

To: Members of the Licensing
Committee

Date: 16 September 2016

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Dear Councillor

You are invited to attend a meeting of the **LICENSING COMMITTEE** to be held at **9.30 am** on **THURSDAY, 22 SEPTEMBER 2016** in the **COUNCIL CHAMBER, RUSSELL HOUSE, CHURTON ROAD, RHYL.**

Yours sincerely

G Williams
Head of Legal and Democratic Services

AGENDA

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

1 APOLOGIES

2 DECLARATION OF INTERESTS (Pages 7 - 8)

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

3 URGENT MATTERS AS AGREED BY THE CHAIR

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

4 MINUTES OF THE LAST MEETING (Pages 9 - 22)

To receive the –

(a) minutes of the Licensing Committee held on 8 June 2016 (copy enclosed),
and

(b) minutes of the Special Licensing Committee held on 23 June 2016 (copy enclosed).

5 REVIEW OF STREET TRADING POLICY (Pages 23 - 38)

To consider a report by the Head of Planning and Public Protection (copy enclosed) informing members of the progress with regard to the review of the current street trading policy within Denbighshire.

6 LICENSING COMMITTEE FORWARD WORK PROGRAMME (Pages 39 - 40)

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

PART 2 - CONFIDENTIAL ITEMS

It is recommended in accordance with Section 100A(4) of the Local Government Act 1972, that the Press and Public be excluded from the meeting during consideration of the following item(s) of business because it is likely that exempt information as defined in paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act would be disclosed.

7 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/1594/TXJDR (Pages 41 - 80)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' review of a licence to drive hackney carriage and private hire vehicles in respect of Driver No. 15/1594/TXJDR.

MEMBERSHIP

Councillors

Cefyn Williams (Chair)

Huw Williams (Vice-Chair)

Joan Butterfield
Bill Cowie
Meirick Davies
Stuart Davies
Hugh Irving

Barry Mellor
Merfyn Parry
Pete Prendergast
David Simmons

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All Councillors for information
Press and Libraries
Town and Community Councils

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

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

11.	The committee members will consider the application/review taking into account the evidence heard
12	Should Committee Members prove it necessary to recommence the asking of questions and recall any party to provide further information or clarification, all persons who have withdrawn from the meeting will be invited to return. After the question(s) have been determined all third parties will be asked to withdraw again for Members to consider all evidence.
13.	When the Members have reached their decision, all parties will be recalled and the applicant/licence holder will be informed of the Members decision by the Chairman.
14.	The Chair will inform the applicant/licence holder of the decision reached. This will include any specific conditions or penalties which may have been imposed. If necessary the Council's Solicitor to provide further clarification of the decision and its implications to the applicant/licence holder.
15.	If the decision is to refuse or there is a decision to suspend or revoke, the Council's Solicitor to inform the applicant/licence holder of the right of appeal to the Magistrates' Court (the decision letter will also include these details).
16.	For an existing licensed driver (issued by Denbighshire), and the decision involves a resolution by the Committee to suspend or revoke the existing licence, Members may do so under either: 1. Section 61 (2A) of the Local Government (Miscellaneous Provisions) Act 1976. 2. Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976. This decision will have IMMEDIATE EFFECT and can only be used when the grounds for suspension/revocation are a public safety matter. The Solicitor will explain to the licence holder the implications of the decision.
17.	The applicant/licence holder will be informed of the decision in writing as soon as practicable.
18.	The applicant/licence holder will be invited to discuss any matter they are unsure of with Licensing Officers after the Committee

LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

a *member/co-opted member of
*(*please delete as appropriate)*

Denbighshire County Council

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

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)**

Signed

Date

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

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LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 8 June 2016 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Bill Cowie, Stuart Davies, Hugh Irving, Barry Mellor, Merfyn Parry, Pete Prendergast, Arwel Roberts, Cefyn Williams and Huw Williams

ALSO PRESENT

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

The Head of Legal, HR and Democratic Services (GW) attended as the Committee's Legal Adviser for agenda item 9.

1 APOLOGIES

Councillor David Simmons

Councillors Joan Butterfield and Huw Williams advised that they would be leaving early to attend a meeting of the Appointments Panel.

2 APPOINTMENT OF CHAIR

Nominations were sought for the position of Chair of the Licensing Committee for 2016/17.

Councillor Bill Cowie proposed, seconded by Councillor Arwel Roberts that Councillor Cefyn Williams be appointed Chair. Councillor Hugh Irving proposed, seconded by Councillor Merfyn Parry that Councillor Huw Williams be appointed Chair. Upon being put to the vote 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 2016/17.

Councillor Hugh Irving proposed, seconded by Councillor Pete Prendergast that Councillor Huw Williams be appointed Vice Chair. It was subsequently –

RESOLVED that Councillor Huw Williams 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 9 March 2016 and Special Licensing Committee held on 24 March 2016 were submitted.

RESOLVED that the minutes of the meetings held on 9 March 2016 and 24 March 2016 be received and confirmed as a correct record.

[At this juncture Councillor Huw Williams left the meeting.]

At this point it was agreed to vary the order of the agenda in order to accommodate individuals attending for particular items.

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.

7 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/1124/TXJDR

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted seeking a review of a licence to drive hackney carriage and private hire vehicles in respect of Driver No. 15/1124/TXJDR.

The Solicitor read out an adjournment request on behalf of the Driver concerned due to the late receipt of the necessary documentation and given that his representative had been unable to attend. In the interests of natural justice members decided to grant the adjournment request. There was some debate on whether to defer the matter to the committee's next meeting or to convene a special meeting to hear the case. Upon being put to the vote it was –

RESOLVED that consideration of the suitability of Driver No. 15/1124/TXJDR to hold a hackney carriage and private hire vehicle drivers licence be deferred to a special meeting of the Licensing Committee to be convened as soon as practicable.

[At this juncture Councillor Joan Butterfield left the meeting.]

8 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 16/0374/TXJDR

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

- (i) an application having been received from Applicant No. 16/0374/TXJDR for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the application in light of the convictions revealed following an enhanced disclosure to the Disclosure and Barring Service (DBS) relating to offences committed between 1986 and 2007, most of which had not been disclosed by the Applicant;
- (iii) the Council's current policy with regard to the relevance of convictions, and
- (iv) the Applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

The Applicant confirmed he had received the report and committee procedures.

The Licensing Officer introduced the report and detailed the facts of the case.

The Applicant explained his reasoning for non-disclosure of historical convictions with no intention to mislead. He provided some context to those convictions and expressed deep remorse over his past. The Applicant referred to his current personal circumstances and responsibilities and how his life had changed. References were provided attesting to his good character and he gave further assurances to members regarding both his current and future conduct. The Applicant responded to members' questions regarding the nature of his convictions, his current lifestyle and changed circumstances and his employment history. In making his final statement he reiterated how much his life had changed over the last decade in testament to his current good character.

The committee adjourned to consider the application and it was –

RESOLVED that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 16/0374/TXJDR be granted with a formal warning as to his future conduct.

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

Members had taken into account that the convictions were largely historical and accepted the explanation provided by the Applicant with regard to those convictions. Members had also found the Applicant to be genuine in his remorse over his past and in response to their questions. It was considered that the Applicant had demonstrated, both through his address to the committee and his written references, that he had a changed lifestyle and was of good character. Consequently the Applicant was found to be a fit and proper person to hold a licence. However, given those historical convictions it was also considered appropriate for the Applicant to be issued with a warning as to his future conduct.

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

At this juncture (10.25 a.m.) the meeting adjourned for a refreshment break.

9 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 15/1446/TXJDR

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

- (i) an application having been received from Applicant No. 15/1446/TXJDR for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having refused the application under delegated powers after taking into account the convictions disclosed and the Council's conviction policy;
- (iii) the Applicant having subsequently appealed against officers' decision to the Magistrates Court following which an agreement was reached that the appeal would cease and the application be referred to the Licensing Committee for determination;
- (iv) detailed the convictions revealed following the enhanced disclosure to the Disclosure and Barring Service together with the Council's policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to the meeting in support of his application and to answer members' questions thereon.

The Applicant was in attendance at the meeting accompanied by his Legal Representatives who confirmed receipt of the report and committee procedures.

The Licensing Officer introduced the report and detailed the facts of the case.

The Applicant's Legal Representative highlighted some factual inaccuracies in the report and provided some background to the application and how it had appeared before the Licensing Committee for determination, including reference to the proceedings at the Magistrates Court on appeal. In presenting the Applicant's case she referred to his previously unblemished record as a licensed driver and his competency when dealing with the public. The matter for consideration related to the most recent conviction and the Legal Representative elaborated upon the circumstances of that offence and its context within the Council's licensing policy with regard to the relevance of convictions. She also argued that, whilst serious, the conviction in this case did not impact on the safety of the public when considering whether the Applicant was fit and proper to hold a licence. She added that the licensing regime was not designed to punish again and the Applicant had already paid his penalty to society in that regard. Members' attention was drawn to the written references provided (circulated at the meeting) attesting to the Applicant's character and demonstrating his trustworthiness. In conclusion it was submitted that the Applicant had made a terrible mistake which he had paid for and wished to return to his profession as a licensed driver.

The Applicant and his Legal Representative responded to members' questions regarding the circumstances of the case and subsequent conviction together with the Applicant's association with others involved in criminal activity. The Applicant also responded to assurances sought by the committee regarding his future conduct given the nature and seriousness of the offence. In making a final statement the Applicant explained how the conviction had devastated his life and of his desire to return as a licensed driver.

The committee adjourned to consider the application and it was –

RESOLVED that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 15/1446/TXJDR be refused.

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

Members had listened very carefully to all the submissions in this case and answers to questions and carefully considered the references provided. The committee was clear that the purpose of their decision was to deal with the licensing issue and not to inflict further punishment on the Applicant as a result of the offence committed. It was accepted that the Applicant had not been in further trouble and had no further convictions since his release. However, the committee's overriding consideration was safety of the public and under the law must not grant a licence unless satisfied that the Applicant was a fit and proper person.

The committee had concerns given the nature and seriousness of the offence committed in 2010 whilst acting as a licensed driver, using a licensed vehicle, and had not heard sufficient to satisfy them that he was a fit and proper person to hold a licence. In reaching that decision members had regard to the licensing policy – the aim of the policy to protect the safety of the public, that a person was a fit and proper person, that the person did not pose a threat to the public and that the public had confidence in the use of licensed vehicles. In weighing the responsibility to the public against the information provided by the Applicant, the committee was not satisfied that he was a fit and proper person to hold a licence.

The committee's decision and reasons therefore were conveyed to the Applicant and his Legal Representatives together with the right of appeal against the decision to the Magistrates Court within 21 days.

[At this juncture Councillors Barry Mellor, Pete Prendergast and Arwel Roberts left the meeting.]

10 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/1567/TXJDR

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

- (i) the suitability of Driver No. 15/1567/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following prosecutions brought by a neighbouring local authority relating to hackney carriage offences;
- (ii) details of the circumstances of the case having been provided including the outcome of the prosecution (a summary of facts together with associated witness statement had been attached to the report);
- (iii) the Driver having previously appeared before the Licensing Committee on 24 September 2014 and the outcome of that case, and
- (iv) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver was in attendance at the meeting together with his Legal Representative and confirmed he had received the report and committee procedures.

The Community Safety Enforcement Officer detailed the facts of the case.

The Driver's Legal Representative elaborated upon the circumstances of the case and resultant outcome following attendance at the Magistrates Court. The Driver had pleaded guilty to the outstanding offence and had been penalised. He was a long serving taxi driver and deeply regretted the incident. Written references had been provided (circulated at the meeting) attesting to his good character. Given the circumstances of this particular case the Legal Representative argued that the Driver remained a fit and proper person to hold a licence. In response to members' questions the Driver elaborated upon the circumstances surrounding the incident. In making a final statement the Legal Representative added that it was clear that there had been no deliberate intent on the Driver's part and argued that the conviction did not warrant suspension or revocation.

The committee adjourned to consider the case and it was –

RESOLVED that a formal warning be issued to Driver No. 15/1567/TXJDR as to his future conduct.

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

Members considered the report and mitigation put forward by the Driver and his response to questions. The committee accepted the Driver's version of events and found him to be genuine in his remorse over the incident. However, given the nature of the conviction it was considered appropriate to issue a formal warning.

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

At this juncture (1.10 p.m.) the committee adjourned for a refreshment break.

11 APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE

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

- (i) an application having been received for a Private Hire Vehicle Licence;
- (ii) officers having not been in a position to grant the application as the vehicle presented for licensing did not comply with the specification as detailed in the Council's Hackney Carriage and Private Hire Licensing Conditions, and
- (iii) the Applicant having been invited to attend the meeting in support of his application and to present the vehicle for members' inspection.

The Applicant was in attendance and confirmed he had received the report and committee procedures.

The Licensing Officer presented the report and the committee was asked to consider whether it would be appropriate to depart from the Council's policy concerning vehicle specifications in order to grant the application as applied for.

The Applicant advised that the vehicle in question had a very low mileage given its age and was in outstanding condition. Following a vote the meeting was adjourned to enable members to view the vehicle presented for licensing. Upon resuming the proceedings the Applicant responded to questions regarding the merits of licensing the vehicle given its immaculate condition and that it was wheelchair accessible. It was noted that the vehicle was not suitable for licensing as a hackney carriage given the clearance measurements between seats but private hire was an option. In response to concerns regarding the vehicle's structural condition the Fleet Compliance Engineer advised that licensed vehicles required a basic MOT test and Compliance test every six months and should be appropriately maintained. The Applicant provided assurances regarding the vehicle maintenance regime. Members were reminded that each application must be treated on its own merits.

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

RESOLVED that the application for a Private Hire Vehicle Licence be granted.

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

Members considered the vehicle to be in exceptional condition and appropriate for licensing and resolved to grant the licence.

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

OPEN SESSION

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

12 PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

The Licensing Officer submitted a report by the Head of Planning and Public Protection (previously circulated) informing members of the result of the consultation on the proposed Hackney Carriage and Private Hire Vehicle Policy.

Details of the eight week consultation period had been provided together with representations received; the majority of responses had been positive with few areas of contention. Taking into account the consultation responses a number of options had been proposed for members to consider further which had been detailed in Appendix D to the main report.

Members discussed each of those areas of the policy as follows –

(1) Hackney Carriage Colour Stipulation

Councillor Hugh Irving fully supported the proposal to impose a colour stipulation advising that such an approach worked well in other countries and improved the whole street scene. Taking into account the reservations expressed regarding a black colour stipulation he suggested that an alternative colour be considered. During debate there was little support from other members to impose a colour requirement, particularly given the cost of implementing such a condition and whether that cost should fall to the local authority or hackney carriage proprietor. It was considered that money would be better spent ensuring passenger safety including vehicle maintenance. Upon being put to the vote it was agreed that the proposed colour stipulation for hackney carriages be removed.

(2) Age of Licensed Vehicles new to fleet

Given the onset of new technology and extended warranties provided for vehicles it was agreed to support the proposal to increase the age limit for new to fleet vehicles for hackney carriage purposes to 5 years (in line with private hire vehicles).

(3) Maximum age of Licensed Vehicles on fleet

The merits of imposing a maximum age limit was considered. In light of the regular MOT and Compliance Testing regime for licensed vehicles it was agreed to retain the proposal for a 10 year age limit for hackney carriage vehicles and 12 year age limit for private hire vehicles.

(4) Trailers

Members agreed there was merit in allowing trailers for private hire vehicles, particularly for transporting luggage during airport runs when the fare had been pre-booked and the need for a trailer was known. However the use of trailers by hackney carriages was considered inappropriate on a taxi rank. The issue of training drivers was also discussed and it was agreed to consider accepting trailers for private hire vehicles only and also to consider whether relevant training would be required for those drivers currently exempt from the need to pass the DVLA driver trailer entitlement.

(5) Wheelchair accessible

Members noted that most wheelchair accessible taxis were purpose built and whilst noting the merits of stipulating wheelchair accessible as a condition, overall members felt that such a requirement would be too restrictive. Consequently it was agreed not to support a proposal for all hackney carriage vehicles to be wheelchair accessible.

The Licensing Officer drew members' attention to late representations received in response to the vehicle policy review which had been circulated to members the previous day. Members agreed that those late representations be dealt with as part of the next consultation phase. The Passenger Transport Manager referred to his written representations and highlighted that any changes to the existing policy could impact on the school transport budget.

RESOLVED that –

- (a) *the proposed policy be amended to reflect the changes as discussed and agreed during the meeting, and*
- (b) *officers be instructed to carry out further consultation with interested parties and to take account of any representations received in the final version of the policy that will be presented at a future meeting of the County Council.*

13 LICENSING COMMITTEE FORWARD WORK PROGRAMME

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme for 2016.

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

The meeting concluded at 2.45 p.m.

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LICENSING COMMITTEE

Minutes of a Special meeting of the Licensing Committee held in Conference Room 1a, County Hall, Ruthin on Thursday, 23 June 2016 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Bill Cowie, Hugh Irving, Barry Mellor, Arwel Roberts, David Simmons and Cefyn Williams (Chair)

ALSO PRESENT

Principal Solicitor (AL), Public Protection Business Manager (IM), Licensing Enforcement Officer (HB) and Committee Administrator (KEJ)

1 APOLOGIES

Councillors Stuart Davies, Merfyn Parry, Pete Prendergast and Huw Williams

2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.

4 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/1124/TXJDR

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

- (i) the suitability of Driver No. 15/1124/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following accrual of 40 penalty points under the Council's penalty point scheme for twice presenting a licensed vehicle for test in an unsafe and dangerous condition;
- (ii) the Driver having previously appeared before the Licensing Committee on 10 June 2015 following accrual of 20 penalty points for presenting a licensed vehicle for test in an unsafe and dangerous condition which had resulted in a two week suspension;

- (iii) details of the defects noted following presentation of the vehicle for a Compliance/MOT Test in April 2016 and the issue of a further 20 penalty points had been included within the report together with associated witness statements and documentation;
- (iv) the Driver having submitted documentary evidence in support of his licence review including an MOT Test/Compliance Certificate for the vehicle dated 19 May 2016 together with a letter of appeal against the penalty points (the appeal having been subsequently dismissed by officers), and
- (v) 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 and accompanied by his Union Representative. The Union Representative confirmed receipt of the report and committee procedures.

The Licensing Enforcement Officer (LEO) outlined the case as detailed within the report. Whilst the vehicle had not been presented for retest at the time of writing the report members were advised that the vehicle had subsequently passed an MOT/Compliance Test on 19 May 2016.

The Union Representative presented the Driver's case arguing that he had actively sought guidance and assurance regarding the vehicle's condition. The vehicle had been presented for MOT testing on 4 April 2016 and repair work had been carried out which had resulted in an MOT Certificate being issued on 13 April 2016. The vehicle had subsequently failed the MOT and Compliance Test at the Council's Designated Testing Station on 14 April 2016 with a clear difference of opinion between the two vehicle examiners. The Union Representative sought to highlight a number of inconsistencies in the report and put questions to the LEO in that regard. In response the LEO clarified the extent of his involvement in the investigation and his reliance on the documentary evidence and statement provided by the Compliance Engineer who had carried out the test on 14 April 2016 which demonstrated that the vehicle had been presented for test in an unsafe, dangerous and poor condition. With regard to the Driver's conduct the Union Representative submitted that he had acted in good faith when presenting the vehicle for inspection on 14 April 2016 given that it had passed an MOT Test the previous day. The Driver had submitted a number of receipts and invoices (circulated at the meeting) to demonstrate the vehicle repairs which had been carried out. Reference was also made to a number of defects which had not been dealt with consistently during previous testing regimes. The differences between the mechanical fitness as evidenced by the MOT Test and the requirements of the Compliance Test were also highlighted. Concerns were also expressed by the Union Representative regarding the terminology used within the report when considering whether the Driver was fit and proper to hold a licence. Members clarified the reasoning behind the use of the standard phrase when determining fitness. In closing his submission the Union Representative argued that the Driver had taken reasonable steps to ensure that his vehicle was compliant when it was presented for test on 14 April and he was clearly not a danger to the public.

Members took the opportunity to question the Driver and his Union Representative on their submission and the facts of the case as they had been presented. Questions were asked regarding specific defects which had been identified and steps taken by the Driver to ensure that the vehicle was fit for purpose when transporting members of the public together with questions regarding its general use. Assurances were also sought regarding lessons learned from when the Driver had last been before the committee in June 2015. The Driver responded that he had presented his vehicle for an MOT Test at an earlier stage in order to address any outstanding issues prior to its submission for MOT/Compliance Testing at the Council's Designated Testing Station.

The Union Representative took the opportunity to make a final statement. He submitted that the Driver had attempted to be careful by submitting the vehicle for MOT testing beforehand and had ensured that repair works were carried out which had resulted in the vehicle passing the MOT Test on 13 April 2016. He argued that it was reasonable for the Driver to trust that the vehicle was compliant when submitting the same for an MOT/Compliance Test the following day.

The committee adjourned to consider the case and it was –

RESOLVED that the hackney carriage and private hire vehicle driver's licence issued to Driver No. 15/1124/TXJDR be revoked on public safety grounds with immediate effect.

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

Members had carefully considered the contents of the report together with the submissions presented for the Driver in this case and his response to questions.

The committee did not consider the Driver to be a fit and proper person to hold a licence and resolved to revoke the licence on the grounds of public safety.

The committee considered that the Driver had failed in his duty of care to his fee paying passengers. On his own admission, he used the vehicle to carry groups of people on a night out and to airports.

It was accepted that the Driver presented his vehicle for an MOT Test on 4 April 2016 whereupon it failed. At this point the committee noted that this in itself demonstrated that the Driver had not maintained his vehicle to an acceptable standard. Subsequently, the Driver had some work undertaken on the vehicle and presented to the committee one receipt dated 13 April 2016. On examination the committee determined that this had not addressed all of the issues which had resulted in the MOT failure on 4 April 2016. The vehicle was subsequently retested on 13 April 2106 whereupon it passed. The vehicle was then presented for its Compliance Test and MOT Test at the Council's Designated Testing Station. At this point the vehicle failed to pass either test, raising a number of serious defects identified on the vehicle. As a result the vehicle licence was suspended and the Driver was unable to drive it as a Hackney Carriage or Private Hire Vehicle.

The Driver presented to the committee a number of receipts demonstrating that he had had work carried out on the vehicle. On close inspection of these receipts it was evident that this work had been carried out on the vehicle between July 2015 and December 2015, some many months prior to it being presented for testing in April 2016. Many of the issues and defects listed in both the MOT Test and the Compliance Test, in the opinion of the committee, would have been visible and apparent to a lay person, let alone a professional driver.

The committee also took into consideration the fact that the Driver had been issued with 20 penalty points the previous year for the condition of his vehicle at that time, and for which he was issued with a two week suspension. The committee was satisfied that the Driver had taken insufficient steps to maintain the integrity and safety of his vehicle, which was borne out by the defects found. The Driver had a duty to ensure that his vehicle stood up to scrutiny particularly in the event of an accident. If he knew there were defects, and in the opinion of the committee it was felt that many of the defects would have been obvious to him, this was a reflection on his conduct as a Driver and brought into question his integrity and fitness to be a licensed driver. The committee felt that the Driver had a flagrant disregard for his duties and responsibilities as a driver licensed to drive members of the travelling public.

The Council revoked the licence pursuant to Section 61 (1) (b) on the basis of **any other reasonable cause**. Furthermore, pursuant to Section 61 (2B), as occurred in this case, it was considered that there was an immediate risk to public safety and as such the revocation needed to take place immediately.

The grounds of public safety were met in the opinion of the committee because he had disregarded his responsibilities by failing to look after his vehicle.

- he presented his vehicle for a test when it failed on 4 April 2016.
- he presented the vehicle for an MOT test and compliance test when it would have been obvious to anyone (let alone a professional driver) that there were defects with the vehicle.
- the serious and dangerous condition of the vehicle itself.
- his previous disregard for his vehicle having been issued with 20 penalty points the previous year and being suspended for two weeks at that time.

The committee's decision and reasons therefore were conveyed to the Driver and his Union Representative together with the right of appeal against the decision.

The meeting concluded at 11.15 a.m.

REPORT TO:	Licensing Committee
DATE:	22nd September 2016
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) 01824 706451
SUBJECT:	Review of Street Trading Policy

1. PURPOSE OF THE REPORT

- 1.1 To inform Members of the progress with regard to a proposed review of the current street trading policy within Denbighshire.

2. EXECUTIVE SUMMARY

- 2.1 To seek the views of Members on an initial draft of the policy and request permission to continue work on the review prior to seeking their approval to consult on the final draft.

3. BACKGROUND INFORMATION

- 3.1 In 2015, Members resolved to authorise officers to review the existing street trading regime in order to address difficulties with the regime and suggest improvements to better regulate and support street trading within the County.

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

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

- Trade by a person acting as a Pedlar under the Authority of a

pedlar's certificate granted, under the Pedlars Act 1871, by a Police Authority

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

- 3.4 The current application process delegates the granting of all Street Trading consents to the Head of Planning & Public Protection Services in consultation with the Chair of Denbighshire Licensing Committee.
- 3.5 The enforcement of street trading in the county has been made more difficult since there is no clear published Street Trading Policy. Previous Committee resolutions (Appendix A), along with the Licensing Team's operational guidance have served as the Council practice and policy.
- 3.6 In 2011, the Licensing Committee resolved to designate all streets in Denbighshire as "Consent Streets" for street trading purposes, meaning that any person wishing to trade on streets in the County needs to apply for consent from the Licensing Authority.
- 3.7 There is however an exception to this, which is that some streets in and around Rhyl & Prestatyn Town Centres are designated as "Prohibited Streets where no trading may take place (Appendix C).
- 3.8 Trunk Roads do not come under the control of the Denbighshire County Council for street trading purposes. These are under the control of the North Wales Trunk Road Agency.

4.0 OFFICERS COMMENTS

- 4.1 We are proposing that a street trading policy should be introduced which clearly sets out the Authority's stance on street trading. It should be noted that the UK Government is currently drafting legislation which could impact on the regulation of street trading. Therefore, any future policy will take into account any new legislative requirements whilst also considering any relevant guidance.
- 4.2 We have previously sought the views of Members on, and proposing changes to, the delegations for determining street trading applications, along with the associated enforcement regime and an initial draft policy has been produced as attached at Appendix B.
- 4.3 It is intended that a draft policy be put out to public consultation before a final draft is submitted to Members at the Committee Meeting of March 2017. To inform officers, Members are asked to consider whether the following points should be included within the next draft:
- 4.3.1 A complete review of all fees and charges so as to provide a clear fee structure where the Authority recovers all costs of street trading covered by the proposed policy.
- 4.3.2 Whether any changes to the current system of consent and prohibited streets would be appropriate, or whether any streets currently designated as prohibited should remain as such.
- 4.3.3 Members may also wish to consider whether it would be appropriate to introduce a system of "temporary block consents" into any revised policy. Such consents would make it easier for organisers of community events to encourage traders to attend events within their communities, whilst simplifying the application process. Such permissions could be applied for by one applicant on behalf of other traders, ie the organiser of the event.

5.0 RECOMMENDATION

- 5.1 That Members authorise Officers to continue work on the draft Street Trading Policy, taking into consideration any relevant forthcoming legislation as mentioned at 3.9 above.
- 5.2 That Members authorise officers to consult on a draft policy and, taking into account any representations received, produce a final draft for Members' consideration at their Meeting in March 2017.

Appendix A

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

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

Draft Street Trading Policy

The Policy

1. Introduction

This Policy has been devised to provide a decision making framework for the consideration of street trading applications, whilst creating a street trading environment which is sensitive to the needs of both residents and traders.

Street trading can improve customer choice and enhance the character of town centres; whether provided on a regular basis or as part of community based events.

The Authority has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to control street trading for the whole of its area and, with the exception of a relatively small number of "Prohibited Streets" has designated all streets as "Consent Streets" for street trading purposes. The effect of this is that street trading in any consent street is not permitted without first obtaining consent to trade from the Authority.

For mainly safety reasons some areas are defined as "prohibited streets" where no trading will be allowed, A full list can be found at **Appendix *** of this Policy.

2. Aims

The Authority will apply this Policy to street trading activities to ensure consistency of decision-making. Whilst each application or contravention will be considered on its own merits, the individual circumstances will be taken into account. The Authority will carry out its functions in respect of controlling street trading activities in its area to protect the public, by promoting the following Aims (each of which is of equal importance):

- (a) Promoting and encouraging a positive street experience for both traders and public;
- (b) Promoting that traders operate within the law and act fairly in their dealings with the public;
- (c) Promoting the image of Denbighshire;
- (d) Promoting, Protecting and improving standards of food safety, health and safety, environmental management;
- (e) Preventing and detecting statutory nuisances, unsafe practices and anti-social behaviour,
- (f) Promoting Public order, Preventing public nuisance, Protecting Public safety, and
- (g) Preventing Crime and Disorder

In so doing, we will promote a safe and fair trading environment for residents and businesses.

3 Definitions

3.1 Street Trading Definition

Street trading is defined as the selling, exposing or offering articles for sale in a street, except:

- (a) trading as a pedlar under the authority of a “Pedlars Certificate”
- (b) anything done in a market or fair the right to hold which was acquired by virtue of a grant enactment or order
- (c) trading in a trunk road “Picnic Area”
- (d) trading as a petrol filling station or shop
- (e) selling things as a “roundsman” for example, a milkman
- (f) trading as a news vendor, which means that the only articles sold or exposed or offered for sale are newspapers or periodicals; and they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not :
 - exceed 1meter in length or width or 2meters in height.
 - occupy a ground area exceeding 0.25 square meters.
 - stand on the carriageway of a street.

When applying to Trade from private land the applicant will require written permission from the owner, who may need planning consent, before any application can be considered and from the Property Section if the land is owned by the Authority. The Policy will also cover traders who move from street to street and are often referred to as Mobile Traders.

Consent Street: is defined as a street in which street trading is prohibited without the consent of the County Council. Therefore a Consent will be required from the Council before Street Trading can take place in any street other than those specified as Prohibited Streets.

Prohibited Street: is defined as a street on which street trading is prohibited.

Street: The definition of “street” is defined under the Local Government (Miscellaneous Provisions) as including:

“Any road, footway, beach or other area to which the public have access without payment, and service areas as defined under Section 329 of the Highways Act 1980”.

4 Principles of Street Trading

In line with the Aims highlighted above, the Authority is committed to administering the street trading function in accordance with the following key principles:

- (a) the Authority will consider each application on its own merits
- (b) the Authority will encourage local traders selling local produce or products
- (c) the Authority will encourage traders offering healthy food options in order to support customers in making healthy food choices
- (d) the Authority will not permit street trading in the vicinity of schools during school hours
- (e) the Authority will support street trading which enhances the vitality and vibrancy of a
- (f) location
- (g) the Authority will not permit street trading which might compromise public safety on the highway
- (h) the Authority will not permit street trading where there is loss of amenity caused by noise, obstruction, odour, litter or any other public nuisance including adding to any current traffic congestion issues.

- (i) the Authority will regulate street trading to ensure equity and fairness for existing business proprietors and to prevent direct competition to existing produce or products in a location
- (j) the Authority will work in partnership with the Police and other organisations to ensure that street trading does not encourage or facilitate unlawful activity
- (k) the Authority will not discriminate against any applicant on the grounds of race, gender,
- (l) sexuality or disability
- (m) the Authority will set a fee for the issue of a street trading consents in order to cover the
- (n) cost of providing and enforcing the regulatory system
- (o) the Authority will expected all applicants to conform with the necessary legal obligations
- (p) and current legislation such as; planning permissions, late night refreshments licences,
- (q) Licensing Act 2003 and food premises registration.
- (r) the Authority will normally only allow one trader to hold consent in a specific location,
- (s) unless the second applicant wishes to trade in a different commodity or when a special
- (t) event is arranged and possibly when a “mobile trader” is stationary for less than 15
- (u) minutes and does not return to the area for at least a two hour minimum.
- (v) the Authority will not grant a street licence/consent to a person under the age of 17 years.

5 Submission of the Application

All applicants must complete the Authority’s Street Trading Consent Application and in addition provide the following:

5.1 A basic DBS disclosure certificate, not less than six months old for all employees. Any convictions or proven criminal behaviour will be assessed against the Street Trading convictions policy.

5.2 An initial application fee (to be determined). Upon grant of the consent, before it is issued, the balance of the fee must be paid,

5.3 Where the proposed street trading activity is from a fixed position, a site plan (to scale) showing the precise trading position and its proximity to other similar retail outlets within a 100 metre radius.

5.4. One colour photograph of any stall, van, barrow, cart etc that will be used for the street trading activity.

5.5. One recent colour passport size photograph of the applicant or the expected unit operator.

5.6. An original certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5,000,000.

5.7. Written permission from a landowner if the street trading activity is to be carried out on land in private ownership. If the land is in the ownership of the Authority written permission from the Property Services Section and Highways.

5.8. Any permissions or consents already granted with regard to the proposed operation, e.g. planning consent, late night refreshment premises licence, and/or waste disposal agreement.

5.9 A full and comprehensive list of goods to be sold or traded

5.10 An applicant for the grant, variation or renewal of a Street Trading Consent should apply, either online to: www.licensing@denbighshire.gov.uk, or direct to:

The Licensing Section, Planning and Public Protection, Caledfyn, Smithfield Road, Denbigh, Denbighshire LL16 3RJ.

5.11 An application for Street Trading Consent is not one that can be given tacit approval, as it is in the public interest that this authority must process an application before it can be granted. We aim to process applications within 28 days.

5.12 A Street Trading Consent is not transferable. Any proposed change to the type of vehicle or stall to be used, the goods to be sold, the times and days of operation, or the exact location of the trading site, requires an application for variation of the street consent.

5.13 Before a Street Trading Consent is granted, the Authority will carry out a consultation process with relevant authorities and interested parties.

5.14 A Street Trading Consent will be issued for a maximum period of 12 months and must be renewed prior to the date of expiry. NOTE:

Renewals will normally be processed without consultation unless there is a change of circumstance, or issues that have given rise to concern during the term of the consent.

6 Site Assessment

Street Trading Consents from static locations will not normally be granted where any of the following may apply:

- (a) a significant effect on road safety would arise either from the siting of the trading activity, or from customers visiting or leaving the site,
- (b) there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited,
- (c) there would be any likelihood of nuisance from noise, light, smells, litter or fumes to households and businesses in the vicinity of the proposed street trading site,
- (d) there is a conflict with Traffic Orders such as waiting restrictions,
- (e) the site or pitch obstructs either pedestrian or vehicular access, traffic flows, places pedestrians in danger when in use for street trading purposes,
- (f) trading unit obstructs the safe passage of users of the footway or carriageway,
- (g) the pitch interferes with sight lines for any road users such as at road junctions, or
- (h) pedestrian crossing facilities,
- (i) the site does not allow the Consent Holder, staff and customers to park in a safe manner,

- (j) the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

7 Inspection of the Street Trading Unit

Once a consent has been granted, the vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council within the first 14 days of trading.

8 Determination of the Application

The Public Protection Manager, on a delegated basis, will determine each application on its merits but, in particular, will have regard to the following

8.1 Public Safety

The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers frequenting the street trading activity, and other members of the public using the street. In particular reference will be made to the guidelines set out in Section 2 under the Aims of street trading.

8.2 Public Order and Anti-Social Behaviour

The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from the North Wales Police and Community Safety will be taken into consideration under this heading.

8.3 Prevention of Nuisance

The street trading activity shall not present any likelihood of nuisance from noise, light, smells, litter or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from the Authority Officers shall be taken into consideration under this heading.

8.4 Needs of the Area

The street trading activity shall not be in direct competition, in terms of goods primarily sold, with nearby retail shops, restaurants, hot food takeaways, other street traders or market places and shall not be located within 100 metres of such premises. This may be relaxed for one-off or short-term applications.

8.5 Limits on Numbers

In order to ensure that excessive trading does not take place on any one street, the number of traders will be limited.

Consents will only be granted if authorities or permissions required by any other legislation are already in place for the operation. This includes planning consent, late night refreshment premises licence, food premises registration, waste disposal agreement. Applicants should enquire with the appropriate authority before submitting a street trading application.

8.6 Consultees Observations

In relation to the above points consideration will also be given to written observations from consultees and any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application made.

8.7 Permitted Trading Hours

The Authority generally will normally only permit street trading between 6.00 am and 11.00 pm on any one day and between 8.00am and 10.00pm in residential areas. Street Trading outside these hours will be assessed in terms of the public order, public safety, crime and disorder and prevention avoidance of nuisance and the needs of the area criteria detailed above.

If trading includes the supply of hot food or drink after 11pm a late night refreshment premises licence will also be required. The Authority retains the right to specify permitted hours of trading that are less than those specified above, if local circumstances require it.

9. Considerations

The Public Protection Manager on a delegated basis may approve applications meeting the criteria contained within this Policy only after giving full consideration to the observations of relevant authorities, for example:

- The Highways Authority
- Property Services,
- Trading Standards,
- Environmental Health,
- Planning Services, I
- Economic Development,
- North Wales Police
- North Wales Fire and Rescue Service
- The land owner of the proposed street trading site
- Elected Members of the relevant Ward
- Occupiers of property within 100 metres of the proposed site.

10. Approval of Applications

The Public Protection Manager, on a delegated basis, may approve applications meeting the criteria contained within this Policy; when an application either does not meet the requirements of this policy or is considered contentious for other reasons, the matter will be referred to the Head of Planning and Public Protection who, in consultation with the Chair of the Licensing Committee will determine the application.

On approving the application the Authority will issue a Street Trading Consent, to which conditions will be attached, including specific terms such as days and hours when street trading is permitted, and goods that may be sold. The consent will also be subject to the Authority's standard conditions, which will be attached to all Street Trading Consents.

The conditions attached to the Consent form part of the approval to carry out street trading and **MUST** be complied with at all times. Failure to do so could constitute an offence, and/or the Consent could be revoked or not renewed.

11. Issue and Revocation of Street Trading Consents

Street Trading Consents will be issued for a maximum period of 12 months and will be renewable on the date specified in the Consent. Shorter term Consents may also be issued.

- (a) these particular Consents will expire, unless renewed, on the date specified in the Consent.
- (b) in all cases when Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. In such cases the

application will be required to go through the full consideration process outlined in this Policy.

- (c) if a bank dishonours a cheque, or a monthly payment is unpaid, this will result in the revocation of the Street Trading Consent issued by the Council, unless payment of the outstanding fees is made in cash within 5 working days.
- (d) the Council may revoke the consent where:
- (e) the consent holder is breaching the policy objectives, or
- (f) the consent holder is convicted of an offence or is considered unsuitable for any other reason.
- (g) the Licensing Committee will consider representations and if upheld may add conditions, suspend or revoke the consent.

12. Refusal of Applications and Appeals

Where the Chair of the Licensing Committee and Head of Public Protection are considering refusing an application the applicant will be informed in writing of the reasons and may lodge further information or detail to further support the Application. The Authority will:

1. Consider each case on its own merits.
2. Use this Policy where appropriate to assess applications.
3. Consider any further details in a balanced and impartial manner.
4. Ensure that the rules of natural justice are applied.
5. Give all parties sufficient opportunity to present their case, ask questions and present information for consideration in support of their application or objection.

Once a final decision has been made to refuse, the Legislation does not provide for a statutory right of appeal to the Magistrates Court in respect of any decision made in relation to a street trading consent.

13. General Information on Street Trading Consents

13.1 Surrender or Revocation of Consent

The holder may surrender their Consent at any time, or the Authority may revoke it at any time. In the event of revocation, the Authority shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

The holder must return the Street Trading Consent to the Authority immediately on its surrender or revocation.

13.2 Reimbursement of Fees

Fees will be reimbursed to Consent Holders where they cease to trade and surrender their Consent to the Authority. Any fee reimbursement will be based strictly from the date the Consent is surrendered to the Authority, not including the non-refundable application fee, and calculated on the number of complete trading days remaining.

14. Access by Authority and Police Officers

Consent Holders should allow access, to the street trading unit, to Authorised Officers of the Authority and Police Officers at all reasonable times. Authority officers will carry with them and produce on request official identification.

15. Enforcement of Street Trading

The Authority will actively enforce the provisions of the Street Trading Policy within its area in a fair and consistent manner, in particular when:

- a Consent holder is trading outside the terms of the Consent or
- overrides parking restrictions or any other traffic regulations

Denbighshire County Council

The council has resolved to adopt Part III of the local Government (Miscellaneous Provisions) Act 1982, as it relates to street trading.

The Council has designated streets within the County as "Prohibited Streets" in accordance with Schedule 4, paragraph 2 of the above Act. If designated, traders, as defined by the Act, trading on these prohibited streets will be liable to legal action.

The resolution is detailed below:-

"On the 15th July 2002 Members resolved to adopt Part III of the above Act and designated the following streets as prohibited streets by provisions of Schedule 4, paragraph 2 of the Act, which will come into force on the 19th August 2002."

RHYL

Abbey Street
Alexandra Road
Aquarium Crescent
Aquarium Street
Balmoral Grove
Bath Street
Bedford Street
Beechwood Road
Bodfor Street
Brighton Road
Butterton Road
Chester Street
Clwyd street
Conwy Street
Crescent Road
Crescent Square
East Parade - **Part**
Edward Henry Street
Elwy Street
Emlyn Grove
Fairfield Avenue
Glanglasfor
Gordon Avenue
Gronant Street
Grosvenor Road
High Street - **Part**
Hope Place
John Street
Kinmel Street
Lake Avenue
Marine Drive
Market Street - **Part**
Marlborough Grove

Marsh Road
Maude Street
Morlan Park
Morley Road
North Avenue
Old Golf Road
Osborne Grove
Palace Avenue
Paradise Street
Quay Street
Queen Street
River Street
Russell Gardens
Russell Road
Sandringham Avenue
South Avenue
St Asaph Street
Sussex Street - **Part**
Sydenham Avenue
Tarleton Street
Thorpe Street
Vale Road
Vaughan Street
Water Street
Wellington Road
Westbourne Avenue
West Kinmel Street
West Parade - **Part**
Windsor Street

PRESTATYN

Ash Grove
Barkby Avenue
Bastion Gardens
Bastion Road
Beach Road East
Beach Road West
Bridge Road
Ceg Y Ffordd
Church Lane
Eden Avenue
Fern Avenue
First Avenue
Gas Works Lane
Grosvenor Road
High Street
Highbury Avenue
Kings Avenue
Lon Alwen
Maes y Groes
Marine Road
Meliden Road
Nant Hall Road
Penisadre
Sandy Lane
Sea Road
Second Avenue
Station Road
The Mail
Third Avenue
Trevor Road
Victoria Avenue
Victoria Road
Victoria Road West

Consents Streets Permit Required

East Parade- **Part**
East Promenade - **Part**
High Street - **Part**
Market Street - **Part**

Sussex Street - **Part**
West Parade - **Part**
West Promenade - **Part**

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Agenda Item 6

REPORT TO: LICENSING COMMITTEE

DATE: 22nd September 2016

REPORT BY: THE HEAD OF PLANNING AND PUBLIC PROTECTION

SUBJECT: LICENSING COMMITTEE WORK PROGRAMME 2015/16

DATE	REPORT	COMMENT
7 th December 2016	Update and Review of Penalty Point Policy and Procedure	Report for Members to consider along with approval of reviewed policy
	Review of Sex Establishment Policy	Report for Members to consider a revised Policy. This item has been moved from the March Committee.

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By virtue of paragraph(s) 12, 13 of Part 4 of Schedule 12A
of the Local Government Act 1972.

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