evidence of identity or evidence of authority to exercise powers, the officer must produce that evidence.

APPENDIX 1 -

3.0 Suitability of Applicant

- 3.1 The Council must determine whether the applicant is a suitable person to carry on a business as a scrap metal dealer; and may not issue a licence unless satisfied the applicant is suitable.
- 3.2 When assessing an application for a Site Licence or for a Collector's Licence the Council will consider the suitability of :
- the individual applicant
 - each partner within a partnership
 - any director(s), secretary(s) or shadow director(s) of a company.
- 3.3 As well as its policy and statutory guidance, the Council, when determining suitability, may have regard to any other information it considers relevant, in particular, but not limited to:
- Scrap Metal Act 2013 – Section 3 (2)
- (a) whether the applicant or site manager has been convicted of any relevant offence; (see Appendix 1)
 - (b) whether the applicant or site manager has been the subject of any relevant enforcement action; (see Appendix 1)
 - (c) any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
 - (d) any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
 - (e) any previous revocation of a scrap metal licence (and the reasons for the revocation);
 - (f) whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.
- 3.4 In assessing an applicant/licensee's suitability the Council can also consider any other information it considers relevant, the Council has considered that this will include the following :
- the applicant's behaviour in the operation of their business
 - unspent convictions, cautions on the basic disclosure relating to violence, dishonesty or theft (including non-metal theft)
 - relevant, proportionate information provided by another agency which suggests that an applicant represents a **substantial risk to the public**.

- 3.5 In determining suitability the Council will require the applicant/licensee to produce a Basic Disclosure Certificate. Where the applicant has lived previously outside the United Kingdom the Council will not consider the grant of a licence until a relevant check has been completed with the relevant country or countries and details of such check submitted to the Council.
- 3.6 This Council considers a Basic Disclosure Certificate to be only valid for 3 months prior to the date the application is made.
- 3.7 A single relevant conviction may not automatically result in the Council refusing to grant a licence. The Council will take into account when the offence was committed, the nature of the offence or enforcement action, the gravity of the offence or enforcement action, along with any other relevant information.
- 3.8 The Council may consult other persons regarding the suitability of an applicant/licensee, including, but not limited to:
- (a) any other local authority;
 - (b) departments within Wrexham County Borough Council
 - (b) the Environment Agency;
 - (c) the Natural Resource Body for Wales;
 - (d) the Health and Safety Executive
 - (e) North Wales Police force;
- 3.9 Notwithstanding the existence of this policy, the Council, when determining a person's suitability for the purposes of the Act, will treat each case on its own individual merits

APPENDIX 2

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

Made - - - 6th September 2013

Laid before Parliament 10th September 2013

Coming into force - - 1st October 2013

The Secretary of State, in exercise of the powers conferred by sections 3(3)(b) and (c) and 20(4) of

the Scrap Metal Dealers Act 2013(a) makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Scrap Metal Dealers Act 2013

(Prescribed

Relevant Offences and Relevant Enforcement Action) Regulations 2013 and shall come into force

on 1st October 2013.

(2) In these Regulations—

“environment-related offence” means an offence which relates to the transportation, shipment

or transfer of waste, or to the prevention, minimisation or control of pollution of the air, water

or land which may give rise to any harm;

“harm” means:

(i) harm to the health of human beings or other living organisms;

(ii) harm to the quality of the environment;

(iii) offence to the senses of human beings;

(iv) damage to property; or

(v) impairment of, or interference with, amenities or other legitimate uses of the environment.

Relevant offences

2. For the purposes of section 3(3)(b) of the Scrap Metal Dealers Act 2013, “relevant offence”

means any offence specified in the Schedule to these Regulations, and includes an offence of—

(a) attempting or conspiring to commit any offence falling within the Schedule;

(b) inciting or aiding, abetting, counselling or procuring the commission of any offence

falling within the Schedule, and

(c) an offence under Part 2 of the Serious Crime Act 2007(a) (encouraging or assisting

crime) committed in relation to any offence falling within the Schedule.

Relevant enforcement action

3. For the purposes of section 3(3)(c) of the Scrap Metal Dealers Act 2013, a person is the

subject of “relevant enforcement action” if—

(a) the person has been charged with an offence specified in the Schedule to these Regulations, and criminal proceedings in respect of that offence have not yet concluded;

or Page **12** of **13**

(b) an environmental permit granted in respect of the person under the Environmental

Permitting (England and Wales) Regulations 2010 (**b**) has been revoked in whole, or partially revoked, to the extent that the permit no longer authorises the recovery of metal.

Home Office *Damian Green*

6th September 2013 Minister of State

SCHEDULE Regulation 2

PART 1

Primary Legislation

(a) An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989(**c**)

(b) An offence under section 170 or 170B of the Customs and Excise Management Act

1979(**d**), where the specific offence concerned relates to scrap metal

(c) An offence under section 110 of the Environment Act 1995(**e**)

(d) An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990(**f**)

(e) An offence under section 9 of the Food and Environment Protection Act 1985(**g**)

(f) An offence under section 1 of the Fraud Act 2006(**h**), where the specific offence concerned relates to scrap metal, or is an environment-related offence

(g) An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders

Act 2012(**i**)

(h) An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002(**j**)

(i) Any offence under the Scrap Metal Dealers Act 1964(**k**)

(a) 2007 c.27.

(b) S.I. 2010/675. Environmental permits can be granted under regulation 13, and revoked under regulation 22.

(c) 1989 c.14.

(d) 1979 c.2. Section 170B was inserted by the Finance (No 2) Act 1992 (c.48), section 3, Schedule 2, paragraph 8.

(e) 1995 c.25.

(f) 1990 c.43. Section 34B was inserted, in relation to England and Wales, by the Clean Neighbourhood and Environment Act

2005(c.16), section 46.

(g) 1985 c.48.

(h) 2006 c.35.

(i) 2012 c.10. Section 146 is to be repealed by section 19(1)(f) of the Scrap Metal Dealers Act 2013, which has not yet been commenced.

(j) 2002 c.29.

(k) 1964 c.69. This Act is to be repealed by section 19(1)(a) of the Scrap Metal Dealers Act 2013, which has not yet been commenced.

(j) Any offence under the Scrap Metal Dealers Act 2013

(k) An offence under sections 1, 8,9,10, 11, 17, 18, 22 or 25 of the Theft Act 1968(**a**), where

the specific offence concerned relates to scrap metal, or is an environment-related offence

(l) Any offence under Part 1 of the Vehicles (Crime) Act 2001**(b)**

(m) An offence under sections 85, 202, or 206 of the Water Resources Act 1991**(c)**.

PART 2

Secondary Legislation

(a) An offence under regulation 38 of the Environmental Permitting (England and Wales)

Regulations 2007**(d)**

(b) An offence under regulation 38 of the Environmental Permitting (England and Wales)

Regulations 2010**(e)**

(c) Any offence under the Hazardous Waste (England and Wales) Regulations 2005**(f)**

(d) Any offence under the Hazardous Waste (Wales) Regulations 2005**(g)**

(e) An offence under regulation 17(1) of the Landfill (England and Wales)

Regulations

2002**(h)**

(f) Any offence under the Pollution Prevention and Control (England and Wales)

Regulations 2000**(i)**

(g) Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007**(j)**

(h) Any offence under the Transfrontier Shipment of Waste Regulations 1994**(k)**

(i) Any offence under the Transfrontier Shipment of Waste Regulations 2007**(l)**

(j) Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006**(m)** Page 13 of 13

(k) An offence under regulation 42 of the Waste (England and Wales) Regulations 2011**(n)**.

(a) 1968 c.60.

(b) 2001 c.3. Part 1 of this Act is to be repealed by section 19(1)(d)(i) of the Scrap Metal Dealers Act 2013, which has not yet been commenced.

(c) 1991 c.57. Section 85 was repealed by S.I. 2010/675 regulation 107 and Schedule 26, Part 1 paragraph 8(2)(a).

(d) S.I. 2007/3538. Regulation 38 was revoked by S.I. 2010/675, regulation 108(1) and Schedule 27.

(e) S.I. 2010/675.

(f) S.I. 2005/894.

(g) S.I.2005/1806.

(h) S.I.2002/1559. These Regulations were revoked by S.I. 2007/3538, regulation 74(1) and Schedule 22.

(i) S.I. 2000/1973. These Regulations were revoked by S.I. 2007/3538, regulation 74(1) and Schedule 22.

(j) S.I. 2007/871

(k) S.I. 1994/1137. These Regulations were revoked by S.I. 2007/1711, regulation 60(1)(a) and (2).

(l) S.I. 2007/1711.

(m) S.I. 2006/3289.

(n) S.I. 2011/988.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe relevant offences and relevant enforcement action for the purposes of section 3(3)(b) and (c) of the Scrap Metal Dealers Act 2013. Pursuant to section 3(2) of that Act,

where a local authority is processing an application for a scrap metal licence and is evaluating whether the applicant is a suitable person to carry on business as a scrap metal dealer, the local authority may have regard to whether the applicant or any site manager has been convicted of a relevant offence, or has been the subject of any relevant enforcement action.

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DRAFT

COMPLIANCE - RIGHT OF ENTRY

1. A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.

2. A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
a) reasonable attempts to give notice have been made and failed,

or

b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.

3. (1) and (2) above do not apply to residential premises.

4. A constable or an officer of the Council is not entitled to use force to enter a premises in the exercise of the powers under sections (1) and (2) above.

5. A justice of the peace may issue a warrant authorising entry to any premises within section 6 below if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:

- a) securing compliance with the provisions of the Act, or
- b) ascertaining whether those provisions are being complied with.

6. Premises are within this section if:

- a) the premises are a licensed site, or
- b) the premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business

7. The warrant is a warrant signed by the justice which:

- a) specifies the premises concerned, and
- b) authorises a constable or an officer of a local authority to enter and inspect the premises at any time within one month from the date of the warrant.

8. A constable or an officer of the Council may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 5.

9. A constable or an officer of the Council may:

- a) require production of, and inspect, any scrap metal kept at any premises mentioned in section 1 or 2 or in a warrant under section 5;

b) require production of, and inspect, any records kept in accordance with section 15 or 16 and any other records relating to payment for scrap metal;

c) take copies of or extracts from any such records.

10. Section 11 below applies if a constable or an officer of the Council who seeks to exercise powers under this section in relation to any premises.

11. If the owner, occupier or other person in charge of the premises requires the officer to produce:

a) evidence of the officer's identity, or

b) evidence of the officer's authority to exercise those powers the officer must produce that evidence.

12. In the case of an officer of the Council, the powers under this section are exercisable only in relation to premises in the area of the authority.

Delegation of Authority

- 1 Decisions on licensing matters will be taken in accordance with the approved scheme of delegation in Appendix 5 aimed at underlining the principles of timely, efficient and effective decision making.
- 2 This scheme will be subject to amendment from time to time as shown in the Council's Constitution.

DRAFT

Mae tudalen hwn yn fwriadol wag

ADRODDIAD I'R:	Pwyllgor Trwyddedu
DYDDIAD:	9 Mawrth 2016
SWYDDOG ARWEINIOL:	Pennaeth Cynllunio a Gwasanaethau Gwarchod y Cyhoedd
SWYDDOG CYSWLLT:	Rheolwr Busnes Gwarchod y Cyhoedd licensing@denbighshire.gov.uk 01824 706451
TESTUN:	Ystyried hyfforddiant ar gyfer gyrrwyr trwyddedig

1. PWRPAS YR ADRODDIAD

- 1.1 I aelodau ystyried cyfarwyddo swyddogion i ddrafftio cynnig ar gyfer cyflwyno hyfforddiant ymwybyddiaeth diogelu gorfodol ar gyfer pob cerbyd hacni trwyddedig, gyrrwyr hurio preifat a gweithredwyr yn Sir Ddinbych.

2. CRYNODEB GWEITHREDOL

- 2.1 Prif rôl yr awdurdod trwyddedu ac aelodau'r Pwyllgor yw gwarchod, diogelwch a lles y cyhoedd.
- 2.2 Mae nifer o faterion diogelu proffil uchel diweddar o amgylch y wlad wedi cael cyhoeddusrwydd ac yn arbennig yn ymwneud â chamfanteisio'n rhywiol ar blant (CSE) lle mae nifer ohonynt wedi cael cysylltiadau â cherbydau trwyddedig awdurdod lleol. Cyflwyno hyfforddiant ymwybyddiaeth gorfodol yn cefnogi ymrwymiad Sir Ddinbych i amddiffyn pobl diamddiffyn.

3. GWYBODAETH GEFNDIROL

- 3.1 Mae swyddogion wedi ystyried yn ofalus ganfyddiadau adroddiad arolygu Cyngor Bwrdeistref Rotherham a gyflwynwyd i'r Dŷ'r Arglwyddi yn Chwefror 2015 gan Louise Casey CB, a'r ymchwiliad annibynnol i gamfanteisio'n rhywiol ar blant yn Rotherham 1997-2013 a wnaed gan Alex Jay OBE, yn benodol ac yng nghyd-destun cerbydau trwyddedig. Dylai Aelodau nodi bod yr adroddiad gan Alex Jay OBE yn datgan: un o'r llinynnau cyffredin sy'n rhedeg drwy gamfanteisio'n rhywiol ar blant ar draws Lloegr yw'r rôl amlwg o yrwyr tacsï yn cael eu cysylltu yn uniongyrchol â phlant a gafodd eu cam-drin.

- 3.2 Ym mis Medi 2015, penderfynodd Pwyllgor Trwyddedu Conwy i gyflwyno cynllun hyfforddiant ymwybyddiaeth o'r fath yn orfodol i bob gyrrwr trwyddedig ac ymestyn hyn ymhellach at hyfforddiant BTEC Lefel 2. Er bod amodau trwyddedu Conwy a Sir Ddinbych ar wahân, mae tebygrwydd yn y rhan fwyaf o agweddau'r diwydiant. Mae partneriaid Diogelwch Cymunedol wedi croesawu'r dull hwn yng Nghonwy ac wedi annog Sir Ddinbych i weithredu gofyniad o'r fath ac wedi cynnwys camau o'r fath yng Nghynllun Gweithredu Partneriaeth Diogelwch Cymunedol Conwy a Sir Ddinbych "Conwy a Sir Ddinbych Mwy Diogel" ar gyfer 2015/16.
- 3.3 Ar y cam hwn nid oes rhagdybiaeth ynglŷn â chwmpas y cynllun arall ar wahân i'r ffaith y dylai fod yn berthnasol i bob gyrrwr. Dylai Aelodau gyfarwyddo swyddogion i ystyried cynllun efallai y byddant o bosib eisiau cyfeirio swyddogion i ystyried ystyriaethau penodol, megis y camau yn erbyn unrhyw yrwr sydd heb ei hyfforddi; y cyfnod o amser i gael hyfforddiant a pha mor hir cyn y bydd angen unrhyw hyfforddiant gloywi ac a ddylai hyn fod yn rhan o gynllun hyfforddi gorfodol ehangach, megis BTEC neu NVQ neu gymhwyster cyfatebol.

4.

YMGYNGHORI

4.1

Dim hyd yma er bod y potensial ar gyfer diogelu hyfforddiant ymwybyddiaeth wedi cael ei drafod mewn cyfarfodydd diogelu mewnol yn cynnwys y Panel Diogelu Corfforaethol sydd yn gefnogol i'r cynnig.

4.2

Rhagwelir y bydd pawb a allai gael eu heffeithio, megis gyrwyr a gweithredwyr, yn cael eu ymgynghori ynghyd ag asiantaethau partner sy'n ymwneud â diogelu pobl diamddiffyn yn lleol.

5.

ARGYMHELLIAD

5.1

Bod y Pwyllgor yn cyfarwyddo swyddogion i gyflwyno hyfforddiant ymwybyddiaeth diogelu gorfodol ar gyfer pob gyrrwr tacsï trwyddedig yn ystod 2016.

5.2

Bod y Pwyllgor yn cyfarwyddo swyddogion i baratoi cynnig ar gyfer hyfforddiant ffurfiol ar gyfer gyrwyr tacsï trwyddedig.



1. PWRPAS YR ADRODDIAD

ADRODDIAD I'R:	Pwyllgor Trwyddedu
DYDDIAD:	9 Mawrth 2016
SWYDDOG ARWEINIOL:	Pennaeth Cynllunio a Gwasanaethau Gwarchod y Cyhoedd
SWYDDOG CYSWLLT:	Rheolwr Busnes Gwarchod y Cyhoedd trwyddedu@sirddinbych.gov.uk 01824 706451
TESTUN:	Adolygiad o Bolisi a Gweithdrefn Presennol Pwyntiau Cosb

- 1.1 Cyflwyno Polisi a gweithdrefn Pwyntiau Cosb diwygiedig i'r Aelodau i'w ystyried.

2. CRYNODEB GWEITHREDOL

- 2.1 I'r Aelodau ystyried cymeradwyo polisi a gweithdrefn pwyntiau cosb diwygiedig i sicrhau gwelliannau pellach mewn safonau ar gyfer Perchnogion, Gyrwyr a Cherbydau Hacni, a Gweithredwyr, Gyrwyr a Cherbydau Hurio Preifat.

3. GWYBODAETH GEFNDIROL

- 3.1 Bydd yr Aelodau'n ymwybodol fod Swyddogion wedi cyflwyno Polisi a Gweithdrefn Pwyntiau Cosb diwygiedig yng nghyfarfod y Pwyllgor ym mis Medi 2015 (gellir gweld cofnodion y cyfarfod gyda phapurau'r pwyllgor). Cytunodd yr Aelodau â'r diwygiadau arfaethedig a phenderfynu y dylai'r swyddogion ymgynghori â deiliaid trwydded ynglŷn â'r polisi diwygiedig ac adrodd yn ôl i'r Pwyllgor.

3.2

Yn dilyn yr ymgynghoriad, mae'r Polisi a Gweithdrefn Pwyntiau Cosb diwygiedig arfaethedig (ynghyd â rhestr o doriadau/troseddau) yn Atodiad A. Er gwybodaeth i'r Aelodau nid yw'r prif bolisi a gweithdrefn diwygiedig wedi'u newid ers i'r Swyddogion eu cyflwyno ym mis Medi.

4. YMGYNGHORI

- 4.1 Mae ymgynghoriad am bythefnos ar y Polisi a Gweithdrefn Pwyntiau Cosb diwygiedig wedi'i gynnal gyda'r holl ddeilwyr trwydded.
- 4.2 O ganlyniad i'r ymgynghoriad hwn, ni dderbyniodd y Swyddogion unrhyw sylwadau.

5. ARGYMHELLIAD

- 5.1 Bod yr Aelodau yn ystyried cymeradwyo'r Polisi a Gweithdrefn Pwyntiau Cosb diwygiedig yn Atodiad A, ac wrth wneud hynny yn cytuno i ddisodli Cynllun Pwyntiau Cosb 2014.
- 5.2 I weithredu'r cynllun ar unwaith.

DENBIGHSHIRE COUNTY COUNCIL

PENALTY POINT POLICY AND PROCEDURE

1 INTRODUCTION

- 1.1 This document details the Penalty Point procedure used by the Council to deal with minor breaches or infringements of legislation or unacceptable behaviour committed by those licensed as Drivers and Operators and vehicle proprietors, in much the same way that points can be attached to a DVLA driving licence.

2 POLICY STATEMENT

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

3. PURPOSE OF THE PROCEDURE

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

4. WHO IS COVERED BY THE PROCEDURE

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

5. ISSUING OF PENALTY POINTS

- 5.1** Officers will investigate allegations of offences by licensed operators, drivers or vehicles owners. When considering what action to take the Investigating officer(s) will take into account all available and appropriate evidence, such as eye witness accounts and their reliability, the views of the licence holder who may be affected by the outcome of the investigation, etc.. The outcome of investigations may result in a wide range of potential actions against the driver and /or operator and / or proprietor. This procedure deals with the option of penalty points. For other enforcement action please refer to the relevant procedures.
- 5.2** Once the decision to issue penalty points is made, letters will be sent to all persons/organisations involved in the allegation(s) detailing the findings and decision of the Investigation officer. A record of the decision and any copies of associated documents will be kept on file (usually in secure electronic format) and retained for a period of 6 months following the expiry of the 2 year rolling period referred to at 5.6 below.
- 5.3** The points will be issued by an Officer, or the Committee, to the driver and /or operator and / or proprietor depending on the circumstances, and will be confirmed in writing within 14 days of their issue.
- 5.4** Any penalty points incurred under this procedure are completely separate from any points which may be attached by the Police, through fixed penalty notices, or the Courts, through convictions to DVLA driving licences.
- 5.5** Confirmed infringements or breaches resulting in the award of penalty points will act as an ongoing record of a licensee's behaviour and conduct and may be used in determining whether they are a fit and proper person to hold a licence.
- 5.6** Where a licence holder accumulates 20 or more penalty points, in separate incidents, in a 24 month rolling period (a period of 24 consecutive months determined on a rolling basis with a new 24 month period beginning each day) the matter will be referred to the next available Licensing Committee. The Committee will be required to determine whether the driver or operator is a fit and proper person. The following action can be taken by the Committee:
- i. Take no action
 - ii. Issue a warning
 - iii. Issue additional penalty points
 - iv. Suspend a licence as a punitive sanction
 - v. Suspend a licence to correct a fault, defect, or breach
 - vi. Revoke or refuse to renew a licence
- 5.7** Periods of suspension will be determined by the Licensing Committee and will depend on the nature of the offence, breach, or infringement and the individual's compliance history. A determination will also be made as to whether the suspension or revocation is on the grounds of public safety, thereby having immediate effect.

5.8 Where a driver, proprietor or operator reaches the 20 points and is referred to the Committee it will not preclude all relevant information being disclosed. This will include any other penalty points, complaints, warnings, and suspensions etc. The 20 points will be a referral trigger.

5.9 Where an identified breach results in the issue of a single award of 20 penalty points these matters will be considered as soon as is practicable by the Head of Planning & Public Protection or in his/her absence, the Head of Legal and Democratic Services, in consultation with the Chair of the Licensing Committee, or in his / her absence, the vice Chair, for appropriate action. Any action will be considered alongside the Council's agreed document "Procedure for Suspension / Revocation of a Hackney Carriage and Private Hire Driver Licence".

6. A BREACH OR INFRINGEMENT IS DISCOVERED

6.1 If there is good evidence that there was a breach or inappropriate behaviour and it is considered appropriate to do so, the licence holder will be issued with a penalty point notice.

6.2 The penalty point notice will describe the infringement or breach, date and time it took place, and how many points have been issued to the licence holder.

6.3 The Council reserve the right to not impose penalties points under this scheme where in the opinion of the Officers the allegations are either frivolous, vexatious or repetitious, or made, in the Officers opinion, to further personal grievances or which are not made within a reasonable time period, to be determined by the Council depending on the individual circumstances, of the breach having occurred.

7. HOW TO REPORT AN INFRINGEMENT

7.1 Complaints from members of the public, residents or businesses concerning any breaches of conduct will be subject to investigation by Officers, and only where there is clear, verifiable evidence of an infringement e.g. a photograph of an illegally parked vehicle, will a penalty point notice be issued.

7.2 Infringements can be reported through the Council's website <https://www.denbighshire.gov.uk/en/resident/contact-us/contact-us.aspx>

8. INFRINGEMENTS/BREACHES COVERED BY THE SCHEME

8.1 A full list of infringements and breaches covered by this Scheme can be found at Appendix 1.

9. APPEALS

9.1 If a licensee wishes to appeal against the issue of a "penalty points notice"

he/she must do so in writing, stating the reasons of the appeal, within 10 working days from the date of issue of such a notice, to the Council's Head of Planning and Public Protection or in his/her absence the Public Protection Manager, who, in consultation with the Chairman of the Licensing Committee, will have the discretion to:-

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

9.2 The Head of Planning and Public Protection or, as the case may be, the Public Protection Manager will write to the licensee informing them of the outcome within 10 working days of receiving the appeal

9.3 If no appeal is lodged within 10 days from the date of issue of the Notice, then the Council will take the view that the licence holder has accepted the penalty points.

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

10. RE-APPLYING FOR A LICENCE

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

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

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

11. DELEGATION OF FUNCTIONS

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

12. REVIEW OF THE SCHEME

12.1 This Policy will be reviewed every three years. Notwithstanding this, the

policy will continue to be evaluated and may be updated at any time, subject to the appropriate consultation.

APPENDIX 1 – PENALTY POINT SCHEME

FOR BREACHES OR INFRINGEMENTS BY HACKNEY AND PRIVATE HIRE OPERATORS, DRIVERS AND VEHICLE PROPRIETORS

SCALE OF PENALTY POINTS

REF No	BREACH/OFFENCE OR INFRINGEMENT	PENALTY POINTS
Tudalen 48	Use/Cause/Permit a vehicle to be driven with a defect contrary to Road Vehicle (Construction & Use) Regs 1986 (as amended) (per defect):	
	a) Defective tyres (including spare)	10
	b) Defective brakes	10
	c) Defective seat belts	10
	d) Defective steering	10
	e) Defective suspension	10
	f) Defective doors (closing/ locking mechanism)	6
	g) Defective windscreen - cracked etc. in drivers view	6
	h) Defective bodywork- sharp edges, corrosion likely to cause injury to persons	6
	i) Defective headlamps, brake lights, sidelights	10
	j) Defective windscreen wipers/washers	6
	k) Defective exhaust	3
	l) Defective horn	3
	m) Insecure battery which could be a fire risk.	10
n) Any other relevant defect not referred to above	6	
2	Failing to produce Certificate of Compliance, MOT certificate, driving licence or insurance certificate, which is valid on the day of request, within 7 days of being requested	3
3	Obstructing an authorised officer or Police Officer	10
4	Failure to carry an assistance dog without an exemption notice	3
5	Using or allowing a vehicle to be used subject to a suspension/revocation issued by an Authorised Officer or Police Officer	20
6	Using an unlicensed vehicle or licensed vehicle without Insurance	20

7	Driver using a handheld mobile phone, handheld two way radio, whilst the vehicle is in motion	10
8	Presenting a licensed vehicle for testing in an unsafe or dangerous Condition	20
9	Providing false or misleading information on licence application form / failing to provide relevant information or the relevant fee (including dishonoured cheques)	10
10	Failure to submit a licensed vehicle that is 5 years old, or more for a 6 monthly MoT and provide documented proof to the Council that it has passed such a test. The Council will expect to see documentary evidence that such a test has been carried out within 4 weeks of the due date of the MoT test.	10
11	Operator failing to keep proper records or keep records in accordance with the licence conditions	3
12	Failing to notify the Council of details of road traffic collision within 72 hours	6
13	Failure to behave in a civil and orderly manner (including rude or aggressive behaviour) to a member of the public, licensed driver or Officer of the Council or Police Officer	10
14	Plying for hire by private hire drivers.	10
15	Carrying more passengers than the capacity stated on the vehicle licence.	20
16	Failure to carry an up to date fire extinguisher.	3
17	Failure to wear private hire/hackney carriage driver's badge.	3
18	Refusal to accept hiring without reasonable cause e.g. reasonable cause - when drunk or rude customer	6
19	Failure to observe rank discipline – taxi drivers (e.g. plying for hire outside the markings of one of the County's taxi ranks – parking in front or behind rank).	5
20	Failure to give assistance with loading/unloading luggage to or from any building or place, without reasonable cause e.g. temporary medical condition	3
21	Failure to attend punctually at appointed time and place without sufficient cause:	
	a) During daytime	3
	b) During the hours of darkness	6
22	Leaving a Hackney Carriage unattended whilst on a designated rank, without reasonable cause e.g. quick toilet break	3
23	Failure to comply with the Driver Dress Code	3
24	Failure to comply with the Code of Good Conduct	5
25	Displaying any feature on a private hire vehicle that may suggest that it is a taxi vehicle.	5
26	Failure to carry a legal spare wheel and tools or other method of repair e.g. foam/run flat tyre	3
27	Failure to display the external/internal licence plate or signs as required.	3
28	Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle.	3
29	Charging hackney carriage passenger more than the metered or agreed fare	6

30	Failure to return a vehicle licence plate within 7 days after request	6
31	Using a non-approved or non-calibrated taximeter	6
32	Unreasonably prolonging a journey or any misconduct regarding the charging of fares	6
33	Failure to notify the Council, in writing, of any conviction, caution, fixed penalty or similar within 7 working days	6
34	Failure to notify the Council, in writing, of a change of address within 7 working days	3
35	Failure to notify, in writing, a change in medical circumstances	6
36	Unsatisfactory condition of a vehicle (interior or exterior):	
	a) Dirty exterior	3
	b) Filthy and stained interior	6
	c) Other non-compliant licensable condition (as required by the "Blue Book")	3
37	Driving or parking in a manner likely to cause inconvenience, distress or danger to members of the public e.g. tailgating/speeding/overtaking/furious driving	10
38	Parking in contravention of public highway parking restrictions including occupying/parking in a loading bay	5
39	Parking/stopping or picking up or dropping off passengers on zigzags of a pedestrian crossing or school entrance	6
40	Failing to display Hackney Carriage fare card in vehicle	3
41	Failure to present vehicle for inspection by an authorised officer at required time/location.	10
42	Private Hire driver charging or attempting to charge more than the fare agreed with the customer by the operator	6
43	Private hire vehicle parking / waiting on a taxi rank	6
44	Smoking in a licensed vehicle, and allowing passengers to smoke in a licensed vehicle	10
45	Failure to display in a licensed vehicle, no smoking signage as prescribed in the Health Act 2006	3

Eitem Agenda 8

ADRODDIAD I'R: PWYLLGOR TRWYDDEDU

DYDDIAD: 9 Mawrth 2016

ADRODDIAD GAN: PENNAETH CYNLLUNIO A GWARCHOD Y CYHOEDD

TESTUN: RHAGLEN GWAITH Y PWYLLGOR TRWYDDEDU 2015/16

DYDDIAD	ADRODDIAD	SYLW
8 Mehefin 2016	Polisi diwygiedig Cerbydau Hacni a Cherbydau Hurio Preifat	Adroddiad i'r Aelodau ystyried y Polisi diwygiedig
	Polisi diwygiedig arfaethedig Gweithredwr Hurio Preifat	Adroddiad i'r Aelodau ystyried y Polisi diwygiedig
22 Medi 2016	Polisi Masnachu ar y Stryd arfaethedig	Adroddiad i'r Aelodau ystyried Polisi diwygiedig Masnachu ar y Stryd
	Rhaglen Gwaith i'r Dyfodol 2016/17	Adroddiad i'r Aelodau ystyried cymeradwyo Rhaglen Gwaith i'r Dyfodol ar gyfer 2016/17
7 Rhagfyr 2016	Diweddarau ac Adolygu Polisi a Gweithdrefn Pwyntiau Cosb	Adroddiad i'r Aelodau ei ystyried ynghyd â chymeradwyo polisi diwygiedig
	Adolygu Polisi Sefydliad Rhyw	Adroddiad i'r Aelodau ystyried Polisi diwygiedig. Mae'r eitem hon wedi'i symud o Bwyllgor mis Mawrth.

Mae tudalen hwn yn fwriadol wag

Yn rhinwedd Paragraff(au) 12, 13 Rhan 4, Atodlen 12A
Deddf Llywodraeth Leol 1972.

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