

To: Members of the Licensing
Committee

Date: 1 December 2016

Direct Dial: 01824 712568

e-mail: democratic@denbighshire.gov.uk

Dear Councillor

You are invited to attend a meeting of the **LICENSING COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 7 DECEMBER 2016** in the **COUNCIL CHAMBER, COUNTY HALL, RUTHIN.**

Yours sincerely

G Williams
Head of Legal and Democratic Services

AGENDA

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

1 APOLOGIES

2 DECLARATION OF INTERESTS (Pages 7 - 8)

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

3 URGENT MATTERS AS AGREED BY THE CHAIR

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

4 MINUTES OF THE LAST MEETING (Pages 9 - 14)

To receive the minutes of the Licensing Committee held on 22 September 2016 (copy enclosed).

5 PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE POLICY (Pages 15 - 68)

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the proposed Private Hire and Hackney Carriage Vehicle Policy, specification and conditions for adoption with effect from 1 April 2017.

6 UPDATE ON PENALTY POINTS PROCEDURE (Pages 69 - 72)

To consider a report by the Head of Planning and Public Protection (copy enclosed) providing an annual update on the Penalty Points Procedure.

7 REVIEW OF STREET TRADING POLICY (Pages 73 - 90)

To consider a report by the Head of Planning and Public Protection (copy enclosed) updating members on progress with regard to the review of the Council's current street trading policy.

8 REVIEW OF SEX ESTABLISHMENT POLICY (Pages 91 - 96)

To consider a report by the Head of Planning and Public Protection (copy enclosed) regarding proposals to compile a draft revised Sex Establishment Policy.

9 LICENSING FORWARD WORK PROGRAMME 2017 (Pages 97 - 100)

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

PART 2 - CONFIDENTIAL ITEMS

It is recommended in accordance with Section 100A(4) of the Local Government Act 1972, that the Press and Public be excluded from the meeting during consideration of the following item(s) of business because it is likely that exempt information as defined in paragraphs 12 and 14 of Part 4 of Schedule 12A of the Act would be disclosed.

10 APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE (Pages 101 - 110)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members determination of an application for a Private Hire Vehicle Licence.

MEMBERSHIP

Councillors

Cefyn Williams (Chair)

Huw Williams (Vice-Chair)

Joan Butterfield

Barry Mellor

Bill Cowie
Meirick Davies
Stuart Davies
Hugh Irving

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, Russell House, Churton Road, Rhyl on Thursday, 22 September 2016 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Bill Cowie, Meirick Davies, Hugh Irving, Barry Mellor, Merfyn Parry, Pete Prendergast, David Simmons, Cefyn Williams (Chair) and Huw Williams (Vice-Chair)

ALSO PRESENT

Principal Solicitor (AL), Senior Community Safety Enforcement Officer (TWE), Licensing Officer (JT), Community Safety Enforcement Officer (HB) and Committee Administrator (KEJ)

1 APOLOGIES

Councillor Stuart Davies.

2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

3 URGENT MATTERS AS AGREED BY THE CHAIR

The Chair declared that he intended to include for discussion the following matter requiring urgent attention –

WHEELCHAIR ACCESSIBLE TAXIS

Councillor Joan Butterfield highlighted a recent case whereby a number of wheelchair accessible taxis operating in the Rhyl area had refused to accept a booking to transport a wheelchair user. She referred to extra hackney carriage licences issued specifically for wheelchair accessible vehicles in order to provide that service and expressed serious concerns that taxis advertising that service refused to provide it. Officers were aware a number of taxis had been advertised as specialist wheelchair carriers and agreed to look into the matter further.

RESOLVED that officers investigate whether wheelchair accessible taxis operating in the area were providing an appropriate taxi service for wheelchair users and report back to members thereon.

4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 8 June 2016 and Special Licensing Committee held on 23 June 2016 were submitted.

RESOLVED that the minutes of the meetings held on 8 June 2016 and 23 June 2016 be received and confirmed as a correct record.

5 REVIEW OF STREET TRADING POLICY

The Licensing Officer (JT) submitted a report by the Head of Planning and Public Protection (previously circulated) informing members of progress with regard to the review of the current street trading policy within Denbighshire.

Officers provided some background to the current operation of the street trading regime which was being reviewed in order to address difficulties in the system and better regulate and support street trading within the county. The definition of street trading had been detailed within the report together with legal exemptions for certain types of trade and those regulated by other means or authorities. Members' views were sought on an initial draft (attached to the report) and officers intended to continue work on the draft, taking into account any new legislative requirements, prior to production of a final draft strategy for public consultation and subsequent consideration by the committee.

Discussion on the policy issues included the following –

- the proposal to introduce a system of “temporary block consents” as detailed in paragraph 4.3.3 of the report was fully supported by Councillor Barry Mellor in order to make it easier for organisers of community events and encourage attendance
- reference was made to the prohibited streets for street trading purposes in Rhyl and Prestatyn and officers confirmed that part of the review would include whether any change to the current system of prohibited and consent streets would be appropriate taking into account the different areas within the county in order to allow more flexibility within the scheme
- it was noted that Councillor Bill Cowie had been nominated the committee's liaison on development of the draft policy and officers confirmed that they would welcome his input in further developing the final draft – Councillor Cowie commended the work to date on the initial draft and supported officers continued work on the review as set out within the report.

Members queried whether or not the regulation of particular activities causing concern fell within the remit of street trading including parking permits issued to contractors working within town centres (which had caused some dissent in Rhyl Town Centre) and rogue traders operating from vehicles, particularly in rural areas. Officers advised that both issues fell outside of the street trading regime. Parking permits were authorised by Highways Street Works Section and the Chair asked that members take up any concerns in that regard directly with the Head of Highways. With regard to rogue traders members should direct concerns to the Trading Standards Section for investigation.

RESOLVED that the Licensing Committee –

- (a) *authorise officers to continue work on the draft Street Trading Policy taking into consideration any relevant forthcoming legislation which could impact on the regulation of street trading as drafted by the UK Government, and*
- (b) *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.*

6 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.

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. 15/1594/TXJDR

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

- (i) the suitability of Driver No. 15/1594/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following accrual of 20 penalty points under the Council's penalty point scheme for presenting a licensed vehicle for test in an unsafe and dangerous condition;
- (ii) details of the defects noted following presentation of the vehicle for a Compliance/MOT Test in May 2016 and issuing of 20 penalty points had been included within the report together with associated witness statements and documentation;
- (iii) the Driver having appealed the decision to award 20 penalty points on the basis that he had presented the vehicle for test beforehand at a different garage and the necessary repair works had been undertaken in accordance with the test failure and advisory notifications (the two items identified as 'dangerous' at the subsequent Test in May had not been identified during the initial test) – the Driver having failed to provide documentary evidence of his claims and following investigations officers refused the appeal, 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 in support of his case and confirmed receipt of the report and committee procedures.

The Licensing Enforcement Officer outlined the case as detailed within the report.

The Driver accepted the facts as detailed within the report apart from the failure to believe that he had presented the vehicle to the Testing Station beforehand. He argued that he had taken all reasonable steps to ensure fitness of the vehicle and detailed the sequence of events leading up to the Compliance/MOT Test Failure which included (1) refurbishment of the vehicle at a body shop; (2) presentation of the vehicle at a Testing Station where a pre-inspection was carried out which identified five defects; (3) submission of the vehicle to a different garage who repaired the identified defects, and (4) final presentation of the vehicle for requisite Compliance/MOT Testing which resulted in the test failure. The Driver provided evidence of payments made to each of the three separate garages identified in his submission although evidence of the work carried out and defects identified had not been provided. Documentary evidence was also provided in the form of a witness statement confirming collection of the vehicle from the Testing Station and its submission to a separate garage for repair work. Finally a letter from the Driver's Insurance Broker was submitted in support of his case. In closing his submission the Driver maintained that he had taken all reasonable steps to ensure compliance and had trusted professionals at three separate garages who had failed to identify the faults as listed on the failure notice. He provide assurances that immediate steps had been taken to repair the faults once they had been identified and that the vehicle had not been a danger to the public as it had been out of service during the period leading up to the test failure. Finally the Driver provided some general information regarding the management of his business and maintenance of his licensed vehicles without previous incident.

Members took the opportunity to raise questions with the Driver in order to further clarify the sequence of events and action he had taken in response to particular circumstances to ensure that the vehicle was in a safe and roadworthy condition together with questions regarding the general management of his business and vehicle maintenance regime. The Driver also responded to questions regarding the documentary evidence he had presented in support of his case and reasoning behind the lack of corroborating evidence in recording the vehicle inspection and repair work as detailed within his submission to the committee.

In his final statement the Driver advised that he had been honest in his submissions and drew members' attention to the evidence presented advising that he could provide further witness statements if required. He believed that he acted responsibly in this case and had been let down by other professionals.

The committee adjourned to consider the case and it was –

RESOLVED that the allegation made in respect of Driver No. 15/1594/TXJDR had not been proved and no action be taken.

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

Members had carefully considered all the evidence presented and the submissions by the Driver and his response to questions. The committee considered that the evidence in this case suggested that the Driver had followed the advice of other professionals, that he had taken his vehicle for a pre-inspection check, and had provided details of the work required to a garage for repairs which were carried out. The Driver had paid for those services. The vehicle was then presented for, and subsequently failed, the Compliance/MOT Test. The vehicle was then taken for further repairs whereupon it subsequently passed the Compliance/MOT Test.

Based on the evidence presented the committee accepted that the Driver had taken reasonable steps to ensure the fitness of his vehicle in this case and considered him to be a fit and proper person to hold a hackney carriage/private hire vehicle driver's licence. Members also recommended that the 20 penalty points issued to the Driver be removed forthwith.

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

The meeting concluded at 11.10 a.m.

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REPORT TO:	Licensing Committee
DATE:	7 th December 2016
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706433
SUBJECT:	Proposed Hackney Carriage and Private Hire Vehicle Policy

1. PURPOSE OF THE REPORT

- 1.1 To inform the Licensing Committee of the results of the second consultation on the proposed Hackney Carriage and Private Hire Vehicle Policy.
- 1.2 For Members to consider approving the draft proposed Private Hire and Hackney Carriage Vehicle Policy, vehicle specifications and conditions found at Appendix 1.

2. EXECUTIVE SUMMARY

- 2.1 At the Licensing Committee in June of this year Members approved for Officers to amend the draft policy to reflect the changes as a result of the first consultation with the trade, the travelling public and other representative bodies, and to further consult with interested parties and to take account of any representations received in the final version of the policy for presentation at a future meetings.

3. POWER TO MAKE THE DECISION

- 3.1 Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847.

4. BACKGROUND INFORMATION

- 4.1 As a reminder to Members, a full review of the existing Hackney Carriage and Private Hire Vehicle Policy has taken place, (including specification and conditions). This included two workshop sessions where the taxi trade, Elected Members and Fleet Services were involved, followed by a presentation to Members of the Licensing Committee by Fleet Services.
- 4.2 As a result of the review, and at the Licensing Committee meeting in December 2015, Members agreed a draft policy for Private Hire and Hackney Carriage vehicles, vehicle specification and conditions for consultation with interested parties. The initial period of consultation ran from January to March of this year.

4.3 At a further meeting in June of this year, Officers presented the responses received as a result of the consultation, to Members, and it was resolved that a further consultation should be undertaken, which was carried out between September and November of this year. A total of 2 responses were received to the second consultation. A summary of these responses can be found at Appendix 2.

4.4 Officers have amended the proposed policy to reflect responses received, where appropriate, and have also taken the opportunity to incorporate some additional areas that did not feature in the original draft versions ie Ranks/Enforcement/Fares. These particular areas do not have any impact on interested parties as they may already exist in other policies and procedures. The purpose of including them in this draft policy is for clarity and ease of reference for licence holders and applicants.

4.5 Some of the appendices referred to in the proposed policy have not been attached as they relate to existing policies and are therefore not for consideration at this time. In addition, some of the appendices have not been numbered or may require re-numbering as they will slot into the policy in the appropriate location.

4.6 In addition to the proposed Hackney Carriage and Private Hire Vehicle Policy, Specification and Conditions, Members have previously approved to adopt the Department for Transport Model Byelaws, which sit alongside the Hackney Carriage and Private Hire Policy. The Model Byelaws are awaiting confirmation by the Secretary of State before final implementation.

5.

RECOMMENDATION

5.1

That Members adopt the Private Hire and Hackney Carriage Vehicle Policy, Specification and Conditions found at Appendix 1, to come into force on the 1st April 2017.

5.2

To authorise the Head of Planning and Public Protection in consultation with the Chair of Licensing to make minor administrative amendments to the policy where necessary following a three yearly review, or earlier if appropriate.

Planning and Public Protection Service

Name of Policy :

PRIVATE HIRE AND HACKNEY CARRIAGE VEHICLE POLICY, VEHICLE SPECIFICATION AND CONDITIONS OF LICENCE

Author / Custodian:	Nicky Jones
Date agreed and implemented:	
Agreed by:	
Frequency of Review:	3 years
Review date:	
Equality Impact Assessment completed: (date)	
Member involvement (if any)	Licensing Committee
Internal or Public Domain:	Public
Head of Service Approval: (signature & date)	

VERSION CONTROL:			
Reference:	Status:	Authorised by:	Date:
V01	Draft	Head of Service	

1. PRIVATE HIRE VEHICLE POLICY

LIMITATION OF NUMBERS

- 1.1 No powers exist for Licensing Authorities to limit the number of Private Hire Vehicles that they licence.

SPECIFICATIONS AND CONDITIONS

- 1.2 Local Authorities have a wide range of discretion over the types of vehicles that they can licence as Private Hire vehicles. Government guidance suggests that local licensing authorities should adopt the principle of specifying as many different types of vehicles as possible and encouraged to make use of the “type approval” rules within any specifications they determine. Accordingly, the Council will require European Whole Vehicle Type Approval for all new licensed vehicles.
- 1.3 The Authority shall impose such conditions, as it considers reasonably necessary, on Private Hire vehicle licences. These vehicles provide a service to the public, so it is appropriate to set a criteria for the standard of the external and internal condition of the vehicle, provided that these are not unreasonably onerous.
- 1.4 Appendix 1(a) sets out the specification and minimum standards in respect of Private Hire vehicles.
- 1.5 Vehicles must be capable of carrying as least four and not more than eight passengers, provided that there is compliance with the specification applicable to such vehicles.

ACCESSIBILITY

- 1.6 The Authority fully supports the view of the Equality and Human Rights Commission that,
“making successful journeys is critical to the social inclusion of disabled people. Without the ability to travel, disabled people are denied access to life opportunities. Their access to education, shopping, employment, healthcare, as well as social and family life is significantly improved when journeys become accessible”
- 1.7 For this reason, the Authority considers it important that people with disabilities have access to all forms of public transportation and encourages Private Hire Operators and drivers to use vehicles that will assist those passengers with mobility difficulties.
- 1.8 Licensed Taxi drivers have a duty under Disability Discrimination Act 2005 to carry guide, hearing and other prescribed assistance dogs in their vehicles without additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply to Denbighshire County Council for

an exemption from the duty on medical grounds. Any other driver who fails to comply with this duty could be prosecuted through a Magistrates' court and would be liable to a fine and could be deemed not to be a fit and proper person to hold a Hackney Carriage or Private Hire Driver's licence. Further guidance on this matter can be found on the Department for Transport web-site <https://www.gov.uk/transport-disabled/taxis-and-minicabs>

MAXIMUM AGE OF VEHICLES

- 1.9 The Authority shall consider how far its Policy can and should support any local environmental initiative and future initiatives, such as setting vehicle emissions standards or promoting cleaner fuels, as well as ensuring a modern standard of its licensed vehicles.
- 1.10 All vehicles licensed under a new application must be up to a maximum of 5 years old from the date of first registration and, if compliant with the requirements for licence, shall therefore be granted a renewal of a vehicle licence up to the age of 12 years only from the date of first registration, whereupon the licensed vehicle must be replaced with one of a maximum age of up to 5 years from the date of first registration. This also applies to any vehicle that is transferred/replaced or that has been involved in a road traffic collision.
- 1.11 All existing licensed vehicles will have "grandfather rights" for 5 years after the implementation of this policy, by which time all existing licensed vehicles must be able to comply with 1.10 above eg all licensed vehicles aged 12 years or over, from the date of first registration, must have been replaced with one of a maximum age of up to 5 years from the date of first registration. This will only be relevant to licensed vehicles that have had a continuous licence. Vehicles that are not renewed before the expiry date of the existing licence will be treated as a new vehicle and 1.10 above will apply.

VEHICLE TESTING

- 1.12 Prior to the granting of a licence, each vehicle shall be examined and tested at a designated testing station, approved by the Authority.
- 1.13 Private Hire vehicles are used for reward purposes and as such are subject to much higher annual mileages and more arduous driving than normal private vehicles. Therefore, in the interests of passenger and other road user's safety, a more stringent maintenance and testing regime is required. This Policy Statement considers the MOT inspection Manual for Car and Light Commercial Vehicle Testing issued by DVSA as a basic inspection standard for Private Hire vehicles. However, in addition to the DVSA standards, it is a requirement for all vehicles to conform to the Council's Hackney Carriage and Private Hire Vehicle Inspection Standards. Therefore, when assessing the mechanical condition of a vehicle it is possible that a MOT advisory note could fail the Council's testing standards.

- 1.14 The purpose of the Private Hire vehicle test is to confirm vehicles meet the more stringent standards set out in this Policy Statement. Vehicles must be submitted fully prepared for the test. It is not intended that the test be used in lieu of a regular preventative maintenance programme. It is an offence under the Vehicle Construction and Use Regulations 1986 to use an un-roadworthy vehicle on the public highway. Private Hire drivers/operators who fail to maintain their licensed vehicles in a safe and roadworthy condition may have their licence(s) suspended, or revoked by the Council.
- 1.15 The following diagram (fig 1) summaries the testing regime for Private Hire Vehicle:

AGE OF VEHICLE (from date of first registration)	NUMBER OF MOT/COMPLIANCE TESTS	TEST VENUE
ALL NEW TO FLEET VEHICLES (irrespective of age)	2 x MOT and Compliance Tests at 6 monthly intervals	Initial MOT and Compliance to take place at County's Fleet Services All further Compliances (up to the age of 5 years) to take place at any Designated Testing Station
Licensed Vehicles under 5 years old	2 x MOT and Compliance Tests at 6 month intervals	At any Designated Testing Station
Licensed Vehicles 5 years and over and up to 12 years old	2 x MOT and Compliance Tests at 6 monthly intervals	1 at Fleet Services and 1 at any Designated Testing Station
Fig 1		

- 1.16 Vehicles that are presented for their MOT and Compliance tests in a condition that would result in a failure, may be subject to any applicable re-test fee, to be determined by the Designated Testing Station.
- 1.17 The inspection regime for vehicles has not been designed so as to create difficulties for the Hackney Carriage and Private Hire trades, but to promote vehicle and road safety. The Council therefore considers the inspection requirements to be justified by the risks it aims to address.
- 1.18 Any authorised Officer of the Council or any Police Constable has the power at all reasonable times to inspect and test for the purpose of ascertaining its fitness, any Private Hire vehicle licensed by Denbighshire. If the Officer feels the licensed vehicle is unfit for use as a Private Hire vehicle, or the licensed

vehicle is in breach with taxi legislation or the Council's Licensing Policy and Conditions, the vehicle licence may be suspended, revoked or not renewed.

SIGNAGE /ADVERTISING/LIVERY

- 1.19 It is important that the public should be able to identify and understand the difference between a Hackney Carriage and a Private Hire vehicle. Private Hire vehicles shall not display roof-mounted signs of any description.
- 1.20 Vehicle identification plates are a key feature in helping to identify vehicles that are properly licensed. All licensed vehicles, except those Private Hire vehicles that have been granted exemption by the Authority shall display plates on the rear of the vehicle (refer to Section 13 of Appendix 1(a)).
- 1.21 Private Hire vehicles shall display door signs, issued by the Council and fitted as set out in the conditions of licence.
- 1.22 Licensed Vehicles shall not be allowed to display any written or other material on any window with the exception of those permitted by the conditions of licence.
- 1.23 Private Hire vehicles shall not be allowed to display or advertise written or other material on its bodywork.

SECURITY/CCTV

- 1.24 The Private Hire trade provide a valuable public service particularly late at night when other forms of public transport are not available. Security for drivers and passengers is of paramount importance. CCTV can be a valuable deterrent as well as protection for the driver from unjustified complaints.
- 1.25 It is not proposed that such measures such as CCTV should be required, as part of the licensing regime, as it is considered that they are best left to the judgement of the owners and drivers themselves.
- 1.26 In allowing the installation and use of CCTV, the Authority recognises that such systems can be used to prevent and detect crime, reduce the fear of crime and enhance the safety of taxi and private hire vehicle drivers, as well as their passengers. However, this policy also seeks to ensure that the installation and operation of CCTV systems do not compromise the safety of either drivers or passengers or unreasonably interfere with the privacy of members of the public.
- 1.27 For the purposes of this policy, a CCTV system will include any electronic recording device attached to the inside of a taxi or private hire vehicle having the technical capability to capture and retain visual images from inside or external to the vehicle.

- 1.28 This policy does not place a mandatory requirement on the licensed operators of taxis and private hire vehicles to install CCTV systems in their vehicles. Any CCTV system to be fitted in a taxi or private hire vehicle must, as a minimum, meet the requirements of this policy. Only CCTV systems meeting these requirements can be installed into licensed taxis and private hire vehicles.
- 1.29 Where an operator wishes to install and use a CCTV system, it will be a condition of the taxi or private hire vehicle licence that the requirements of this policy are complied with.
- 1.30 **THE DATA CONTROLLER**
- 1.30.1 The Information Commissioner defines a “data controller” as the body which has legal responsibility under the Data Protection Act 1998 for all matters concerning the use of personal data. For the purpose of the installation and operation of a CCTV system in taxis and private hire vehicles, the “data controller” will be the holder of the taxi or private hire vehicle licence and not the driver. The licence holder, as data controller, will therefore be responsible for ensuring compliance with the requirements of this policy and with all relevant data protection legislation, including the Data Protection Act 1998. The data controller is legally responsible for the use of all images including breaches of legislation.
- 1.31 **THIRD PARTY DATA PROCESSOR**
- 1.31.1 Where a service provider is used for the remote storage of CCTV data they will act as a ‘data processor’. A data processor, in relation to personal data, means any person (other than an employee of the data controller) who processes data on behalf of the data controller, in response to specific instructions. The data controller retains full responsibility for the actions of the data processor. There must be a formal written contract between the data controller and the data processor. The contract must contain provisions covering security arrangements, retention/deletion instructions, access requests and termination arrangements. A copy of the contract must be provided to an authorised officer of the Licensing Section, or to the Police, on reasonable request
- 1.32 It will be the driver/proprietor’s responsibility to comply with all aspects of the law regarding such surveillance equipment. CCTV requirements and conditions can be found at Appendix 1(c) .

APPLICATION PROCEDURES

- 1.33 The procedure for applying for a Private Hire vehicle licence is not prescribed in legislation. Applicants will be expected to complete the relevant application form as provided by the Licensing Section and furnish the relevant supporting documents.

CONSIDERATION OF APPLICATIONS

- 1.34 The Council shall consider all applications on their own merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete.

GRANT AND RENEWAL OF LICENCE

- 1.35 Hackney carriage and private hire vehicle licences will be granted for 12 months. Vehicle licences can be renewed up to one calendar month before expiry with no loss of licence benefit.
- 1.36 The Council will only accept complete applications comprising of all the necessary information.
- 1.37 The licence fees payable are subject to review and any increase or reduction will be published as required by legislation.
- 1.38 Application forms, appropriate fees, and supporting documentation, shall be produced at the Licensing Section in person, by post or in some circumstances, electronically.
- 1.39 In respect of Hackney Carriage vehicles, licenses are granted on the proviso that the vehicle concerned will work predominantly within the County- hackney
- 1.40 The responsibility to ensure that a vehicle is licensed is that of the proprietor, driver and in the case of private hire, the operator, as all may be guilty of an offence should an unlicensed vehicle be used.
- 1.41 Licences will not be renewed after expiry. If a licence holder fails to renew their licence on or before the respective expiry date, the licence will lapse and become invalid. Licence holders should note that if they allow their licence to expire, they will be required to make a new application in full. This will obviously incur a potentially significant time delay, and dependant upon the age of the existing licensed vehicle, it may require a change in vehicle to meet the age requirements set out in Section 1.10. The cost implications of failing to renew a licence could therefore be significant, and licence holders are therefore strongly advised to ensure that they renew their licence before the expiry date. If the licence holder is aware of any reason that they may not be able to renew their licence before the expiry date, they must inform the Licensing Section immediately.

STRETCHED LIMOUSINES

- 1.42 Stretched limousines are elongated saloon cars that have been increasingly used for mainstream Private Hire work. Their general use includes all Private Hire work plus special occasions such as birthday parties for all ages, stag and hen parties.

- 1.43 Most limousines are imported for commercial purposes and are therefore required to take an Individual Vehicle Approval (IVA) test. The IVA test verifies that the converted vehicle is built to a certain safety and environmental standards. When presented for IVA the vehicle is produced with a declaration that it will never carry more than 8 passengers. The importer must inform any person who may use it of this restriction.
- 1.44 Applications to licence stretched limousines as Private Hire vehicles will be treated on their own merits. It is however, proposed that imported stretched limousine type vehicles:
- be granted an exemption from the requirement under the conditions of licence for Private Hire vehicles to be right hand drive
 - be granted exemption to display the Private Hire vehicles plates
 - be approved as a Private Hire vehicle subject to the additional conditions detailed in Appendix 1(d)

CONTRACT VEHICLES

- 1.45 The Road Safety Act 2006 requires vehicles used for a contract with an organisation or company for carrying passengers for Hire or reward under a contract to be licensed as Private Hire vehicles. As a general guide this shall include executive hire, chauffeur service, airport travel, stretch limousines and novelty vehicles.

FUNERAL AND WEDDING VEHICLES

- 1.46 In accordance with legislation, funeral and wedding vehicles do not need to be licensed whilst it is being used in connection with a wedding or funeral.

TRAILERS

- 1.47 Licensed Private Hire Vehicles are permitted to tow a trailer. However, Licensed Drivers currently exempt from the need to pass the DVLA driver trailer entitlement will require relevant training before towing a trailer. Relevant specifications and conditions for the trailer can be found at Appendix 1(e).

COLLISIONS/INCIDENTS

- 1.48 A licence will be suspended if, upon the reporting an incident to the Council, in a licensed vehicle, as required by the licensing conditions, the Council is of the opinion that the damage caused materially effects the safety, performance or appearance of the licensed vehicle or the comfort or convenience of passengers carried therein.

PLATE EXEMPTION

- 1.49 The displaying of the external identification plates on a licensed Private Hire Vehicle and the wearing of a driver's identification badge is important in terms

of public safety and reassurance. They indicate to the travelling public that the vehicle and driver are approved and therefore would have been subject to a number of important checks prior to the licence being granted.

- 1.50 However, there are a small number of occasions when the requirement to display external identification plates may have commercial and customer safety implications ie. safety for dignitaries and famous people.
- 1.51 It is not intended that all Private Hire vehicles licensed by the Council should be exempt from the Council's requirements to display an external identification plate, however the Council recognises that there may be circumstances when it would be appropriate for vehicles operating the type of service to be considered suitable for such an exemption. To that end an exemption will only be granted where the applicant is able to satisfy the council that:
- There is no public safety risk
 - There is a legitimate business or service requirement
 - The vehicle is suitable for the purposes outlined by the applicant.
- 1.52 Each application for exemption will be treated on its own merits for consideration at Licensing Committee.

DISCIPLINARY AND ENFORCEMENT MEASURES

- 1.52 Legislation installing a licensing regime and the conditions of licence designed to protect public safety are of no value unless they are correctly enforced by the Council. For this reason, the Council has dedicated taxi enforcement Officers.
- 1.53 The Council will take appropriate disciplinary action upon receipt of evidence that an offence has been committed by a hackney carriage or private hire driver, a private hire operator, private hire or hackney carriage vehicle proprietor or in relation to a hackney carriage, private hire vehicle or operator's licence.
- 1.54 Offences may be committed either contrary to the legislation enforced by the Council, the conditions imposed on licences granted by the Council, the adopted byelaws regulating hackney carriage proprietors and drivers, or this Policy.
- 1.55 Drivers, operators and proprietors of vehicles who have committed offences under legislation outside of that applicable to taxis will also be investigated in order to establish whether they are still fit and proper to hold a licence.
- 1.56 The Council will undertake targeted enforcement operations (including out of normal office hours) based on intelligence received as well as for compliance purposes.
- 1.57 The Council will investigate complaints received in respect of licensed and unlicensed vehicles; operators and drivers in accordance with the Police &

Criminal Evidence Act 1984 and the Planning and Public Protection Enforcement Policy.

- 1.58 The Council will undertake regular compliance checks of the records of Operators, drivers and vehicle proprietors and may request any documentation from those holding licences with the Council in order to ensure compliance with the legislative provisions, conditions of licence, byelaws and this Policy.
- 1.59 The Council will share information with other agencies in respect of potential illegal activities and enter into joint enforcement operations with other agencies and authorities. This may include taking enforcement action in respect of drivers and vehicles licensed by other Authorities where agreements and necessary delegations are in place.
- 1.60 The Council has a Planning and Public Protection Enforcement Policy, available on the Council website or provided on request, regulating how enforcement measures are taken by the Council. This states that any action shall be proportional, reasonable, transparent and appropriately directed. Details on enforcement action taken will be shared with other appropriate agencies and other Council services.

Disciplinary Action

- 1.61 There is a range of disciplinary action which the Council may take following the outcome of an investigation. This includes prosecution, revocation, refusal or an informal disciplinary sanction.
- 1.62 Where there is no evidence of wrong doing no further enforcement action will be taken. However, an advisory letter may still be appropriate. Where there is evidence of wrong doing the Council will take action.
- 1.63 Prosecutions will be taken where it is in the public interest. However, there are some instances where the revocation or suspension of a licence is a more effective and immediate remedy than prosecution. Licence holders successfully prosecuted by the Council for offences that put public safety at risk will have their licence revoked.
- 1.64 The Council will revoke, suspend or refuse to renew a licence where the licence holder has committed offences that put public safety at risk or for persistent non-compliance with the relevant legislation or licence conditions. In addition, a licence holder who fails to sufficiently safeguard the public, especially children and vulnerable adults, may have their licence suspended or revoked.
- 1.65 Minor offences which do not put the public at risk or do not call into question the fitness of the licence holder will be dealt with informally under the Council's penalty point warning scheme. The frequency or nature of minor offences may be such that the penalty point warning scheme is not consider appropriate and another sanction is necessary, such as suspension or revocation.

- 1.66 Action taken in respect of vehicle licences, such as suspension or revocation, will be dealt with by Officers guided by the requirements of the Local Government (Miscellaneous Provision) Act 1976 (including sections 60 & 68), Town Police Clauses Act 1847 (including section 50), Planning and Public Protection Enforcement Policy, and this Policy.
- 1.67 Action taken in respect of drivers or operators that fall outside of the penalty point warning scheme will be dealt with by Officers unless referred to the Licensing Committee.
- 1.68 One of the functions of the Licensing Committee is to consider the impact of transgressions of the law on the fitness of an individual.

PENALTY POINTS SCHEME

- 1.69 Whilst the operation of a successful hackney carriage and private hire vehicle trade is important to the economic well-being of the County, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use those services.
- 1.70 The Council has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to minimum standards and to apply this in a consistent and transparent manner. The standards concerned are defined by legislation, licence conditions, codes of conduct or byelaws adopted by the Council and in this policy. Together they identify what is required of the trade and help to ensure that a consistent approach is taken.
- 1.71 The Council believes that an effective means of applying conditions at a local level is through a penalty point warning scheme. This acts as a first step in ensuring compliance with conditions, and serves as an “early warning” system to drivers, vehicle proprietors, and operators who see fit to ignore their responsibilities or fail to meet the requirements of their licence.
- 1.72 Points are accumulated on a sliding scale dependent upon the type of breach that has occurred. These penalty points then remain “live” for a relevant period on the drivers, proprietors or operators record from the date they are imposed. Where a driver, proprietor or operator accumulates a specified number of points within the relevant period they will be requested to attend a disciplinary hearing before the Licensing Committee. The Committee can either suspend or revoke the licence.
- 1.73 In some circumstances, specifically those relating to public safety, where the maximum 20 points is given then the Head of Planning and Public Protection may revoke a licence with immediate effect.
- 1.74 It is believed that a warning based penalty point’s scheme does assist the trade in maintaining standards but it does not compromise the Council’s ability to take other enforcement action for breaches of statute or licence conditions should an offence warrant such action.

1.75 The penalty point scheme is further detailed at Appendix .

FARES

1.76 The Council is not able to set fares for Private Hire vehicles.

1.77 Private Hire Operators that use licensed vehicles fitted with a fare meter must provide the Council with a current table of fares. This table must also be displayed in each Private Hire vehicle so that it is easily visible to all hirers.

1.78 Private Hire Operators may adopt the Council's tariff of fares for Hackney Carriage vehicles as their tariff of fares.

2. HACKNEY CARRIAGE VEHICLES

LIMITATION OF NUMBERS

- 2.1 Many local Licensing Authorities, including Denbighshire, do not impose any quantitative restrictions for Hackney Carriages and the Department for Transport (DfT) regards this as best practice. Should an Authority elect to impose restrictions on numbers, the DfT guidance states that such a decision should be re-considered frequently, taking into account whether the restrictions should continue.
- 2.2 Where quantitative restrictions are imposed, vehicle licence plates can command a premium. This tends to suggest that there are people who want to enter the market and provide a service to the public but who are being prevented from doing so by the limitations of numbers. It may be difficult to justify a quantitative control in such circumstances.
- 2.3 If the Local Authority takes the view that a quantity restriction can be justified in principle, the DfT Guidance advises that the level at which the limit should be set be addressed by means of a survey, which would involve hefty costs
- 2.4 The Council has, at this time, decided not to set a limit on the number of Hackney Carriage Vehicles.

SPECIFICATIONS AND CONDITIONS

- 2.5 Local Authorities have a wide range of discretion over the types of vehicles that they can licence as Hackney Carriage vehicles. Government guidance suggests that local licensing authorities should adopt the principle of specifying as many different types of vehicles as possible and encouraged to make use of the “type approval” rules within any specifications they determine.
- 2.6 Hackney Carriages, will generally be licensed for the carriage of 4 passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be considered provided that they comply with the manufacturer’s specifications applicable to such vehicles.
- 2.7 The Authority shall impose such conditions, as it considers reasonably necessary, on Hackney Carriage vehicle licences. These vehicles provide a service to the public, so it is appropriate to set a criteria for the standard of the external and internal condition of the vehicle, provided that these are not unreasonably onerous.
- 2.8 Appendix 1(b) sets out the specification and minimum standards in respect of Hackney Carriage vehicles.

ACCESSIBILITY

- 2.9 The Authority fully supports the view of the Equality and Human Rights Commission that,
“making successful journeys is critical to the social inclusion of disabled people. Without the ability to travel, disabled people are denied access to life opportunities. Their access to education, shopping, employment, healthcare, as well as social and family life is significantly improved when journeys become accessible”
- 2.10 For this reason, the Authority considers it important that people with disabilities have access to all forms of public transportation. In addition to the general conditions, accessibility for disabled people including, but not limited to, people who need to travel in a wheelchair, is an important consideration.
- 2.11 Different accessibility considerations should apply to Hackney Carriages as opposed to Private Hire vehicles, as Hackney Carriages can be hired immediately in the street or at a Hackney Carriage Rank by the customer dealing directly with the driver, whereas Private Hire vehicles can only be used by pre-booking, usually through an Operator. On the basis that those with disabilities must have equal access to transport services, it is considered to be particularly important for a disabled person to be able to hire a Hackney Carriage vehicle on the spot with the minimum of delay or inconvenience and having accessible Hackney Carriages available helps make that possible.
- 2.12 Licensed Taxi drivers have a duty under the Disability Discrimination Act 2005 to carry guide, hearing and other prescribed assistance dogs in their taxis without additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply to Denbighshire County Council for an exemption from the duty on medical grounds. Any other driver who fails to comply with this duty could be prosecuted through a Magistrates’ court and would be liable to a fine and could be deemed not to be a fit and proper person to hold a Hackney Carriage or Private Hire Driver’s licence. Further guidance on this matter can be found on the Department for Transport web-site <https://www.gov.uk/transport-disabled/taxis-and-minicabs>.

MAXIMUM AGE OF VEHICLES

- 2.13 The Authority shall consider how far its Policy can and should support any local environmental initiative and future initiatives, such as setting vehicle emissions standards or promoting cleaner fuels, as well as ensuring a modern standard of its licensed vehicles.
- 2.14 All vehicles licensed under a new application must be up to a maximum of 5 years old from the date of first registration and, if compliant with the requirements for licence, shall therefore be granted a renewal of a vehicle licence up to the age of 10 years only, whereupon the vehicle must be replaced with one of up to a maximum age of 5 years old from the date of first

registration. This also applies to any licensed vehicle that is transferred/replaced or been involved in a road traffic collision.

- 2.15 All existing licensed vehicles will have “grandfather rights” for 5 years after the implementation of this policy, by which time all existing licensed vehicles must be able to comply with 2.14 above eg all licensed vehicles aged up to 10 years from the date of first registration, or over must have been replaced with one of a maximum age of 5 years from the date of first registration. This will only be relevant to vehicles that have had a continuous licence. Licensed vehicles that are not renewed before the expiry date of the existing licence will be treated as a new vehicle and 2.14 above will apply.

VEHICLE TESTING

- 2.16 Prior to the granting of a licence, each vehicle shall be examined and tested at a designated testing station, approved by the Authority.
- 2.17 Hackney Carriage vehicles are used for hire and reward purposes and as such are subject to much higher annual mileages and more arduous driving than normal private vehicles. Therefore, in the interests of passenger and other road user’s safety, a more stringent maintenance and testing regime is required. This Policy Statement considers the MOT inspection Manual for Car and Light Commercial Vehicle Testing issued by DVSA as a basic inspection standard for Hackney Carriage vehicles. However, in addition to the DVSA standards, it is a requirement for all vehicles to conform to the Council’s Hackney Carriage and Private Hire Vehicle Inspection Guidance. Therefore, when assessing the mechanical condition of a vehicle, it is possible that a MOT advisory note could fail the Council testing station standards.
- 2.18 The purpose of the Hackney Carriage vehicle test is to confirm vehicles meet the more stringent standards set out in this Policy Statement. Vehicles must be submitted fully prepared for the test. It is not intended that the test be used in lieu of a regular preventative maintenance programme. It is an offence under the Vehicle Construction and Use Regulations 1986 to use an un-roadworthy vehicle on the public highway. Hackney Carriage drivers/proprietors who fail to maintain their vehicles in a safe and roadworthy condition may have their licence(s) suspended, or revoked by the Council.
- 2.19 The following diagram (fig 1) summaries the testing regime for Hackney Carriage vehicles:

AGE OF VEHICLE (from date of first registration)	NUMBER OF MOT/COMPLIANCE TESTS	TEST VENUE
ALL NEW TO FLEET VEHICLES (irrespective of age)	2 x MOT to include Compliance Tests at 6 monthly intervals	Initial MOT and Compliance to take place at County’s Fleet Services

		All further Compliances (up to the age of 5 years from the date of first registration) to take place at any Designated Testing Station
Licensed Vehicles under 5 years old	2x MOT and Compliance Tests at 6 monthly intervals	At any Designated Testing Station
Licensed Vehicles 5 years and over and up to 10 years old	2 x MOT and Compliance Tests at 6 monthly intervals	1 at Fleet Services and 1 at any Designated Testing Station
		Fig 1

- 2.20 Vehicles that are presented for their MOT and Compliance tests in a condition that would result in a failure, will be subject to any applicable re-test fee, to be determined by the Designated Testing Station.
- 2.21 The inspection regime for vehicles has not been designed so as to create difficulties for the Hackney Carriage and Private Hire trades, but to promote vehicle and road safety. The Council therefore considers the inspection requirements to be justified by the risks it aims to address.
- 2.22 Any authorised Officer of the Council or any Police Constable has the power at all reasonable times to inspect and test for the purpose of ascertaining its fitness, any Hackney Carriage vehicle licensed by Denbighshire. If the Officer feels the licensed vehicle is unfit for use as a Hackney Carriage, or the licensed vehicle is in breach with taxi legislation or the Council’s Licensing Policy and Conditions, the vehicle licence may be suspended, revoked or not renewed.

SIGNAGE/ADVERTISING/LIVERY

- 2.23 It is important that the public should be able to identify and understand the difference between a Hackney Carriage and a Private Hire vehicle.
- 2.24 Vehicle identification plates are a key feature in helping to identify vehicles that are properly licensed. All licensed vehicles shall display one plate at the front and one on the rear of the vehicle
- 2.25 A Hackney Carriage licensed by the Council must carry an illuminated roof-mounted sign. The roof sign must state “Taxi/Tacsi” and must be illuminated when plying for hire.
- 2.26 Details of any signs or advertising requested to be place on a Hackney Carriage vehicle shall be submitted to the Licensing Section for due consideration as to content. If the advertising is not approved by the Officer then the advertising request will be referred to the Licensing Committee for its consideration.

SECURITY/CCTV

- 2.27 The Hackney Carriage trade provide a valuable public service particularly late at night when other forms of public transport are not available. Security for drivers and passengers is of paramount importance. CCTV can be a valuable deterrent as well as protection for the driver from unjustified complaints.
- 2.28 It is not proposed that such measures such as CCTV should be required, as part of the licensing regime, as it is considered that they are best left to the judgement of the owners and drivers themselves.
- 2.29 In allowing the installation and use of CCTV, the Authority recognises that such systems can be used to prevent and detect crime, reduce the fear of crime and enhance the safety of taxi and private hire vehicle drivers, as well as their passengers. However, this policy also seeks to ensure that the installation and operation of CCTV systems do not compromise the safety of either drivers or passengers or unreasonably interfere with the privacy of members of the public.
- 2.30 For the purposes of this policy, a CCTV system will include any electronic recording device attached to the inside of a taxi or private hire vehicle having the technical capability to capture and retain visual images from inside or external to the vehicle.
- 2.31 This policy does not place a mandatory requirement on the licensed operators of taxis and private hire vehicles to install CCTV systems in their vehicles. Any CCTV system to be fitted in a taxi or private hire vehicle must, as a minimum, meet the requirements of this policy. Only CCTV systems meeting these requirements can be installed into licensed taxis and private hire vehicles.
- 2.32 Where an operator wishes to install and use a CCTV system, it will be a condition of the taxi or private hire vehicle licence that the requirements of this policy are complied with.

2.33 The Data Controller

- 2.33.1 The Information Commissioner defines a “data controller” as the body which has legal responsibility under the Data Protection Act 1998 for all matters concerning the use of personal data. For the purpose of the installation and operation of a CCTV system in taxis and private hire vehicles, the “data controller” will be the holder of the taxi or private hire vehicle licence and not the driver. The licence holder, as data controller, will therefore be responsible for ensuring compliance with the requirements of this policy and with all relevant data protection legislation, including the Data Protection Act 1998. The data controller is legally responsible for the use of all images including breaches of legislation.

2.34 Third Party Data Processor

- 2.34.1 Where a service provider is used for the remote storage of CCTV data they will act as a 'data processor'. A data processor, in relation to personal data, means any person (other than an employee of the data controller) who processes data on behalf of the data controller, in response to specific instructions. The data controller retains full responsibility for the actions of the data processor. There must be a formal written contract between the data controller and the data processor. The contract must contain provisions covering security arrangements, retention/deletion instructions, access requests and termination arrangements. A copy of the contract must be provided to an authorised officer of the Licensing Authority, or to the Police, on reasonable request
- 2.35 It will be the driver/proprietor's responsibility to comply with all aspects of the law regarding such surveillance equipment. CCTV requirements and conditions can be found at Appendix 1(c).

TAXI RANKS

- 2.36 A full list of Hackney Carriage ranks, their exact positioning on each street, the times they are in use and the maximum occupancy of each is available from the Licensing Section.

FARES

- 2.37 The Hackney Carriage Table of Fares ("the tariff") is set by the Council and set the maximum fare that can be charged by Hackney Carriage drivers for journeys.
- 2.38 The fares tariff is enforceable as a byelaw and it is an offence for any person to charge more than the metered fare.
- 2.39 The Council will review Hackney carriage fare scales from time to time in liaison with the Hackney Carriage Proprietors.
- 2.40 Hackney Carriage Proprietors may request, in writing, a review of the Council's fare scales, at any reasonable time.
- 2.41 A table of authorised maximum fares will be provided to each Hackney Carriage Proprietor, which must then be displayed in each vehicle so that it is easily visible to all hirers.

DISCIPLINARY AND ENFORCEMENT MEASURES

- 2.42 Legislation installing a licensing regime and the conditions of licence designed to protect public safety are of no value unless they are correctly enforced by

the Council. For this reason, the Council has dedicated taxi enforcement Officers.

- 2.43 The Council will take appropriate disciplinary action upon receipt of evidence that an offence has been committed by a hackney carriage or private hire driver, a private hire operator, private hire or hackney carriage vehicle proprietor or in relation to a hackney carriage, private hire vehicle or operator's licence.
- 2.44 Offences may be committed either contrary to the legislation enforced by the Council, the conditions imposed on licences granted by the Council, the adopted byelaws regulating hackney carriage proprietors and drivers, or this Policy.
- 2.45 Drivers, operators and proprietors of vehicles who have committed offences under legislation outside of that applicable to taxis will also be investigated in order to establish whether they are still fit and proper to hold a licence.
- 2.46 The Council will undertake targeted enforcement operations (including out of normal office hours) based on intelligence received as well as for compliance purposes.
- 2.47 The Council will investigate complaints received in respect of licensed and unlicensed vehicles; operators and drivers in accordance with the Police & Criminal Evidence Act 1984 and the Planning and Public Protection Enforcement Policy.
- 2.48 The Council will undertake regular compliance checks of the records of Operators, drivers and vehicle proprietors and may request any documentation from those holding licences with the Council in order to ensure compliance with the legislative provisions, conditions of licence, byelaws and this Policy.
- 2.49 The Council will share information with other agencies in respect of potential illegal activities and enter into joint enforcement operations with other agencies and authorities. This may include taking enforcement action in respect of drivers and vehicles licensed by other Authorities where agreements and necessary delegations are in place.
- 2.50 The Council has a Planning and Public Protection Enforcement Policy, available on the Council website or provided on request, regulating how enforcement measures are taken by the Council. This states that any action shall be proportional, reasonable, transparent and appropriately directed. Details on enforcement action taken will be shared with other appropriate agencies and other Council services.

DISCIPLINARY ACTION

- 2.51 There is a range of disciplinary action which the Council may take following the outcome of an investigation. This includes prosecution, revocation, refusal or an informal disciplinary sanction.
- 2.52 Where there is no evidence of wrong doing no further enforcement action will be taken. However, an advisory letter may still be appropriate. Where there is evidence of wrong doing the Council will take action.
- 2.53 Prosecutions will be taken where it is in the public interest. However, there are some instances where the revocation or suspension of a licence is a more effective and immediate remedy than prosecution. Licence holders successfully prosecuted by the Council for offences that put public safety at risk will have their licence revoked.
- 2.54 The Council will revoke, suspend or refuse to renew a licence where the licence holder has committed offences that put public safety at risk or for persistent non-compliance with the relevant legislation or licence conditions. In addition, a licence holder who fails to sufficiently safeguard the public, especially children and vulnerable adults, may have their licence suspended or revoked.
- 2.55 Minor offences which do not put the public at risk or do not call into question the fitness of the licence holder will be dealt with informally under the Council's penalty point warning scheme. The frequency or nature of minor offences may be such that the penalty point warning scheme is not consider appropriate and another sanction is necessary, such as suspension or revocation.
- 2.56 Action taken in respect of vehicle licences, such as suspension or revocation, will be dealt with by Officers guided by the requirements of the Local Government (Miscellaneous Provision) Act 1976 (including sections 60 & 68), Town Police Clauses Act 1847 (including section 50), Planning and Public Protection Enforcement Policy, and this Policy.
- 2.57 Action taken in respect of drivers or operators that fall outside of the penalty point warning scheme will be dealt with by Officers unless referred to the Licensing Committee.
- 2.58 One of the functions of the Licensing Committee is to consider the impact of transgressions of the law on the fitness of an individual.

PENALTY POINTS SCHEME

- 2.59 Whilst the operation of a successful hackney carriage and private hire vehicle trade is important to the economic well-being of the County, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use those services.

- 2.60 The Council has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to minimum standards and to apply this in a consistent and transparent manner. The standards concerned are defined by legislation, licence conditions, codes of conduct or byelaws adopted by the Council and in this policy. Together they identify what is required of the trade and help to ensure that a consistent approach is taken.
- 2.61 The Council believes that an effective means of applying conditions at a local level is through a penalty point warning scheme. This acts as a first step in ensuring compliance with conditions, and serves as an “early warning” system to drivers, vehicle proprietors, and operators who see fit to ignore their responsibilities or fail to meet the requirements of their licence.
- 2.62 Points are accumulated on a sliding scale dependent upon the type of breach that has occurred. These penalty points then remain “live” for a relevant period on the drivers, proprietors or operators record from the date they are imposed. Where a driver, proprietor or operator accumulates a specified number of points within the relevant period they will be requested to attend a disciplinary hearing before the Licensing Committee. The Committee can either suspend or revoke the licence.
- 2.63 In some circumstances, specifically those relating to public safety, where the maximum 20 points is given then the Head of Planning and Public Protection may revoke a licence with immediate effect.
- 2.64 It is believed that a warning based penalty point’s scheme does assist the trade in maintaining standards but it does not compromise the Council’s ability to take other enforcement action for breaches of statute or licence conditions should an offence warrant such action.
- 2.65 The penalty point scheme is further detailed at Appendix .

APPLICATION PROCEDURES

- 2.44 The procedure for applying for a Private Hire vehicle licence is not prescribed in legislation. Applicants will be expected to complete the relevant application form as provided by the Licensing Section and furnish the relevant supporting documents.

CONSIDERATION OF APPLICATIONS

- 2.45 The Council shall consider all applications on their own merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete.

RENEWAL OF LICENCE

- 2.46 Hackney carriage vehicle licences will be granted for 12 months. Vehicle licences can be renewed up to one calendar month before expiry with no loss of licence benefit.
- 2.47 The Council will only accept complete applications comprising of all the necessary information.
- 2.48 The licence fees payable are subject to review and any increase or reduction will be published as required by legislation.
- 2.49 Application forms, appropriate fees, and supporting documentation, shall be produced at the Licensing Section in person, by post or in some circumstances, electronically
- 2.50 In respect of Hackney Carriage vehicles, licenses are granted on the proviso that the vehicle concerned will work predominantly within the County. Please refer to the County's Intended Use Policy at Appendix
- 2.51 The responsibility to ensure that a vehicle is licensed is that of the proprietor, driver and in the case of private hire, the operator, as all may be guilty of an offence should an unlicensed vehicle be used.
- 2.52 Application forms, appropriate fees, and supporting documentation, shall be produced at the Licensing Section. It is the licence holder's responsibility to ensure that licences are renewed prior to their expiry.
- 2.53 Licences will not be renewed after expiry. If a licence holder fails to renew their licence on or before the respective expiry date, the licence will lapse and become invalid. Licence holders should note that if they allow their licence to expire, they will be required to make a new application in full. This will obviously incur a potentially significant time delay, and dependent upon the age of the existing licensed vehicle, it may require a change in vehicle to meet the age requirements set out in Section 2.14 of this policy. The cost implications of failing to renew a licence could therefore be significant, and licence holders are therefore strongly advised to ensure that they renew their licence before the expiry date. If the licence holder is aware of any reason that they may not be able to renew their licence before the expiry date, they must inform the Licensing Section immediately.

TRAILERS

- 2.54 Hackney Carriage Vehicles are prohibited to tow a trailer.

COLLISIONS/INCIDENTS

- 2.55 A licence will be suspended if, upon the reporting an incident to the Council, in a licensed vehicle, as required by the licensing conditions, the Council is of the

opinion that the damage caused materially effects the safety, performance or appearance of the vehicle or the comfort or convenience of passengers carried therein.

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SPECIFICATION AND CONDITIONS OF LICENCE FOR PRIVATE HIRE VEHICLES

1. SPECIFICATION OF VEHICLES

1.1 General

All vehicles shall have an appropriate "Type Approval" which is either a European Whole Vehicle Type Approval (EWVTA) or UK Low Volume Type Approval (UKLVTA). Vehicles shall not have been altered since that approval was granted. A Single Vehicle Type Approval (SVTA) or a Independent Vehicle Approval (IVA) may be accepted for wheelchair accessible vehicles. Vehicles presented for approval, and while in use, shall comply with the Road Vehicles (Construction and Use) Regulations 1986 and any subsequent amendments or re-enactments thereof.

- 1.2 No fittings, other than those approved, may be attached to, or carried on, the inside or outside of the vehicle.
- 1.2 A Private Hire vehicle shall be capable of carrying at least 4 and no more than 8 passengers.
- 1.3 All vehicles must be right hand drive unless specifically exempt by the Council
- 1.4 All vehicles shall be less than 5 years old (From the date of manufacture) for new licences and less than 12 years old from the date of manufacture for existing licences.
- 1.5 All vehicles must be maintained to no less than the standards set out in the VOSA publication 'MOT Inspection Manual" – Car and Light Commercial', ISBN 0-9549239-0-1 as amended and the Council's Hackney Carriage and Private Hire Vehicle Inspection Guidance
- 1.6 The following sections provide the outline requirements of the Council's specification for Private Hire vehicles prior to examination and testing by a designated testing station authorised by the Council. A list of authorised testing stations can be found attached. The exact mechanical requirements for inspection and testing are contained in the Council's Hackney Carriage and Private Hire Vehicle Inspection Guidance.

2. BODY

- 2.1 The vehicle shall have no exterior visible signs of previous significant accident damage
- 2.2 The paint work shall be of a professional finish and be one consistent colour over the whole of the vehicle's bodywork

- 2.3 The bodywork shall have no significant signs of corrosion. Corrosion includes visible rust and signs of rust by virtue of the paintwork being blistered.
- 2.4 Running boards shall only be permitted where they are fitted by manufacturers. The board shall be a minimum 125mm in width, all of which shall be available as a step.

3. WHEELS AND TYRES

- 3.1 The vehicle shall have four road wheels of uniform standard, size and style, which conform to construction and use regulations.
- 3.2 An appropriate tyre repair system (as fitted by the manufacturer) must be provided.
- 3.3 The appropriate repair system must only be used as an emergency measure ie to allow the vehicle to be driven to a place of repair.
- 3.4 All tyres, including the spare tyre, shall comply with the vehicle manufacturer's specification
- 3.5 All tyres fitted to the vehicle shall meet current legal requirements at all times.

4. INTERIOR

- 4.1 The minimum leg room available to any passenger shall be 200mm. The measurement will be taken from the base of the seat to the centre of the rear of the seat in front when the front seat is at its full, rearwards extension. Where there is no seat in front the measurement will be taken from the base of the seat to the nearest obstruction in front.
- 4.2 The internal headroom from the seat cushion to the lowest part of the roof in a vertical line shall be a minimum of 920 mm
- 4.3 Vehicles must have adequate space for luggage to be kept in a clean, safe, secure and water tight manner
- 4.4 Vehicles must have a water tight roof covering and properly carpeted or covered flooring (with no rips or tears)

5. DOORS

- 5.1 The vehicle shall have a minimum of 4 side opening doors which are easily accessible to passengers. Access to and from vehicles such as minibuses will be determined on a case by case basis eg the rear door should not be a means of access.
- 5.2 All vehicles shall have doors that open sufficiently wide to allow easy access in and egress from the vehicle.

- 5.3 All doors shall be capable of being readily opened from the inside and outside of the vehicle by one operation of the latch mechanism
- 5.4 The interior door handle shall be clearly visible and easily accessible to passengers when the door is in a fully open position and the means of operation of the door handle is easily identified.

6. SEATS

- 6.1 Vehicles shall have a passenger seating capacity of not less than 4 persons and not more than 8 persons
- 6.2 Each seat shall be fitted with fully operational seat belts, compliant with the appropriate Standards.
- 6.3 Each seat shall be properly cushioned and be in a clean condition.
- 6.4 Each seat shall not be less than 406 mm in width.
- 6.5 Where bench seats are provided, then the seat shall provide a minimum of 406mm seating space for each passenger i.e. a rear bench seat shall not be less than 1218 mm in order to accommodate 3 passengers.
- 6.6 Removed seating mounts must be rendered irreplaceable and the floor surface to be smooth and unencumbered.
- 6.7 All passenger seats must face forward or rearward to the direction of travel, (no passenger may sit sideways to direction of travel unless specifically exempt by an authorised officer of the Council eg limousines)
- 6.8 Any modification to seating configuration, including removal of seats, in any vehicle must be accompanied by an Individual Vehicle Approval Certificate.

7. WINDOWS

- 7.1 Opening windows shall be provided in the rear of the vehicle capable of being opened by the rear seat passengers
- 7.2 Vehicle windows shall have visual transmission to ensure that the interior of the vehicle is clearly visible from the outside of the vehicle at all times. All vehicles shall be fitted with windscreen glass that has a light transmittance of 75%, and all other window glass shall have a light transmittance of not less than 70% EXCEPT those parts of the rear window or any side window adjacent to the luggage space in any estate-type vehicle which can be of any tint fitted at manufacture providing it is not opaque
- 7.3 No vehicle shall be fitted with any form of additional means to darken or tint the glass on any part of the vehicle.

8. FACILITIES FOR WHEELCHAIR USERS

- 8.1 Any vehicle that has the facility for the carriage of wheelchair or wheelchair passengers shall be fitted with:
- a. Approved manufacturer installed anchorages that shall be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and passengers shall be independent of each other. Anchorages shall also be provided for the safe storage of a wheelchair, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints shall be so designed that they do not cause any danger to other passengers and maintained in accordance with manufacturer's specifications.
 - b. A ramp or ramps for the loading of a wheelchair and passenger shall be available at all times for use at the nearside rear passenger door. An adequate locking device shall be fitted to ensure that the ramp(s) do not slip or tilt when in use. Provision shall be made for the ramps to be stored safely in the vehicle when not in use.
- 8.2 The vehicle shall be equipped with a manufacturer's user manual /guide on the safe loading and unloading and security of wheelchair passengers.
- 8.3 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle shall have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 immediately prior to being first licensed and every 6 months thereafter. A LOLER Certificate of must be produced at the time of MOT and Compliance Testing to the Designated Testing Station and to the Licensing Office at grant and renewal of licence.

9. FUEL SYSTEMS

- 9.1 Fuel systems should be installed to current manufacturer and legal standards. Before commencing any gas fuel conversions it is essential that written approval is sought for the Council.

CONDITIONS ATTACHED TO LICENCE

11. MAINTENANCE OF VEHICLE

- 11.1 The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire, be kept in an efficient, safe, tidy and clean condition* and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations shall be fully complied with.

*Clean condition is defined as follows:

"All body panels to be of uniform colour and finish throughout, unless otherwise authorised by the Council in writing, and to be washed and polished to a high standard. Windows to be clear and smear free inside

and out. Carpets and seating to be vacuumed and to be without cuts, tears or staining”

- 11.2 Every licensed vehicle must be maintained in a safe and clean condition at all times and is subject to such examinations as are required by the Council.
- 11.3 Seats must be fully sprung, free of stains, tears, cigarette burns or repair and not threadbare. Floor coverings must not be unduly worn and present no trip hazards. Household carpeting or similar is unacceptable and must not be used. Upholstery (headlining and side panel coverings) must be free of ingrained grime, fractures and maintained in the manufacturers original style.
- 11.4 Without prejudice to the obligations imposed by 11.1 to 11.3 above and without prejudice to any other inspections as stipulated by the vehicle manufacturer, the proprietor of the licensed vehicle shall ensure that **as a minimum** the compliance of routine maintenance inspections must be adhered to, and such inspections shall be recorded and retained (for a minimum of 18 months) and kept available for immediate production to an Authorised Officer of the Council or Police Officer on request.
- 11.5 Please note that the requirement to inspect the licensed vehicle as imposed by the above condition does not release the proprietor of the vehicle for his obligations to carry out further daily inspections to ensure compliance with the above conditions. A record of such daily inspections should be made available for immediate production to an Authorised Officer of the Council or Police Officer on request.

12. ALTERATION OF VEHICLE

- 12.1 No material alteration or change in the specification, design, condition, or appearance of the vehicle shall be made without the approval of the Council at any time while the licence is in force.

13. IDENTIFICATION OF VEHICLE

- 13.1 The plate identifying the vehicle as a Private Hire vehicle and required to be exhibited on the vehicle pursuant to Section 48(6) of the Local Government (Miscellaneous Provisions) Act 1976 shall be securely fixed on the outside of the vehicle in a conspicuous position and in such manner as to be easily removable by an Authorised Officer of the Council or a Police Constable.
- 13.2 One Private Hire door sticker shall be adhered to each front door of the vehicle.
- 13.3 On the boot and each rear side of the vehicle (below window height) the company name, words “private hire” and one telephone number (which must be used by the Operator of the vehicle), may be placed, at the licensees expense, PROVIDED that the details that is to be used by the Operator is first approved by the Council

- 13.4 No pictures, icons, graphics, emblems or such like is allowed which may infer that the vehicle is a hackney carriage (taxi)
- 13.5 Vehicles must not display anywhere on or in the vehicle the word "Taxi", "Taksi", "cab" or any other word(s) which may, in the Council's opinion lead the public to believe the vehicle is a hackney carriage.
- 13.6 The licence plate and door signs must not be affixed to any other vehicle other than that stipulated on the current licence. This equipment remains the property of the Council and must be surrendered immediately upon expiry, suspension or revocation of the licence.

14. INTERIOR MARKINGS

- 14.1 The proprietor shall cause to be clearly marked inside the vehicle in such a position as to be visible at all times to passengers therein, the number of this licence and the number of passengers prescribed in this licence.

15. SAFETY EQUIPMENT

- 15.1 There shall be provided and maintained in the vehicle at all times when it is in use or available for hire, a suitable and efficient fire extinguisher and a suitable first aid kit containing appropriate first aid dressings and appliance, such equipment to be carried in such a position in the vehicle as to be readily visible and available for immediate use in an emergency. It should be noted that the first aid kit is intended for use by a person who has the appropriate knowledge of first aid.

16. SIGNS AND NOTICES

- 16.1 No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems, or devices whatsoever shall be displayed on, in or from the vehicle except as may be required by any statutory provision, including byelaws or conditions

The above condition will not apply to:

- a. Any indication on a taximeter visible only from the interior of the vehicle, or
- b. The display by the driver of a hand-held card which is displayed in, on or from the vehicle whilst it is stationary, provided that such card;
 - i. contains no words or numbers other than the names of the licensed operator of the vehicle or the name under which he carried on his business and, in either case, the name of a passenger or passengers to be carried in the vehicle, and
 - ii. if the licensed operator charges for journeys in accordance with a scale of fares, a copy of such scale shall be displayed in the vehicle for the information of passengers in a form previously submitted and approved by the Council.
 - iii. Any safety notices eg instructions on door latch operation

17. RADIO EQUIPMENT

- 17.1 Neither the Operator, proprietor nor the driver of a Private Hire vehicle shall use or cause or suffer to be used in any vehicle any radio equipment for operational communication between Operator and Driver, or between drivers of other Private Hire vehicles, except for fully licensed closed channel equipment shall be used for operational communication.
- 17.2 Each Private Hire Operator must have a written policy on the use of mobile phones in vehicles, which should have regard to the legal requirements and any available guidance.

18. CHANGE OF ADDRESS

- 18.1 The proprietor shall notify the Council, in writing, of any change of address during the period of the licence, within seven days of such change taking place.

19. CONVICTIONS

- 19.1 The proprietor shall, within seven days, disclose to the Council, in writing, details of any convictions, formal cautions, absolute discharges, or fixed penalties, imposed on him/her (or if the proprietor is a company or partnership, or any of the directors or partners) during the period of the licence.

20. DEPOSIT OF DRIVING LICENCE

- 20.1 If the proprietor permits or employs any other person to drive the vehicle as a Private Hire vehicle, he shall, before that person commences to drive the vehicle, cause the driver to deliver to him his Private Hire Vehicle Driver's licence for retention until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.

21. PERMITTED DRIVERS OF THE VEHICLE

- 21.1 The proprietor or any other person permitted or employed to drive the vehicle as a Private Hire vehicle, must be the holder of a current Private Hire driver's licence or a dual Hackney Carriage and Private Hire driver licence granted by Denbighshire County Council.

22. DEPOSIT OF VEHICLE LICENCE

- 22.1 The proprietor shall, upon the vehicle commencing work with an operator, deposit with the operator this licence for retention by him until such time as that vehicle ceases to work for that operator.

23. INSPECTION AND TESTING

- 23.1 The proprietor shall, if requested by an Authorised Officer of the Council or a Police Officer, make the vehicle available for inspection and testing at such time and date as may be specified. Such inspections and testing shall be in addition to any other statutory provisions.

24. COLLISIONS

- 24.1 The proprietor shall report to the Licensing Section, in writing, as soon as reasonably practicable and in any such event within 72 hours of the occurrence thereof, any accident to the vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of passengers therein.

- 24.2 In the event of a licence being suspended due to the nature of the damage, the proprietor shall have the vehicle tested at a nominated testing station and submit the compliance certificate for examination prior to the licence being re-instated.

25. CARRIAGE OF CHILDREN

- 25.1 The carriage of children shall comply with the latest requirements set by legislation. Further guidance can be found at www.dft.gov.uk

- 25.2 The vehicle must not carry children in pushchairs; the pushchair must be folded up and stored.

26. LICENSING POLICY

- 26.1 The Council's Hackney Carriage and Private Hire Licensing Policy and this vehicle specification and conditions shall be adhered to at all times.

**SPECIFICATION AND CONDITIONS OF LICENCE FOR HACKNEY CARRIAGE
VEHICLES**

1. SPECIFICATION OF VEHICLES

1.1 General

All vehicles shall have an appropriate "Type Approval" which is either a European Whole Vehicle Type Approval (EWVTA) or UK Low Volume Type Approval (UKLVTA). Vehicles shall not have been altered since that approval was granted. A Single Vehicle Type Approval (SVTA) or a Independent Vehicle Approval (IVA) may be accepted for wheelchair accessible vehicles. Vehicles presented for approval, and while in use, shall comply with the Road Vehicles (Construction and Use) Regulations 1986 and any subsequent amendments or re-enactments thereof.

1.2 No fittings, other than those approved, may be attached to, or carried on, the inside or outside of the vehicle.

1.3 A Hackney Carriage vehicle shall be capable of carrying at least 4 and no more than 8 passengers.

1.4 All vehicles must be right hand drive unless specifically exempt by the Council

1.5 All vehicles shall be less than 5 years old for new licences and less than 10 years old from the date of manufacture for existing licences.

1.6 All vehicles must be maintained to no less than the standards set out in the VOSA publication 'MOT Inspection Manual" – Car and Light Commercial', ISBN 0-9549239-0-1 as amended and the Council's Hackney Carriage and Private Hire Vehicle Inspection Guidance

1.7 The following sections provide the outline requirements of the Council's specification for Hackney Carriage vehicles prior to examination and testing by a designated testing station authorised by the Council. A list of authorised testing stations can be found at Appendix (to be confirmed) .

2. BODY

2.1 The vehicle shall have no exterior visible signs of previous significant accident damage

2.2 The paint work shall be of a professional finish

2.3 The bodywork shall have no significant signs of corrosion. Corrosion includes visible rust and signs of rust by virtue of the paintwork being blistered.

- 2.4 Running boards shall only be permitted where they are fitted by manufacturers. The board shall be a minimum 125mm in width, all of which shall be available as a step.

3. WHEELS AND TYRES

- 3.1 The vehicle shall have four road wheels of uniform standard, size and style, which conform to construction and use regulations.
- 3.2 An appropriate tyre repair system (as fitted by the manufacturer) must be provided.
- 3.3 The appropriate repair system to only be used as an emergency measure ie to allow the vehicle to be driven to a place of repair.
- 3.4 All tyres, including the spare tyre, shall comply with the vehicle manufacturer's specification
- 3.5 All tyres fitted to the vehicle shall meet current legal requirements at all times.

4. INTERIOR

- 4.1 The minimum leg room available to any passenger shall be 200mm. The measurement will be taken from the base of the seat to the centre of the rear of the seat in front when the front seat is at its full, rearwards extension. Where there is no seat in front the measurement will be taken from the base of the seat to the nearest obstruction in front.
- 4.2 The internal headroom from the seat cushion to the lowest part of the roof in a vertical line shall be a minimum of 920 mm
- 4.3 Vehicles must have adequate space for luggage to be kept in a clean, safe, secure and water tight manner
- 4.4 Vehicles must have a water tight roof covering and properly carpeted or covered flooring (with no rips or tears)

5. DOORS

- 5.1 The vehicle shall have a minimum of 4 side opening doors which are easily accessible to passengers. Access to and from vehicles such as minibuses will be determined on a case by case basis eg the rear door should not be a means of access.
- 5.2 All vehicles shall have doors that open sufficiently wide to allow easy access in and egress from the vehicle.
- 5.3 All doors shall be capable of being readily opened from the inside and outside of the vehicle by one operation of the latch mechanism

5.4 The interior door handle shall be clearly visible and easily accessible to passengers when the door is in a fully open position and the means of operation of the door handle is easily identified.

6. SEATS

6.1 Vehicles shall have a passenger seating capacity of not less than 4 persons and not more than 8 persons

6.2 Each seat shall be fitted with fully operational seat belts, compliant with the appropriate Standards.

6.3 Each seat shall be properly cushioned and be in a clean condition.

6.4 Each seat shall not be less than 406 mm in width.

6.5 Where bench seats are provided, then the seat shall provide a minimum of 406mm seating space for each passenger i.e. a rear bench seat shall not be less than 1218 mm in order to accommodate 3 passengers.

6.6 Removed seating mounts must be rendered irreplaceable and the floor surface to be smooth and unencumbered.

6.7 All passenger seats must face forward or rearward to the direction of travel, (no passenger may sit sideways to direction of travel unless specifically exempt by an authorised officer of the Council eg limousines)

6.8 Any modification to seating configuration, including removal of seats, in any vehicle must be accompanied by an IVA Certificate.

6.9 If the vehicle was originally constructed to seat more than 8 passengers (excluding the driver) it must not have been converted, modified or altered in any way which allows it to carry eight or less passengers (excluding the driver).

7. WINDOWS

7.1 Opening windows shall be provided in the rear of the vehicle capable of being opened by the rear seat passengers

7.2 Vehicle windows shall have visual transmission to ensure that the interior of the vehicle is clearly visible from the outside of the vehicle at all times. All vehicles shall be fitted with windscreen glass that has a light transmittance of 75%, and all other window glass shall have a light transmittance of not less than 70% EXCEPT those parts of the rear window or any side window adjacent to the luggage space in any estate-type vehicle which can be of any tint fitted at manufacture providing it is not opaque

7.3 No vehicle shall be fitted with any form of additional means to darken or tint the glass on any part of the vehicle.

8. FACILITIES FOR WHEELCHAIR USERS

- 8.1 Any vehicle that has the facility for the carriage of wheelchair or wheelchair passengers shall be fitted with:
- a. Approved manufacturer installed anchorages that shall be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and passengers shall be independent of each other. Anchorages shall also be provided for the safe storage of a wheelchair, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints shall be so designed that they do not cause any danger to other passengers and maintained in accordance with manufacturer's specifications.
 - b. A ramp or ramps for the loading of a wheelchair and passenger shall be available at all times for use at the nearside rear passenger door. An adequate locking device shall be fitted to ensure that the ramp(s) do not slip or tilt when in use. Provision shall be made for the ramps to be stored safely in the vehicle when not in use.
- 8.2 The vehicle shall be equipped with a manufacturer's user manual /guide on the safe loading and unloading and security of wheelchair passengers.
- 8.3 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle shall have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 immediately prior to being first licensed and every 6 months thereafter. A LOLER Certificate of must be produced at the time of MOT and Compliance Testing to the Designated Testing Station and to the Licensing Office at grant or renewal of licence.

9. FUEL SYSTEMS

- 9.1 Fuel systems should be installed to current manufacturer and legal standards. Before commencing any gas fuel conversions it is essential that written approval is sought for the Council.

CONDITIONS ATTACHED TO LICENCE

10. MAINTENANCE OF VEHICLE

The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire, be kept in an efficient, safe, tidy and clean condition* and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations shall be fully complied with.

*Clean condition is defined as follows:

"All body panels to be of uniform colour and finish throughout, unless otherwise authorised by the Council in writing, and to be washed and polished to a high standard. Windows to be clear and smear free inside

and out. Carpets and seating to be vacuumed and to be without cuts, tears or staining”

- 10.1 Every licensed vehicle must be maintained in a safe and clean condition at all times and is subject to such examinations as are required by the Council.
- 10.2 Seats must be fully sprung, free of stains, tears, cigarette burns or repair and not threadbare. Floor coverings must not be unduly worn and present no trip hazards. Household carpeting or similar is unacceptable and must not be used. Upholstery (headlining and side panel coverings) must be free of ingrained grime, factures and maintained in the manufacturers original style.
- 10.3 Without prejudice to the obligations imposed by 10.1 to 10.3 above and without prejudice to any other inspections as stipulated by the vehicle manufacturer, the proprietor of the licensed vehicle shall ensure that **as a minimum** the compliance of routine maintenance inspections must be adhered to, and such inspections shall be recorded and retained (for a minimum of 18 months) and kept available for immediate production to an Authorised Officer of the Council or Police Officer on request.
- 10.4 Please note that the requirement to inspect the licensed vehicle as imposed by the above condition does not release the proprietor of the vehicle for his obligations to carry out further daily inspections to ensure compliance with the above conditions.

11. ALTERATION OF VEHICLE

- 11.1 No material alteration or change in the specification, design, condition or appearance of the vehicle must be made subsequent to the inspection of the vehicle by the Council at any time whilst the licence is in fore and at all times the vehicle shall comply with the specifications of the Council for a licensed hackney carriage. Vehicles which have been modified in any way from the manufacturer’s standard of construction may not be considered suitable for licensing purposes depending upon the nature of the modification.

12. IDENTIFICATION PLATE

- 12.1 The plates identifying the vehicle as a Hackney Carriage vehicle and required to be exhibited on the vehicle pursuant to Section 51 of the Town Police Clauses Act 1847 shall be securely fixed on the outside of the vehicle at the front and rear, at or above bumper height and as near vertically as possible, but fixed nevertheless in such a manner as to be easily removable by an Authorised Officer of the Council or a Police Constable.
- 12.2 One internal window sticker, as provided by the Council, to be placed on the rear passenger window.

12.3 The licence plates and internal window signs must not be affixed to any other vehicle other than that stipulated on the current licence. This equipment remains the property of the Council and must be surrendered immediately upon expiry, suspension or revocation of the licence.

13. INTERIOR MARKINGS

13.1 The proprietor shall cause to be clearly marked inside the vehicle in such a position as to be visible at all times to passengers therein, the number of this licence and the number of passengers prescribed in this licence.

14. SAFETY EQUIPMENT

14.1 There shall be provided and maintained in the vehicle at all times when it is in use or available for hire, a suitable and efficient fire extinguisher and a suitable first aid kit containing appropriate first aid dressings and appliance, such equipment to be carried in such a position in the vehicle as to be readily visible and available for immediate use in an emergency. It should be noted that the first aid kit is intended for use by a person who has the appropriate knowledge of first aid.

15. SIGNS AND NOTICES

15.1 A Proprietor may display on the side and/or rear of the vehicle, below window level, the company name under which the vehicle is operated and/or its telephone number, but no other signs, emblems or notices shall be displayed either outside or inside the vehicle without specific written permission from the Council.

15.2 Any Proprietor wishing to use or sell space on the vehicle for the advertising of another company/business must first apply to the Council with a draft advert for consideration. Only one authorised advert will be permitted

15.3 Such adverts must not:
i) contain anything religious or political
ii) advertise alcohol or tobacco
iii) be pornographic or offensive to good taste
iv) promote discounted fares, or
v) advertise jobs

16. RADIO EQUIPMENT

16.1 Neither the Operator, proprietor nor the driver of a Hackney Carriage vehicle shall use or cause or suffer to be used in any vehicle any radio equipment for operational communication between Operator and Driver, or between drivers of other Hackney Carriage and Private Hire vehicles, except for fully licensed closed channel equipment shall be used for operational communication.

- 16.2 Each Hackney Carriage Proprietor/Operator should have a written policy on the use of mobile phones whilst driving, which should have regard to the latest available guidance on the use of mobile phones whilst driving

17. METERS AND FARES

- 17.1 The vehicle must be fitted with a taxi meter which must comply with the current legislative requirements. The taxi meter shall:
- a. show the fare recorded on the taximeter in clearly legible figures, and the word 'FARE' shall be clearly displayed so as to apply such figures;
 - b. the meter shall be set in accordance with the Council's Table of Hackney Carriage Fares., the tariffs with which the meter has been calibrated must be displayed in the vehicle in such a position as to be visible to passengers. Such a table must show full particulars of all tariffs calibrated on the meter.
- 17.2 Meters in use must not facilitate fraudulent use. Any signs of tampering including the breaking of any seals will result in a suspension notice being issued immediately. For the suspension notice to be removed, the vehicle meter must have been sealed and calibrated by an approved meter company and presented to the Council for inspection

18. CARRIAGE OF CHILDREN

- 18.1 The carriage of children shall comply with the latest requirements set by legislation. Further guidance can be found at www.dft.gov.uk
- 18.2 The vehicle should not carry children in pushchairs; the pushchair should be folded up and stored

19. CHANGE OF ADDRESS

- 19.1 The proprietor shall notify the Council, in writing, of any change of address during the period of the licence, within seven days of such change taking place.

20. CONVICTIONS

- 20.1 The proprietor shall, within seven days, disclose to the Council, in writing, details of any convictions, formal cautions, absolute discharges, or fixed penalties, imposed on him/her (or if the proprietor is a company or partnership, or any of the directors or partners) during the period of the licence.

21. DEPOSIT OF DRIVING LICENCE

- 21.1 If the proprietor permits or employs any other person to drive the vehicle as a Hackney Carriage vehicle, he shall, before that person commences to drive the vehicle, cause the driver to deliver to him his Hackney Carriage Vehicle Driver's licence for retention until such time as the

driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.

22. PERMITTED DRIVERS OF THE VEHICLE

- 22.1 The proprietor or any other person permitted or employed to drive the vehicle as a Hackney Carriage vehicle, must be the holder of a current Private Hire driver's licence or a dual Hackney Carriage and Private Hire driver licence granted by Denbighshire County Council according with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976

23. DEPOSIT OF VEHICLE LICENCE

- 23.1 The proprietor shall, upon the vehicle commencing work with operator, deposit with the operator this licence for retention by him until such time as that vehicle ceases to work for that operator.

24. INSPECTION AND TESTING

- 24.1 The proprietor shall, if requested by an Authorised Officer of the Council or a Police Officer, make the vehicle available for inspection and testing at such time and date as may be specified. Such inspections and testing shall be in addition to any other statutory provisions.

25. COLLISION

- 25.1 The proprietor shall report to the Licensing Officer, in writing, as soon as reasonably practicable and in any such event within 72 hours of the occurrence thereof, any accident to the vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of passengers therein.
- 25.2 In the event of a licence being suspended due to the nature of the damage, the proprietor shall have the vehicle tested at a nominated testing station and submit the compliance certificate for examination prior to the licence being re-instated.

26. LICENSING POLICY

- 26.1 The Council's Hackney Carriage and Private Hire Licensing Policy (this document) shall be adhered to at all times.

General Requirements and conditions – Installation and Operation

The holder of the licence must notify the Licensing Section in writing prior to installing a CCTV system in the vehicle. Furthermore, the proprietor of the vehicle must ensure that appropriate signage is displayed so as to be visible inside and outside of the vehicle.

CCTV systems must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances. Wherever possible, the CCTV system should not have any sound recording facility. However, if the system comes equipped with a sound recording facility then this functionality should be disabled.

All equipment must comply with any legislative requirements in respect of Motor Vehicle Construction and Use Regulations.

All equipment must meet any and all requirements as regards safety, technical acceptability and operational/data integrity.

All equipment must be designed, constructed and installed in such a way and in such materials as to present no danger to passengers or to the driver, including impact with the equipment in the event of a collision or danger from the electrical integrity being breached through vandalism, misuse, or wear and tear. In particular, the camera(s) must be fitted safely and securely in such a way that it does not adversely encroach into the passenger area and must not impact on the safety of the driver, passenger or other road users.

All equipment must be installed as prescribed by the equipment and/or vehicle manufacturer installation instructions by a competent auto-electrician.

The CCTV system must not weaken the structure or any component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.

All equipment must be installed in such a manner so as not to increase the risk of injury and/or discomfort to the driver and/or passengers. For example, temporary fixing methods such as suction cups will not be permitted, or lighting, such as infra-red, which emits at such a level that may cause distraction or nuisance to the driver and/or passengers.

All equipment must be protected from the elements, secure from tampering and located such as to have the minimum intrusion into any passenger or driver area or impact on the luggage carrying capacity of the vehicle.

It is contrary to the Motor Vehicle (Construction and Use) Regulations 1986 for equipment to obscure the view of the road through the windscreen. Equipment must not obscure or interfere with the operation of any of the vehicle's standard and/or mandatory equipment, i.e. not mounted on or

adjacent to air bags/air curtains or within proximity of other supplementary safety systems which may cause degradation in performance or functionality of such safety systems.

All wiring must be fused as set out in the manufacture's technical specification and be appropriately routed.

The location of the camera(s) installed within the vehicle must be for the purpose of providing a safer environment for the benefit of the taxi or private hire car driver and passengers, and not for any other purpose.

All equipment must be checked regularly and maintained to operational standards, including any repairs after damage.

All system components requiring calibration in situ should be easily accessible.

Automotive Electromagnetic Compatibility Requirements (EMC)

CCTV equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite, or radio system in the vehicle. Any electrical equipment such as an in-vehicle CCTV system fitted after the vehicle has been manufactured and registered, is deemed to be an Electronic Sub Assembly (ESA) under the European Community Automotive Electromagnetic Compatibility Directive and therefore must meet with requirements specified in that Directive.

CCTV equipment should be e-marked or CE-marked. If CE marked confirmation by the equipment manufacturer as being non-immunity related and suitable for use in motor vehicles is required.

Activation of the equipment may be via a number and combination of options, such as - door switches, time delay, drivers' panic button or in the case of incident/event recorder, predetermined G-Force parameters set on one or more axis (i.e. braking, acceleration, lateral forces) and configured to record for a short period of time before the event, during the event and a short period following the event.

Security of Images

All images captured by the CCTV system must remain secure at all times. The captured images must be protected using encryption software which is designed to guard against the compromise of the stored data, for example, in the event of the vehicle or equipment being stolen. It is recommended by the Information Commissioner that the data controller ensures that any encryption software used meets or exceeds the current FIPS 140-2 standard or equivalent. System protection access codes will also be required to ensure permanent security.

Retention of CCTV Images

The CCTV equipment selected for installation must have the capability of retaining images either:

- within its own hard drive;
- using a fully secured and appropriately encrypted detachable mass storage device, for example, a compact flash solid state card;
- or where a service provider is providing storage facilities, transferred in real time using fully secured and appropriately encrypted GPRS GSM telephone) signalling to a secure server within the service provider's monitoring centre. Images must not be downloaded onto any kind of portable media device (e.g. CDs or memory sticks) for the purpose of general storage outside the vehicle. The CCTV system must include an automatic overwriting function, so that images are only retained within the installed storage device for a maximum period of 31 days from the date of capture. Where a service provider is used to store images on a secure server, the specified retention period must also only be for a maximum period of 31 days from the date of capture. Where applicable, these provisions shall also apply to audio recordings.

Use of information recorded using CCTV

Any images should only be used for the purposes described in this document.

Requests may be made to the data controller by Authorised Officers of the Licensing Section, the Police or other statutory law enforcement agencies, insurance companies/brokers/loss adjusters or exceptionally other appropriate bodies, to view captured images, or obtain audio recordings if applicable. The licence holder, as data controller, is responsible for responding to these requests.

Police, Authorised Officers of the Licensing Section or other law enforcement agencies should produce a standard template request form, setting out the reasons why the disclosure is required. Alternatively a signed statement may be accepted. All requests should only be accepted where they are in writing, and specify the reasons why disclosure is required.

Under the Data Protection Act 1998, members of the public may also make a request for the disclosure of images, but only where they have been the subject of a recording. This is known as a 'subject access request'. Such requests must only be accepted where they are in writing and include sufficient proofs of identity (which may include a photograph to confirm they are in fact the person in the recording).

Data controllers are also entitled to charge a fee for a subject access request (currently a maximum of £10) as published in the Information Commissioner's CCTV Code of Practice.

Signage

All taxis and private hire vehicles with CCTV must display signage within the vehicle to indicate that CCTV is in operation. Signs must be visible from the inside and outside of the vehicle. The signage must be displayed in such

positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before and after entering the vehicle.

In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out and this must also be verbally brought to the attention of the passengers.

The name and the contact telephone number of the licence holder, as data controller must be included on the sign.

When the CCTV is activated in response to an incident, the driver of the vehicle must inform the person(s) recorded that their personal data was captured - as soon as practicable after the incident. They should also be informed of the purpose for which the device has been installed, being driver and passenger safety.

Other Legal Requirements

ICO Registration

All proprietors of CCTV cameras must ensure that they comply with any regulations and codes of practise set by the Information Commissioners Office. This includes registering the details of the system.

For further information contact the
Information Commissioners Office 0303 123 1113

<https://ico.org.uk/about-the-ico/what-we-do/register-of-data-controllers/>

Additional Conditions for the licensing of specific vehicle types (limousines, fire appliance, specialist vehicles).

Seat Belts

Seatbelts must be fitted to all forward and rear facing seats and must be worn at all times by passengers whilst the vehicle is in motion. There is no legal requirement for seatbelts on sideways facing seats.

Maximum Passengers

The limousine's seating capacity must be reduced where necessary to a maximum of 8 passengers.

Any seats in the driver's compartment other than the driver's seat shall not be used to carry passengers

The vehicle must not carry more than 8 passengers at any time. (A babe in arms is classed as a passenger no matter what their age).

In any advertisement publicising their limousine service, the operator must state that the vehicle is only licensed to carry 8 passengers.

Alcohol / Entertainment

No alcohol is to be supplied to passengers unless there is in force an appropriate authorisation under the Licensing Act 2003 permitting the sale or supply of the same

If the occupants are below the age of 18, there should be no alcohol carried in the passenger compartment.

Any glassware in the vehicle must be made of either shatterproof glass or plastic

The driver shall not play or permit the performance of any film, video or similar media where any passenger in the vehicle is below the age permitted by the age classification to view the particular film etc.

General

No person involved in the operation of the vehicle may wear a uniform that may lead the passengers or members of the public to believe that they are a member of any emergency services.

All lighting, sirens, signage and other ancillary equipment must not give the impression that the vehicle is an emergency services vehicle.

No person under the age of 15 years may sit on a sideways facing seat.

Physical assistance must be provided by the operator to ensure the safety of passengers

when entering or leaving the vehicle.

Any restriction to the access to certain groups of passengers must be clearly advertised on the promotional literature and stated at the time of the booking.

All conditions contained in the Private Hire vehicle specification and conditions (Appendix 1) apply to limousines and novelty vehicles etc, apart from those that have been specifically exempt.

Further additional conditions may also be applied where applicable.

Private Hire Vehicles

TRAILERS – Specification and Conditions

Private Hire Vehicles licensed by Denbighshire County Council are permitted to tow trailers providing the trailer meets the following specification and conditions:

Trailer Specifications:

1. A Licensing Enforcement Officer must initially approve all trailers in regard to size and type of construction.
2. When initial approval is granted and then annually when the towing vehicle undergoes its Council Test. The tester/inspector must certify that the trailer meets the equivalent standards that would normally be required to pass a Ministry of Transport Test (MOT). The garage's authentication stamp must be applied to the certificate supplied by the inspector.
3. The tow bar must meet with the type approval regulations in respect of all tow bars fitted to cars after August 1998 and be fitted by an approved agent.
4. When towing a trailer, vehicles must have an offside and nearside rear exit, not including the rear back door ie a five door car/minibus
5. The trailer must be of a design that it does not interfere in any way with the operation of any emergency exits or wheelchair access ramps.
6. Unbraked trailers shall be less than 750 KGs gross weight
7. Trailers over 750 KGs gross weight shall be braked acting on at least two road wheels
8. The maximum permissible length of the trailer shall be 7 metres including the drawbar and coupling
9. The width of the trailer shall not be greater than the towing vehicle subject to no trailer being wider than 2.3 metres
10. The maximum length for braked twin axle trailers is 5.54 metres
11. The trailer's body must be constructed of either glass-reinforced plywood/fibreglass or fully galvanised steel.

12. The trailer's full frame must be made of galvanised steel with a straight drawbar.
13. Trailers must have been manufactured by a recognised manufacturer and have not been structurally altered since manufacture.
14. A trailer may be used by more than one licensed towing vehicle but each licensed vehicle used to tow the trailer must be separately approved and the additional licence fee paid for each towing vehicle
15. An additional licence plate will be issued by the Council for each licensed Hackney Carriage and Private Hire vehicle licensed to tow trailers and the relevant plate must be affixed to the rear of the trailer near the number plate whenever an approved trailer is towed by the licensed vehicle.

Trailer conditions:

1. The driver of the towing vehicle must hold the appropriate category on their DVLA driving licence
2. The trailer must only be used on pre-booked journeys when excess luggage is to be carried and not for general use
3. The licensed towing vehicle's insurance must cover the towing of a trailer
4. The trailer shall carry an appropriate spare wheel, adequate tools to change a wheel and correctly inflated spare tyre at all times that it is in use for hire and reward
5. The kerbside weight of the trailer when fully laden should not exceed that determined by the vehicle manufacturer as being the safe towing weight limit
6. A suitable lid or other approved means of enclosure shall be fitted to secure the contents within the trailer when in use and to keep it watertight
7. The trailer must at all times comply with all Road Traffic legislation requirements in particular those as laid down in the Road Vehicles (Construction and Use) regulations 1986
8. The trailer shall not display any form of sign or advertisement apart from the licence plate issued by the Council.

9. Any defect or damage to any kind occurring on the trailer must be reported to the Council within 72 hours.

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Summary of response received	Licensing Authority action/response
Provide justification for the need for a new licensed vehicle	Condition removed
Replacement of vehicles in line with up to date environmental considerations	No action required
The age restrictions for age restrictions are unfair and unacceptable as age of a vehicle is not linked to condition	Considered but appropriate to retain current proposed age restriction as age is a major factor of condition. The current proposal allows drivers to plan ahead for their replacement vehicles
How is the annual compliance check at Fleet Services monitored?	Procedures and databases in place to capture relevant data
Requirement for “new to fleet” vehicles inspected only on a Tuesday at DCC Fleet Services	Condition removed
A need for guidance on fair wear and tear for paintwork is needed in paragraph 2.2 of the Specification and Conditions	Requirement is for professional finish and a consistent colour. Fair wear and tear is not a particular specification of this paragraph
A need for fair wear and tear for condition of vehicles	Requirement is for vehicle to be kept in a safe and clean condition. Fair wear and tear is not relevant to safe and clean so long as the vehicle is maintained as such
to provide evidence of financial ability to maintain a vehicle	Condition removed
Hackney Carriages should be permitted to tow trailers	Considered but appropriate to retain current proposal. The purpose of the restriction for Hackney Carriages is that there is not sufficient rank space to accommodate vehicles and trailers given the number of hackney carriage vehicles licensed. It is permissible for Private Hire vehicles to tow a trailer as the journeys are pre-booked.

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REPORT TO:	Licensing Committee
DATE:	7 December 2016
LEAD OFFICER:	Head of Planning and Public Protection Services
CONTACT OFFICER:	Public Protection Business Manager licensing@denbighshire.gov.uk 01824 706066
SUBJECT:	Update on Penalty Points Procedure

1. PURPOSE OF THE REPORT

- 1.1 To provide members with an annual update on the Penalty Points Procedure.

2. EXECUTIVE SUMMARY

- 2.1 The Penalty Points Policy and Procedure is a single document encompassing how the Council will deal with minor breaches in respect of taxi licensing and was approved by Members in September 2014 and further updated in September 2015.
- 2.2 The issuing of points has been active since January 2015.

3. BACKGROUND INFORMATION

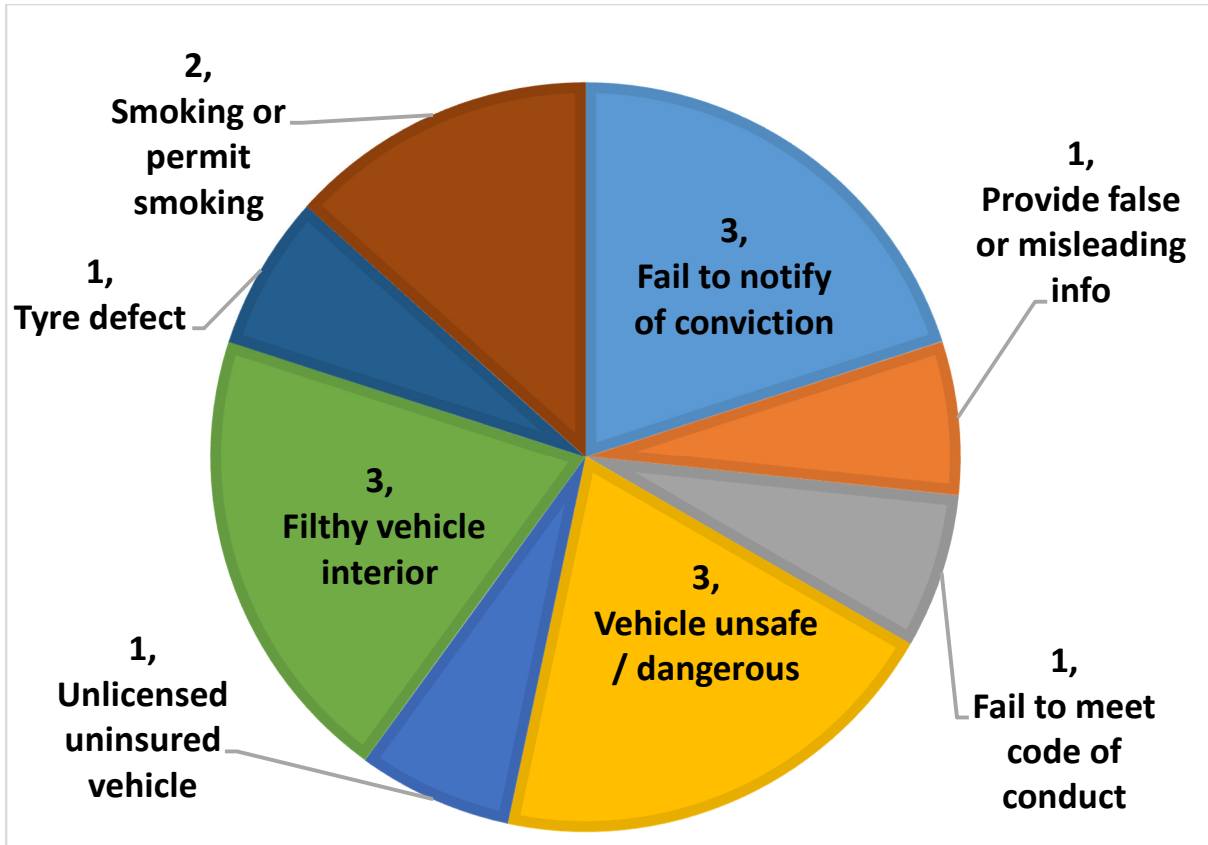
- 3.1 The council's key responsibility under the licensing legislation is to ensure that only fit and proper persons are granted and remain hackney carriage / private hire drivers or operators. This is to ensure the safety of those using hackney carriages and private hire vehicles and general public.
- 3.2 Members will be aware that Officers presented a revised Penalty Point Policy and Procedure at the September 2015 Committee meeting.
- 3.3 Following a period of consultation Members resolved to adopt the revised Penalty Points Policy and Procedure at their March 2016 Committee meeting.
- 3.4 The Policy and Procedure is to be reviewed every three years.

- 3.5 In adopting the Policy and Procedure members requested a progress report on the anniversary of the introduction of the Policy and Procedure.
- 3.6 The period for this update is from 1st October 2015 – 30 September 2016. Members will note that the following points of interest:
- Points have been awarded throughout the year to 15 drivers in total. This equates to 3% of the total of the licensed drivers.
 - No driver has had multiple incidents resulting in the issue of points.
 - Four drivers were issued with the maximum number of points in a single incident
 - Some drivers have appeared in front of this Committee
 - Three incidents involved presenting a vehicle for test which was in an unsafe condition. This has increased from two incidents last year.
 - Failing to report convictions has trebled as has vehicles showing a dirty/filthy interior
 - Incidents of tyre defects have reduced by 80% and smoking in a vehicle has halved from last year.
- 3.7 A chart showing the awarded points during the period can be found at Appendix A.
- 3.8 Members will note the increase in certain areas of the Penalty Points scheme. Officers are proposing that they should continue with advisory messages via Newsletters and press articles together with regular roadside compliance checks to reduce non-compliance.

4. RECOMMENDATIONS

- 4.1 Members acknowledge the information provided on the breakdown of the points issued.

Breakdown of Points Issued



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REPORT TO:	Licensing Committee
DATE:	7 th December 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 a further draft of the policy and seek 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 At their last Meeting in September 2016, Members had the opportunity to consider an initial draft policy and discussed various options to be incorporated within any future draft.
- 3.3 It was agreed that the revised policy should include a system of “temporary block” consents or “special event” consents for use at community events to simplify the process and encourage attendance.
- 3.4 Reference to these events has been made at Paragraph 7 of the attached draft policy, however it is envisaged that final guidelines relating to such events will be determined once consultations with Town Councils has been completed.
- 3.5 Reference was also made to the existing system of prohibited streets for street trading purposes in Rhyl and Prestatyn and officers confirmed that part of the review would include whether any change to the current system of prohibited and consent streets would be appropriate

4.0 OFFICERS COMMENTS

- 4.1 When considering the current system of prohibited and consent streets, it has become apparent that further in-depth consultations need to be carried out with both Town & Community Councils and relevant sections within the Council.
- 4.1.2 This would enable Officers to establish a list of approved sites, taking into consideration whether, for instance, there are any particular areas that Town Councils do not wish to be used to accommodate Street Trading on a regular basis. Similarly, there may be technical reasons such as planning controls or traffic orders that restrict trading.
- 4.1.3 Officers would therefore request that Members afford them the opportunity to carry out the work outlined above before putting the policy out to public consultation.
- 4.2 Members may recall that officers also intend to revise the current scale of fees for Street Trading; currently, prospective traders may apply for Consents for up to 1 year .
- 4.3 Along with a final draft of the policy, Officers intend to present Members with a fully revised fee schedule at their next Meeting.
- 4.4 In order to ensure that fees are waived at special events appropriately, Section 7.0 of the attached revised policy specifies that traders attending community events for commercial gain will be subject to a street trading fee. However, there will be scope for the fees at some small community events or those being held for charitable causes to be waived.

5.0 RECOMMENDATION

- 5.1 That Members consider the contents of this report and authorise Officers to continue work on the draft Street Trading Policy by working with both Town and Community Councils and relevant sections within the Council to establish their views before undertaking a wider public consultation.

1

Purpose of the Policy

- 1.1 This policy sets out Denbighshire County Council's (hereafter referred to as the Council) framework for the management of street trading in Denbighshire. Through the street trading scheme the Council aims to regulate the location and number of street traders. The scheme also aims to prevent the obstruction of the streets of Denbighshire by street trading activities. In doing so, it recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause nuisance or annoyance to the people in the area.
- 1.2 This document will guide the Licensing Authority when it considers applications for Street Trading Consents. It will inform applicants of the parameters in which the authority will make decisions and how their needs will be addressed.
- 1.3 It also highlights the Council's undertaking to avoid duplication with other statutory provisions and our commitment to work in partnership with other enforcement agencies.

2 Consultation

- 2.1 In determining this policy, the Council has consulted the following people and bodies:
- North Wales Police
 - North Wales Fire and Rescue Service
 - Denbighshire County Council Highways
 - Denbighshire County Council Ward Members
 - Town and Community Councils
 - All current Consent Holders
 - The general public
- 2.2 We have also consulted with relevant departments within Denbighshire County Council and have taken into account the views of all appropriate bodies and organisations.

3 Review of the Policy

- 3.1 This policy will be reviewed every three years. At the time of the review, we will again consult all interested parties. As well as the three-yearly reviews, we will continue to evaluate the policy and may update it at any time. Any minor changes will be considered by the Licensing Committee.

4 Legislation and current provision

- 4.1 In June, 2005 the Licensing Committee resolved to readopt Part 3, Schedule 4
4 Of the Local Government (Miscellaneous Provisions) Act 1982 relating to Street Trading in the whole of the County.

‘Street Trading’ is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street – subject to a number of exceptions such as:

- (a) Trading as a pedlar under the authority of a pedlar’s certificate granted under the Pedlars Act 1871.
- (b) Any trade in a market or fair, the right to hold which having been obtained by a grant, enactment or order.
- (c) Trading as a news vendor.
- (d) Trading at or adjoining a shop premises as part of the business of the shop.
- (e) Offering or selling things as a roundsman.

Schedule 4 defines a street as any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980.

A consent street is a street in which street trading can only take place if the consent of the local authority has first been obtained.

Prohibited streets are streets where no street trading may take place at all.

A licence street is a street that requires a formal licence before any form of street trading can take place.

All streets in Denbighshire County Council are designated as consent streets with the exception of a number of Prohibited Streets in the Rhyl and Prestatyn Area. There are currently no licence streets within Denbighshire (*a list of designated streets will be attached to the final policy when confirmed*)

Street Traders that serve hot food or drink at any time between the hours of 23.00 and 05.00 will also require a Premises Licence for Late Night Refreshment under the Licensing Act 2003.

5 The Licensing Process and Delegation of Functions

5.1 This part of the document sets out how we will deal with applications for Street Trading Consent within Denbighshire. The Council aims to provide a clear, consistent licensing service for service users whilst aiming to protect the safety of highway users and residents and prevent nuisance or annoyance.

5.2 Delegation is laid out in the Council’s Constitution as follows:

Full Council sets policies on licensing.

The Licensing Committee:

- recommends and reviews policies on licensing
- sets and reviews licence fees
- agrees and varies a street trading scheme.
- decide applications to renew street trading permission when there has been a complaint about the trader or the trader has broken the conditions of their street trading permission in the past year.

The Head of Planning and Public Protection is authorised to:

- (a) Issue Street Trading Consents and attach such conditions as are necessary under the Local Government (Miscellaneous Provisions) Act 1982;
- (b) Refuse any application for a Consent that:
 - (i) in the opinion of the Head of Planning and Public Protection does not comply with the Council's conditions and policies;
 - (ii) where there are objections from any of the following consultees; (Police, Fire or Highways on the grounds of Public or Highway safety);
- (c) Refer applications to the Licensing Committee:
 - (i) when there has been a complaint about the trader or the trader has broken the conditions of their Street Trading Consent in the past year;
 - (ii) where there is competition for a vacant approved site.
- (d) Suspend a Consent for a period of up to 28 days pending referral to the Licensing Committee or Food Health & Safety Team where serious food safety issues are found.

New Applications for a Street Trading Consent

5.3 An application for Street Trading Consent must be made to the Council in writing. The following will be required to be submitted with the application:

- (a) A completed and signed Street Trading Consent Application Form.
- (b) The full application fee as appropriate.
- (c) Where the proposed street activity is from a fixed position, a copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line.
- (d) Colour photographs of the stall, van, barrow, cart etc. that will be used for the street trading activity.
- (e) A certificate of Public Liability Insurance that covers the street trading activity for third party and public liability risks. The minimum insurance cover shall be £5,000,000.
- (f) A current Level 2 Award in Food Safety in Catering certificate for all food handlers.
- (g) A valid Waste Transfer Note.

(h) Proof of the applicant's and any prospective employee's right to work in the UK.

(i) Gas safety certificate for the vehicle or stall if applicable.

5.4 Street Trading Consents are issued for a period of up to one year and renewed annually, unless granted for a reduced period.

5.5 Before a Street Trading Consent is granted or refused the Council will carry out a consultation process with various persons and groups. In particular the following organisations or persons are consulted:

- Denbighshire County Council Highways
- North Wales Police
- Ward Councillors
- Planning
- Food and Environmental Health

Written observations from the above organisations will be sought and taken into consideration when determining an application.

5.6 Street Trading Consents will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site.
- There is a conflict with Traffic Orders such as waiting restrictions.
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes.
- The trading unit obstructs the safe passage of users of the footway or carriageway.
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities.
- The supply of hot or cold food and drinks or confectionery between 07:30 and 18:00 within 100 metres of the boundary of a school or college.

5.7 In considering applications for the grant or renewal of a Street Trading Consent the following factors will be considered:

(a) Public Safety

Whether the street trading activity represents, or is likely to represent, a substantial risk to the public. Factors taken into account will include: obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.

(b) Public Order

Whether the street trading activity represents, or is likely to represent, a substantial risk to public order. Traders will conduct themselves in a professional manner.

(c) The Avoidance of Public Nuisance

Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public from noise and/or odour particularly in residential areas.

(d) Appearance of the stall or vehicle

The stall or vehicle must be maintained in good condition smart appearance and meet criteria, including size, laid down in the standard Consent conditions. Photographs or sketches, including dimensions, must be provided with all new applications and requests for approval of changes to or replacement of a stall or vehicle. The general appearance of the vehicle or stall will also be considered in order to determine that the unit will not detract from the appearance of the surrounding area.

(e) Needs of the Area

The demand for the articles for sale, and the geographical location of the proposed site.

(f) Environmental Credentials

The impact of the proposed operation on the local environment including street surfaces and materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste generated by customers. Provision of adequate measures to minimise the environmental impact of the proposed operation.

(g) Food Traders

Applicants to trade in hot or cold food must be able to demonstrate a good understanding of food safety and be registered as a food business with the relevant local authority. As a minimum, food handlers must hold a current Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health.

(h) Highway

The location and operating times will be such that the highway can be maintained in accordance with Denbighshire County Council's requirements and that there are no dangers to those who have a right to use the highway and no obstruction for emergency access.

- 5.9 There is no statutory right of appeal against refusal to issue a Consent.

Mobile Street Trading

- 5.10 Street traders that meet the conditions below will be classed as mobile. Ice cream vans and mobile sandwich sellers would typically be deemed to be street traders.
- 5.11 Traders must meet all of the below conditions to be classed as mobile:

- move from location to location
- move at least 50 metres from the last trading location and do not return to that location within four hours
- do not wait in one location for more than twenty minutes
- do not trade within 100 metres of the boundary of any school or college between the hours of 07:30 and 18:00 (without formal invitation from the establishment).

5.12 Due to the nature of their trade over a wide geographical area and their limited impact upon a single location mobile street traders will automatically be granted a street trading Consent subject to meeting all the above conditions and submitting a complete application.

Renewal Applications for a Street Trading Consent

5.13 Street Trading Consents are renewed annually from the date of first grant, unless granted for a reduced period. A renewal application for Street Trading Consent must be made to the Council in writing at least 28 days before the date of expiry. The following will be required to be submitted with the application:

- (a) A completed and signed Street Trading Consent Application Form.
- (b) The full fee as appropriate.
- (c) A certificate of Public Liability Insurance that covers the street trading activity for third party and public liability risks.
- (d) A current Level 2 Award in Food Safety in Catering certificate for all food handlers.
- (e) Proof of the applicants and any prospective employees right to work in the UK.
- (f) A gas safety certificate for the vehicle or stall if applicable.
- (g) A licensed waste carrier agreement.

5.14 At this renewal time, the Council may consult further to determine if the street trader is a cause for concern or has been the subject of complaints.

5.15 If a renewal application is not made before the expiry of the current licence, a new application will have to be made. The effect of this will be that a trader will not be permitted to trade until the new Consent is issued.

5.16 Where a renewal application has been made and there have been no justifiable complaints, no enforcement issues and all fees have been paid on time, the Consent will be renewed.

5.17 Where a renewal application has been made and there have been complaints or enforcement issues or fees have not been paid on time, then the application will be referred to the Licensing Committee.

Vacant Sites

- 5.18 In the event of a Consent being revoked, surrendered or not renewed the Council will advertise vacancies on the Council's website for 28 days. If there is more than one applicant for a vacant site, the applications will be referred to the Council's Licensing Committee who will use the criteria listed at paragraph 5.8 of this policy to make their determination of who to award the vacant site to.

Transfers

- 5.19 A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The sub letting of a pitch is prohibited.

6 Markets

- 6.1 Markets (other than those classed as Special Events) are outside of the scope of the street trading scheme at this time.

7 Special Events

- 7.1 For events such as Christmas or Continental Street Markets, the Council will accept one application from the person organising the event. The event street trading application will require full details of each trader attending the event. Consent will be issued to each individual stall holder. This policy is aimed at promoting events and encouraging traders to attend.
- 7.2 Street trading fees for stalls at charitable or special events may be waived. Street trading is considered to be for charity benefit if the profits from individual stalls/units are donated to charity. These stalls/units would be exempt from Street Trading fees. Any traders (such as traders selling food or refreshments) attending for commercial gain will be subject to a Street Trading fee. Trading at small community events will be exempt from Street Trading fees. Approval for such events must be obtained by the organiser from the relevant Town & Community Council.

8 Fees

- 8.1 Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the location, the duration of the Consent, trading hours, and the articles to be sold. Where trading ceases during the term of Consent, refunds will not be given for any outstanding period of less than 3 months. Details of the current fees can be found on the Council's website or on application to the Licensing Officer. Fees must be paid in advance. Consent fees may be paid in equal instalments, but the first instalment must be paid in advance of the issue of Consent.
- 8.2 Applications for annual Consents should be accompanied by a non-refundable fee deposit. If the application is approved, the balance of the fee will be due before the Consent is issued. If the application is not successful the fee will be retained to cover the cost incurred in processing the application.

9 Conditions

9.1 The Council applies standard conditions to Street Trading Consents.

- General conditions for annual and weekly Street Trading Consents
- Additional conditions applicable to Special Events

The standard conditions are not exhaustive and other conditions may be added to individual Consents where appropriate.

9.2 Standard Trading Hours are:

(a) Roadside locations for vehicles

- Daytime site from 08:00 to 18:00.
- Evening sites for the Sale of Hot Food from 18:30 to 03:00 (can be extended to 04:00 Thursdays, Fridays, and Saturdays on application and subject to approval).

(b) Pavement locations

08:00 to 21:00.

9.3 Street trading can only be carried out from the stall or vehicle authorised on the Certificate of Street Trading Consent. Any changes to or replacement of the stall or vehicle must be approved by the Head of Planning and Public Protection.

10 Enforcement

10.1 The Council is committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies, to provide consistent enforcement on licensing issues.

10.2 The Licensing Team aims to work closely with other enforcement authorities to regulate relevant legislation where necessary.

10.3 Where licensable activities are conducted without the benefit of a licence, permit or consent or where conditions are breached, the Council will look to gather evidence and take enforcement action as appropriate.

10.4 If the Council feels that there is an issue of public order or threat to public safety in any particular instance, it will call for assistance from North Wales Police.

10.5 The Council may call for assistance from the CCTV centre when dealing with such issues.

10.6 Failure to comply with one or more of the standard conditions of Consent may lead to revocation or non-renewal of Street Trading Consent.

11 Contacts

The street trading function is part of the Licensing Team within the Planning and Public Protection Team.

To enquire about any street trading issue, please visit our website:
_or contact us via email licensing@denbighshire.gov.uk or by ringing the
Licensing Team on 01824 706342.

ANNEX 1 General Conditions for Annual and Weekly Street Trading Consents

1. No trading shall take place other than between the dates specified on the Street Trading Consent.
2. Street trading shall only be carried out during operational hours specified on the Street Trading Consent.
3. The Street Trading Consent relates only to the area/site vehicle or stall specified on the Street Trading Consent.
4. The Street Trading Consent relates only to the vehicle or stall specified on the Street Trading Consent.
5. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the Consent. Any significant changes to or replacement of the stall or vehicle must be approved by the Head of Planning and Public Protection.
6. The Consent Holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
7. The Consent Holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate. Vehicle movements must be carried out legally and must not present a risk to people and structures. The Consent Holder shall not drive or park a vehicle on any part of a footway.
8. The Consent Holder shall ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued. All goods shall be displayed on the stall and no freestanding racks or displays are permitted. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorized Council Officer or Police Officer they shall immediately comply with that request.
9. The Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force.
10. The Consent Holder shall conduct their business in a professional manner and in a way that minimises risks to employees and others.
11. The Consent Holder must take reasonable precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. A serviceable fire blanket and a suitable fire extinguisher shall be provided in all vehicles selling hot food.
12. Reasonable steps must be taken to ensure gas safety where gas appliances are used on a stall or vehicle. Gas appliances must be maintained and serviced as per manufacturer's instructions. Gas appliances and systems must be checked for safety by a competent Gas Safe engineer at least annually. Any faults or concerns in relation to gas safety must be appropriately investigated and made safe by a competent Gas Safe engineer as soon as possible.
13. All hot food vans/trailers are required to carry a basic first aid kit and have the means to contact the emergency services if necessary.

14. All food businesses must be registered as a food business with the local authority where the van/stall is kept overnight. All food businesses registered outside of the Denbighshire County Council area must be able to demonstrate food business registration, e.g. by written confirmation from the relevant local authority or by providing a copy of the latest inspection letter or report. Any changes in registration details must be notified to the relevant local authority.
15. All food handlers must hold a current Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health.
16. All food businesses must achieve and maintain a minimum Food Hygiene Rating of '3 – Generally Satisfactory'. The Hygiene Rating must be displayed prominently on the stall or vehicle.
17. The Consent Holder shall not be the cause of any nuisance or annoyance to any other user of the highway, the occupier of any land or building or the Denbighshire County Council. Consent Holders shall have special regard to and must take action to prevent excessive noise.
18. Legislation places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier. No water or waste material shall be discharged on to the highway or any adjacent property. The Consent holder shall take reasonable steps to ensure that litter arising from their own trade is minimised as far as possible, for example by making a bin available for customers to use.
19. A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The subletting of a pitch is prohibited.
20. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Head of Planning and Public Protection of the name and address of that person. An administration fee will be payable.
21. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Head of Planning and Public Protection.
22. A Consent Holder may terminate a Street Trading Consent by written notice to the Head of Planning and Public Protection. A refund of the portion of the fee equal to the remaining full months will be payable, less £50.00 which the Council will retain to cover administrative costs.
23. Consent holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.
24. A copy of the Consent shall be displayed by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
25. Consent Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. Proof of cover

must be produced to an officer of Denbighshire County Council on application and as required.

26. These general conditions, which apply to all Street Trading in Denbighshire, may be varied, having regard to a particular location. They are termed Special Conditions and listed on the Consent. These Special Conditions must also be complied with.
27. For Annual Street Trading Consents fee instalments are required quarterly, in advance. The first instalment must be paid in advance of the issue of Consent. The remaining fee can be paid in 3 further equal instalments on the following dates 1st July, 1st October and 2nd January. Annual fees may be paid in advance.
28. The sale of food and/or drink is not permitted by Weekly Street Traders. The items to be sold must be agreed before a Weekly Consent can be issued.
29. For food traders all packaging and utensils for use by customers shall be made of biodegradable or recyclable materials.

Failure to comply with these conditions

If a Consent Holder fails to comply with any of the conditions attached to a Street Trading Consent, the Consent may be suspended for an indefinite period or revoked. The Consent Holder may also be prosecuted.

Additional Conditions Applicable to Special Events/Markets

1. All stalls to be issued with a number that must be displayed on the stall.
2. The Consent Holder should keep records of each stallholder present on the market, to include the stallholder's pitch number, name and company name, their address, vehicle registration and a contact telephone number. This must be produced on request to an authorised officer.

ANNEX 2 List of Small Community Events Exempt from Street Trading Fees

To be confirmed following consultation

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REPORT TO:	Licensing Committee
DATE:	7th December 2016
LEAD OFFICER:	Head of Planning & Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Review of Sex Establishment Policy

1. PURPOSE OF THE REPORT

To inform Members of the current position regarding proposals to compile a draft revised Sex Establishment Policy.

2. EXECUTIVE SUMMARY

- 2.1 Members may recall that a report proposing a review of the Council's Sex Establishment Policy was placed before them for consideration in March 2015.

3. POWER TO MAKE THE DECISION

Local Government (Miscellaneous Provisions) Act 1982.

4. BACKGROUND

- 4.1 The original report (attached at Appendix A) informed Members of the introduction of Section 27 of the Policing and Crime Act 2009 which reclassified lap dancing clubs as sexual entertainment venues and gave local authorities the power to regulate such venues as Sex Establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 4.2 Members were informed that these powers were not automatic and would only apply if specifically adopted by local authorities. Consequently, Members were asked to consider whether to adopt the provisions of Section 27 which would require a public consultation prior to implementation.

4.3 Having considered the contents of the report at Appendix A, Members agreed that steps should be taken with a view to adopting the necessary legislation and amending the current Sex Establishment Policy in that regard. It was therefore resolved that:

(a) Officers be requested to compile a draft revised Sex Establishment Policy that is fit for purpose for submission to a future meeting prior to undertaking a public consultation, and

(b) The provisions of Section 27 of the Policing and Crime Act 2009 be adopted and incorporated within the draft revised Sex Establishment Policy.

5. CONSIDERATION

5.1 Whilst there are currently no premises of this type in Denbighshire, the adoption of these powers will serve as a preventative measure for any future premises.

5.2 Due to current workloads and the need to prioritise the formulation and revision of policies, officers consider they will be in a position to present Members with a draft revised Policy in 2017/2018.

5.3 Until such time as a revised policy is formulated and adopted, officers will continue to refer any future applications to Licensing Committee under existing procedures.

6.0 RECOMMENDATION

That Members note the report and agree to the timescales therein for formulation of a revised draft Sex Establishment Policy.

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

1. PURPOSE OF THE REPORT

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

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

2. EXECUTIVE SUMMARY

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

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

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

3. POWER TO MAKE THE DECISION

Local Government (Miscellaneous Provisions) Act 1982.

4. BACKGROUND

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

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

5. CONSULTATION

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

6. COST IMPLICATIONS

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

7. IMPLICATIONS ON OTHER POLICY AREAS

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

8. CONSIDERATION

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

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

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

9. RECOMMENDATION

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

REPORT TO:	Licensing Committee
DATE:	7 December 2016
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Public Protection Business Manager licensing@denbighshire.gov.uk 01824 706066
SUBJECT:	Forward Work Programme 2017

1. PURPOSE OF THE REPORT

- 1.2 To provide Members with a proposed Forward Work Programme for 2017.

2. EXECUTIVE SUMMARY

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

3. BACKGROUND INFORMATION

- 3.1 Members will be aware that at a previous Licensing Committee, Members approved an 18 month Forward Work Programme.
- 3.2 In drafting this Forward Work Programme, Officers have considered the policies relevant to the Licensing committee and the review dates of those policies along with any potential legislative changes being proposed by central government.
- 3.3 If Members are minded to approve this 12 month Forward Work Programme then Officers will update Members at each committee meeting with an updated Forward Work Programme and maintain a rolling 12 month Forward Work Programme. It is proposed that this format will enable Officers to react to emerging pressures or impending changes as they arise and without the need to make significant changes to the programme.
- 3.4 Members should note that this Forward Work Programme does not include items that would ordinarily be added to the Licensing Committee agenda on an ad hoc basis, for example taxi driver hearings.

4. **RECOMMENDATION**

- 4.1 For Members to approve the proposed Forward Work Programme, as detailed in the Appendix.
- 4.2 For members to authorise Officers to introduce a rolling 12 month Forward Work Programme to be updated for each Committee meeting.

Licensing Committee

Work Programme

Committee Date	Report	Comment
March 2017	Statement of Licensing Policy	Approval
June 2017	Statement of Principles (Gambling)	First draft for consultation
	Sex Establishment	First draft for consultation
	Street Trading	Approval
September 2017	Hackney Carriage and Private Hire Driver Conviction Policy	First draft for consultation
	Hackney Carriage and Private Hire Driver / Operator Conditions/policy	First draft for consultation
December 2017	Statement of Principles (Gambling)	Approval
	Sex Establishment	Approval

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