

To: Members of the Licensing
Committee

Date: 14 September 2017

Direct Dial: 01824 712568

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Dear Councillor

You are invited to attend a meeting of the **LICENSING COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 20 SEPTEMBER 2017** in the **COUNCIL CHAMBER, RUSSELL HOUSE, RHYL.**

Yours sincerely

G Williams
Head of Legal and Democratic Services

AGENDA

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

1 APOLOGIES

2 DECLARATION OF INTERESTS

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

3 URGENT MATTERS AS AGREED BY THE CHAIR

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

4 MINUTES OF THE LAST MEETING (Pages 9 - 18)

To receive the minutes of the Licensing Committee held on 28 June 2017 (copy enclosed).

PART 2 - CONFIDENTIAL ITEMS

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

5 APPLICATION FOR A HACKNEY CARRIAGE VEHICLE LICENCE (Pages 19 - 28)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of a request to licence a vehicle for the purposes of hackney carriage licensing.

6 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 519937 (Pages 29 - 40)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of an application from Applicant No. 519937.

7 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 520399 (Pages 41 - 52)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of a renewal application from Applicant No. 520399.

8 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 520398 (Pages 53 - 64)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of a renewal application from Applicant No. 520398.

9 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 516098 (Pages 65 - 68)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of an application from Applicant No. 516098.

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

10 REQUEST FOR ADVERTISING ON A HACKNEY CARRIAGE VEHICLE (Pages 69 - 76)

To consider a report by the Head of Planning and Public Protection (copy enclosed) seeking members' determination of a request from a Hackney Carriage Proprietor for approval to display emblems on his licensed vehicle.

11 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER REGIME (Pages 77 - 114)

To consider a report by the Head of Planning and Public Protection (copy enclosed) regarding the development of a draft Hackney Carriage and Private Hire Driver Policy to better regulate and support the hackney carriage and private hire regime in the county.

12 PROPOSED CHANGES TO TAXI LICENSING FEES AND TARIFF CHARGES (Pages 115 - 120)

To consider a report by the Head of Planning and Public Protection (copy enclosed) seeking members' approval of proposed changes to fees and charges for the taxi licensing regime.

13 REVIEW OF STREET TRADING POLICY (Pages 121 - 122)

To consider a report by the Head of Planning and Public Protection (copy enclosed) updating members on progress with the review of the current street trading policy in Denbighshire.

14 REVIEW - GAMBLING ACT 2005 STATEMENT OF PRINCIPLES (Pages 123 - 124)

To consider a report by the Head of Planning and Public Protection (copy enclosed) updating members on progress with the review of the Council's Statement of Principles for the Gambling Act 2005.

15 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2017/18 (Pages 125 - 128)

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

MEMBERSHIP

Councillors

Hugh Irving (Chair)
Joan Butterfield
Brian Jones
Barry Mellor
Melvyn Mile
Arwel Roberts

Alan James (Vice-Chair)
Peter Scott
Rhys Thomas
Tony Thomas
Huw Williams

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All Councillors for information
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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: <ul style="list-style-type: none"> 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. <p>The Solicitor will explain to the licence holder the implications of the decision.</p>
17.	The applicant/licence holder will be informed of the decision in writing as soon as practicable.
18.	The applicant/licence holder will be invited to discuss any matter they are unsure of with Licensing Officers after the Committee

LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

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

Denbighshire County Council

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

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)**

Signed

Date

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

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LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 28 June 2017 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Hugh Irving, Alan James, Brian Jones, Barry Mellor, Melvyn Mile, Arwel Roberts, Peter Scott and Huw Williams

Observer – Councillor Meirick Davies

ALSO PRESENT

Solicitor (AL), Head of Planning and Public Protection (GB), Public Protection Business Manager (IM), Licensing Officer (NJ), Licensing Enforcement Officer (TB) and Committee Administrator (KEJ)

1 APOLOGIES

Councillor Rhys Thomas

2 APPOINTMENT OF CHAIR

Nominations were sought for the appointment of Chair of the Licensing Committee for 2017/18. Councillor Brian Jones proposed, seconded by Councillor Arwel Roberts that Councillor Hugh Irving be appointed Chair. Councillor Joan Butterfield proposed, seconded by Councillor Barry Mellor that Councillor Alan James be appointed Chair. Upon being put to the vote it was –

RESOLVED that Councillor Hugh Irving be appointed Chair of the Licensing Committee for the ensuing year.

3 APPOINTMENT OF VICE CHAIR

The Chair invited nominations for Vice Chair of the Licensing Committee for 2017/18. Councillor Joan Butterfield proposed, seconded by Councillor Barry Mellor that Councillor Alan James be appointed Vice Chair. There being no further nominations and upon being put to the vote it was –

RESOLVED that Councillor Alan James be appointed Vice Chair of the Licensing Committee for the ensuing year.

4 DECLARATION OF INTERESTS

Councillors Joan Butterfield, Alan James, Brian Jones, Barry Mellor and Tony Thomas declared a personal interested in Agenda Item 12 – Renewal Application for a Licence to Drive Hackney Carriage and Private Hire Vehicles because the Applicant was known to them.

5 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

6 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 8 March 2017 and Special Licensing Committee held on 5 April 2017 were submitted.

RESOLVED that the minutes of the meetings held on 8 March 2017 and 5 April 2017 be received and confirmed as a correct record.

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

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following items of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 14 of Part 4 of Schedule 12A of the Act.

7 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 517116

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

- (i) an application having been received from Applicant No. 517116 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the application in light of the convictions revealed following an enhanced disclosure to the Disclosure and Barring Service (DBS) relating to offences committed in 1998 under the Road Traffic Act 1988 which had not been disclosed by the Applicant and the accumulation of 14 penalty points on his DVLA Driving Licence relating to traffic offences committed during 2014 and 2015, one of which had not been disclosed by the Applicant;
- (iii) relevant documentation relating to the case including details of the Applicant's formal interview having been attached to the report;
- (iv) referred to the Council's policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to the meeting in support of his application and to answer members' questions thereon.

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

The Licensing Enforcement Officer (TB) introduced the case.

The Applicant provided some background information relating to his personal circumstances and employment history and his ambition to become a taxi driver. He explained the circumstances surrounding the application process including discussions with licensing staff regarding his offences and detailed his reasoning behind the omission of particular details of offences on the application form and timing of its submission based on their advice. Reference was also made to the taped interview and he elaborated further on the advice provided by licensing staff and called a witness who was in attendance to collaborate his statement. The witness also provided a character reference for the Applicant. Finally the Applicant assured members that he was fit to hold a licence which had been demonstrated in his previous and current part time occupation and he provided an explanation of the offences incurred and his circumstances during that time.

During questioning the Applicant reported upon research he had undertaken regarding the pertinence of his convictions and his belief that, apart from 3 penalty points, the remaining penalty points as detailed within the report had been spent. However he conceded that he may have placed too much reliance on the advice provided by licensing staff during the application process.

Officers clarified a number of issues and responded to questions as follows –

- information regarding penalty points was provided on the DVLA's website – points remained on the licence for 3 years and were kept on record for 4 years in the majority of cases. The points incurred by the Applicant were relevant in the application process and remained on record until the dates as specified in paragraph 4.9 of the report
- the application had been made and received on 31 March and the DBS certificate had been submitted in May 2016
- the Council's conviction policy specified that a driver may be referred to the Licensing Committee where there were more than two minor traffic offences
- every application pack included guidance for applicants and the Council's convictions policy and clearly stated how convictions would be dealt with. The hackney carriage/private hire licensing conditions (blue book) had not been issued at that time and related to conditions following the grant of a licence.

In making a final statement the Applicant reiterated that he had discussed his application with licensing staff and had disclosed his convictions and sought advice thereon prior to completion of the application form which had been submitted in accordance with that advice. He assured members that he was fit to hold a licence and that he did not present a risk to the public based on his conviction history and taking into account his good character.

The committee adjourned to consider the application and it was –

RESOLVED that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 517116 be refused.

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

Members had carefully considered the facts of the case and explanation provided by the Applicant with regard to the offences and reasoning behind his non-disclosure of relevant convictions. The Applicant had 14 penalty points which remained on record, some of which he had failed to disclose on his application form. Therefore members determined that the application should be refused on that basis in accordance with the Council's conviction policy.

No mitigation put forward by the Applicant had persuaded members that they should deviate from the conviction policy and grant the application and it was considered that the onus was on the Applicant to ensure the correct information was provided on the application form. However the Applicant was reminded that he was able to make a fresh application at such time in the future when the penalty points had been spent.

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

8 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 518819

[Councillors Joan Butterfield, Alan James, Brian Jones, Barry Mellor and Tony Thomas declared a personal interest and left the meeting for the duration of this item.]

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

- (i) a renewal application having been received from Applicant No. 518819 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the renewal application following accrual of 9 penalty points on the Applicant's DVLA Driving Licence for traffic offences covering the period February 2014 to May 2018 which had been confirmed following a routine check as part of the renewal application;
- (iii) the Council's policy with regard to the relevance of convictions, and
- (iv) the Applicant having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Applicant was accompanied by his Legal Representative and confirmed receipt of the report and committee procedures.

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

The Applicant explained the circumstances surrounding the three traffic offences, particularly with regard to the last offence and mitigation which had been accepted

by Magistrates and reflected in the reduction of penalty points awarded. The Legal Representative added that the minor speeding offences would be expended in 2018 and highlighted the zero tolerance approach taken by North Wales Police in that regard. He also reiterated the mitigation put forward with regard to the last offence when the passenger had been taken ill. In closing the Legal Representative advised that removal of the licence would result in financial difficulty for the Applicant and advised that there were few night time drivers and the Applicant helped to meet that demand.

The Applicant responded to members' questions regarding the offences and confirmed that he worked independently. It was also established that, notwithstanding the recent changes in legislation regarding speeding offences, the zero tolerance approach had been implemented for some time prior to that.

In making a final statement the Applicant's Legal Representative advised that he was not attempting to circumvent due process and had clearly explained the circumstances regarding the traffic offences. If members determined to remove the licence it would also remove the Applicant's livelihood and cause financial difficulty.

The committee adjourned to consider the application and it was –

RESOLVED that the renewal application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 518819 be granted with a formal warning issued as to his motoring convictions and future conduct.

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

The committee's overriding consideration was public safety and reference to the submissions that removal of the licence would cause financial strain and put pressure on those seeking taxis services at night were not relevant considerations and disregarded. Members had carefully considered the facts of the case and mitigation put forward by the Applicant in terms of the motoring convictions. Concern was expressed regarding the accumulation of 9 penalty points which would generally warrant refusal of the application. However, having considered the mitigation and given that the convictions were classed as minor traffic offences, and accepting that the final conviction had occurred under difficult circumstances, it was agreed not to refuse the renewal application on this occasion. Instead consideration was given to either suspending the licence for an appropriate period or issuing a formal warning. On balance it was decided that a strict warning regarding the traffic convictions incurred and future conduct should be issued in this case. The Applicant was also reminded of the importance of disclosing any offences following conviction in accordance with licensing conditions.

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

9 DISPENSATION FROM REQUIREMENT TO DISPLAY PRIVATE HIRE VEHICLE LICENCE PLATES (1)

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

- (i) an application for dispensation from the requirement to display licence plates on two Private Hire Vehicles;
- (ii) the draft policy regarding requests for exemption to display private hire plates and door stickers (Appendix A to the report);
- (iii) the Council's powers to grant a proprietor dispensation from displaying the licence plate taking into account the executive nature of the work along with the quality of the vehicle involved and where the vehicle would be operated;
- (iv) the applicant having provided full details of the two vehicles subject of the application and nature of the business (Appendix B to the report), and
- (v) other determining factors requiring consideration and suggested conditions (Appendix C to the report) should members be minded to grant the dispensation request.

The Licensing Officer provided a summary of the report. She drew members' attention to the suggested conditions (Appendix C to the report) and advised that condition 9 should be removed.

The Applicant elaborated upon the operation and nature of his business which mainly undertook corporate work. The reasoning behind his request for dispensation was explained in order to upgrade the vehicles due to the success and expansion of the business. Previous requests had been granted by the committee and had included endorsements from client companies.

The committee adjourned to consider the application and it was –

RESOLVED that the request for dispensation from the requirement to display the private hire vehicle licence plate and door stickers for the two vehicles as detailed within the report be approved subject to the conditions (removal of condition 9) as detailed in Appendix C to the report.

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

Having considered the report and submission of the Applicant members were satisfied that the nature of the work and quality of the vehicles involved met the criteria for exemption in this case. The conditions had been imposed in order to aid regulation and enforcement. Members had been pleased to note the success of the business and upgrading of the vehicles.

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

10 DISPENSATION FROM REQUIREMENT TO DISPLAY PRIVATE HIRE VEHICLE LICENCE PLATES (2)

The committee was advised that this application had since been withdrawn.

At this juncture (11.15 a.m.) the meeting adjourned for a refreshment break.

OPEN SESSION

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

11 REVIEW - GAMBLING ACT 2005 STATEMENT OF PRINCIPLES

The Public Protection Business Manager submitted a report (previously circulated) presenting the Council's draft Statement of Principles (Gambling Act 2005) for consideration and approval for formal consultation.

Members were reminded of the statutory requirement to review the Statement of Principles every three years. The draft document had been developed by the six licensing authorities in North Wales to ensure consistency in matters relating to Gambling issues and functions and due regard had been given to the licensing objectives of the Gambling Act 2005 and the Gambling Commission's 'Guidance of Licensing Authorities' as part of that review. Details of the consultation process had also been provided which included both responsible authorities and existing licence and permit holders. Members confirmed they were happy to approve the draft for formal consultation and it was subsequently –

RESOLVED that the draft Council's Statement of Principles (Gambling Act 2005) as attached to the report be approved for statutory consultation.

12 REVIEW OF SEX ESTABLISHMENT POLICY

The Public Protection Business Manager submitted a report (previously circulated) updating members on the review of the Sex Establishment Policy.

In March 2015 the Licensing Committee had resolved that steps be taken to adopt the provisions of Section 27 of the Policing and Crime Act 2009 in order to regulate lap dancing clubs as sexual entertainment venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and to amend the current Sex Establishment Policy in that regard and ensure it was fit for purpose. Whilst there were currently no premises of that type in Denbighshire, the adoption of those powers would serve as a preventative measure for any future premises. Due to the need to prioritise the formulation and revision of policies, officers considered that they would be in a position to present members with a draft revised policy in 2018. In the meantime any applications for sexual entertainment venues would be referred the Licensing Committee under existing procedures.

Councillor Joan Butterfield reported that the sex establishment formerly situated in Water Street, Rhyl had been relocated outside of the county but it had operated discretely with no problems and without causing offence.

RESOLVED that the report be noted and the timescales for the formulation of a revised draft Sex Establishment Policy as detailed therein be approved.

13 REVIEW OF STREET TRADING POLICY

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) updating members on progress with the review of the current Street Trading Policy in Denbighshire.

In 2015 the Licensing Committee authorised officers to review the existing street trading policy in order to address difficulties with the regime and suggest improvements to better regulate and support street trading within the county. A draft policy was considered by the Licensing Committee in December 2016 and it was agreed that an initial consultation be undertaken with City, Town and Community Councils along with internal council departments, particularly in respect of the proposed system of temporary block consents and special events outlined in the draft policy, prior to public consultation. Comments received as a result of that initial consultation had been included in the latest draft which was currently undergoing public consultation until 30 June 2017. It was suggested that a final draft, incorporating responses received as a result of the public consultation, be presented to the next meeting of the committee.

Councillor Joan Butterfield highlighted the importance of a fit for purpose policy, particularly for the larger towns, and was pleased that the policy would be brought back to committee for ratification. Whilst she did not recall the draft policy being submitted to Rhyl Town Council she would review their response and revisit the draft policy in response to the consultation. Councillor Butterfield was particularly keen to review the proposed system of temporary block consents for street trading and suggested that a map be produced in that regard for clarity. The PPBM encouraged engagements with City, Town and Community Councils and welcomed the opportunity to discuss the matter further. Councillor Arwel Roberts did not recall the draft policy being submitted to Rhuddlan Town Council but advised that he would make enquiries. In response to concerns raised by Councillor Roberts regarding the cost of road closures for community events it was established that it was not a matter for consideration under the street trading policy but could be an issue for scrutiny to consider. Councillor Roberts agreed to submit a member proposal form to the Scrutiny Chairs and Vice Chair's Group directly in that regard. Councillor Huw Williams felt there would also be merit in consulting with Member Area Groups (MAGs) on the draft street trading policy. The PPBM advised that following the consultation period a final policy would be drafted and he agreed to engage with MAGs prior to submission of the final version to committee.

RESOLVED that the report be noted and officers be authorised to continue work on the draft Street Trading Policy with a final version being submitted to the committee's next meeting for consideration.

14 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.

Members' attention was drawn to paragraph 3.4 of the report regarding a national conviction policy being developed for local authorities by the Institute of Licensing and Local Government Association. Consequently officers suggested that any further work on reviewing the existing policy be deferred until the national policy had been finalised. In response to questions officers explained that –

- the last meeting of Denbighshire Taxi Forum had been some two years ago and there were no current plans to resurrect it given that it had not been representative of Denbighshire as a whole but had focused mainly on trade in Rhyl and Prestatyn
- there had been no increase in taxi fares and charges since 2008/09 as the taxi trade had not generally been supportive of an increase; however it was likely that a request from the trade would be forthcoming which would result in a report to committee which would be included on the forward work programme. It was noted that the taxi fares and charges detailed the maximum amounts payable and taxi firms could charge less if they wished.

RESOLVED that the Licensing Committee's forward work programme as detailed in Appendix 1 to the report be approved together with proposed amendments as detailed in paragraph 3.4 of the report.

The meeting concluded at 12.05 p.m.

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

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REPORT TO:	Licensing Committee
DATE:	20 th September 2017
LEAD OFFICER:	Head of Planning and Public Protection Services
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Request for Advertising on a Hackney Carriage Vehicle

1.0 PURPOSE OF THE REPORT

- 1.1 To consider a request from Mr. Gareth Jones, who is an established Hackney Carriage Proprietor, for approval to display emblems on his licensed vehicle.

2.0 EXECUTIVE SUMMARY

- 2.1 In accordance with delegated authority, licensing officers are able to approve such requests in line with current policy.
- 2.2 Whilst officers have delegated authority to approve requests as described at 2.1 above, this particular request has raised concerns with officers and therefore has not been approved at officer level.
- 2.3 Having received such a request, Members are asked to consider the details contained in this report to assist them in determining whether this request should be approved.

3.0 POWER TO MAKE THE DECISION

- 3.1 Town Police Clauses Act 1847.

4.0 BACKGROUND INFORMATION

- 4.1 Mr Jones has approached the Council with a view to applying for permission to display 2 emblems on his newly licensed vehicle (Appendix A).
- 4.2 The Council's existing policy (5.6) and vehicle specification (7.6) clearly sets out the acceptable requirements relating to signage, advertising and

livery of licensed vehicles. Full details are provided at Appendix B to this report.

5.0 CONSIDERATION

- 5.1 When considering such requests, Members should be satisfied that the nature of the emblems will not cause offence or attract unwelcome attention.
- 5.2 Members will wish to consider whether all types of sporting emblems and patriotic signage are acceptable to be displayed on licensed vehicles in general. For example, a request may be received to display allegiance to a sports team or country which may attract unwelcome attention, or increase the potential for criminal behaviour,
- 5.3 Whilst Mr Jones' request may not automatically fall outside the requirements as detailed above, officers have concerns that approving the request may have implications on the types of request received in the future.
- 5.4 If Members are minded to refuse such requests on the basis of points outlined at 5.2, they may also wish to consider amending the current policy to exclude any sporting club emblems, patriotic signage and suchlike in the interests of the safety of the licensed driver, as well as overall public safety.

6.0 RECOMMENDATION

- 6.1 That Members consider the request to display the emblems and take one of the following options:
- approve the request as applied for, or
 - refuse the request
- 6.2 If Members are minded to refuse the request, they may also wish to amend the current policy at 7.6.3 as appropriate.









5.6 SIGNAGE/ADVERTISING/LIVERY

- 5.6.1 It is important that the public should be able to identify and understand the difference between a Hackney Carriage and a Private Hire Vehicle.
- 5.6.2 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
- 5.6.3 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.
- 5.6.4 Details of any signs or advertising requested to be placed 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.

7.6 SIGNS AND NOTICES

- 7.6.1 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.
- 7.6.2 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

7.6.3 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

REPORT TO:	Licensing Committee
DATE:	20 th September 2017
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706433
SUBJECT:	Review of Hackney Carriage and Private Hire Driver Regime

1. PURPOSE OF THE REPORT

- 1.1 For Members to consider the current hackney carriage and private hire vehicle driver regime and some suggested improvements to enable Officers to develop a Hackney Carriage and Private Hire driver policy to better regulate and support the hackney carriage and private hire regime in the County.

2. EXECUTIVE SUMMARY

- 2.1 To seek the views of Members on the existing hackney carriage and private hire vehicle driver regime and to seek approval to consult on a new policy.

3. BACKGROUND INFORMATION

- 3.1 Section 51 of The Local Government (Miscellaneous Provisions) Act 1976 provides a local authority with powers in relation to private hire driver licences.
- 3.2 Section 46 of The Town Police Clauses Act 1847 provides a local authority with powers in relation to hackney carriage drivers licences.
- 3.3 In order to be licensed as a driver, an applicant must show they are a “fit and proper” person.
- 3.4 The authority’s current “fit and proper” test and existing regime comprises of the following:
 - a. Disclosure and Barring Service check (criminal record check)
 - b. DVLA driving licence check

- c. Group 1 Medical assessment
 - d. Knowledge Test (7 areas - local area knowledge, Child Sexual Exploitation, customer service, numeracy and tariffs, highway code, vehicle maintenance, licensing policy and conditions)
 - e. Social Services checks
 - f. National Fraud Initiative check
- 3.5 Only upon satisfactory completion of the above assessments will an applicant be deemed fit and proper and will therefore be granted a licence.
- 3.6 Currently the Council does not have a written policy for hackney carriage and private hire drivers, however, office procedures are set out as in 3.4 above.
- 3.7 We are proposing that a hackney carriage and private hire vehicle driver policy should be introduced which clearly sets out the Authority’s stance on the regime. However, It should be noted that the Welsh Government have just commenced consultation on the reform of taxi legislation which could impact on the future regulation of hackney carriage and private hire licensing. Therefore, any future policy will take into account any new legislative requirements whilst also considering any relevant guidance. The full consultation document can be found at Appendix 1.
- 3.8 Officers are of a view to continue developing a new hackney carriage and private hire driver policy, and to keep a watching brief on the progress of the Welsh Government consultation.
- 3.9 Officers would welcome any views of Members on the hackney carriage and private hire driver regime, but the following subjects have been raised as areas of possible improvement:

SUBJECT	CURRENTLY PROCEDURE	POSSIBLE OPTIONS
Medicals	Group 1 Medical by registered GP – on application and every 3 years up to 60 years of age and then every year thereafter	The Council recognises that licensed drivers should have more stringent medical standards than those applicable to normal car drivers because they carry members of the public who have expectations of a safe journey and they are on the road for longer hours Option: Group 2 Standards of Medical Fitness as applied by the DVLA to HGV and bus drivers – applicants are required to

		undergo a medical assessment at the initial application stage. A further medical assessment will then be conducted at 45 years of age and every five years thereon, until 65 years of age when they will be undertaken annual, unless otherwise instructed by their medical practitioner
Qualification	None	The licensing authority believes that due to the nature of the role and the high demands and pressures that are brought with it, all applicants who are not currently licensed with the authority should undertake and pass a nationally recognised qualification that includes, customer care, road safety and meeting the needs of people with disabilities and safeguarding. OPTION: To introduce a suitable qualification for new applicants and also as well as its use as an additional enforcement tool for any taxi licensing breaches
Age and driving experience	Held DVLA driving licence for a minimum of 12 months irrespective of age	Age is an important factor to take into consideration in judging the suitability of new applicants due to the nature of the role. The licensing authority must be satisfied that all applicants have appropriate experience and knowledge of driving Option: It is expected that applicants when making an application will not be less than 21 years of age and will have held a DVLA driver's licence for not less than two years at the time grant.

4. **RECOMMENDATION**

4.1 That Members note the contents of the report and recommend the following:

- i. Instruct Officers to start work on a draft policy, taking into consideration any developments from the Welsh Government process, and authorise Denbighshire's consultation with interested parties, and report back to a future meeting.

Number:WG31865



Llywodraeth Cymru
Welsh Government

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Welsh Government

Consultation Document

TAXI AND PRIVATE HIRE VEHICLE LICENSING IN WALES

Date of issue: 12 June 2017

Action required: Responses by 8 September 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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OVERVIEW

The purpose of this consultation is to consider proposals published by the Law Commission for England and Wales in May 2014 for the reform of taxi and private hire vehicle licensing.

HOW TO RESPOND

The consultation period begins on 12 June 2017 and ends on 8 September 2017. Please ensure that your response reaches us before the required closing date.

The document is available on the internet: consultations.gov.wales.

Please respond by:

- Completing the consultation response form at Annex A; or
- Emailing or posting your response to the contact details below.

FURTHER INFORMATION AND RELATED DOCUMENTS

Large print, Braille, audio CD and alternative language versions of this consultation document can be made available on request.

CONTACT DETAILS

Postal address: Public Transport Policy Team
 Transport – Policy, Planning and Partnerships
 Welsh Government
 Cathays Park
 Cardiff
 CF10 3NQ

Email: PolisiTrafnidiaethGyhoeddus.PublicTransportPolicy@wales.gsi.gov.uk

Phone: 03000 251497

DATA PROTECTION

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, although we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published.

The law however, also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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FOREWORD

Taxis and private hire vehicles provide a vital public service connecting people to places when alternative public transport services are not available or viable. The contribution that the sector makes to the night time and tourism economy in many of our communities cannot be under-estimated and the industry is a vital component in our ambitions for public transport in Wales.



Taxis and private hire vehicles are an important method of transport in enabling disabled vulnerable people in our society to maintain independent living in the community. Travel by taxis and private hire vehicle is simply the only transport option for many people.

Despite the importance of this sector to our public transport ambitions, the industry remains governed by laws made when the horse drawn hackneys were a common feature on our streets. Put simply, the law is complicated, outdated and is in need of reform.

The commencement of certain provisions in the Wales Act 2017 will for the first time bring the licensing regime for taxis and private hire vehicles within the legislative competence of the National Assembly for Wales.

It is on this basis, that I am considering afresh the significant work undertaken by the Law Commission for England and Wales for the reform of the law in relation to the licensing of taxis and private hire vehicles.

I am keen to work with the industry, local licensing authorities and users to develop arrangements that may be introduced in Wales to ensure that taxis and private hire vehicles continue to contribute to our ambitions for a connected and sustainable society.

A handwritten signature in black ink, appearing to read 'Ken', enclosed within a thin black rectangular border.

Ken Skates AM/AC

Cabinet Secretary for Economy and Infrastructure

EXECUTIVE SUMMARY

In May 2014, the Law Commission for England and Wales published its proposals for the reform of the legislative framework governing the licensing of taxis and private hire vehicles in England and Wales. Following commencement of relevant provisions of the [Wales Act 2017](#), licensing of taxis and private hire vehicles will be a matter within the legislative competence of the National Assembly for Wales.

It is under this new devolved settlement that the Welsh Government has again considered the proposals for the framework for licensing taxis and private hire vehicles put forward by the Law Commission, for the purpose of bringing new arrangements into effect in relation to Wales.

The proposed arrangements would:

- a. See the introduction of national standards for all taxis and private hire vehicles, set by the Welsh Ministers, with the power for local licensing authorities to set additional standards where it is appropriate to do so;
- b. Local licensing authorities would, however, remain responsible for issuing licences and enforcement for both taxis and private hire vehicles;

- c. Make it easier for providers of taxis and private hire services to work across local authority boundaries and will give licensing officers new enforcement powers to deal with vehicles and drivers licensed in different areas. Tougher penalties on touting are also proposed (actively soliciting customers), including impounding vehicles;
- d. Bring pedi-cabs and novelty vehicles, including stretch limousines within the scope of taxi and private hire regulation, but the exemption applied to wedding and funeral cars as part of primary legislation being retained, and
- e. Retain the ability of local licensing authorities to limit the number of taxis working in their licensing area.

The Welsh Government considers that the majority of the recommendations put forward by the Law Commission would, if introduced, clarify and simplify the legislation governing the licensing of taxis and private hire vehicles.

On this basis we are supportive in principle of the majority of the proposals in relation to taxi and private hire vehicle regulation in Wales.

There are however, some recommendations that, in our opinion, require further detailed consideration. The purpose of this policy consultation is

to seek views on these specific recommendations set out in the following paragraphs.

Opinions from stakeholders on the total package of measures proposed by the Law Commission in relation to Wales, whilst not specifically requested, will also be welcome.

A copy of the full recommendations published by the Law Commission for England and Wales, that need to be read in conjunction with this consultation document, can be accessed by visiting [consultations.gov.wales](https://www.consultations.gov.wales).

INTRODUCTION

1. In May 2014, the Law Commission for England and Wales published its proposals for the reform of the legislative framework governing the licensing of taxis and private hire vehicles in England and Wales.
2. The proposals were developed as part of the Law Commission's Eleventh Programme of law reform, commissioned by the Department for Transport as the UK Government's department with responsibility for taxi and private hire vehicle licensing.
3. The terms of reference were to review the law relating to the regulation of taxis and private hire vehicles with a view to its modernisation and simplification, having due regard to the potential advantages of deregulation in reducing the burdens on business and increasing economic efficiency.
4. In May 2012, the Law Commission published a paper setting out its draft proposals, which were subject to a public consultation between May and October 2012.
5. More than 3000 written responses, including more than 800 replies to a survey undertaken by the Private Hire and Taxi Monthly magazine were received. Respondents included individuals to representative organisations, including taxi and private hire drivers and private hire operators, licensing officers, disability groups, specialist consultants, trades unions and the police.

6. Meetings were held with Traffic Commissioners and the Driver and Vehicle Standards Agency at different stages of the project.
7. In developing the final proposals, the Law Commission also conducted various site visits, including major taxi radio circuits and private hire operators' headquarters, touring with the taxi and private hire trades both inside and outside London, observing ranks and entertainment venues with a history of enforcement difficulties. This approach highlighted the very local and case-specific nature of some of the issues encountered by the taxi and private hire sector.
8. As part of the new devolved settlement for Wales to be introduced through the Wales Act 2017, the regulation of taxis and private hire vehicles will become a matter within the legislative competence of the National Assembly for Wales.
9. It is under this new devolved settlement that the Welsh Government is again considering the proposals for the framework for licensing taxis and private hire vehicles put forward by the Law Commission in relation to Wales.

SUMMARY RECOMMENDATIONS MADE BY THE LAW COMMISSION FOR ENGLAND AND WALES

10. A full copy of the final proposals put forward by the Law Commission have been republished and can be viewed at: consultations.gov.wales as part of this consultation exercise.
11. Under current law, separate statutes regulate taxi and private hire vehicles respectively. The Law Commission has proposed a new single legal framework that retains the current two-tier system, distinguishing between taxis and private hire vehicles. Only taxis should be allowed to be hailed or pick up passengers from ranks.
12. If adopted, the proposed arrangements would:
 - a. See the introduction of national standards for all taxis and private hire vehicles, set by the Welsh Ministers, with the power for local licensing authorities to set additional conditions where it is appropriate to do so;
 - b. Local licensing authorities would, however, remain responsible for issuing licences and enforcement for both taxis and private hire vehicles;

- c. Make it easier for providers of private hire services to work across local authority borders and will give licensing officers new enforcement powers to deal with vehicles and drivers licensed in different areas. Tougher penalties on touting are also proposed (actively soliciting customers), including impounding vehicles;
- d. Bring pedi-cabs and novelty vehicles, including stretch limousines within the scope of taxi and private hire regulation, but the exemption applied to wedding and funeral cars being retained, and
- e. Retain the ability of local licensing authorities to limit the number of taxis working in their licensing area.

13. The introduction of mandatory disability awareness training for all taxi and private hire drivers was part of the package of proposed measures designed to improve the accessibility of services for disabled people. The Law Commission recommended that local licensing authorities should have the power to introduce a duty on taxis to stop when hailed, to help address the problem of certain drivers passing by disabled people.

14. The Law Commission's proposals also recommended that local licensing authorities should be required to review accessibility needs in their area every three years, and take accessibility issues into account when installing taxi ranks.

15. Furthermore, in order to help address the lack of accessible vehicles, it was recommended that the Secretary of State for Transport should have the power to require large operators (or dispatchers, as they would be referred under the proposed reforms) to meet certain quotas of accessible vehicles which must be available to them.

WELSH GOVERNMENT PROPOSED APPROACH

16. In summary, the Welsh Government considers that the majority of the recommendations put forward by the Law Commission would, if introduced, clarify and simplify the legislation governing the licensing of taxis and private hire vehicles. On this basis we are supportive in principle of the majority of the proposals in relation to taxi and private hire vehicle regulation in Wales.

17. There are however, some recommendations that, in our opinion, require further detailed consideration. The purpose of this policy consultation is to seek views on these specific recommendations set out in the following paragraphs. Opinions from stakeholders on the total package of measures proposed by the Law Commission in relation to Wales, whilst not specifically requested, will also be welcome.

Recommendation 1

18. The Law Commission recommended retaining the two tier system, distinguishing between taxis which can be hailed or use taxi ranks and private hire vehicles that must be pre booked prior to a journey being undertaken.
19. As highlighted in the Law Commission's report, a number of persuasive arguments were advanced in favour of removing the distinction between taxis and private hire vehicles. There is recognition that the public does not understand the distinction and advancement in technology means that a booking for a journey can be made within minutes of the journey taking place. Moving to a single tier regime can also better simplify licensing arrangements, the setting of national standards whilst making enforcement more straightforward.
20. In London for example, the distinction between the taxi that can be hailed on the street and private hire vehicles is perhaps more understood, with London taxis providing the convenience of immediate hire using fares that are regulated.
21. Moving to a single tier system could however, combine the characteristics of both taxis and private hire vehicles, enabling pre-booked and "there and then" hires both operating under a regulated fares model.

Question 1: Should the two tier system be retained in Wales or should a single tier model be developed for the taxi and private hire vehicle sector in Wales?

Recommendation 8

22. The Law Commission proposed not introducing record-keeping by taxi drivers except in respect of taxis picking up passengers outside their licensing area.

23. In principle, the Welsh Government supports the maintenance of accurate record keeping by taxi drivers for the purpose of safeguarding passengers, but it is recognised requiring records for journeys that are not pre arranged may be unreasonable.

Question 2: Should the arrangements in Wales require taxi drivers to maintain accurate records of:

- a. all journeys undertaken in taxis;**
- b. Only journeys that have been pre booked or started out of the taxis licensing area; or**
- c. Not to require taxi drivers to maintain records**

Recommendation 15

24. The Law Commission proposed not to require intermediaries working solely with licenced taxis (which are referred to as “radio circuits”) to be licenced.
25. Given the potential role any person could have organising taxi bookings and in doing so, would be responsible for handling potentially sensitive and personal information, the Welsh Government considers that requiring any person that is responsible for taking bookings and handling personal information should be licenced.

Question 3: Should the arrangements for licensing taxis in Wales require any persons handling personal information to be licenced or not?

Recommendation 17

26. The Law Commission proposed that operator licensing should only cover dispatch functions and no longer apply to the invitation or acceptance of bookings.
27. The definition of operator for the purpose of licensing has been narrowed to that of ‘dispatcher’. This is on the grounds that it is the dispatcher that has the responsibility to pass the booking onto a licensed vehicle and the person taking the booking plays no more role than smart phone and internet sites that collate and pass on

bookings to operators presently. Unless a person taking a booking, who would not be required to be licenced under the proposals, is able to demonstrate that they had passed the booking onto a licenced dispatcher, then they will be presumed to be the ‘dispatcher’ in respect of that relevant journey. The dispatcher must be licenced.

28. The Welsh Government considers that any person who is responsible for the handling of personal information from any person seeking to make a booking for a taxi or private hire booking should be licenced to do so to so.

Question 4: Should a person taking a booking for a private hire vehicle require to be licenced?

Recommendation 36

29. The Law Commission proposed that applicants for vehicle licences should not be subject to a “fit and proper” person test.

30. During the public consultation undertaken by the Law Commission, licensing authorities in Wales argued that the provision provided a reasonable safeguard for passengers’ protection and should be retained on that basis.

Question 5: Should the “fit and proper persons” test for the application and issue of licences be retained in Wales?

Recommendations 37/40

31. The Law Commission proposed that licensing authorities should not have a general power to impose individual conditions on the holders of taxi or private hire licences.
32. The Welsh Government considers that it is sensible that minimum standards are set to improve consistency of service across local authority areas in Wales. Arrangements need to be in place whereby local licensing authorities have the flexibility to add appropriate conditions on individual licence holders where the imposition of any condition is justified, reasonable and proportionate.
33. Similarly, the Law Commission proposed that private hire services should be subject only to national standards and that licensing authorities should no longer have the power to impose local conditions.
34. The Welsh Government considers that arrangements need to be in place whereby local licensing authorities have the flexibility to add additional requirements and standards that are relevant and appropriate to meet the needs of the local area, if such requirements are not featured within the national standards.

Question 6: Do you agree that local authorities should have the discretion, within certain constraints, to impose conditions on individual licence holders to meet additional local requirements and standards where there is a reason to do so?

Recommendation 53

35. The Law Commission proposed the setting of private hire licensing fees nationally which could not be varied locally. Taxi licensing fees should continue to be set locally, but at a level no lower than the national private hire fee.
36. The Commission acknowledged that fees are currently set locally on the basis of full cost recovery. It argued that the introduction of national standards for private hire vehicles could potentially reduce the variation of fee levels between neighbouring authorities.
37. The Law Commission has suggested also that national authorities should have the power to establish a scheme enabling local authorities to pool private hire licence fees for the purpose of enforcement.
38. An alternative arrangement may be to allow local licensing authorities to set fees for licensing taxis and private hire vehicles locally, but in exercising this function, having due regard to guidance issued by the Welsh Government.

Question 7: In relation to setting fees for the licensing of taxis and private hire vehicles, do you agree that:

- a. **The fees for the licensing of private hire vehicles should be set by the Welsh Ministers with fees for taxis being set by local licensing authorities at a rate not less than those applied to private hire vehicles – as recommended by the Law Commission; or**
- b. **Local licensing authorities be required to set all fees in their areas, exercising their functions having due regard to guidance issued by the Welsh Ministers?**

Recommendation 56

39. The Law Commission recommended that local licensing authorities should be under a duty to publish their driver, vehicle and operator licensing data in such form as the national authority may require, on the basis that sharing of information between licensing authorities appeared to be a gap in the current arrangements.
40. The Law Commission concluded that there is no recognised mechanism enabling licensing authorities to check whether an applicant for a licence in one area has been subject to enforcement action in another area that has resulted in a licence being revoked.
41. It is unlikely that simply publishing information will resolve the shortcomings identified by the Law Commission and the publication of information would be of limited value to the general public. It is accepted however, that local licensing authorities should be required to record enforcement action that has resulted in removal or

suspension of a taxi or private hire licence and that this information should be made available and accessible to other licensing authorities, who shall be required to consult the information prior to an application for a licence being granted.

Question 8: Do you agree that:

- a. Local licensing authorities should be required to publish driver, vehicle and operator licensing data information as prescribed by the Welsh Ministers as recommended by the Law Commission, or**

- b. Local licensing authorities should be required to share information about any enforcement action that has taken place and resulted in the removal or suspension of a licence, and that licensing authorities required to consult that information prior to any application for a licence being granted.**

Recommendation 61

42. In licensing areas where quantity restrictions already exist, the Law Commission proposed that vehicle licence holders should continue to be able to transfer their taxi licences at a premium. The consultation undertaken by the Commission revealed that in those areas where taxi numbers are restricted, a trade in plate values has developed, costing thousands of pounds, noting that this cost can be a financial barrier to new entrants into the market and does nothing

to encourage investment in the sector. During the consultation, some had argued that plate premiums encouraged professionalism in the taxi industry.

43. The Law Commission accepted that the trade in plate values should not be a feature of the licensing regime, but recognised that removing these values will cause financial hardship and would simply be unfair. It was proposed therefore, that regulations may make provision for establishing a procedure whereby the holder of a taxi licence may transfer his or her obligations as the holder of the licence to another person. Maintaining the value of plate fees by way of this regulation would serve to maintain the practice, accepted as unwelcome, in areas where limits on the number of taxis able to operate is currently in place.
44. An alternative approach to that proposed by the Law Commission is that any scheme designed to safeguard investment made in the transfer of licence plates should focus on 'buying out' the financial commitment for the purpose of eradicating the plate value practice.
45. Local licensing authorities in areas where the practice of buying plates is active could be allowed to use licensing fee income to fund a 'buy out' scheme. The ability to 'pool' licensing fee income could provide a funding solution for such a compensation scheme,
46. Taxi plates should be returned to the licensing authority for re-issue and are not traded between licence and prospective licence holders.

Question 9: If required, should the Welsh Ministers have the power to make a scheme that:

- a. Allows taxi licences to be traded between licence and perspective licence holders; or**
- b. Requires licences to be returned to the local licensing authority for reissue but allow for a compensation scheme to be established ensuring that licence holders that have traded plates previously in relation to Wales to be compensated for any potential loss.**

Recommendations 65/67/68/69

47. As part of its proposals, the Law Commission made a series of recommendations about how local licensing authorities should exercise their functions to enable better performance of the duties set out in the Equality Act 2010. The proposals included requirements on local licensing authorities to:

- a. Conduct an accessibility review at three year intervals;
- b. Review taxi rank design to ensure compliance with the Equality Act 2010; and

- c. Provide information about the licensing authority and local operators in alternative formats, as well as information about the types of vehicle available in their area.

48. It was proposed also that the Secretary of State for Transport should have the power to impose accessibility requirements on large operator/dispatchers. In particular, the power should permit the setting of quotas of accessible vehicles which must be available to such dispatchers.

49. In Wales, licensing authorities are subject to the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011, which impose requirements on public authorities in Wales designed to assist them to comply with the general public sector equality duty introduced by s149 of the 2010 Act. If local licensing authorities are given the flexibility to add local conditions or requirements on licence holders in their areas, then taken together with the public sector equality duty and associated Regulations, the objectives of these recommendations can arguably be achieved under existing arrangements.

Question 10: Do you consider that equality requirements proposed by the Law Commission can be met under the requirements imposed by the general public sector equality duty (s149) and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011?

Recommendation 80

50. The Law Commission recommended that the first stage in the appeal process in relation to refusals, suspensions or revocations of licences should be the right of an applicant or current licence holder to require licensing authorities to reconsider the original decision. The Law Commission recommended also that appellants should have the right to bypass this stage and proceed direct to magistrates' courts.
51. The Welsh Government agrees that the first stage of an appeal process should be the right of an applicant or a licence holder to seek a review of the initial decision by a person independent of the initial decision, so as to ensure that any review undertaken is impartial if not fully independent. If the appellants remain dissatisfied with the outcome on an appeal, which must be dealt with within a reasonable timeframe, then the right to proceed to the magistrates' courts will become available.
52. We believe however, that appellants should allow a review of the decision to take place before appeals are lodged with magistrates' courts. This has the virtue of allowing remedies to be made without referring the matter to the courts and can reduce the number of cases that may otherwise be considered by magistrates.

Question 11: Do you agree that applicants or existing licence holders must first allow a review of a refusal, suspension or revocation by a person not involved with the initial decision to be undertaken within a reasonable timeframe before an appeal to magistrates' courts can be made?

SUMMARY OF QUESTIONS

Question 1: Should the two tier system be retained in Wales or should a single tier model be developed for the taxi and private hire vehicle sector in Wales?

Question 2: Should the arrangements in Wales require taxi drivers to maintain accurate records of:

- a. all journeys undertaken in taxis;

- b. Only journeys that have been pre booked or started out of the taxis licensing area; or

- c. Not to require taxi drivers to maintain records

Question 3: Should the arrangements for licensing taxis in Wales require all persons handling personal information to be licensed or not?

Question 4: Should a person taking a booking for a private hire vehicle be licenced?

Question 5: Should the “fit and proper persons” test for the application and issue of licences be retained in Wales?

Question 6: Do you agree that local authorities should have the discretion, within certain constraints, to impose conditions on individual licence holders to meet additional local requirements and standards where there is a reason to do so?

Question 7: In relation to setting fees for the licensing of taxis and private hire vehicles, do you agree that:

- a. The fees for the licensing of private hire vehicles should be set by the Welsh Ministers with fees for taxis being set by local licensing authorities at a rate not less than those applied to private hire vehicles – as recommended by the Law Commission; or

- b. Local licensing authorities be required to set all fees in their areas, exercising their functions having due regard to guidance issued by the Welsh Ministers?

Question 8: Do you agree that:

- a. Local licensing authorities should be required to publish driver, vehicle and operator licensing data information as prescribed by the Welsh Ministers as recommended by the Law Commission, or

- b. Local licensing authorities should be required to share information about any enforcement action that has taken place and resulted in the removal or suspension of a licence, and that licensing authorities required to consult that information prior to any application for a licence being granted.

Question 9: If required, should the Welsh Ministers have the power to make a scheme that:

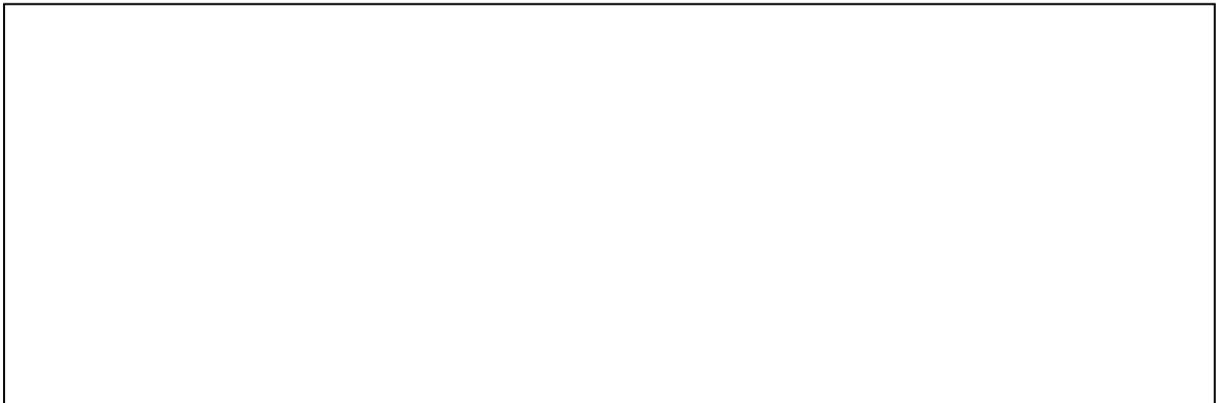
- a. Allows taxi licences to be traded between licence and perspective licence holders; or

- b. Requires licences to be returned to the local licensing authority for reissue but allow for a compensation scheme to be

established ensuring that licence holders that have traded plates previously in relation to Wales to be compensated for any potential loss.

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Question 10: Do you consider that equality requirements proposed by the Law Commission can be met under the requirements imposed by the existing public sector equality duty (s149 of the Equality Act 2010) and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011?

A large, empty rectangular box with a thin black border, likely intended for a response or comment.

Question 11: Do you agree that applicants or existing licence holders must first allow a review of a refusal, suspension or revocation by a person not involved with the initial decision to be undertaken within a reasonable timeframe before an appeal to magistrates' courts can be made?

Your name/organisation and postal/email address

Please tell us which group you are responding on behalf of? (tick one)

Central Government		Public Transport User Groups	
Local Authority (Wales)		Environmental Groups	
Local Authority (England)		Disability Groups	
Taxi PHV sector		Community Groups	
Commissioners / Ombudsman		Freight Operators / Users	
Advisory Groups		Bus Industry / Operators	
Media		Air Industry / Operators	
Emergency Services		Sea Industry / Operators	
Health Sector		Trade Unions	
Other (Please state)			

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REPORT TO:	Licensing Committee
DATE:	20th September 2017
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Public Protection Business Manager licensing@denbighshire.gov.uk 01824 706066
SUBJECT:	Proposed Changes to Taxi Licensing Fees and Tariff Charges

1.0 PURPOSE OF THE REPORT

- 1.1 To seek Members approval for the changes in fees and charges for the taxi licensing regime.

2.0 EXECUTIVE SUMMARY

- 2.1 Members are requested to consider the approval of revised fees for the Hackney Carriage and Private Hire Licensing regime notably operator, vehicle, driver licences and tests. These fees were last reviewed by the Licensing Committee in 2008.
- 2.2 Members should note that the proposed fees are to be introduced alongside changes to make the licensing process more efficient.

3.0 POWER TO MAKE THE DECISION

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

4.0 BACKGROUND INFORMATION

- 4.1 Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 ("the Act") allow the Council to charge fees for the grant of licences in respect of hackney carriage and private hire drivers, vehicles and operators. The legislation specifies the elements that can be included in the cost of the licence fee.
- 4.2 The cost of issue and administration can be recovered in drivers' licence fees. In respect of vehicle and operator licences, the reasonable cost of inspecting vehicles, providing hackney carriage stands and any reasonable administrative or other costs in connection with the foregoing

and with the control and supervision of hackney carriages and private hire vehicles can be included in the fees.

- 4.3 The cost for the enforcement of unlicensed drivers, vehicles or operators cannot be included in the calculation. The Council cannot make a profit from licence fees and there must be a carry forward of any surplus. There can also be recovery of any deficit. The reconciliation of any surplus and deficit is over a three-year cycle.
- 4.4 A fees and charges methodology has been devised to allow for a detailed review of fees and charges in line with the relevant licensing process.
- 4.5 The current and proposed fee structures are shown in Appendix A.
- 4.6 The last increase in the fees and charges for taxi licensing was in April 2008, save for an increase to the Private Hire Driver fee to its current level in 2009.
- 4.7 Since October 2015 licences can be issued for a period of 5 years for operators, 3 years for drivers and 1 year for vehicles. The Council has not introduced a procedure for the issue for such a period and it is proposed that such process is introduced alongside the proposed fees and charges structure.
- 4.8 Legislation allows for the issuing of licence for a lesser duration in certain circumstances of an individual case, not because of a blanket policy.
- 4.9 Members should note that should they approve the revised table of fees then Section 70 of the Act also requires them to be advertised in the local press giving at least 28 days for objections.
- 4.10 Should there be any objections then these will need to be considered and reported back to this committee along with any revisions considered appropriate
- 4.11 If no objections are made then these fees will come into effect on 1st December 2017.
- 4.12 Fees need to be reviewed periodically to ensure that full cost recovery is achieved, staffing costs, on costs and the cost of materials increase on an annual basis, if fees are not reviewed then the fees may not achieve full cost recovery.
- 4.13 Officers wish to highlight to Members that the current process for obtaining a Disclosure and Barring Service (DBS) check every 3 years

will be changing. The Council has contracted out this service and will no longer be involved in the administration of the process and instead each individual will be responsible for obtaining their own certificates. It is anticipated that will start in the Autumn of 2017.

- 4.14 Officers are proposing that 3 yearly drivers' licences follow the 3 yearly DBS process. To ensure drivers outside the DBS cycle when the proposed fees are introduced are not placed at a disadvantage then the current annual renewal fee will be retained up until such time as their next DBS becomes due.
- 4.15 Officers wish also to highlight that the Council has recently received a request to review the taxi meter tariff charges for hackney carriage vehicles. This request is supported by over 100 drivers. As a consequence officers will need to carry out a review of the charges and implement a consultation on those charges.

5.0 RECOMMENDATION

5.1 That Members

- 1) Approve the fees and charges at Appendix A.
- 2) Authorise officers to publish the changes to the Taxi Licensing fees in a local newspaper for the necessary consultation, and if no objections are received, they will come into effect on 1 December 2017.
- 3) Request that where any objections are received, the Licensing Committee will consider those objections at their next meeting with a view to implementing (with or without modification) not later than 1 January 2018.
- 4) Note the administrative changes to the licensing regime.
- 5) Authorise officers to conduct a review of taxi tariff charges and consult as necessary with a view to reporting findings to the Cabinet for implementation no later than 1 January 2018.

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Licensing Fees & Charges

Licence / Activity	Current	Proposed
Private Hire Operators (up to 10 vehicles) - 5 years	Not Applicable	420.00
Private Hire Operators (for each 10 vehicles) - 5 years	Not Applicable	250.00
Private Hire Operators GRANT (for each and every 10 vehicles or part thereof) - 3 years	110.00	Not Applicable
Private Hire Operators GRANT (for each and every 10 vehicles or part thereof) - 3 years	110.00	Not Applicable
Hackney Carriage Vehicle NEW (Annual)	200.00	200.00
Hackney Carriage Vehicle RENEWAL (Annual)	200.00	200.00
Private Hire Vehicle NEW (Annual)	200.00	200.00
Private Hire Vehicle RENEWAL (Annual)	200.00	200.00
Driver (3yr) NEW / RENEWAL	Not Applicable	270.00
Driver (1yr) NEW	140*	250.00
Driver (1yr) RENEWAL	90	170.00
Driver (1yr) RENEWAL for 3rd year	140*	200.00
Knowledge Test RESIT	15.00	35.00
Transfer of Vehicle Holder	50.00	60.00
Vehicle Transfer (Hackney Carriage Vehicle)	75.00	100.00
Vehicle Transfer (Private Hire Vehicle)	75.00	100.00
Replacement Rear Plate	11.00	35.00
Replacement Front Plate	11.00	30.00
Replacement Sign	14.00	25.00
Replacement Badge	7.00	25.00
<i>*includes DBS check</i>		

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REPORT TO:	Licensing Committee
DATE:	20 th September 2017
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 review of the current street trading policy within Denbighshire.

2. EXECUTIVE SUMMARY

- 2.1 Work has been ongoing in drafting Street Trading Policy and officers are seeking Members' views on further engagement to develop a policy which is fit for purpose for all who may be affected

3. POWER TO MAKE THE DECISION

- 3.1 Local Government (Miscellaneous Provisions) Act 1982 Part III, Schedule 4, Street Trading.

4. BACKGROUND INFORMATION

- 4.1 In 2015, Members authorised officers to review the street trading approval procedures in order to address difficulties with the current regulations and suggest improvements to better regulate and support street trading within the County.
- 4.2 A draft policy was considered by the Licensing Committee in December 2016 and it was agreed that an initial consultation be undertaken with City, Town and Community Councils, along with internal Council departments
- 4.3 Comments from that initial consultation were incorporated into a draft Street Trading Policy which went for public consultation. No comments were received.

- 4.4 At their last meeting on 28th June, Members suggested that as the public consultation period hadn't finished officers should consider any comments received and incorporate them into a further draft for consideration at a future Licensing Committee.
- 4.5 As mentioned above the public consultation did not provide any responses. However, officers have had the opportunity to listen to feedback from other individuals and teams from within the Council, including Members, and have concluded that further work is required before a Street Trading Policy which is fit for purpose can be presented to this Committee for consideration.
- 4.6 Officers are proposing that further discussions take place to better understand the needs of those who may be affected by the policy, notably local "fixed" traders, street traders, communities and the wider Council teams, e.g. Planning, Highways and Environmental Services. To assist officers through this process officers have contacted business and communication experts from within the Council. Feedback following this engagement will enable officers to draft a policy which has been subject to a thorough engagement and consultation process.

5.0 RECOMMENDATION

- 5.1 Members authorise officers to continue work on a draft street trading policy and engage with relevant groups and individuals to develop such a draft policy for presentation at a future Licensing Committee.

REPORT TO:	Licensing Committee
DATE:	20th September 2017
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Technical Support Officer (Licensing) licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Review – Gambling Act 2005 Statement of Principles

1.0 PURPOSE OF THE REPORT

- 1.2 To advise Members of the progress of the necessary review of the Council's Statement of Principles for the Gambling Act 2005.

2.0 EXECUTIVE SUMMARY

- 2.1 In accordance with the Gambling Act 2005 the Council is required to review the Statement of Principles every three years.
- 2.2 A review of the current statement has been drafted and was placed before Members at their last Meeting in on 28th June.

3.0 POWER TO MAKE THE DECISION

- 3.1 Section 349 Gambling Act 2005

4.0 BACKGROUND INFORMATION

- 4.1 In determining the Statement of Principles, the Council is required to have regard to the licensing objectives of the Gambling Act 2005 and the Gambling Commission's 'Guidance to Licensing Authorities'.
- 4.2 The statutory licensing objectives are:
- Protecting children and other vulnerable people from being harmed or exploited by gambling
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime, and
 - Ensuring that gambling is conducted in a fair and open way

4.3 The Statement of Principles has been developed by the six Licensing Authorities in North Wales, bringing consistency to matters relating to Gambling issues and functions.

5.0 OFFICER COMMENTS

5.1 At their Meeting on 28th June 2017, Members approved the draft policy and authorised officers to undertake consultation.

5.2 The following Responsible Authorities have been consulted:

- The Gambling Commission
- North Wales Police
- North Wales Fire and Rescue Service
- The Planning Authorities
- Environmental Health, Health and Safety and Trading Standards
- Children Services
- Her Majesties Revenue and Customs

5.3 In addition to the above, the policy is available on the Council's website for a period of six weeks.

6.0 RECOMMENDATION

6.1 That Members consider the contents of this report and authorise Officers to continue work on the draft policy by compiling any responses received and present Members with a final version for their consideration at their next Meeting in December 2017.

REPORT TO:	Licensing Committee
DATE:	20 September 2017
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Public Protection Business Manager licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Forward Work Programme 2017/18

1.0 PURPOSE OF THE REPORT

- 1.2 To provide Members with a proposed Forward Work Programme for 2017/18

2.0 EXECUTIVE SUMMARY

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

3.0 BACKGROUND INFORMATION

- 3.1 Members will be aware that at a previous Licensing Committee, Members approved a rolling 12 month process for their Forward Work Programme.
- 3.2 This Forward Work Programme, has been drafted in consideration of 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 Members resolved that the Forward Work Programme be updated at each Licensing committee so that Officers will be able react to emerging pressures or impending changes as they arise and without the need to make significant changes to the programme.

4.0 RECOMMENDATION

- 4.1 For Members to approve the proposed Forward Work Programme, as detailed in the Appendix.

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Licensing Committee**Work Programme**

Committee Date	Report	Comment
December 2017	Statement of Principles (Gambling)	Approval
	Fees & Charges	Update / Approval
March 2018	Hackney Carriage and Private Hire Driver Conviction Policy	Update
	Hackney Carriage and Private Hire Driver / Operator Conditions/policy	Update
	Street Trading policy	Update
June 2018	Hackney Carriage and Private Hire Driver Conviction Policy	Approval
	Hackney Carriage and Private Hire Driver / Operator Conditions/policy	Approval
	Intended Use policy	Review
	Private Hire Exemption policy	Review
September 2018	Street Trading policy	Approval
	Street Collection policy	Review
	House to House Collections policy	Review
December 2018	Penalty Points Procedure	Update

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