

To: Members of the Licensing  
Committee

Date: 27 February 2019

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 **TUESDAY, 5 MARCH 2019** 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 - 16)**

To receive the minutes of the Licensing Committee held on 5 December 2018 (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 PRIVATE HIRE VEHICLE LICENCE (Pages 17 - 28)**

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.

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

### **6 PROPOSED PRIVATE HIRE PLATE EXEMPTION POLICY (Pages 29 - 38)**

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the proposed Private Hire Plate Exemption Policy for consideration and approval for formal consultation.

### **7 PROPOSED HACKNEY CARRIAGE INTENDED USE POLICY (Pages 39 - 44)**

To consider a report by the Head of Planning and Public Protection (copy enclosed) seeking members' review of the Hackney Carriage Intended Use Policy.

### **8 DRAFT RESPONSE TO THE WELSH GOVERNMENT CONSULTATION ON IMPROVING PUBLIC TRANSPORT (Pages 45 - 106)**

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the Council's draft response to the Welsh Government's consultation on improving public transport.

### **9 UPDATE ON THE WORK OF THE LICENSING SECTION (Pages 107 - 112)**

To consider a report by the Head of Planning and Public Protection (copy enclosed) updating members on the work of the Licensing Section during 2018.

### **10 LICENSING COMMITTEE FORWARD WORK PROGRAMME (Pages 113 - 116)**

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)

Alan James (Vice-Chair)

Joan Butterfield

Arwel Roberts

Brian Jones

Rhys Thomas

Richard Mainon

Tony Thomas

Barry Mellor

Huw Williams

Melvyn Mile

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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

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### 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, 5 December 2018 at 9.30 am.

### PRESENT

Councillors Hugh Irving (Chair), Alan James (Vice Chair), Brian Jones, Richard Mainon, Melvyn Mile, Arwel Roberts, Tony Thomas, Rhys Thomas and Huw Williams

### ALSO PRESENT

Solicitor (AL), Public Protection Business Manager (IM), Licensing Officer (NJ), Enforcement Officers (HB & KB) and Committee Administrator (KEJ)

### POINTS OF NOTICE

The Chair –

- (i) introduced and welcomed the newly appointed Licensing Enforcement Officer (KB) to the meeting;
- (ii) reported upon a joint regulatory visit to licensed premises in Rhyl, Prestatyn and Meliden he had undertaken with Councillor Tony Thomas (Lead Member for Licensing), Licensing Officers and North Wales Police with a view to promoting the licensing objectives and there had been positive engagement between all parties. One issue of note was evidence of drug use in some licensed premises which was being actively dealt with through a multi-agency approach and engagement with licensees, and
- (iii) confirmed that the order of the agenda would be varied in order to accommodate individuals attending for particular items.

### 1 APOLOGIES

Councillors Joan Butterfield and Barry Mellor

### 2 DECLARATION OF INTERESTS

No declarations of interest had been made.

### 3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

### 4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 13 June 2018 were submitted.

**RESOLVED** that the minutes of the meeting held on 13 June 2018 be received and confirmed as a correct record.

## 5 UPDATE ON HACKNEY CARRIAGE AND PRIVATE HIRE CONVICTION POLICY

The Licensing Officer submitted a report (previously circulated) updating members on the review of the Council's Hackney Carriage and Private Hire Driver Conviction Policy and seeking approval to adopt the Institute of Licensing (IOL) Guidance document on determining the suitability of applicants and licensees in the hackney carriage and private hire trades (attached to the report).

Members had received an update on the IOL Guidance at their last meeting when only Anglesey had expressed an interest in adopting the document. Since then the All Wales Licensing Technical Panel had agreed in principle that each local authority should look to adopt the IOL conviction policy to ensure consistency across the region and the majority of North Wales licensing authorities had indicated that they would be looking to adopt the Guidance. If members decided to adopt the Guidance officers proposed an engagement strategy to raise awareness and discuss the implications of the document with existing licence holders.

During the ensuing debate officers responded to members' questions as follows –

- the Guidance had been developed with contributions from the Local Government Association, Lawyers in Local Government and the National Association of Licensing Enforcement Officers and had been subject to a wide ranging public consultation including Councillors, Licensing Officers, Lawyers, Hackney Carriage and Private Hire Trades, academics, the Probation Services and the Police – a full list of contributors had been detailed within the document
- the IOL had undertaken a survey to measure the current position with regard to adoption of the policy nationally and the latest figures revealed that 99% of the 160 respondents acknowledged the merits of a standardised national policy; the majority of those looking to review their policy had indicated they would do so with a view to adopting the IOL Guidance, and when others reviewed their policy they would be looking to adopt the IOL Guidance to ensure uniformity. With regard to the North Wales region all local authorities had expressed a desire to adopt the Guidance with the exception of Conwy County Borough Council who had indicated that they would not adopt the policy but would have regard to it
- an engagement strategy for existing licence holders had not yet been finalised but would include surgeries across the county at various times and would likely include further on a one to one basis with individuals directly affected; initial engagement would be via the annual newsletter for licence holders.

The Licensing Committee acknowledged the merits of adopting the Guidance in order to provide a consistent approach on determining the suitability of applicants and licence holders and provide a degree of uniformity across the region in that regard. It was also noted that adoption would likely provide an additional safeguard for local authorities in the event of an appeal. Consequently it was –

**RESOLVED** that members –

- (a) *adopt the Institute of Licensing Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades;*

- (b) *instruct officers to draft a policy which meets the contents of the Institute of Licensing Guidance document and report back to the June 2019 meeting with a view to implementation on 1 July 2019, and*
- (c) *that officers engage, through correspondence and surgeries across the county, with all existing Hackney Carriage and Private Hire licence holders on the Institute of Licensing Guidance document.*

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

## **6 APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE**

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

- (i) an application having been received for a Private Hire Vehicle Licence;
- (ii) the vehicle having previously been licensed for private hire but the licence had not been renewed prior to expiry of the existing licence in April 2018 and therefore needed to be treated as a new vehicle licence application;
- (iii) officers having not been in a position to grant the application as the vehicle was registered in 2007 and therefore did not comply with the Council's existing policy which specified that all vehicles licensed under a new application must be up to a maximum of 5 years old from the date of first registration, and
- (iv) the Applicant having been invited to attend the meeting in support of the application and to answer members' questions thereon.

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

The Enforcement Officer (HB) presented the report and the Licensing Committee was asked to consider whether it would be appropriate to depart from the Council's policy concerning the age requirement for new vehicles to fleet in order to grant the application as applied for.

The Applicant submitted that the vehicle was in a tidy condition, mechanically sound, suitable and fit for purpose as illustrated in the photographs provided. General taxi work was not undertaken only school contract work and the vehicle had been adapted for eight persons and provided extra room for students' bags/equipment. Past experience had shown that a newer vehicle would not be as robust and could not cope with the demands of rural roads and conditions in remote

rural locations – if a new vehicle had to be purchased it would result in a cost implication which would be passed onto the Council when contracting for school transport provision. The Applicant also referred to her personal family circumstances and explained the circumstances which had led to the failure to renew the existing licence before its expiry given that the vehicle licence plate had been transferred at an earlier stage.

In response to members' questions it was confirmed that seats had previously been removed from the vehicle leaving seating capacity for eight persons. The vehicle had previously been granted an approval certificate for the modification to seating configuration – however a new approval certificate would be required given that the application had to be treated as a new vehicle application. There being no further questions the Applicant was invited to make a final statement and advised that she had nothing further to add to her submission.

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

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

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

Members had carefully considered the application and submissions of the Applicant in this case. The decision of the Licensing Committee had been to refuse the application because the Council's policy stated that vehicles licensed under a new application must be up to a maximum of five years old from the date of first registration. As the vehicle subject of the application in this case was eleven years old it did not comply with the policy. The Committee also considered that the Applicant had offered no acceptable mitigation which would persuade them to deviate from their policy in this instance. The current policy had been in operation for two years and the Applicant would have been aware of it. Whilst the Licensing Committee had been sympathetic to the struggles recently experienced by the Applicant the Committee considered their policy to be a strict one and as such must be adhered to. The Council had adopted the policy to raise standards amongst the fleet and the age limit of new vehicles was part of that.

The Committee's decision and reasons therefore were conveyed to the Applicant. There was a right of appeal against the decision to the Magistrates Court within twenty-one days.

## **7 DISPENSATION FROM REQUIREMENT TO DISPLAY PRIVATE HIRE VEHICLE LICENCE PLATES**

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 private hire plates on a private hire vehicle;
- (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 quality of the vehicle involved and where the vehicle would be operated;
- (iv) the applicant having provided full details of the vehicle subject to 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.

Members were advised that the Applicant was not in attendance to present his case and had not indicated whether or not he intended to be present. The Committee considered sufficient information had been provided for them to determine the request for dispensation and agreed to proceed in the absence of the Applicant.

The Licensing Officer summarised the report for members.

Members considered the criteria for dispensation from the requirement to display licence plates together with the operation and nature of the Applicant's business. It was noted that the Applicant had previously been before the Licensing Committee and had been granted dispensations for other vehicles for the business – the current application had been made for an upgraded replacement vehicle.

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 vehicle detailed within the report be approved subject to the conditions as detailed in Appendix C to the report.

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

Having considered the report and written 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.

## **OPEN SESSION**

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

### **8 UPDATE ON PENALTY POINTS POLICY AND PROCEDURE**

The Public Protection Business Manager submitted a report (previously circulated) updating members on the Penalty Points Policy and Procedure which detailed how the Council dealt with minor breaches in respect of taxi licensing.

The Penalty Points Policy and Procedure had been approved in September 2014, further updated in September 2015 and the issuing of points had been active since

January 2015. The document was to be reviewed at least every three years with the last review undertaken in September 2015. Having reviewed the document officers considered it was still fit for purpose and therefore did not propose any changes to the scheme. The number of incidents and types of breach where points had been issued during 2017 and 2018 had also been referenced within the report.

Members discussed the merits of the scheme with the Public Protection Manager and it was considered that the policy was useful and the weighting of penalty points for specific breaches were proportionate. Some discretion was afforded when enforcing the policy in particular cases with opportunities provided for specific breaches to be rectified when appropriate within certain timescales. The reduction in the number of incidents in 2018 was likely due to the positive impact of the policy in addressing minor breaches combined with the temporary absence of a full time Enforcement Officer for part of that period. It was also confirmed that the infringement relating to 'failure to observe rank discipline' was applied consistently across the county but relied predominantly on reports/complaints to investigate.

**RESOLVED** that the information provided on the breakdown of the points issued as detailed within the report be acknowledged.

## **9 UPDATE ON THE INTRODUCTION OF A LIST OF DESIGNATED WHEELCHAIR ACCESSIBLE VEHICLES**

The Public Protection Business Manager submitted a report (previously circulated) informing members of progress with introducing a published list of wheelchair accessible vehicles as approved by the Licensing Committee in March 2018 following changes introduced by the Equality Act 2010.

Members were advised that –

- 24 of the 352 licensed vehicles were classed as wheelchair accessible
- an implementation date of 31 January 2019 was proposed to publish the list
- prior to implementation all proprietors of wheelchair accessible vehicles would be advised of the list and process for exemption to provide mobility assistance
- once the list was active it would place further obligations on drivers/and or proprietors of those vehicles, creating offences for breaches and discrimination
- any vehicles placed on the list would not be required to carry all wheelchairs but must be capable of carrying some, and
- the list of wheelchair accessible vehicles would be made publicly available via the Council's website.

Members were keen for the contact details of those proprietors operating designated wheelchair accessible vehicles to be made readily available to those requiring that service. The Public Protection Business Manager explained that requirements for the published list did not include contact details which would have implications under the General Data Protection Regulations. However as part of the process of introducing a list consent would be sought from proprietors to include their contact details and details of those providing wheelchair accessible vehicles could be circulated as appropriate to hospitals, GP surgeries, etc. Whilst there were currently 24 licensed vehicles deemed to be wheelchair accessible, the majority of

those vehicles were limited to approximately five companies operating within the county. Members also discussed the obligations placed on drivers with a designated wheelchair accessible vehicle to provide additional assistance to passengers. It was noted that drivers who had a medical condition, disability or physical condition which made it impossible or unreasonably difficult for them to undertake the duties could apply for an exemption on that basis to be determined by the licensing authority.

**RESOLVED** that members note the contents of the report and agree to the implementation date of 31 January 2019 for the publication of the list of designated wheelchair accessible vehicles.

## **10 GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES**

The Licensing Officer submitted a report (previously circulated) presenting the Council's Statement of Principles for re-adoption.

The Council's Statement of Principles had been adopted and implemented on 1 April 2018 and was subject to review every three years. It had been developed by the six licensing authorities in North Wales in order to bring consistency to matters relating to Gambling and had been subject to full public consultation. However the Gambling Commission had directed all licensing authorities to review and adopt their Statement of Principles to come into effect from 31 January 2019. Consequently members were asked to re-adopt the existing policy in accordance with the directive from the Gambling Commission without the need for further consultation in order to coincide with their timescale for review.

**RESOLVED** that members to adopt the Statement of Principles, as attached to the report, with an implementation date of 31 January 2019.

## **11 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2019**

A report by the Head of Planning and Public Protection was submitted (previously circulated) presenting the Licensing Committee's future work programme for 2019.

In drafting the work programme officers had considered the policies relevant to the Licensing Committee and review dates of those policies together with potential legislative changes. Officers recommended maintaining a rolling twelve month forward work programme in order to react to emerging pressures or impending changes as they arose without the need to make significant changes to the programme. The work programme would be submitted to each meeting for ratification and members could put forward items for consideration to officers through the Licensing Committee.

**RESOLVED** that members –

- (a) approve the proposed forward work programme as detailed in the appendix to the report, and

- (b) *authorise officers to introduce a rolling twelve month forward work programme to be updated for each committee meeting.*

*The meeting concluded at 10.55 a.m.*

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

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	5 <sup>th</sup> March 2019
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Technical Officer (Licensing) <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706433
<b>SUBJECT:</b>	Proposed Private Hire Plate Exemption Policy

## 1. PURPOSE OF THE REPORT

- 1.2 To present to Members, a proposed Private Hire Vehicle Plate Exemption Policy, for their consideration, which will allow the Council to make transparent decisions on which vehicles will be considered for an exemption.

## 2. EXECUTIVE SUMMARY

- 2.1 Legislation requires that the Council must issue a private hire vehicle with an identity plate or disc and that the proprietor should not use, or permit the use of, that vehicle without displaying the plate as directed by the Council. However, the Act also gives a Council discretion to grant a proprietor dispensation from displaying the licence plate.
- 2.2 The Council currently does not have a Policy to consider requests for plate exemption therefore any requests must be placed before Members of this Committee

## 3. POWER TO MAKE THE DECISION

- 3.1 Section 75(3) Local Government (Miscellaneous Provisions) Act 1976

## 4. BACKGROUND INFORMATION

- 4.1 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.

- 4.2 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
- 4.3 The displaying of identification plates, externally, may also deter some corporate customers from using the service.
- 4.4 The current regime for plate exemption is that the Operator is required to submit a formal request, in detail, and a report is placed before Members of this Committee for their consideration. In some circumstances, requests could take three months before being placed before a Committee, due to the constraints of the Committee timetable.
- 4.5 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.
- 4.6 Research has highlighted that Councils who consider plate exemptions do so for individual vehicles only and not on a fleet basis, and take into account some or all of the following factors:
- Make and model of the vehicle;
  - The type of work undertaken by the licensed vehicle
  - How the work differs significantly from that of regular private hire work
  - The type of customer
  - The number of regular private hire journeys carried out by the vehicle
  - An relevant history of the applicant in respect of breaches of conditions or legislation
  - The cost of a vehicle is not sufficient reason alone for requesting an exemption
  - Vehicles must be of a high specification standard
- 4.7 When developing the proposed Policy, Officers have not provided a definitive list of vehicles deemed suitable for exemption, but have rather provided an indicative list, which is not exhaustive.
- 4.8 The proposed Policy will provide guidance to potential applicants on the standards of vehicle that the Council considers should be the minimum

standard of comfort and vehicle type before the Council would consider such application.

- 4.9 If Members are minded to adopt this policy, it will inform our licence holders and customers of the Council's expectations and will establish conditions in relation to such an exemption. In addition, the introduction of an application form and Exemption Notice will ensure that these requests are formally documented.

## 5. **CONSULTATION**

- 5.1 Should Members be minded to support the proposed Private Hire Plate Exemption Policy, consultation will begin with all Licence Holders. Where objections are received, a further report will be presented to the Licensing Committee to enable members to consider such responses. However, in the event of no objections being received it is proposed that Members approve to adopt the policy.

## 6. **RECOMMENDATION**

- 6.1 For Members to consider supporting the proposed Private Hire Plate Exemption Policy, as detailed at Appendix A, and in doing so authorise Officers to commence formal consultation
- 6.2 Following consultation, for Officers to:
- i. Report any objections back to the Licensing Committee for consideration and approval of the proposed new Policy.
  - ii. In the event of no responses received, Members to approve to adopt the Private Hire Plate Exemption Policy with effect from the 1<sup>st</sup> June 2019.

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.....  
**Planning & Public Protection Service**  
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**DRAFT PRIVATE HIRE PLATE EXEMPTION POLICY**

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

<b>VERSION CONTROL:</b>			
<b>Reference:</b>	<b>Status:</b>	<b>Authorised by:</b>	<b>Date:</b>
V01	Final / Draft	Head of Service	

## **1. Policy Aim and objectives**

- 1.1 The aim of this policy is to protect the public, whilst taking a balanced approach to licensing requirements.
- 1.2 The principal objective is to formalise the use of discretionary power to allow executive vehicles to operate without displaying the Council's external licence plates

## **2. Introduction**

- 2.1 The Local Government (Miscellaneous Provisions) Act 1976 requires that identification licence plates be displayed on licensed private hire vehicles and that drivers wear a driver's badge.
- 2.2 The same legislation permits a Licensing Authority to exempt the display of private hire vehicle licence plates and, where the exemption applies, the requirement to wear a private hire driver's badge does not apply.
- 2.3 The open display of the vehicle identification plates and driver badge is important in terms of protecting both the public and the taxi trade
- 2.4 There are occasions however, when the requirement to display the identification plates and badges may have the opposite effect in terms of customer safety and commercial implications for the operating business, such as the operation of chauffeured, executive and limousine vehicles. Identification of the vehicle as a licensed vehicle may allow "high risk" passengers to be more readily targeted, putting both them and the driver at risk.
- 2.5 The display of Local Authority identification plates externally may also deter some corporate customers from using the service.
- 2.6 The policy outlines the type of operational business need and business requirement and describes the minimum standard of vehicle type and comfort appropriate before the Council will consider an application for plate exemption.
- 2.7 The policy should be read in conjunction with our existing policy (the Blue Book) relating to private hire vehicles.

## **3. The Policy**

- 3.1 Applications will be considered and assessed on its own merit
- 3.2 Each vehicle will be inspected by an authorised Officer of the Council to ensure it is fit for purpose.
- 3.3 Exemption will normally be granted only where the work is carried out mainly or wholly outside of the County.
- 3.4 Only in rare case will these discretionary powers be exercised. Where the Council are satisfied that there is a genuine operational business need and business requirement, and where the safety of the public will not be compromised as a result.
- 3.5 The driver and vehicle are specifically hired to provide transport to a company or person, and /or where the display of the identification licence plate may affect the dignity or security of the person(s) carried.

### **Vehicle Specification**

- 3.6 Exemption will only be considered where the following requirements are met:
- a. The vehicle to be exempted is of a luxurious quality such as Mercedes Benz E or S Class, BMW 7 Series, Jaguar, Rolls Royce, Bentley saloon, Lexus GS or LS and Audi A8. The highest specification executive type cars from other manufacturers may also be considered. American style stretched vehicles will normally qualify
  - b. The vehicle will be in immaculate condition with no visible defects, dents or blemishes to the external bodywork, wheels, internal trim and seating.

### **Type of work considered for Exemption**

- 3.7 The type of work undertaken is exclusively “executive style” in nature ie:
- i. Contracts with senior personnel of large companies to carry Managing Directors or their client
  - ii. Contracts with national or local government, or similar agencies, to carry senior personnel and guests on official business
  - iii. The carriage of well-known personalities such as sports or ‘pop’ stars
- 3.8 The above list is indicative, but not exhaustive.

### **Type of work NOT considered for Exemption**

- 3.9 The type of work that should NOT be considered for the grant of exemption should include:
- i. Council school and social services contracts
  - ii. Journeys to the airport, seaports or railway stations, unless part of a journey covered by an exemption (it is considered that the proper display of licence plates and council door stickers is a safety feature when arriving at such venues)
  - iii. Theatre journeys or sporting events
  - iv. ‘Hen’ and ‘Stag’ events
- 3.9 The above list is indicative, but not exhaustive.

### **Other Considerations**

- 3.10 The type of work undertaken by the Private Hire Vehicle
- 3.11 How the work differs significantly from that of regular private hire work
- 3.12 The number of journeys that are not private hire work
- 3.13 The length of each journey that is not regular private hire work
- 3.14 The number of non-regular/regular private hire journeys carried out by the vehicle
- 3.15 Any relevant history of the applicant in respect of breaches of conditions or legislation
- 3.16 When considering the number and length of regular private hire journeys, an exemption will not be granted if it can be shown that the number and length of journeys for regular private hire work account for at least 50% of the work carried out by the vehicle.

#### **4. Procedure**

- 4.1 Applications for exemption will be made to the Licensing Authority, in writing, by the vehicle licence holder
- 4.2 Officers will assess whether or not there is a genuine operational business need and whether or not the vehicle is considered to meet the criteria detailed at 3.6 above.
- 4.3 If the requirements set out in 3.6 above are met to the satisfaction of the Officer, then an exemption notice will be granted.
- 4.4 Irrespective of when an exemption notice is granted, the initial exemption notice will expire on the same day as the expiration of the vehicle's current private hire licence, unless it is surrendered or revoked.
- 4.5 Thereafter, any renewed exemption notice will be issued to coincide with the private hire vehicle licence

#### **5. Exemption Conditions (in addition to the conditions set out in the Council's Blue Book)**

- 5.1 When operating under the exemption notice, the vehicle will be required to display the interior plate on the front windscreen of the vehicle at all times the exemption is in force.
- 5.2 The Exemption Notice issued by the Licensing Authority, will be carried in the vehicle at all times and will be produced upon request to an authorised officer of the Council (or any authorised officer of the Council within the area of operation) or a police officer.
- 5.3 Other than the internal (windscreen) plate, the licence holder will not display in, on or from the vehicle any advertisement, signage, logos or advertising the operating company or the vehicle's status as a private hire vehicle.
- 5.4 The private hire vehicle licence plate will be affixed in a visible position within the boot of the vehicle and shall not be displayed externally whilst the exemption notice is in force. Upon request the licence plate will be shown to an authorised officer of the Council (or any authorised officer of the Council within the area of operation) or a police officer.
- 5.5 During the period of the exemption notice, the driver shall not wear the private hire driver's badge (or joint driver badge if applicable), but will have it available for inspection by an authorised officer of the Council (or any authorised officer of the Council within the area of operation) or Police Officer, on request.
- 5.6 At all times during the period of exemption, the driver of the vehicle will be appropriately dressed in either a business suit or chauffeur / chauffeuse uniform.
- 5.7 No taximeter shall be fitted in the vehicle.
- 5.8 The exemption will cease to have effect on selling or transferring the vehicle to another party. The person to whom the exemption is granted must inform the Council of the sale/transfer of ownership within 7 days, and in writing. The exemption notice must be returned to the Council along with the private hire vehicle identification plate, unless being sold to another private hire operator licensed by the Council; in which case only the exemption notice must be returned.

5.9 The vehicle must not be used for private hire purposes other than for chauffeur/executive use (i.e not for 'normal airport journey's or daily private hire use).

## **6. Appeals**

6.1 In the event of an applicant being dissatisfied with the decision of the Officer, the applicant may make a written application for a review of the decision to the Licensing Committee.

6.2 If the Licensing Committee considers no genuine operational business need exists for a plate exemption, the vehicle licence holder will be notified of the refusal.

6.3 There is no statutory right of appeal against the Council's decision not to exercise its discretion and allow an exemption

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	5 <sup>th</sup> March 2019
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Technical Officer (Licensing) <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706433
<b>SUBJECT:</b>	Proposed Hackney Carriage Intended Use Policy

## 1. PURPOSE OF THE REPORT

- 1.2 To request Members review the existing Hackney Carriage Intended Use Policy, as required every three years.

## 2. EXECUTIVE SUMMARY

- 2.1 The Intended Use Policy is a document encompassing how the Council can control the use and enforcement of Denbighshire licensed hackney carriage vehicle licences granted in the County but predominantly operating outside of the Council area.

## 3. BACKGROUND INFORMATION

- 3.1 In 2015 Members approved to adopt the Director of Public Protection Wales (DPPW) Licensing Technical Panel Intended Use Policy in respect of Hackney Carriage Vehicles.
- 3.2 The policy has regard to whether an applicant for a hackney carriage licence intends their vehicle, if licensed, to be used predominantly for the purpose of private hire bookings outside of the County. In addition the policy covers ascertaining if the proprietor of a hackney carriage vehicle intends to operate within the County or if the vehicle will be used predominantly for the purpose of private hire work outside of the County.
- 3.3 The policy is to be reviewed every three years.
- 3.4 Officers have reviewed the Intended Use Policy and consider it still fit for purpose and therefore do not propose any changes to the Policy.

### 3.5 **RECOMMENDATION**

That Members note the contents of the report and authorise Officers to review the Policy in a further three years' time.

## **Appendix**

### **INTENDED USE POLICY FOR HACKNEY CARRIAGE VEHICLES**

#### **Applications for the new grant of a hackney carriage licence**

Applicants for new licences will be expected to demonstrate a bona fide intention to ply for hire within the Denbighshire County under the terms of the licence for which an application is being made.

There will be a presumption that applicants who do not intend to entirely or predominantly ply for hire within Denbighshire will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its merits.

Even where the applicant intends to ply for hire entirely or predominantly in Denbighshire, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

#### **Applications for the renewal of a hackney carriage licence**

Section 60 of Local Government (Miscellaneous Provisions) Act 1976 also gives the Council a broad discretion to refuse to renew a licence for any reasonable cause and this intended use policy will also apply for renewals in the same way as for the grant of the licence. Each application will be decided on its merits.

#### **Applications for the transfer of a hackney carriage licence**

Should the hackney carriage licence be transferred to another proprietor during the term of the licence, the new proprietor will be asked to inform the Council whether he has a bona fide intention to use the vehicle to ply for hire within Denbighshire. New proprietors should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation. Where there is a failure to provide the requested information, the Council will give serious consideration to exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming, in addition to its powers under section 73.

New proprietors of licensed hackney carriages will be expected to have a bona fide intention to ply for hire within Denbighshire under the terms of the licence in respect of the vehicle being transferred.

If the new proprietor of a licensed hackney carriage is found to have

no intention to ply for hire entirely or predominantly within Denbighshire and/or intends to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976. Where the new proprietor proposes to operate remotely from the administrative area of Denbighshire there will be a presumption that his licence will be revoked. Each case will however be decided on its merits.

### **Applications for the replacement of a hackney carriage licence**

When a proprietor replaces a licensed vehicle, applicants seeking the grant of hackney carriage licence for a vehicle intended to replace another licensed vehicle will be asked to inform the Council of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire entirely or predominantly within Denbighshire will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire entirely or predominantly in Denbighshire if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.

Where a licence has been granted under the terms that the applicant intends to ply for hire entirely or predominantly within Denbighshire but is subsequently found not to be plying for hire entirely or predominantly in Denbighshire and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) there will be a presumption that the licence will be revoked.

Each application will be decided on its merits. However the presumptions that intended use is to ply for hire entirely or predominantly within Denbighshire will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not compromise the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

### **Reasons for intended use Policy**

The Council of Denbighshire wishes to ensure that applications for the grant of hackney carriage licences are determined in accordance with the guidance given by the High Court in its judgment, and the Declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008].

The Council is required to register the name of the new proprietor of a vehicle. It seems to the Council also to open up an obvious route to circumvent the decision of the High Court, unless precautionary steps are taken. It is intended to put the Council in a position to respond responsibly to the transfer of a Denbighshire hackney carriage into the name of someone who operates outside the Denbighshire County or remotely from it.

Unless there has been a change in the proprietor's intentions with regard to plying for hire within the administrative area of Denbighshire, there should be no reason why he/she should not be granted a licence for a replacement vehicle. On the other hand, an applicant who obtained the first licence on the expressed intention of plying for hire entirely or predominantly within the administrative area of Denbighshire, and who on application to replace that vehicle with another discloses that he/she no longer so intends, effectively engages the presumption against grant that is mentioned earlier.

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	5 <sup>th</sup> March 2019
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Public Protection Business Manager <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706066
<b>SUBJECT:</b>	Draft response to Welsh Government consultation on Improving public transport

## 1. PURPOSE OF THE REPORT

- 1.1 To inform members of a consultation taking place in Wales in respect of public transport, including taxis, and to update Members on a proposed response to that consultation.

## 2. EXECUTIVE SUMMARY

- 2.1 Welsh Government are consulting on a White Paper on proposals to legislate for reforming the planning and delivery of local bus services and licensing of taxis and private hire vehicles in Wales. Officers have considered the consultation document and questions posed by the Welsh Government and have drafted a proposed response.

## 3. POWER TO MAKE THE DECISION

- 3.1 No decision required.

## 4. BACKGROUND INFORMATION

- 4.1 Hackney Carriage Vehicles (“Taxis”) cannot operate unless both the vehicle and its driver are licensed by a local authority under the Town Police Clauses Act 1847. Private Hire (“PHV”) vehicles, drivers and operators cannot operate without licences granted under the Local Government (Miscellaneous Provisions) Act 1976.
- 4.2 Although granting a licence is contained in legislation, individual local authorities are able to apply conditions, policies and procedures to the process and as such can vary from region to region.

- 4.3 The Welsh Government launched a consultation period seeking views on a white Paper “Improving Public Transport”. The consultation document is attached at Appendix A.
- 4.4 The consultation runs to 27<sup>th</sup> March 2019.
- 4.5 The consultation looks at how local bus services are planned and delivered as well as looking at the reform of taxis and private hire vehicle licensing. This report considers the taxi and private hire aspect only.
- 4.4 There are four main areas the consultation document is looking for views on, namely:
- **Proposals to set national standards for taxi and private hire vehicle licensing.** All taxis and PHVs in Wales would have to meet these standards in order to obtain a licence. These standards would subsequently be set by regulations and so there will be further consultation on their content.
  - **Proposals to allow a licensing authority to take enforcement action against any vehicle operating in its area.**
  - **Proposals to allow the creation of a mechanism by which relevant information can be shared, for the purposes of safeguarding.**
  - **Proposals to redirect all of the existing taxi and PHV licensing functions away from local authorities and into a national licensing authority, a Joint Transport Authority (JTA).** This would include licensing, fee- and fare-setting, enforcement, hearing appeals arising from licensing decisions, prosecutions and deciding matters such as whether to apply quantity controls to taxis
- 4.7 A number of questions are posed and a draft response has been prepared and is attached at Appendix B. This response is intended to inform a Cabinet briefing to enable a collated response on all aspects of the consultation.
- 4.8 In respect of the Joint Transport Authority views are sought on two options:
- Option A – Do you agree with our proposal to redirect all of the existing taxi and PHV licensing functions away from local authorities and into a national licensing authority?
  - Option B – Do you think that local authorities should continue to have responsibility for taxi and PHV licensing?

## 5. CONSIDERATIONS

- 5.1 Members are asked to consider the content of the White Paper and the proposed response.
- 5.2 Members should note that Option A (as outlined in paragraph 4.8 above) could have a significant financial impact on the financing of the Licensing team.
- 5.3 The intention for Option B (as outlined in paragraph 4.8 above) is for improvements made to standardisation, enforcement and information-sharing rather than remain as is.

## **6. RECOMMENDATIONS**

- 6.1 That Members note and support on the contents of this report and the proposed response, and
- 6.2 Subject to any amendments proposed, Members authorise the Head of Planning and Public Protection to present the final draft as the response to the Welsh Government consultation on Improving Public Transport, in so far as it relates to taxi and private hire licensing.

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## Welsh Government Consultation Document

# Improving public transport

A Welsh Government White Paper on proposals to legislate for reforming the planning and delivery of local bus services and licensing of taxis and private hire vehicles

Date of issue: 10 December 2018  
Action required: Responses by 27 March 2019

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

<b>Overview</b>	The purpose of this consultation is to seek views on the Welsh Government legislative proposals for reforming the planning and delivery of local bus services in Wales, together with the licensing of taxis and other private hire vehicles
<b>How to respond</b>	<p>The document is available on the internet at:</p> <p>Please respond by:</p> <ul style="list-style-type: none"> <li>• Completing the consultation response form at Annex A; or</li> <li>• Emailing or posting your response to the contact details below.</li> </ul>
<b>Further information and related documents</b>	Large print, Braille, audio CD and alternative language versions of this document can be made available on request.
<b>Contact details</b>	<p>For further information:</p> <p><u><a href="mailto:PublicTransport.Engagement2019@gov.wales">PublicTransport.Engagement2019@gov.wales</a></u></p> <p>Public Transport Engagement Team  Transport, Welsh Government  Cathays Park  Cardiff  CF10 3NQ</p>

## General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, 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. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

## Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data holds about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:  
Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ

e-mail:

[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

The contact details for the Information Commissioner's Office are:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545 745 or  
0303 123 1113

Website: <https://ico.org.uk/>

## The Foreword

Our transport network underpins our daily lives, connecting people and communities to jobs, health services and education opportunities as well as leisure activities. It connects businesses to markets; facilitating trade, exchange and travel.

A modern public transport system should be accessible, affordable and integrated across the whole of Wales, providing choice and opportunity as a viable alternative to the private motor car.

I see the integration of our transport network as a key priority going forward. We all want a world-class and sustainable integrated transport system in Wales – one that can drive forward our economy and our communities to greater prosperity.

The question is how do we achieve this?

As the Welsh Government has been taking on more responsibility for rail and buses, we have started to address some of the structural problems with which transport in Wales has been faced for many years.

We have introduced the Active Travel (Wales) Act 2013 to put in place infrastructure and information-provision measures to influence and encourage the culture of walking and cycling, which is important given the role of walking and cycling in accessing public transport.

We have awarded the new Wales and Borders rail franchise and have committed to investing almost £5 billion over the next fifteen years to transform the rail network and greatly improve the quality of services to passengers.

To complement these steps, we are now turning to bus services and the licensing of taxis and private hire vehicles.

Using the new powers we acquired in the Wales Act 2017, we want to take action that will begin to address the fundamental weaknesses in the deregulated bus market that has been in place since the 1980s. This is a key moment for devolution.

Local scheduled bus services are, and will continue to be, the foundation of our public transport system; allowing people across Wales to get to work, to hospital appointments, to education and to leisure activities.

Although we have witnessed a downward trend in the number of passenger journeys made on local bus services over the past decade, buses continue to account for about 100 million passenger journeys each year. This is significantly more than the number of journeys undertaken on our rail network.

Our long-term commitment to deliver a more effective network of buses is clear. We want to achieve a bus network that works for the people of Wales and is sustainable in the long term. That means it must be more attractive to encourage a shift away from private cars.

Taxis and private hire vehicles also 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.

Despite the importance of this sector to our public transport ambitions, the industry remains governed by laws made when horse-drawn hackneys were a common feature on our streets and before the arrival of the Internet, mobile 'phones and smartphone technology.

I am keen to introduce measures in Wales to ensure that taxis and private hire vehicles continue to contribute to our ambitions for a connected and sustainable society.

It is clear that action is needed to achieve the desired improvements and there is considerable work underway to consider how we can do this. However, one thing that is very clear is the improvements can only be achieved through collaboration – both across government and in partnership with local authorities and the private sector.

To support this collaborative approach, we need to put in place the right legislative tools to provide the opportunity to respond flexibly to local community needs, tailoring the approach to different circumstances and challenges.

We also need to put in place the right standards, to ensure a level of consistency across Wales.

The legislative proposals outlined in this paper, which form part of a larger reform programme, are intended to put in place those tools and standards to help us realise our ambition for an integrated public transport system which provides the right transport solution that best meets the needs of the travelling public.

Our proposals are grounded in our ambition to work seamlessly with our plans for rail, road, active travel and strategic park and ride in order to create a high quality, low carbon, integrated public transport system across the country.

This is not without its challenges – but I want these proposals to be the start of a major, national conversation about bus transport that we can use to develop a high quality system across Wales.

Your participation and input is very important as we work together to put in place the very best transport network that we can possibly have here in Wales. I look forward to hearing your views.

**Ken Skates AC/AM**  
**Cabinet Secretary for Economy and Infrastructure**

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# Introduction

## Purpose

- The purpose of this White Paper is to set out the Welsh Government's proposals for improving the legislative framework in Wales for how local bus services are planned and delivered, together with reform of the licensing regime for taxis and private hire vehicles (PHVs).
- We have listened to feedback from passengers, local authorities, bus operators, taxi and PHV drivers and interest groups about the current provision of public transport and taxi and PHV services in Wales. Everyone agrees that change is needed.

## Vision for integrated transport

- Our ambition is to provide an integrated public transport network that is safe, reliable, punctual, environmentally sustainable and accessible, and that meets the needs of the travelling public.
- Our aim is to increase the number of people using public transport by encouraging travellers to switch to it from private car use, thereby reducing pollution and congestion. We want to see more people using public transport to get them where they need and want to be, quickly and on time.
- To achieve this, we need public transport to operate as one seamless service that is accessible to all.
- Access to and from the public transport network often requires the use of an active travel mode, such as walking and cycling. In 2013, we introduced the Active Travel (Wales) Act 2013 to put in place infrastructure and information-provision measures to influence the culture of walking and cycling and help to promote it as a way of getting about.
- In October 2018 we awarded the new Wales and Borders rail franchise and have committed to investing almost £5 billion over the next fifteen years to transform the rail network. Our investment in the new franchise will ensure that our plans for rail and the south and north Wales metro schemes will greatly improve the quality of rail services to passengers.
- To complement these steps, we are now turning to buses, taxis and PHVs. Our aim is for our bus services to be designed to meet the specific needs of each locality, stimulating passenger-demand, connecting more people and reducing reliance on private cars. Our aim is for our taxi and PHV services to be safer and more standardised across Wales.

## Consultations

- In 2017 and 2018 we undertook a number of consultations about how we could improve local bus services, options to improve access to and use of free bus travel in Wales, views on proposals to encourage younger people to take the bus and views on the framework for licensing taxis and PHVs.

- The previous consultations can be accessed through the following links:  
<https://beta.gov.wales/proposals-improve-local-bus-services-wales>  
<https://beta.gov.wales/mandatory-concessionary-fares-scheme-wales>  
<https://beta.gov.wales/discounted-bus-travel-younger-people-wales>  
<https://beta.gov.wales/taxi-and-private-hire-vehicle-licensing-wales>
- Following on from these consultations, we have been considering what measures we need to take and have developed a number of legislative proposals.
- These legislative proposals however, are only one element of a wider process of reform that we are undertaking, particularly in relation to the delivery of bus services.

### **Legislative Proposals**

- The legislative proposals presented in this paper are aimed at providing the tools we consider are needed to facilitate better planning and solutions for delivery of integrated and coordinated public transport, with passengers and local communities at the heart of the decision-making.
- The intention of the proposals is to improve the legislative framework to:
  - Provide the flexibility to better respond to local public transport needs; and
  - Ensure consistency and coordination of bus services delivery and a more modern approach to taxi/PHV licencing.
- This paper seeks to set out the current situation, explain why we believe change is needed and explain the legislative changes we are proposing to support our ambitions.
- The legislative proposals outlined in this paper alone will not significantly change public transport provision or the licensing of taxis and PHVs, but will provide the Welsh Government and local authorities with the tools needed to drive change.
- We want to hear your views on the proposals and invite you to respond to the consultation questions. Please do not feel that you need to respond to every question, but we would welcome your thoughts and feedback on any areas on which you wish to respond.
- We will be publishing the draft Regulatory Impact Assessment (RIA) in January, which will seek to identify the likely costs, impacts and benefits of the proposed legislative changes. Careful consideration will need to be given to the affordability and value for money of the proposals to inform decisions, particularly in light of the current financial climate and challenges that local authorities face. The RIA should be considered alongside the White Paper and through this consultation we want to hear your views on where you think the problems are around how local bus services are planned and delivered, together with reform of the licensing regime for taxis and

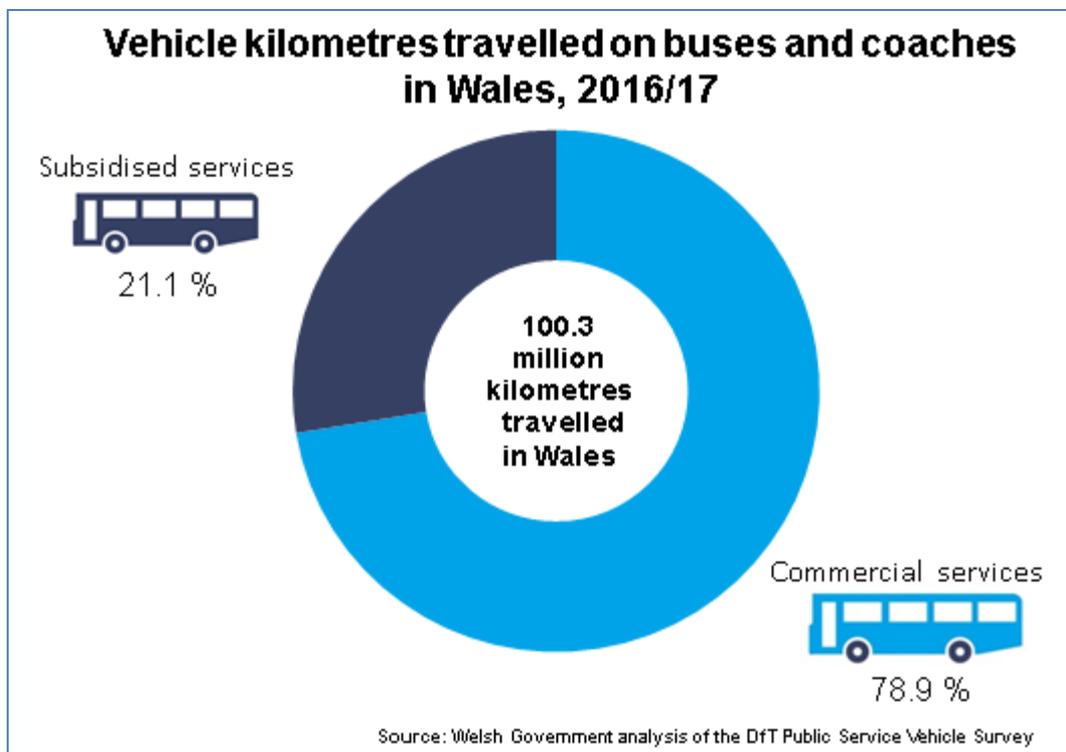
private hire vehicles (PHVs) and what impacts you think our proposals for addressing those problems would have. It is important that we have reliable data to inform decisions.

- We will also be holding stakeholder events during this consultation period to welcome views.

# Part 1 – Bus services

## Introduction

- Bus services across Wales provide important access to education, training, work, healthcare and the opportunity to simply enjoy a day out and about. They provide that vital link between our communities and are an important supporting tool in ensuring a vibrant economy.
- Local bus services account for 3 out of 4 journeys made by public transport. In 2016/17, 100 million 'in service' vehicle kilometres were travelled, of which 79% were on routes determined by bus operators' commercial imperatives. The remaining 21% were operated on routes contracted or otherwise subsidised by local authorities to meet social needs.



## What are the issues?

### Declining services

- Despite bus services being an essential part of the public transport network in Wales, they are in decline with passenger numbers falling steadily for many years on most routes in Wales. This decline is consistent with what we are seeing across the UK.
- The table below highlights the decline in passenger journeys over the last five recorded years:

Year	Wales		England		Great Britain	
	Journeys	% change	Journeys	% change	Journeys	% change
2011-12	115.7m	-	4,640.1m	-	5,191.5m	-
2012-13	108.8m	↓ 6.0	4,570.2m	↓ 1.5	5,099.4m	↓ 1.8
2013-14	107.2m	↓ 1.5	4,672.4m	↑ 2.2	5,201.0m	↑ 2.0
2014-15	101.1m	↓ 5.6	4,627.4m	↓ 1.0	5,142.9m	↓ 1.1
2015-16	101.3m	↑ 0.2	4,507.8m	↓ 2.6	5,016.5m	↓ 2.5
2016-17	99.6m	↓ 1.7	4,438.2m	↓ 1.5	4931.0m	↓ 1.7

Source: WG analysis of DfT Public Service Vehicle Survey, TfL

- Falling passenger numbers means that there is greater pressure on fare paying passengers and the public purse to sustain the network which, despite significant investment from public and private sources, has seen a reduction in the number of services operated, with a consequential further reduction in patronage. This in turn exacerbates the pressure on local authorities as they identify and subsidise socially necessary services for local communities.
- If we don't take action, services and passenger numbers will continue to decline, which will prevent us from realising our ambitions for an integrated transport system. That is not to say that these long-standing trends will be easy to resolve, even with the legislative measures we are proposing.

### Need for better integration and collaboration

- Wales' bus network accounts for about 100 million passenger journeys each year compared with approximately 30 million annual rail journeys. To deliver a truly integrated transport system in Wales, we need to ensure that bus services in Wales meet the needs of passengers and are integrated with rail and other transport services.
- The delivery of local bus services and infrastructure is the responsibility of a number of stakeholders including bus operators, local authorities and Welsh Government. This highlights the complexity of the bus delivery structure and the need for the stakeholders to work together more consistently to achieve a more integrated and sustainable local bus service for communities in Wales.
- There are transport planning, administrative and procurement based tasks that are inefficient for each local authority to perform individually. Operating in this way contributes to the fragmentation of the Welsh bus service, and we believe there is a need for organisational and structural change. Such change would help provide greater efficiencies, common standards, opportunities for working in partnership, economies of scale and consistency of offer. We also believe that providing some

central support could help local authorities free up resource to perform more planning and coordination for bus services.

- Public funding for bus services is considerable, with over £220 million of Welsh Government support provided each year, covering non-emergency health transport, school transport, the TrawsCymru bus service, bus grants and reimbursement for the Mandatory Concessionary Fares scheme. Despite this considerable funding, we are not achieving the service we want to see and communities do not have the public transport connectivity that they need.
- Better integration between local bus services and services such as learner transport, social care, community, health and demand responsive services has the potential to deliver a more comprehensive bus service for local communities.
- The following table summarises the challenges and issues around the current provision of bus services in Wales:

<b>All Wales</b>	
<ul style="list-style-type: none"> <li>• De-regulated industry with over 80 bus operators in Wales.</li> <li>• Lack of co-ordination – between routes, ticketing, rail and active travel networks. This can be confusing for passengers.</li> <li>• Routes need to respond to changing passenger needs – away from short/ retail based journeys to longer journeys.</li> <li>• Declining passenger numbers.</li> <li>• Variable standards – branding, vehicles, infrastructure.</li> <li>• Bus drivers ageing – potential lack of skilled workforce in future.</li> <li>• Real-time travel information improvements needed.</li> <li>• Improvement of fleet to deliver air quality and decarbonisation targets</li> </ul>	
<b>Urban / Commercial Services</b>	<b>Rural / Non-commercial Services</b>
<p>Bus operators choosing routes on commercial basis supported by mandatory concessionary fare reimbursement and Bus Services Support Grant.</p>	<p>Local authorities contracting for routes with top-up subsidy in addition to mandatory concessionary fare reimbursement and Bus Services Support Grant.</p>
<ul style="list-style-type: none"> <li>• Need for more network planning to optimize local bus provision and integration with other public transport.</li> <li>• Poor air quality.</li> <li>• Unreliable timetables caused by congestion.</li> <li>• Multiple operators and non-interoperable tickets can be confusing for passengers.</li> <li>• Evening and weekend services often needing additional subsidy.</li> </ul>	<ul style="list-style-type: none"> <li>• Variable quality with subsidized services.</li> <li>• Reducing commercial services resulting in increased pressure on local authority to support “socially necessary” services.</li> <li>• Marginal services switching between commercial and non-commercial over time.</li> </ul>

- However, the **TrawsCymru services** provide a useful example of how bus operators, local authorities and Welsh Government can work together to deliver a strategic coordinated bus service that meets the needs of local communities. TrawsCymru has a number of commercially provided services (including the X2, X3 and X4 in South Wales). In addition, the Welsh Government funds a network of long distance services across Wales under the TrawsCymru® brand. These typically serve key strategic corridors which do not have a rail service. Whilst there may be opportunities for more efficient management of this service, our ambition is that this coordinated approach can be applied across the bus network in Wales. The following map shows the TrawsCymru Network across Wales in 2017:



- We need to put in place new arrangements that will enable greater integration of the local bus market.

### Need for improved passenger experience

- Clear, high quality and up-to-date information is essential for members of the public (both bus users and non-users) who seek to understand the services available to them. People have far greater expectations about the kind of information that should be open to them than even a few years ago, and consumers expect to be able to make informed choices based on easily available data

- We believe that in order to increase bus patronage it is essential that we work towards improving the passenger experience. An area we are interested in exploring is making improvements not only to the information available to passengers, to include ticketing information, but also to ticketing systems. Currently, tickets are often not transferable across operators or modes of transport, and we believe this limits the attractiveness of bus as a means of travel.

### **Concessionary Pass Holders**

- The Welsh Government was the first Government in the United Kingdom to introduce universal free bus travel for older and disabled people, with the aim of radically improving access to key services and facilities. We remain committed to the principles that have underpinned the scheme in Wales for more than a decade.
- As part of our consideration of how the scheme is operating and how we can make improvements to ensure that it continues to deliver sustainable benefits to the people of Wales, a consultation was undertaken between October 2017 and January 2018. This consultation asked about a number of different aspects of the scheme, including whether the age for entitlement for elderly persons should be changed. It is this element of the scheme to which we are giving further consideration in this White Paper, whilst retaining the following fundamental principles:
  - Universal entitlement – pass holders can catch any bus any time in Wales;
  - No current pass holder to have their eligibility removed; and
  - All people of state pensionable age will be eligible for free bus travel.
- Alongside the older and disabled person bus pass, the Welsh Government has a one-third discounted offer for young people that began in 2015 for all 16, 17 and 18 year-olds. This scheme has recently been increased up to the age of 21 (for the 2018/19 financial year) and will not only help young people in training or apprenticeships and during the transition into work, but will hopefully also encourage more to use the bus for more of their journeys. This way, they will be helping to tackle congestion and air quality in our towns and cities.
- This is an example of collaborative working between bus operators, who have agreed to this voluntary scheme and the Welsh Government who pay.

### **Conclusion**

- The pressures placed on local authorities to make financial savings have resulted in difficult decisions having to be made as to what service areas resources should be targeted at. This challenge over a number of years, compiled with a reduction in passenger numbers, has placed bus services in a vulnerable position. The efforts to safeguard the present service provision is a credit to the way local authorities have attempted to manage their budgets and demonstrates their acknowledgement of the important role public transport plays in connecting communities and people to services.

- In view of the challenges faced by local authorities, it is vital that Welsh Government, local government and transport operators take stock of how services are planned and delivered. The proposals detailed in this White Paper provide an opportunity to work collaboratively to refocus on how we can better use current funding and at the same time, improve services for passengers.
- Most people travelling by road use private car or van (over 95%), and, with road traffic continuing to increase over time in most places, this is the major cause of congestion. The nature of road use is evolving: delivery vans delivering packages ordered online are a significant part of urban and rural traffic and ride sharing/on-demand private hire services have experienced a rapid increase in popularity. The implications for future bus use are highly uncertain at present.
- We believe that the legislative framework currently governing bus services in Wales does not provide the flexibility that Welsh Government and local authorities need to help shape and influence the provision of bus services in order to ensure that they meet the needs of individuals and communities, or to address the core areas for change that have been identified.
- We recognise that, due to the complexity and diversity of the factors which influence whether people travel by bus,, legislation alone will not reverse long term trends in bus usage. However, we believe that by improving the legislative framework, we can give local authorities the tools and flexibility to tailor their approach and target limited resources more effectively to meet those local needs and circumstances.

# Proposals

## Joint Transport Authorities

### The Welsh Government's is proposing establishing a Joint Transport Authority

A Joint Transport Authority would be able to develop a distinctive regional approach in a broader national context towards transport planning and implementation. It could have responsibility for the full range of public transport functions, as well as certain traffic management functions (for example, the ability to make Traffic Regulation Orders for bus priority measures).

### Background

- This section of the White Paper sets out our initial proposals for establishing Joint Transport Authorities (JTAs). We have carried out early stakeholder engagement with the Welsh Local Government Association on these proposals, and further consultation with key stakeholders will be undertaken during the White Paper consultation period.

### Current Legislative position

- Section 5 of the Transport (Wales) Act 2006 (the 2006 Act) enables the Welsh Ministers to make an Order establishing JTAs. That Order can make provision about, amongst other things, the membership of the authority.
- The purpose of a JTA is to discharge specified transport functions for the area it relates to, and the Order establishing a JTA can make provision for the discharge of those functions by committees of the authority.

### Case for change and desired outcomes

- Local authorities are responsible for local transport planning and for ensuring that the public receive the local bus services that they need. However, in the face of budget pressures, local government has decreased its discretionary spending on local bus services considerably, and has significantly reduced the teams responsible for bus planning and coordination. There is also evidence that skills and knowledge available within local authorities to effectively discharge their transport functions successfully is diminishing.
- This pressure on skilled transport management workforce is exacerbated by the multiple tasks which each local authority must perform individually. There are many support tasks, often administrative or procurement-based, which are inefficient for each local authority to perform individually and contribute to fragmentation of the Welsh bus service.

- For example, bus stops are often the first interface with the bus network for existing and potential users. Therefore, bus stop quality is a key influence on the perception of the level of service that can be expected. Bus infrastructure is generally procured by each local authority under its relevant standing orders and supplier frameworks. Current funding horizons, with annual budgets allied with requirements to demonstrate the most economically advantageous tender price have led to considerable variation in terms of bus stop provision, both within and between local authorities. As a result, there is a lack of consistency in the bus stop infrastructure provided, which raises the following issues:
  - A lack of coherent offer / brand to existing and potential users;
  - Reduced opportunities to realise economies of scale / purchasing power; and
  - A requirement to carry greater range of spare stock (e.g. glazing panels), with risk of taking wrong part to site.
- The development of an all Wales approach to bus stop procurement, delivered through a JTA structure, could provide an opportunity to address these issues in the long run, through, for example, the phasing in of standard modular designs (reflecting urban, semi-urban and rural variations). A similar approach was utilised to renew over 500 Electronic Ticket Machines, required to administer the concessionary fare scheme. In that instance, the use of a pan Wales order enabled the placement of a significant order that qualified for a discounted unit price, with dedicated, prioritised service management.
- Letting the current inefficiencies and pressures on local authorities continue would be detrimental to achieving the Welsh Government's ambitions for public transport provision.
- A JTA structure could also provide an opportunity for standardised and improved bus quality standards to be introduced and consistently applied across Wales.
- A JTA structure also provides the opportunity for a centralised regime for taxi and PHV licencing. Our detailed proposals on that are covered in pages 47 - 48 of this document.

### **Establishing Joint Transport Authorities**

- In order to address the challenges faced by local authorities it is proposed that Welsh Ministers use their existing powers in the 2006 Act to form JTAs.
- The purpose of a JTA is to pool the existing transport functions and powers of two or more local authorities. The Order(s) establishing the JTAs would specify the functions that are to be exercised by the JTA.
- JTAs would be established by secondary legislation which requires a dedicated formal consultation which, depending on the outcome of this consultation, we intend to issue in autumn 2019. However, given the importance of the JTA proposals, particularly in connection with the delivery of the wider bus reform work, initial views are sought on the proposal to establish JTAs through this consultation process. The

Welsh Government's initial proposals for the possible structure of JTAs are set out below.

- Whilst any JTA would be established by secondary legislation it is proposed that a Bill would be needed to make some minor changes to the existing provisions within the 2006 Act. In order to ensure consistency in terms of bus services delivery across Wales, it is proposed that the Welsh Ministers should have guidance and direction making powers in connection with the discharge of functions by the JTAs. The Welsh Ministers could use these powers to, for example, issue guidance in relation to bus quality standards, including emissions, and branding, and to provide standardised/consistent contractual terms to be issued for the provision of socially necessary services that are contracted and delivered in accordance with section 63 of the Transport Act 1985.
- Given the level of financial support the Welsh Government provides in connection with bus services, and its ambition to achieve a fully integrated public transport system for Wales, it will be important that the Welsh Ministers are able to intervene should a JTA fail to discharge its functions effectively. Therefore, it is also proposed that the Welsh Ministers be provided with intervention powers.

### **Proposed Structure of JTAs**

- It is proposed that the functions to be transferred to the JTA should be exercised on either a national/strategic basis or on a regional/implementation basis, based on the nature of the function being discharged. It is intended that the Order(s) establishing the JTAs will facilitate this.
- To enable functions to be exercised on this basis, it is considered that there are 2 potential options for the organisational structure of JTAs:
  1. A single JTA for the whole of Wales with regional delivery boards (i.e. committees of the national JTA). The JTA would be responsible for discharging all functions specified in the establishing Order, and would be enabled/required to make arrangements for the discharge of certain functions, such as regional or locally specific functions, by committees of the authority (i.e. regional delivery boards); or
  2. A national JTA that would be required to discharge specified national/ strategic functions, and three separate regional JTAs that would be required to discharge specified regional/implementation functions (i.e. 4 JTAs in total).
- Depending on the preferred structure for the JTAs, the establishing Order(s) may need to make specific provision requiring the formation of committees for the discharge of functions. It may also be necessary to, for example, prevent the delegation of certain functions to committees of a JTA.
- In terms of membership of the JTAs, it is proposed that under either of the structural options the Welsh Ministers will be represented on the authority and any committee of the authority. This reflects the Welsh Ministers' substantial commitment to the delivery of bus services in Wales, both in terms of annual spend and their ambition to secure the delivery of an integrated public transport system across Wales.

Q1. Do you agree that it is important for local authorities to work together with regard to local bus services? Yes/No? Please explain your answer.

Q2. Please provide comments on the proposed organisational structures. Which is your preferred option and why?

Q3. Is there another organisational structure for JTAs that we should consider? Please describe.

Q4. Do you have any comments on the proposal that the Welsh Ministers should be represented on a JTA or any committees of a JTA?

Q5. Do you have any comments on the proposals that the Welsh Ministers should have powers to issue guidance and directions, and to intervene where a JTA is failing to exercise its functions effectively?

### **Proposed JTA Functions in relation to buses**

- We have listed below the types of functions in relation to buses that we would propose are discharged by JTAs, and indicated whether we consider those functions should be discharged at a national or regional level. The following 5 sections of the White Paper set out the legislative changes that are proposed to the powers that local authorities currently have in connection with the delivery of bus services in Wales. It is anticipated that should the proposal for JTAs proceed, these powers will be exercisable by the JTAs.
- National / Strategic functions:
  - Oversight and support for bus network planning;
  - The setting of national quality standards for infrastructure, services, vehicles, branding and ticketing where services are delivered via contractual arrangements, partnership working and franchising;
  - Keeping any national quality standards under review and overseeing compliance with such standards;
  - Standardising contractual arrangements used in connection with tendered services (under section 63 of the Transport Act 1985); franchising contracts (if applicable) and integrated demand responsive travel services;
  - Standardising the approach to partnership working with bus operators, thereby ensuring consistent quality standards;
  - Procurement of physical infrastructure such as bus stops and interchanges; and software solutions such as a ticketing platform and information systems;
  - Procuring and managing the long distance bus routes, i.e., TrawsCymru.
  - Responsibility for back office functions, such as concessionary fares reimbursement, grant payments, Traveline and customer surveys, inspectors,

integrated demand responsive travel system implementation and management;  
and

- Establishing common branding guidelines.
- **Regional / Implementation Functions:**
  - Local and regional network planning;
  - Entering into contracts with bus operators for the provision of section 63 Transport Act 1985 services, franchising (if applicable) and integrated demand responsive travel services;
  - Implementation and management of partnership arrangements with bus operators under Quality Partnerships and Enhanced Quality Partnerships;
  - Procurement and maintenance of regional/local infrastructure in accordance with national standards; and
  - Creation and oversight/operation of local authority bus companies.

Q6. Is the proposed division of national and regional functions appropriate?

Q7. Should any other transport functions be transferred to a JTA? Please describe.

### **Proposed Legislative Change**

- Whilst JTAs would be established by way of secondary legislation using existing powers (i.e. section 5 of the 2006 Act), it is proposed that a Bill would be required to make minor amendments to those enabling powers. In particular it is proposed that the provisions on membership of the authorities be amended to ensure the Welsh Ministers can be represented on the JTAs and any committees of the JTAs. In addition, amendments are proposed to enable any establishing Orders to require the JTAs to set up committees for the discharge of functions, and to address the delegation of functions to those committees.
- Given the importance of the discharge of functions by the JTAs to the Welsh Government's ambitions, in particular our vision for the future delivery of an integrated public transport network in Wales, together with the level of Welsh Government funding of bus services, it is proposed that the Welsh Ministers be given new powers to issue guidance and directions to JTAs in relation to the exercise by them of their functions, and have intervention powers in respect of all functions discharged by the JTAs.

## Enhanced Quality Partnerships

The Welsh Government is proposing to introduce new powers to enable local authorities to make Enhanced Quality Partnerships.

An Enhanced Quality Partnership is collaborative partnership working between local authorities and bus operators to develop agreed plans and schemes for the delivery of improved bus services in an area.

### Current legislative position – Quality Partnership Schemes

- A Quality Partnership Scheme (QPS) is essentially a formal agreement between a local authority and one or more bus operators whereby the authority provides particular facilities along bus routes such as bus lanes, or access to high-quality shelters with real-time passenger information, and operators who wish to use those facilities agree to provide services of a particular standard, for example, new green vehicles.
- Local authorities in Wales are currently enabled to establish voluntary and statutory QPSs. The statutory schemes are provided for within sections 114 to 123 of the Transport Act 2000 (the 2000 Act). QPSs give local authorities the scope for influencing bus quality and provide operators with the confidence to invest and decide about service provision and innovation.
- The service standards that can be covered as part of a statutory QPS include vehicle standards, timetabling and fares. Local authorities may also set restrictions on the registration of further local services once a scheme is in place.
- A local authority seeking to make a statutory QPS must follow the consultation process set out in the 2000 Act, and compliance with the quality standards in a statutory scheme is enforced through the bus registration system, which is overseen by the Traffic Commissioner who has powers to impose financial penalties and restrictions on an operator's licence.

### Case for Change and desired outcomes

- To date, only limited QPSs have been established in Wales, for example, on some sections of the TrawsCymru routes and on a section of the A55 in Conwy. The schemes that have been established have been set up on a voluntary basis only.
- In discussion with local authorities it would appear that the requirement for local authorities to provide facilities as part of a statutory scheme has been a limiting factor, alongside wider organisational capacity (resources and/or skills), financial restrictions or structural realignment of strategic objectives.
- It is recognised that much can still be achieved within the current statutory QPS regime, and we therefore intend to retain that regime. However, we also wish to

provide local authorities and operators with the opportunity to work more collaboratively to develop enhanced partnership arrangements for the delivery of services. As such we propose to take the opportunity to consider a Bill to introduce Enhanced Quality Partnerships (EQPs). These EQPs would provide local authorities with a further potential model for the delivery of bus services in their area.

- In developing proposals to provide for enhanced partnership working we have taken account of the provision that has been made for England in this regard in the Bus Services Act 2017, and the similar provision that has been proposed for Scotland in the Transport (Scotland) Bill. We propose that the model for enhanced partnership working that should be adopted in Wales should be similar in nature as this will be beneficial to the operators who will be integral to the development of any schemes, and many of whom operate across the UK.
- EQPs will be an agreement between a local authority and bus operators to work together to improve local bus services.

### **Proposed Legislative change**

- It is proposed that a Bill would include new provisions designed to facilitate collaborative working arrangements between local authorities and bus operators with the aim of delivering improved bus services. The proposals for those provisions are set out below.

### **What will be the main differences between EQPs and the current system of QPSs?**

- EQPs will require stronger partnership working between local authorities and bus operators, by requiring the authorities and operators to work together to develop a plan for the delivery of improved bus services, and determine how the improvements identified in that plan will be delivered in practice. This will include bus operators sharing information with the local authorities on matters such as the routes they operate in an area.
- There will however, be no requirement for local authorities to invest in infrastructure, which is considered a limiting factor for the scope of statutory QPSs, though they would be able to do so as part of any partnership plan if they considered that appropriate.
- Because an EQP is to be developed in collaboration between the local authorities and operators, the range of service standards that could be placed on operators via an EQP would be much broader than is currently possible under statutory QPSs. It is proposed that the services standards could cover matters such as:
  - The frequency and timing of services;
  - The vehicles being used to provide services, for example, requirements about emissions;
  - The ticketing arrangements that are to be in place;

- The provision of information about local services;
- The publicising of local services, fares or ticketing arrangements;
- The appearance of tickets and the vehicles to be used to provide services; and
- The dates upon which operators may change the timing of services.

### **How would EQPs be developed?**

- It is proposed that EQPs would be based on a joint review of the local bus service network, undertaken by the local authorities and those operators whose bus services run through the area. The review would require the local authority and operators to analyse the network with a view to establishing whether it is delivering and meeting local needs.
- Based on this review, the local authority will develop a clear vision for the improvements in service delivery that are desired, which will be set out in an EQP Plan. The EQP Plan will be accompanied by one or more EQP Schemes which will detail the actions that are to be taken, by both the operators and the local authorities, to achieve those improvements. This will include any commitments that will be made by the local authority or service standards to be met by bus operators
- We have set out below the matters which we consider should be addressed within the EQP Plan and Schemes. It is also proposed that the Welsh Ministers will prepare detailed guidance to assist bus operators and local authorities in the development of EQPs.

### **EQP plans**

- It is proposed that new legislation would be required, making provision for the EQP Plan to address the following matters:
  - The geographical area covered by the plan;
  - The period to which the plan relates;
  - Whether the plan is to be reviewed and, if so, how and when that is to happen;
  - An analysis of local bus services in the area to which the plan relates;
  - The objectives of the plan, in terms of how it will improve the quality and effectiveness of local bus services in the EQP area;
  - What policies regarding local bus services will be pursued in the EQP area;
  - How the related EQP scheme(s) are intended to assist in implementing the policies and achieving the objectives set out in the plan;
  - The intended effect of the EQP scheme(s) on neighbouring areas that are outside the plan area; and

- The authority's plans for consulting passenger groups on how well the plan and scheme(s) are working.
- These are all high-level requirements and can be interpreted in the plan as widely as the partnership (i.e. the local authority and operators) considers necessary. For example, it could include:
  - Targets for bus usage, journey times, or connectivity;
  - The strategic issues that, in the opinion of the EQP stakeholders, are relevant to the future provision of local bus services (such as the retail, business and housing developments that are likely to change the flow of people and their transport demands over the life of the plan, local economic growth objectives or air quality challenges);
  - The local and central government investment that is likely, or has the potential to be, available. This can include funding which is specifically available to improve or support bus services, as well as wider funding such as that for new housing (including developer contributions) or transport infrastructure; and
  - The aspirations of local transport providers – how they would wish to see the local bus market develop over time and how an EQP can contribute to that.

### **EQP schemes**

- Whilst the EQP Plan will set out the vision, it is proposed that an EQP scheme will set out the requirements to be met by the bus operators, and any actions to be taken by the local authority, to deliver all or part of the objectives in the Plan.
- It is proposed that an EQP Scheme would be required to include the following matters:
  - The area to which it relates;
  - The requirements imposed on local bus services under it;
  - Whether the local authority is to provide any facilities or take any particular measures under it;
  - Whether the operation of a scheme is to be reviewed and if so how and by which dates;
  - The date on which it is to come into operation; and
  - The period for which it is to remain in operation.
- It is also proposed that new legislation would be required to make it a condition that an EQP scheme can only be made if the local authority is satisfied that it will:
  - Contribute to the implementation of the policies set out in the EQP plan;

- Bring benefits to persons using the services in the area by improving quality and effectiveness of services; or
- Reduce or limit traffic congestion, noise or air pollution.

### **Consultation and ensuring Partnership Working**

- In order to ensure that an EQP is developed collaboratively it is considered essential that the elements of the EQP Plan and Schemes are formally agreed by both the authority (who decide whether to 'make' the scheme) and the majority of bus operators. This way, neither side can impose the requirements unilaterally.
- To facilitate this it is proposed that once the Plan and the Scheme(s) are drafted the bus operators within the proposed EQP area are to be given the opportunity to formally express a view on them. This will take the form of a voting mechanism which will require a sufficient number of operators to vote in favour of the proposal. Only if there is sufficient support from the operators will a local authority be permitted to initiate a public consultation exercise on the proposed EQP.
- Any subsequent consultation would be the responsibility of the local authority and would ensure that passengers' views are at the heart of the partnership. Consultees could include all affected operators, bus passengers and passenger representatives, the Competition and Markets Authority and other local authorities.
- Following consultation, the final version of the EQP Plan and Scheme would need to be formally 'made' by the transport authority. Before that happens, if the local authority proposes any modifications to the EQP Plan and Scheme initially proposed and consulted upon, the affected operators would be given a further chance to express a view. Again, in the absence of sufficient support from operators the modified plan or scheme could not be made.

### **Effect of making an EQP**

- Unlike QPSs, once an EQP is in place all operators providing services in the area covered by it will be required to comply with the service standards set out in it. To ensure that EQPs are implemented it is proposed that, like QPSs, they will be enforced through the bus registration system, and operators who fail to comply with the requirements of an EQP could have their registration refused or revoked.

Q8. Do you think that legislation is required to secure the benefits of enhanced partnership working? Yes/No? Please explain your answer to this question.

Q9. Do you agree with our proposals for EQPs, in particular the proposed process for developing and making EQPs? Yes/No? Please explain your answer to this question.

## Franchising

**The Welsh Government is proposing to revise current legislation to make franchising a useable tool for Welsh local authorities.**

Franchising is a system where the local authority awards the exclusive right to run a bus route or routes to the most competitive bidder.

### Current Legislative Position – Quality Contracts

- Under franchising arrangements a local authority specifies what bus services are to be provided including routes, vehicle standards, timetables (including hours of operation), fares, branding, passenger information and ticketing. The services themselves are operated under contract by private companies through a competitive tendering process, and other operators are prevented from registering other routes within the franchised area, providing exclusivity for the winning bidder.
- Subject to the Welsh Ministers commencing the relevant legislative provisions, local authorities in Wales could enter into Quality Contracts Schemes (“QCSs”) (sections 124 to 134B of the Transport Act 2000). QCSs are a form of franchising which enable local authorities to dictate what bus services are to be provided in an area and to let contracts for the provision of those services via competitive tendering. The tendering process is competition *for* the market rather than competition *in* the market.
- Making a QCS is subject to the local authority satisfying itself that the statutory criteria are met. These criteria are:
  - That the proposed scheme will result in an increase in the use of bus services in the area to which it relates;
  - That the proposed scheme will bring benefits to the persons using local services in the area to which it relates, by improving the quality of those services;
  - That the proposed scheme will contribute to the implementation of the local transport policies of the authority;
  - The proposed scheme will contribute to the implementation of those policies in a way which is economic, efficient and effective; and
  - Any adverse effect of the proposed scheme on operators will be proportionate to the improvement in the well-being of persons living or working in the area to which the proposed scheme relates.
- A QCS also needs the approval of the Welsh Ministers who must be satisfied that the scheme would be in the public interest.

## **Case for change and desired outcomes**

- Our intention is that local authorities should determine the most appropriate model for delivering bus services in their area. This is likely to depend on the nature of the bus market in the area, the priorities for the authority and their approach to the management of risk. We believe that a viable form of franchising should be one of the delivery options available.
- The feedback is that the current QCS process is overly complex and resource intensive. No QCS has ever been developed in Wales and only one QCS scheme has been attempted in England using the provisions in the 2000 Act (Nexus Tyne and Wear). The Nexus scheme failed to obtain approval from the relevant QCS board, led by the Traffic Commissioner, and the process was costly, taking around two years.
- We therefore wish to take the opportunity to consider a Bill to introduce an improved franchising option which is suitable for Welsh circumstances.

## **Proposed Legislative change**

- When considering a new legislative approach to franchising we have taken account of the market conditions in Wales, the franchising arrangements that have been made available in England, and those proposed for Scotland. The changes that we are proposing would bring about a rebalancing of the decision-making process in order that franchising becomes more practically achievable.
- All franchising proposals must take account of the following core principles:
  - They must be passenger focussed – how will franchising improve the service for passengers?;
  - They must respond to local transport needs and give due consideration to the wider bus network – regionally and nationally;
  - Those taking the decision to franchise should be responsible and accountable for ensuring that the franchising proposal is affordable and achievable, and that it will be financially sustainable in the longer-term; and
  - Decisions must be transparent with sufficient public scrutiny of any franchising plans so that operators, passenger representatives and other affected people are able to discuss and influence the proposals with the local authority.

## **Proposed Decision-making process for franchising**

- We want to ensure that these key principles are considered as part of any new franchising process. We also wish to ensure that the process is open and transparent and that it is clear where the decision-making authority lies, whilst allowing the authority the freedom to pursue franchising where it is in the wider interests of passengers and local people.
- We have noted that the franchising process that has been introduced in relation to England via the Bus Services Act 2017, and which is proposed for Scotland in the

Transport (Scotland) Bill, is based on HMT's guidance for public sector bodies (HMT green book and 5 case business model guidance)<sup>1</sup>. This sets out the principles by which government policies should be assessed to promote the public interest.

- The 5 Case Business Model guidance emphasises the need to take account of the wider social costs and benefits of proposals, and the need to ensure the proper use of public resources. This is achieved through:
  - Identifying other possible approaches which may achieve similar results;
  - Wherever feasible, attributing monetary values to all impacts of any proposed policy, project and programme; and
  - Performing an assessment of the costs and benefits for relevant options.
- We consider that this approach forms a suitable framework for the making of franchising decisions by local authorities in Wales.
- It is therefore proposed that the new franchising process will require the local authority to undertake an assessment of any proposal to franchise local services in its area. This assessment will need to demonstrate that the authority has thought through the impacts, risks and practical implications of its proposal, to include consideration of the effects of the proposal and a comparison of other options for the delivery of bus services in the area.
- It is proposed that new legislation would set out the matters that an authority must take into consideration when preparing its assessment of the proposed scheme, and to record these considerations as part of the assessment document. The matters will include:
  - The likely effects of the proposed scheme;
  - A comparison of the proposed scheme with other delivery options;
  - Whether, and the extent to which, the proposed scheme would contribute to the implementation of the authority's local transport plans;
  - Whether the scheme represents value for money. (This would focus not only on the transport impacts of the proposed scheme but would also assess the economic, social and environmental costs and benefits of the proposed scheme);
  - How the authority would make and operate the proposed scheme;
  - Whether the authority would be able to afford to make and operate the proposed scheme; and

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<sup>1</sup> The guidance can be accessed through the following link: <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

- The extent to which the authority is likely to be able to secure contracts to operate the services under the proposed scheme.
- It is considered essential that the local authority consults on any proposal to franchise local services to allow for public scrutiny of the proposal. The requirement to consult, which will include a requirement to publish the assessment of the proposed scheme, would therefore be a formal requirement set out in legislation. Once the authority has publicly consulted it will need to weigh up the views given on the proposal before deciding whether to exercise the power to franchise.
- We consider that this proposed franchising process, although less prescriptive than the current QCS process, would provide clarity around the basis upon which a decision to franchise services will be taken, and will give operators and other stakeholders a chance to scrutinise the proposals.
- It is intended that legislation would provide the Welsh Ministers with the power to issue guidance on the franchising process. Guidance could, for example, provide more detail on the analysis and development of the assessment by the authorities.

Q10. Do you think that the proposed scheme provides a more workable option for the franchising of local bus services? Yes/No? Please explain your answer?

Q11. Do you think there should be a requirement for the assessment to be subject to an independent audit? Yes/No? Please explain your answer.

Q12. Do you have any other comments on the proposed process for franchising?

### **Franchising in practice and Permits**

- As with a QCS, where franchising is in place, it is proposed that the deregulated market will be replaced in the franchised area and all 'local services'<sup>2</sup> will either have to be operated as part of a franchise contract or operated under a permit issued by the authority. It will be for the franchising authority to determine how they contract for the franchised services bearing in mind the funding available to them, and their objectives.
- It is proposed that legislation would allow a franchising authority to issue permits to allow commercial services to operate in a franchised area. It is anticipated that these are most likely to be issued in connection with bus services that need to enter a franchising area but which are not 'local services' and which do not form part of any franchise contract, for example, TrawsCymru routes. The issuing of permits would not however, be limited to such situations, and an operator could also apply for a permit to provide services which a franchised network does not cover. It would be up to the franchising authority to determine whether the permit should be issued.
- In order for the permit system to operate fairly and effectively it is proposed that legislation would require a franchising authority to issue a permit where the application demonstrates that the proposed service would benefit passengers and not adversely impact on any services operated under the franchise contracts.

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<sup>2</sup> As defined in section 2 of the Transport Act 1985

Legislation would enable the franchising authority to determine the application process for a permit, including the information that an applicant has to provide, and to charge a fee. Legislation would also allow a franchising authority to attach conditions to permits, and it is proposed that the conditions could relate to matters such as ticketing and the standard of service.

Q13. Do you have any comments in relation to the proposals for the issuing of permits in circumstances where franchising arrangements are in place?

#### **Impacts of franchising on small and medium sized bus operators (SMEs)**

- We are mindful that small and medium sized bus operators make up a significant element of bus operators in Wales. As part of any franchising arrangements we believe that the franchising authority should be required to consider how these SMEs can be involved in the process of tendering for franchise contracts so that they are able to compete effectively to run services under a franchised system. This could be achieved by including a specific requirement to this effect within legislation,, or it could be addressed in guidance issued in relation to franchising.

Q14. Do you agree that as part of any arrangements to let franchise contracts, specific consideration should be given to how SMEs can be enabled to be involved in the procurement process? Yes/No? Please explain your answer.

#### **Transition Arrangements**

- In order that bus services are not compromised whilst authorities are preparing to franchise, it is recognised that there may need to be transitional arrangements put in place.

Q15. What transitional arrangements should be considered in order to ensure that bus services are not compromised during the process of preparing to franchise?

## Local authority bus services

The Welsh Government is proposing to revise current legislation so that local authorities can run their own bus services.

### Current legislative position

- The Transport Act 1985 made substantial changes to the model for bus service delivery across the UK by deregulating bus service provision. The market was opened up to commercial operators and existing local authority bus services were transferred into bus companies owned by the local authority. Currently, the Transport Act 1985 prohibits local authorities from running their own bus companies, except where:
  - A local authority was already operating a bus company when the prohibition came into force<sup>3</sup>;
  - A local authority only runs a small operation and has applied to the Welsh Ministers for an exemption from the general restriction<sup>4</sup>; and
  - A bus operator has failed to run a service as contracted under a Quality Contracts Scheme or a franchising scheme and the local authority has had to step in.<sup>5</sup>
- The Transport Act 1985 provides local authorities with power to enter into contractual arrangements with bus operators to operate local bus services where such services would not otherwise be provided. These services attract public subsidy.

### Case for Change and desired outcomes

- There are instances where local authorities receive no tenders for these subsidised services, or for other community transport, that the local authority either deem to be socially necessary or which they are required to provide under a statutory duty<sup>6</sup>. There are other instances in which very few tenders are received. In both these cases, as there is little or no competition, there is less constraint on the tender cost. This potentially results in local authorities paying considerably more for these services than they would otherwise have done.
- The exceptions to the general prohibition on local authorities running bus services (listed above), do not provide for situations where local authorities receive few or no

<sup>3</sup> Cardiff Bus and Newport Bus operate under this exception.

<sup>4</sup> The number of vehicles permitted under this exception is currently 10.

<sup>5</sup> The law permitting quality contract schemes is not yet in force in Wales.

<sup>6</sup> For example, learner travel (other than contracted learner transport).

tenders for local bus services in their area. In order to address this situation, it is the Welsh Government's view that local authorities ought to be given the power to run local services.

- We are considering the options of local authorities running buses directly and also via an arms length company established for this purpose. An arms-length bus company would manage bus services as an independent commercial organisation with its own management board. The main shareholder of the company would be the local authority but that authority would not be involved in the day-to-day running of the bus services
- Giving local authorities power to run local bus services has the potential to reduce the level of public funding required for a service or to reinstate a service that the local authority has been otherwise unable to secure, even with the offer of subsidy.

### **Proposed legislative change**

- The changes that we are proposing would provide local authorities with the legislative tools to ensure that bus services within their area will meet the needs of the people they serve.
- It is proposed that local authorities have the broadest scope to determine the best business model for running bus services that meets the needs of people in their area. Therefore this could be via in-house services where the local authority owns and operates its own fleet, or via an arms length company. Over time, the local authority may decide to move from one model to the other for reasons of commercial expediency.
- With regards to setting up an arms length company, the local authority would be expected to ensure that checks are in place regarding affordability, appropriateness and an identifiable decision making process. A 5 case business model which takes account of the wider social costs and benefits of proposals (see HMT green book and 5 case business model guidance)<sup>7</sup> should form part of any process before any decision on pursuing establishment of a bus company. Local authorities would also be expected to comply with competition law requirements as regards operating within a commercial market, taking steps to ensure that they do not have an unfair operating advantage over other operators.

Q16. Do you think that local authorities should be able to run bus services directly (i.e. in-house services)?

In what circumstances do you think this would be appropriate?

What, if any, safeguards do you feel ought to be put in place with in-house services to ensure that no local authority has an unfair advantage in a deregulated market, and why?

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<sup>7</sup> The guidance can be accessed through the following link: <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

Q17. Do you think that local authorities should be able to set up arms length companies to operate local bus services?

In what circumstances do you think this would be appropriate?

What, if any, safeguards do you think should be put in place with arms length bus companies to ensure that no local authority has an unfair advantage in a deregulated market, and why?

## Eligibility age for the mandatory concessionary fares

The Welsh Government is proposing to increase the eligibility age of the mandatory concessionary fares scheme to bring it in line with a woman's pensionable age.

### Current legislative position

- The law governing the mandatory concessionary fares scheme<sup>8</sup> currently states that an “elderly person” who is entitled to a pass is “someone who has attained the age of sixty years.”
- Details of the pensionable ages of men and women are set out in law. A person's “pensionable age” will depend upon their date of birth. Equality of “pensionable age” between men and women will not be achieved until 2020.

### Case for change and desired outcomes

- The Welsh Government was the first Government in the United Kingdom to introduce universal free bus travel for older and disabled people, with the aim of radically improving access to key services and facilities. The Welsh Government remains committed to the principles that have underpinned the scheme in Wales for more than a decade - providing older and disabled people, and more recently some veterans, universal access to free bus travel anywhere in Wales on local scheduled bus services.
- The success of the mandatory concessionary fares scheme in Wales has resulted in a number of unforeseen consequences, however. Whilst the overall number of bus passengers carried in Wales is in decline, the number of mandatory concessionary passengers has increased since the introduction of the scheme in 2002. Currently, mandatory concessionary fares passholders represent around 47% of total bus journeys. There are currently around 730,000 passes in circulation. It is expected the number of older people eligible for free travel by 2021 will be 880,000 and over a million by 2030. Operators are reimbursed on a “no better, no worse off” basis, and as such payments are characterised as compensation rather than subsidy.
- In practice, any service can be registered by an operator, who will then receive compensation from the scheme, regardless of whether the service registered adequately serves the needs of the wider travelling public.
- Furthermore, the reimbursement formula is currently predicated on the adult single fare, which does not incentivise operators to keep these fares low. As a result, bus travel is relatively expensive for ad-hoc users or those unable to financially commit to the purchase of cheaper period tickets.

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<sup>8</sup> Section 146 Transport Act 2000.

- All these factors, taken together, mean that the cost to the public purse of the mandatory concessionary fares scheme is rising and Welsh Government needs to consider ways of managing the rising costs without affecting the eligibility of those persons currently entitled to a concessionary pass.

### **Proposed legislative change**

- It is proposed to increase the age of entitlement to a concessionary pass so as to align with a woman's pensionable age. Alignment with a woman's pensionable age aims to maintain equality between the sexes in terms of entitlement, as equality of pensionable age between men and women will not be achieved until 2020.
- It is proposed to introduce this change using incremental increases, rather than introduce a one-off change to eligibility. Welsh Ministers consider this to be a more equitable approach, allowing the public to benefit from a more gradual adjustment to eligibility.
- It is also proposed to use the power to amend entitlement in the same way for any discretionary schemes operated by local authorities within their area.
- In making these amendments, Welsh Ministers will ensure that the following fundamental principles will be protected:
  - Universal entitlement to be retained – pass holders can catch any bus at any time in Wales with no charge; and
  - Any person who holds a concessionary pass at the time the changes to the law are made will not lose their entitlement to that pass.

Q18. Do you agree with the Welsh Minister's proposal to align entitlement to a mandatory concessionary fares pass with a woman's pensionable age? Please give reasons for your answer.

Q19. Do you agree that an incremental change is the most appropriate method?

## Public transport information and monitoring

The Welsh Government is proposing to put in place new information monitoring and sharing arrangements.

### Current legislative position

- Local authorities currently have a limited power to require bus operators to provide information in relation to local services (section 143 of the Transport Act 2000). Using this power, local authorities can request information about the total number of journeys undertaken by any passengers on the local services; the structure of fares for the journeys; and the total distance covered by the vehicles used by the operator in operating those services (i.e. total bus mileage).
- In addition, local authorities themselves are under a duty to ensure that certain information is made available to the public (sections 139 to 141 of the 2000 Act). The type of information to be made available includes information about the routes and timetabling of local services to, from and within an authority's area, and information about fares and journeys on such services. It is for the local authorities to determine what information is to be made available, and how, and to seek to arrange with operators for its provision.

### Case for Change and desired outcomes

- Clear, high quality and up-to-date information is essential for the smooth running of bus services. Today people have far greater expectations about the kind of information that should be available to them than even a few years ago, and consumers expect to be able to make informed choices based on easily available data.
- Alongside members of the public (both bus users and non-users) who seek to understand the services available to them, accurate information is important to inform bodies such as local authorities in supporting their local bus services.
- Access to clear and accurate information about bus services is also important for software developers seeking to create services such as smartphone apps and journey planning systems. Whilst bus journey planning websites such as Traveline Cymru are already available, unlike some other public transport modes, the information on fares and punctuality is not always easily accessible. For example, the National Rail Enquiries website provides journey planning and fares information on rail journeys, with punctuality data on the Office of Rail and Road and Network Rail websites.
- We want to ensure that people using, or looking to use, bus services in Wales have access to the same levels of information as passengers on other modes of transport. This will make bus services more accessible and a more attractive travel option. To do this we propose establishing a comprehensive open data set for the

bus industry. We will achieve this by requiring bus operators, local authorities and the Traffic Commissioner to provide information on routes (to include proposals for changes to routes), timetables, fares and tickets for public access.

- In 2011 the Competition Commission's Local Bus Services Market investigation recommended that local authorities should be enabled to obtain, and where appropriate disclose, information about the revenue and patronage of bus services that are being registered<sup>9</sup>. The intention behind this proposal was to enable local authorities to better manage tenders for supported services. We propose to take the opportunity to consider a Bill to implement this recommendation.

### **Proposed legislative change**

#### Information for the public

- We would create a new power for Welsh Ministers to make regulations requiring bus operators and other bodies, such as the Traffic Commissioner and local authorities, to provide information about local bus services. The information to be disclosed will relate to routes, timetables, fares and tickets for local services. Creating this disclosure requirement by way of regulations would offer the Welsh Ministers the ability to adapt the requirement to future advances in technology as they occur.

Q20. Do you agree with our proposal to require the release of open data on routes, timetables, fares and tickets? Yes/No? Please explain your answer.

#### Information about registered services

- We would also provide the Welsh Ministers with a power, by regulations, to enable a local authority to require bus operators to provide service information in circumstances where operators are proposing to vary or cancel registered services. The regulations would also enable local authorities, in appropriate circumstances, to disclose this information as part of any process to tender to replace those services.

Q21. Do you agree with our proposal to enable local authorities to have the power to obtain information on services which are to be cancelled or varied, and where appropriate, disclose this information as part of tendering process? Yes/No? Please explain your answer.

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<sup>9</sup>[https://webarchive.nationalarchives.gov.uk/20140403001219/http://www.competition-commission.org.uk/assets/competitioncommission/docs/pdf/inquiry/ref2010/localbus/pdf/00\\_sections\\_1\\_1\\_5.pdf](https://webarchive.nationalarchives.gov.uk/20140403001219/http://www.competition-commission.org.uk/assets/competitioncommission/docs/pdf/inquiry/ref2010/localbus/pdf/00_sections_1_1_5.pdf)

## Part 2 – Taxis and private hire vehicles (PHV)

### Introduction

- Taxi and PHVs are an essential aspect of the Welsh transport network. Taxis and PHVs operate, often in rural or remote areas, where delivering rail or scheduled bus services may be problematic, either because of local geography or because there isn't enough local demand to support regular scheduled services. Their point-to-point services can facilitate social inclusion for disabled people, and be a lifeline for those who do not own their own car. Even where an area is well-served by rail or bus during the day, taxis and PHVs may be the only form of transport available to the public during the night.
- As at 25 October 2018, there were approximately 5,000 taxis and 4,900 PHVs in Wales, and 12,000 licensed taxi and PHV drivers<sup>10</sup>. In 2011, Wales had the highest proportion of people (75.2%) outside of London commuting to work by car, taxi or motorcycle<sup>11</sup>.
- However, the legislative framework which governs taxis and PHVs does not reflect the industry as it is today.
- Taxi and PHV definitions:
  - **Taxis** – traditionally known as hackney carriages, can pick up passengers from ranks and be hailed from the street. They can also undertake pre-booked work (by telephone, in person or via technology); and
  - **PHVs** can only undertake pre-booked work (by telephone, in person and increasingly via technology).
- Taxis and PHVs are a regulated but decentralised industry in Wales. A taxi cannot operate unless both the vehicle and its driver are licensed by a local authority under the Town Police Clauses Act 1847 (TPCA 1847). PHV vehicles, drivers and operators cannot operate without licences granted under the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA 1976). These two Acts are the main pieces of legislation in this area.
- Following on from consultations undertaken by the Law Commission from 2011-2014, and a Welsh Government consultation in 2017, work has been underway to consider how we might reform the taxi and PHV licensing system in Wales. We have listened to feedback from passengers, local authorities, taxi drivers and interest groups about the current provision of services. It is common ground that the law is outdated and that change is needed.

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<sup>10</sup> <https://www.gov.uk/government/statistical-data-sets/taxi01-taxis-private-hire-vehilces-and-their-drivers> (last visited 12 November 2018).

<sup>11</sup> [http://www.ons.gov.uk/ons/dcp171766\\_299766.pdf](http://www.ons.gov.uk/ons/dcp171766_299766.pdf) (last visited 13 November 2018).

## What are the issues?

- The legislative framework which governs taxis and PHVs is based on a localised system (services being licensed to be provided within local authority borders), but that is at odds with modern technology and taxi and PHV working practices. When the legislation was enacted in 1847 and 1976, taxis were horse-drawn carriages and radio signals for PHVs were unlikely to reach beyond the licensing authority borders. The legislation envisaged people going to their local PHV office, or telephoning it by landline, in order to pre-book a car. In 2018, with the internet, mobile 'phones and smartphone apps, the picture is clearly very different. In practice, taxis and PHVs undertake pre-booked work outside of their licensing area. The legislation did not envisage this; it provided for standard-setting, enforcement, and safeguarding to take place only within a local authority's borders. The mismatch between the legislation and modern practice is evident in the following problems:
  - **Inconsistent standards** – where local authorities have different licencing standards resulting in different costs for operators and variable safety and quality standards for passengers;
  - **Enforcement** – there is no statutory mechanism for enforcement against vehicles licensed in a different local authority area from where an infringement has occurred; and
  - **Safeguarding** – the ability to obtain a licence in one authority and work in another presents a risk when local authorities do not have the means to share safeguarding information.
- For these reasons, there is a need for reform to develop a licensing framework that reflects current working practices.

## What we want to achieve

- We consider that there are three areas that could be improved, to align the licensing system with the technological reality. We are not proposing to alter the current position on out-of-area working. Our proposals tackle the following three areas:
  - Proposal 1: the variation in taxi and PHV standards between the twenty two local authorities in Wales;
  - Proposal 2: the inability to take enforcement action against vehicles which are operating "out-of-area"; and
  - Proposal 3: the difficulty in sharing relevant safeguarding information.
- Our view is that the best way of underpinning improvement in all three areas is to centralise the licensing regime.
- Proposal 4: that the existing taxi and PHV licensing functions of the twenty two Welsh local authorities should be redirected to a single national licensing authority. That national authority would be the joint transport authority (JTA), which we have referred to previously in the context of our proposals for bus reform in pages 16 –

20 of this paper. The purpose of the JTA in relation to taxis and PHVs would be to create a standardised licensing area encompassing all of Wales, and to streamline enforcement and information-sharing.

- Our preferred option constitutes implementation of proposals 1 to 3 alongside proposal 4 – Option A.
- We are also considering Option B: implementation of proposals 1 to 3 without proposal 4 i.e. without using a JTA as the delivery vehicle. This would involve creating national standards that the local authorities must follow; extend the existing enforcement powers of local authorities; and creating a mechanism by which local authorities can share relevant information. The sections below set out the proposals in more detail and seek your comments.

# Proposals

## National standards

The Welsh Government is proposing to set national standards for taxi and private hire vehicle licensing.

All taxis and PHVs in Wales would have to meet these standards in order to obtain a licence. These standards would subsequently be set by regulations and so there will be further consultation on their content.

### Current legislative position

- Taxis and PHVs are a regulated but decentralised industry in Wales. A taxi cannot operate unless both the vehicle and its driver are licensed by a local authority under the Town Police Clauses Act 1847 (TPCA 1847). PHV vehicles, drivers and operators cannot operate without licences granted under the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA 1976).
- Licencing Criteria - Local authorities are allowed a wide discretion when licensing vehicles, drivers and operators which is summarised as follows:
  - **Taxis** of any kind or description can be licensed and licence conditions can be imposed by the local authority<sup>12</sup>. The MOT is the only common vehicle requirement<sup>13</sup>;
  - **PHVs** – to be licensed a local authority must be satisfied that the vehicle is suitable for usage as a PHV, that its mechanical condition is suitable, that it is safe and comfortable, and that it has valid insurance<sup>14</sup>. Other than the common standard of MOT requirements, these terms are not legally defined. Local authorities are guided in relation to vehicles by Best Practice guidance issued by the Department for Transport<sup>15</sup>; and
  - **Drivers and Operators** - A “fit and proper person” test is applied to taxi drivers<sup>16</sup>, PHV drivers<sup>17</sup> and PHV operators<sup>18</sup>. However, there is no legal definition of what is meant by a “fit and proper person”. This is left to local

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<sup>12</sup> Section 37 TPCA 1847 and section 47 LGMPA 1976 respectively.

<sup>13</sup> This is contained in the Road Traffic Act 1988.

<sup>14</sup> Section 48 LGMPA 1976.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/212554/taxi-private-hire-licensing-guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf)

<sup>16</sup> Section 51 LGMPA 1976.

<sup>17</sup> Section 59 LGMPA 1976.

<sup>18</sup> Section 55 LGMPA 1976.

authorities to determine, with the assistance of the Best Practice guidance<sup>19</sup>. Taxi and PHV driver licence applicants are required to disclose spent and unspent convictions<sup>20</sup>, however there is variation in the way in which local authorities deal with criminal records. Some local authorities carry out an Enhanced Disclosure and Barring Service (DBS) check (which records spent and unspent convictions, cautions, reprimands, warnings and any relevant non-conviction information held on the Police National Computer) and a check of the barred list (which lists those legally prevented from working with children or vulnerable groups). In addition, the Law Commission noted that there is considerable variation in England and Wales as to how the outcome of those checks is interpreted against the “fit and proper person” criteria<sup>21</sup>. In Wales, sixteen local authorities conduct both checks and six conduct only an Enhanced DBS check<sup>22</sup>. Similar discrepancies arise in relation to medical fitness checks<sup>23</sup>.

### Case for change and desired outcomes

- Variation in local standards can become an issue when services are provided across local authority borders (i.e. “out-of-area”). Taxis may undertake pre-booked work in any area, and PHVs may also be provided that the “triple licensing requirement”<sup>24</sup> is met.
- There are twenty two local authorities in Wales, and therefore twenty two different approaches to vehicular suitability (beyond the basic MOT requirements) and to what “fit and proper” means. That has led to, sometimes considerable, variation in standards and a number of problems flow from that.
- As a taxi or PHV can undertake pre-booked work outside of the area in which it is licensed, applicants may be incentivised to apply in an area where standards are lower and then operate in an area whose standards they do not meet (and where enforcement action cannot be taken against them). This exposes passengers in different parts of Wales to different standards and levels of risk, which is difficult to justify. It also undermines local authorities that have taken steps to ensure that their residents can enjoy higher standards, and may irritate both drivers licensed in that area who have made an effort to meet those standards, and those who are unable to obtain a licence in that area because they do not meet the higher standards. Varying standards also mean that drivers across Wales bear different costs when carrying on their trade, which again is difficult to justify.
- We believe that the people of Wales are all entitled to minimum standards, regardless of where they live. National standards would represent a minimum threshold, with higher standards permitted if desired.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/212554/taxi-private-hire-licensing-guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf)

<sup>20</sup> Regulation 4(1) of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

<sup>21</sup> Local Government Regulation, Taxi and PHV licensing criminal convictions policy (September 2010).

<sup>22</sup> <https://www.gov.uk/government/statistical-data-sets/taxi01-taxis-private-hire-vehicles-and-their-drivers> (last accessed 13 November 2018).

<sup>23</sup> Local Government Regulation, Taxi and PHV licensing criminal convictions policy (September 2010).

<sup>24</sup> The requirement that the vehicle, driver and place of booking all fall within the same licensing authority area.

- The Welsh Government has committed its aim in the Prosperity for All: economic plan<sup>25</sup> that all taxis in Wales will have a zero carbon footprint within 10 years. This is because of the environmental and public health impacts of vehicular emissions, which are now well-understood<sup>26</sup>. We believe that a national standard should apply which specifies requirements for the vehicular emissions of taxis and PHVs.

### **Proposed legislative change**

- We are proposing to confer a power on the Welsh Ministers to create national standards, which the JTA or local authority will have to have regard to when issuing licences. This will mean that all taxis and PHVs in Wales would need to meet the standards in order to obtain a licence. These standards would subsequently be set by regulations and so there will need to be further consultation on their content if the proposal is agreed.

Q22. Do you agree with our proposal to introduce national standards which will apply to all taxis and PHVs in Wales? Yes/No? Please explain your answer.

Q23. Are there any matters which you would like to see contained in any national standards?

Q24. Are there any matters which you think should be excluded from any national standards?

Q25. What practical obstacles might there be to setting common national standards for both taxis and PHVs?

Q26. What would be the best approach for determining the content of national standards?

Q27. Please provide any other comments or proposals around national standards that were not covered in the above questions.

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<sup>25</sup> <https://gov.wales/topics/businessandconomy/economic-action-plan/?lang=en>

<sup>26</sup> <http://www.euro.who.int/en/health-topics/environment-and-health/Transport-and-health/data-and-statistics/air-pollution-and-climate-change2> (last visited 13 November 2018).

## Enforcement

The Welsh Government is proposing to allow a licensing authority to take enforcement action against any vehicle operating in its area.

### Current legislative position

- Local authorities have the power to suspend, revoke or refuse to renew a hackney carriage or PHV vehicle licence<sup>27</sup>, a hackney carriage or PHV driver's licence<sup>28</sup>, and a PHV operator's licence<sup>29</sup>. These sections of the 1976 legislation are very broad. They allow suspension, revocation or refusal to renew on the following grounds:
  - The vehicle is unfit for use (vehicles only);
  - An offence is committed under TPCA 1847 or LGMPA 1976 (vehicles, drivers and operators);
  - Non-compliance with TPCA 1847 or LGMPA 1976 (vehicles, drivers and operators);
  - Conviction of an offence involving dishonesty, indecency or violence (drivers);
  - Conviction of an immigration offence or requirement to pay an immigration penalty (drivers and operators);
  - Conduct which appears to render a person unfit to be an operator (operators only);
  - Material changes in the operator's circumstances (operators only); or
  - Any other reasonable cause (vehicles, drivers and operators).
- The effect of suspension or revocation is not immediate. It takes effect only after twenty one days has elapsed, and that period is extended if an appeal is lodged within that time<sup>30</sup>. There is one exception. A driver's licence may be immediately suspended or revoked where this is in the interests of public safety<sup>31</sup>.
- Where there has been a breach of licensing requirements that is not sufficiently serious to justify suspension or revocation of the licence, the local authority that issued the licence may issue a sanction. This process is not dictated by legislation.

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<sup>27</sup> Section 60 LGMPA 1976.

<sup>28</sup> Section 61 LGMPA 1976.

<sup>29</sup> Section 62 LGMPA 1976.

<sup>30</sup> Section 77 LGMPA 1976 read alongside section 300 Public Health Act 1936.

<sup>31</sup> Section 61(2B) LGMPA 1976.

**Case for change and desired outcomes**

- The law currently only allows local authorities to suspend, revoke or refuse to renew a licence that they have issued. **Licensing officers cannot undertake enforcement against vehicles, drivers or operators licensed in another area.** The local authority which finds itself in that position can only rely on its ability to bring a prosecution under section 222 of the Local Government Act 1972; but this will not be appropriate where no criminal offence has taken place. Additionally, local authorities currently have the discretion to set their own policies on lesser sanctions, and in practice only issue sanctions in relation to licences that they have issued. This limits enforcement to local authority borders, when in practice those borders have been eroded by technological advancement. There is no good reason why a local authority should not be able to take action against any taxi or PHV operating in its area.

**Proposed legislative change**

- We are proposing to amend sections 60-62 LGMPA 1976 to allow a local authority or a JTA to suspend or revoke a licence relating to **any** vehicle operating in its area. We propose to retain the provisions about immediacy i.e. that any decision will only take effect after twenty one days, unless an appeal has been lodged or there are grounds for immediate suspension or revocation.
- We are proposing to enable a local authority or JTA to issue a lesser sanction to **any** vehicle operating in its area.

Q28. Should a local authority be able to revoke or suspend a licence relating to **any** vehicle operating in its area, even if it did not issue the original licence? Yes/No? Please explain your answer.

Q29. Should a local authority be able to issue a lesser sanction in relation to **any** vehicle operating in its area, even if it did not issue the original licence? Yes/No? Please explain your answer.

Q30. Please provide any other comments or proposals around enforcement that were not covered in the above questions.

## Information-sharing

The Welsh Government is proposing to allow the creation of a mechanism by which relevant information can be shared, for the purposes of safeguarding.

### Current position

- There is currently no legal requirement for local authorities to share information with one another which might assist them in their decision-making. For example, if a driver is refused a licence or has his licence suspended or revoked by one local authority, it can be difficult for the remaining twenty one local authorities to obtain that information.

### Case for change and desired outcomes

- In exercising their day-to-day licensing functions, individual local authorities access and manage data which could be extremely relevant for safeguarding purposes. That there is currently no legal requirement or formal mechanism for that information to be shared with other local authorities creates a risk to the general public.
- We recognise that the vast majority of people involved in the taxi and PHV trades abide by the rules and work hard to provide a good, safe and reliable service to the public. We believe that information should be accessible to allow decision-makers to identify the small minority that do not. All people in Wales are entitled to be safe when using taxi and PHV services.

### Proposed legislative change

- We are proposing to create a duty on the Welsh Ministers to create a database, or make other information-sharing arrangements, to ensure that relevant information can be shared for the purposes of safeguarding.

Q31. Do you agree with our proposal to create a database or make other arrangements for relevant safeguarding information to be shared? Yes/No? Please explain your answer.

Q32. Please provide any other comments or proposals around information-sharing that were not covered in the above questions.

## Joint Transport Authority

The Welsh Government is proposing to redirect all of the existing taxi and PHV licensing functions away from local authorities and into a national licensing authority, a JTA.

This would include licencing, fee- and fare-setting, enforcement, hearing appeals arising from licensing decisions, prosecutions and deciding matters such as whether to apply quantity controls to taxis.

### Current position

- Taxi and PHV licensing functions belonging to a local authority are contained in a number of pieces of primary and secondary legislation, which are too numerous to list in full here.
- The mechanism for establishing JTAs is contained in the Transport (Wales) Act 2006. For more information on our initial proposals to establish JTAs, please refer to pages 14 - 18 of this paper.

### Case for change and desired outcomes

- We have highlighted above that there are problems with the existing localised approach to taxi and PHV licensing. These are: the discretion allowed to the twenty two Welsh local authorities in making licensing decisions; their inability to enforce across their borders; and the difficulty that they face in communicating information to one another. Our view is that these problems are best solved by centralising the regime. We propose to do this by creating a JTA, which would act as the national licensing authority for Wales. We propose that all of the existing taxi and PHV licensing functions of the twenty two Welsh local authorities would be redirected to the JTA. This means that rather than having twenty two local authority areas and their associated borders, there would be one licensing area encompassing all of Wales. We are calling this Option A.
- We do however recognise the scale of Option A, and acknowledge that it could produce unintended consequences. We are therefore also considering an alternative Option B: create national standards that the local authorities must follow; extend the existing enforcement powers of local authorities; and create a mechanism by which local authorities can share relevant information. We are especially keen to hear your thoughts on whether a JTA is the appropriate delivery vehicle for a standardised taxi and PHV licensing regime with streamlined enforcement and information-sharing ability (Option A), or whether the existing framework should be retained and improvements made to standardisation, enforcement and information-sharing (Option B).

## Proposed legislative change

- We are proposing to redirect all of the existing taxi and PHV licensing functions which exist in law (including licencing, fee- and fare-setting, enforcement, hearing appeals arising from licensing decisions, prosecutions and deciding matters such as whether to apply quantity controls to taxis) away from local authorities and into a national licensing authority, a JTA (Option A). This will be done via the Transport (Wales) Act 2006.
- The alternative to Option A is Option B; allowing local authorities to continue to have responsibility for taxi and PHV licensing. This would be done by amending the existing legislation, and would not involve using the Transport (Wales) Act 2006.

Q33. Do you agree with our proposal to redirect all of the existing taxi and PHV licensing functions away from local authorities and into a national licensing authority (Option A)? Yes/No? Please explain your answer.

Q34. Do you think that local authorities should continue to have responsibility for taxi and PHV licensing (Option B)? Yes/No? Please explain your answer.

Q35. Please provide any other comments or proposals around responsibility for taxi/PHV licensing that were not covered in the above questions.

Q36. We would like to know your views on the effects that the legislative proposals set out in this paper would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Q37. Please also explain how you believe the proposals could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Q38. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

**Improving Public Transport – Welsh Government White Paper**

This response is submitted on behalf of Denbighshire County Council. Some comment mirror that of the All Wales Licensing Expert Panel representations made on behalf of Wales Heads of Environmental Health Group.

**National Standards**

**Q22. Do you agree with our proposal to introduce national standards which will apply to all taxis and PHVs in Wales? Yes/No? Please explain your answer.**

Yes, this is consistent with the previous consultation work undertaken between the Licensing Expert Panel and Welsh Government lead on taxi reform in Wales. It is also consistent with recommendation 2 made by the “Ministerial Working Party into Hackney Carriage and Private Hire Licensing in England [2018]” and the Law Commission review “Reforming the Law of Taxi and Private Hire Services” [2012]”.

National standards would ensure that taxi services are delivered consistently across Wales and deal with any perceptions of any unnecessary inconsistency across Councils, which, in turn, aids businesses plan their services which is especially important for those operating in areas which span neighbouring authorities.

**Q23. Are there any matters which you would like to see contained in any national standards?**

Separate national standards should be defined for vehicles, drivers and operators. The following matters should be included, although this is not an exhaustive list:

- Enhanced DBS and Barring List checks (certificate of good conduct for overseas applicants) for drivers, operators, proprietors and dispatchers. The Council believe that anyone taking or holding an individual’s personal information should have to be vetted to ensure that that person is safe and suitable (“fit and proper”).
- Medical fitness and specifically the requirement of Group 2 Medical Standards and the need for the applicant’s full medical history to be noted by the completing GP. Standards should also consider consistency of the issue of exemption certificates in terms of Equality Act duties.
- Immigration checks specifically the Right to Work in the UK
- Suitability of applicants and licence holders. The Institute of Licensing has published guidance on determining the suitability of applicants and licence holders in the hackney carriage and private hire trades. The criteria used in this guidance should be incorporated into any national standards  
[https://www.instituteoflicensing.org/documents/Guidance\\_on\\_Suitability\\_Web\\_Version\\_\(16\\_May\\_2018\).pdf](https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)
- Nationally-recognised vocational qualifications to include disability quality and awareness training, safeguarding awareness training (Child Sexual abuse / Exploitation, County Lines), practical driving standards test, communication

skills and literacy, customer care, handling of emergencies, managing conflict etc.

- Knowledge and suitability test (literacy, numeracy, highway-code, conditions, local area knowledge).
- Foreign driving licences

In addition, the Council would recommend the following matters be included in relation to vehicles:

- National Inspection Standards and frequency of inspections and testing including the criteria for testing. Consideration should also be given to suitability, independency and availability of testing stations and how they are approved e.g. consider if use of Trade owned testing stations are appropriate.
  - Design and appearance and internal spatial requirements of vehicles including the approach to identify taxis and private hire vehicles.
  - The information which should be contained on any vehicle identification source (plates, door signs).
  - Standards for specialist and novelty vehicles, such as stretched limousines, wedding and funeral cars, omnibuses and pedicabs.
  - Taxi Meter standards including the criteria for Pulse and GPS meters.
  - The use and standards for CCTV within vehicles, both audible and video as outlined in recommendation 17 & 18 “Ministerial Working Party into Hackney Carriage and Private Hire Licensing in England [2018]”. The Information Commissioner’s Office has produced advice for councils and other organisations in using surveillance and CCTV systems in licensed taxis. A national standard should take account of this advice.  
<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand> The LGA Guidance has also now been published.  
<https://www.local.gov.uk/developing-approach-mandatory-cctv-taxis-and-phvs>
- The cost of fitting CCTV within licensed vehicles particularly for small businesses may require subsidy from Welsh Government. In respect of the data obtained on CCTV the Council wish to highlight that Councils may be considered data controllers and as such may be affected by additional burdens.
- Record Keeping including the retention period required. The Council believe that ideally records should be kept for every journey undertaken, however, there are obvious practical difficulties with taking this approach. A better option would be to use technology to better the safeguarding processes. The use of CCTV, trackers and GPS systems would not only provide a more robust system for record keeping, but would also not place an administrative burden on taxi drivers.
  - Environmental considerations such as vehicle emission standards.
  - The criteria, if any, for exemption from displaying vehicle plates / stickers

The standards for some of the points recommended above are included in guidance already and should be taken into account when developing any national standards, such as the Department of Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010), although this is in need of updating.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/212554/taxi-private-hire-licensing-guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf)

In addition the Council would recommend mandating training for all individuals involved in the licensing decision-making process. Consistent and appropriate training of officers, councillors and Magistrates' legal clerks (for appeals) is essential to ensure those applying standards are competent to do so. The content of the training should form part of national standards.

The Council would urge the Welsh Government to ensure that any standard adopted does not reduce any standard currently being applied in any of the licensing authorities across Wales.

Finally, any national standards developed should be consistent with criteria implemented in England to reduce variations in driver, vehicle and operator requirements especially around the border areas.

**Q24. Are there any matters which you think should be excluded from any national standards?**

There are no matters that should be excluded, although national standards should not duplicate other legislation.

**Q25. What practical obstacles might there be to setting common national standards for both taxis and PHVs?**

The main obstacle will be incorporating the national standards into the 10,000 vehicles and 12,000 drivers currently licensed in Wales and the provisions that will need to be in place for transitional arrangements and grandfather rights. Consideration will also need to be given to finding suitable consistent standards which work for both urban and rural areas.

**Q26. What would be the best approach for determining the content of national standards?**

There are already a number of national policies in place which have been adopted by a number of Welsh Local Authorities in order to provide a level of consistency between areas, such examples include:

- National Inspection Standards for hackney carriage and private hire vehicles, and
- Institute of Licensing Guidance on determining the suitability of applicants and licences in the hackney carriage private hire trade.

There are also some excellent examples of local taxi licensing policies and standards in place which have been developed and applied at a local level.

Welsh Government will first need to establish what policies and standards are already in place in Wales and then draw on the knowledge of licensing practitioners

who have expert practical experience of undertaking taxi licensing work on a daily basis.

This review should be seen as an opportunity to drive up standards and it would be remiss of Welsh Government to disregard any policies, standards or procedures which have been developed by licensing professionals and which actually serve to provide a robust service against a backdrop of legislation which is woefully inadequate and outdated.

The All Wales Licensing Expert consists of managers and team leaders from local licensing Authorities across Wales who have extensive knowledge and experience in the taxi licensing field and would without question need to be heavily involved in the development of national standards.

It is suggested that Welsh Government would also need to engage with passenger safety groups and operator representatives by way of meetings, seminars and workshops.

**Q27. Please provide any other comments or proposals around national standards that were not covered in the above questions.**

The previous Welsh Government consultation on Taxi and Private Hire Vehicle Licensing in Wales [WG31865] referred to “national standards for all taxis and private hire vehicles, set by Welsh Ministers, with the power for local licensing authorities to set additional conditions where it is appropriate to do so”

Although the White Paper makes no reference to minimum national standards, it is worth noting that the Council would not recommend that local licensing authorities be permitted to set additional local conditions above the national standard.

**Enforcement**

**Q28. Should a Local Authority be able to revoke or suspend a licence relating to any vehicle operating in its area, even if it did not issue the original licence? Yes/No? Please explain your answer.**

No, the Council believe that the revocation of a vehicle licence should be the responsibility of the home Licensing Authority. Where it is proposed that action is taken to revoke a licence, it is imperative that the licence holder is afforded the opportunity to be heard i.e. the opportunity of a fair hearing; this is a requirement of Article 6 Human Rights Act which protects your right to a fair trial. The Licensing Authority that has issued the licence will also have invaluable local knowledge about the licence holder, have immediate access to the history of the vehicle and any complaints received and should be responsible for recovering any fees associated with taking the enforcement action. It is noted that proposals in relation to fee setting are not included in the White Paper.

The Council believe however that it is appropriate for any authorised officer from any Licensing Authority area to have the power to suspend immediately (Section 68 Local Government (Miscellaneous Provisions) Act 1976) a licence of any vehicle operating in their area (irrespective of where it was licensed) where there is an immediate public safety risk e.g. defective tyre, or potentially where the vehicle fails to meet the national standards e.g. missing door signs / back plates. The authority that issues the suspension, would then report the matter to the home Licensing Authority for them to consider whether to lift the suspension or take further action.

Irrespective of the action the process will need to be consistent across Wales. This is especially important for revocation as local process to determine such an application might differ.

**Q29. Should a Local Authority be able to issue a lesser sanction in relation to any vehicle operating in its area, even if it did not issue the original licence? Yes/No? Please explain your answer.**

Yes, the Council consider this of benefit to aid the home Licensing Authority in order to determine whether any further action is required e.g. improvement notice / advisory / warning. For example introducing a system of issuing a Fixed Penalty Notices would bring taxi and private hire enforcement in line with other areas of local government. Some method of referral scheme would need to be developed to notify the issuing Licensing Authority, however the practical implications of this would need further consideration.

**Q30. Please provide any other comments or proposals around enforcement that were not covered in the above questions.**

The Council are aware that the Licensing Expert Panel has previously been in discussion with Welsh Government about introducing the power to stop and direct taxi and PHVs. This would be a useful and beneficial addition to the enforcement options currently available to local authorities.

Currently Licensing Authorities are unable to attach conditions to hackney carriage driver licences, some local authorities have Byelaws in place and the Council would recommend incorporating any relevant component of these into national standards

The Council would recommend other enforcement provisions be introduced by Welsh Government such as where a driver refuses a fare due to the short distance involved or for cases of overcharging.

In addition the Council would recommend mandating training for all individuals involved in the licensing decision-making process (as mentioned above). Consistent and appropriate training of officers and councillors (this should also include Magistrates' legal clerks) is essential to ensure those applying standards are competent to do so. The content of the training should form part of national standards.

## Information Sharing

**Q31. Do you agree with our proposal to create a database or make other arrangements for relevant safeguarding information to be shared? Yes/No? Please explain your answer.**

Yes, the establishment of a mandatory national database of all licensed drivers is critical, however this database should be expanded to include vehicle and operators, proprietors and dispatchers to support stronger enforcement. This must be established quickly.

In the interim, the National Anti-Fraud Network (NAFN) currently provides an online register of taxi and private hire drivers who have been refused or had their licence revoked. The database includes the reasons for any refusal or revocation, along with the relevant Licensing Authority details. Welsh Government must introduce legislation to mandate its use as a priority. The Council has agreed in principle to use this database and at the time of this consultation response all local authorities in Wales were progressing this.

In addition any national database must be able to accommodate or link in with an equivalent database in England to avoid duplication of data entry and ensure public safety particularly around the border areas.

Additionally, other organisations may have vital information on applicants or current drivers which sits outside usual DBS process but may be equally relevant to determining suitability of an individual. Current practices make the sharing of information with organisations difficult, especially, for example, in other authorities. Creation of a safeguarding database would remove barriers and improve information flow.

**Q32. Please provide any other comments or proposals around information-sharing that were not covered in the above questions.**

The Council are aware that the Common Law Police Disclosure provisions have been highlighted as a significant concern by the Licensing Expert Panel previously. These proposals do not cover this issue. The Council would suggest the current disclosure provisions be reviewed to ensure that all relevant information of crimes and conduct by taxi and private hire drivers, including arrest, charge and conviction information, is shared with the Licensing Authority immediately.

The Council appreciate that Welsh Government may be limited in influencing this suggestion but it is essential to ensure all drivers, operators, proprietors and dispatchers are safe and suitable. Any influence Welsh Government could have on this to improve information-sharing on public safety grounds would be welcomed. It would be particularly helpful if, for example, specific questions on whether an individual when appearing in custody is a holder of any licence.

## **Joint Transport Authority (JTA)**

### **Q33. Do you agree with our proposal to redirect all of the existing taxi and PHV licensing functions away from local authorities and into a national Licensing Authority (Option A)? Yes/No? Please explain your answer.**

No, the Council would **not** support the proposal to redirect all of the existing taxi and PHV licensing functions into a national Licensing Authority on the information provided, as there is no evidence to support taking the function away from Local Authorities. At this stage there is no detail contained within this white paper as to how the JTA would undertake the licensing function and therefore it is very difficult to be able to answer this question. The Council feel that insufficient research has been undertaken in respect of this proposal and that Welsh Government must produce a far more detailed explanation on how the JTA would work. The Council feel that they would then be in a better position to comment on the proposal. Our overriding concern is the protection of the public, and there is nothing contained within this proposal which suggests that public safety is at the forefront of this proposal.

In addition, Local Authorities have a duty to consider the WG's Framework for Managing the Night Time Economy in Wales. Authorities need to consider the transport need of their local evening and night time economy as part of an integrated approach, which includes the importance of taxis and PHVs. Partnership working between key local agencies such as the Police (including transport Police), licensing and the taxi trade offer the best opportunities for achieving sustainable late-night transport environments that also promote safety. Removal of the duty from Local Authorities would not be beneficial to implementing plans for improving the night time economy as a whole.

The Council would urge the Welsh Government involve the Licensing Expert Panel in considering the evidence for Welsh Government's proposals and to work with them further to ensure any reform of taxi and private hire vehicle legislation is robust, enforceable and improves public safety.

### **Q34. Do you think that local authorities should continue to have responsibility for taxi and PHV licensing (Option B)? Yes/No? Please explain your answer.**

Yes, the Council believe that local authorities should continue to have responsibility for taxi and PHV licensing. Whilst the Council appreciate that the Licensing function requires strengthening as mentioned in option B, it is recognised that licensing at the local level works well. Additional evidence is requested from Welsh Government to justify the contrary to continuing with Local Authority responsibility.

### **Q35. Please provide any other comments or proposals around responsibility for taxi/PHV licensing that were not covered in the above questions.**

The Council believe that the current proposals contained within the White Paper fall far short of the reform that taxi and private hire licensing so desperately requires. The previous set of proposals contained within the Taxi and Private Hire Vehicle

Licensing in Wales [WG31865] would have introduced a robust taxi licensing regime which was fit for the 21<sup>st</sup> century and afforded local authorities the necessary tools to protect the public, tackle cross border working and introduce more powers for better enforcement. Instead, what is now being proposed is a quick fix and offers nothing more than a sticking plaster solution. The existing legislation is archaic, not fit for purpose and requires fundamental reform with new primary legislation.

A viable alternative however is readily available by considering in more detail adopting the recommendations of the “Ministerial Working Party into Hackney carriage and Private Hire Licensing in England [2018]” which builds on the work undertaken by the Law Commission “Reforming the Law of Taxi and Private Hire Services [2012]”.

These recommendations offer far more than a sticking plaster solution and would modernise the legislative framework, introducing appropriate regulation and giving licensing authorities the necessary enforcement tools to better protect the public. The recommendations, if implemented, would also ensure that inconsistencies between Welsh and English authorities, particularly along the border, are negated.

**Q36. We would like to know your views on the effects that the legislative proposals set out in this paper would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased? or negative effects be mitigated?**

Welsh Government must have regard to the Welsh Standards as set out by the Welsh Language Commissioner. It is important that applicants are able to apply in their language of choice. Positive effects could be increased by ensuring that signage, etc. is provided in bilingual format on all taxis and taxi ranks.

**Q37. Please also explain how you believe the proposals could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

See above

**Q38. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them: Please enter here:**

Consideration should be given to the potential for setting of fees and tariff charging. While there is a difference between rural and urban areas, there is merit in standardising fees for licensing, similar to that under the Licensing Act 2003 or Gambling Act 2005. As with national standards, a universal fee may prevent

operators and / or proprietors shopping around and seeking to get licensed in an authority with a lower application fee. Although standardising tariff charging might be more problematic any changes to the regime should include guidance on setting a maximum tariff charge for metered journeys.

While this might not fall within the remit of this review the Council think it is appropriate to consider the driving hours of licensed drivers. A taxi driver is a professional driver and yet sits outside the maximum driving hours linked to other driving professions. The safety of passengers, other road users and the general public should not be put at risk due to drivers' tiredness.

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	5 <sup>th</sup> March 2019
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Public Protection Business Manager <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706066
<b>SUBJECT:</b>	Update on the Work of the Licensing Section

## 1. PURPOSE OF THE REPORT

1.1 To update Members of the work of Licensing Officers.

## 2. EXECUTIVE SUMMARY

2.1 This report provides information on the work in respect of the functions of the Licensing Section and includes licences issued, complaints and service requests received and other activities completed during 2018.

## 3. POWER TO MAKE THE DECISION

3.1 No decision required.

## 4. BACKGROUND INFORMATION

4.1 The report is broken down into two main sections, namely operational and management matters.

## 5. ISSUES AND FINDINGS - OPERATIONAL MATTERS

### 5.1 Alcohol and Entertainment

5.1.1 There were 21 complaints from the public in relation to licensed premises. Fifteen of these were linked to issues in relation to noise nuisance. These have been dealt with in collaboration with Environmental Health Officers and appropriate action or advice given where necessary.

5.1.2 Other complaints concern general anti-social behaviour – some of which are reported alongside the noise issues – inappropriate drink promotion, drunkenness and poor management. Appropriate action was taken or is ongoing.

5.1.3 During the year there have been:-

- 18 new premises licence applications

- 37 transfers of licence
- 5 variation of conditions
- 92 variations of Designated Premises Supervisor.

5.1.4 Licensing Officers, having updated the licensed premises database following data transfer from another database, have implemented a revised process for dealing with the payment of annual fees which has led to relevant fees being paid in a timely manner. This has not been without complications and issues and the process is evolving so that it will continue to deliver good customer service and efficiencies.

5.1.5 **There have been five joint visits to licensed premises with partners** – North Wales Police, Immigration Enforcement Officers and other Denbighshire teams, such as Health & Safety, Food Safety and Trading Standards.

5.1.6 Two premises had their licences reviewed, one of which is currently on appeal.

5.1.7 Licensing Officers continue to meet regularly – at least every other week – with North Wales Police colleagues to identify and deal with emerging issues.

## 5.2 Hackney and Private Hire Licensing.

5.2.1 There have been 21 taxi related complaints during the year on matters including an unlicensed vehicle, late arrival of taxis, verbal abuse and careless driving. Appropriate action was taken or is ongoing.

5.2.2 Members will recall a complaint related to the refusal of a driver to accept a wheelchair user as a passenger and that the matter was determined by this Committee. Part of the debate included the introduction of a published list of wheelchair accessible vehicles. This is now complete and available on the Council's website.

5.2.3 Aside for the above complaint there have been no further requests by officers for Members to determine the suitability of drivers during 2018, although Members will recall the committee reviewing officer reports on new to fleet vehicles, displaying adverts and emblems and amendment to policies.

5.2.4 Except for a small number of applications all new, and if relevant, renewal driver applicants now have their Disclosure and Barring Service (DBS) records submitted online. Additionally, the applicants' DVLA driver record checks are initiated and checked online. As with any new system or process there have been teething problems but officers are confident that this will lead to a more efficient process in the future

5.2.5 During 2018 the Local Government Association introduced a national database for reporting and sharing information on drivers that have had their licence revoked and applicants that have had their applications refused. This has been widely adopted across the country and officers have notified all Denbighshire licensed drivers of its existence and use. New applicants will also be advised accordingly.

5.2.6 Officers introduced new taxi driver packs for new and renewal applicants. This included updated and clearer application forms and associated guidance.

### 5.3 Gambling, Gaming and Lotteries

5.3.1 There were no complaints in respect of licensed gambling premises.

5.3.2 The Gambling Commission have advised that the Statement of Gambling policy must be reviewed at least every 3 years and published by 31<sup>st</sup> January 2019. Members will recall this document being consulted on and reviewed during 2018 and is now published.

5.3.3 Officers are currently reviewing the database lists of licensed premises following transfer to new database. This, as in the Licensed Premises process above, will enable officers to implement an efficient and timely process for annual fee payment as well as reporting accurate information where necessary e.g. annual returns or Freedom of Information request.

5.3.4 No joint visits with Gambling Commission representatives were conducted during the year but these are scheduled in the early part of 2019, and thereafter as necessary.

5.3.5 The Local Government Association “Gambling Regulation Councillor Handbook” has been updated during 2018. The handbook offers a useful tool and resource for elected members and officers and can be found at:  
[https://www.local.gov.uk/sites/default/files/documents/10.18%20Gambling%20regulation%20councillor%20handbook\\_v06\\_WEB\\_1.pdf](https://www.local.gov.uk/sites/default/files/documents/10.18%20Gambling%20regulation%20councillor%20handbook_v06_WEB_1.pdf).

### 5.4 Street Trading

5.4.1 There were no complaints in relation to street trading.

5.4.2 Members are advised that current practice for any new applications will remain until such time as a policy has been determined and approved through this committee. This will be drafted and presented by officers in due course.

### 5.5 Charity Collections

5.5.1 There have been no complaints relating to charity collections.

### 5.6 Scrap Metal

5.6.1 There has been one complaint in relation to scrap metal, this being in respect of a possible unlicensed dealer and remains unresolved.

### 5.7 Service Requests / Freedom of Information

5.7.1 During the year there were:

- 12 service requests recorded across the range of functions carried out by the Licensing Team where information or advice etc. have been requested and given, and
- 11 Freedom of Information requests, relating to a range of matters, were received and had an appropriate response.

## 5.8 Overall workload results

5.8.1 Changing databases prior to 2018 has had an impact on data recording, especially how activity is recorded. Licensing officers are improving their understanding and it follows that recording will become easier and timely. Current data shows that there were:

- 121 inspections, primarily around vehicles and licensed premises, and
- 548 actions. Officers highlight that actions are not necessarily linked to inspections but include other interactions with businesses and public, e.g. telephone calls, letters, notices and so on.

## 5.9 Licensing Team Performance

5.9.1 Although we are currently unable to report on the timescales for the processing of applications we are working on a resolution for this.

## 5.10 Communications

5.10.1 Licensing Officers continue to publish periodic newsletters.

5.10.2 Media involvement in messages on the promotion of #timeforhomerhyl initiative, safe taxi and generic messages through national licensing week.

5.10.3 Social media accounts have recently been set up and it is envisaged messages and updates through these platforms

## **6. MANAGEMENT MATTERS**

### 6.1 Policies

6.1.1 A number of policies have been amended during 2018 and this work is ongoing. Officers have drafted a revised forward work plan and will continue to update Members on that at each committee hearing.

### 6.2 Fees

6.2.1 Although 2018 brought in a revised and updated table of charges for hackney carriages (“the tariff”) there was no increase in licensing fees. It is, however, anticipated that non-statutory fees will be reviewed during March / April and reported to Members for consideration thereafter.

### 6.3 Complaints against service

6.3.1 There have been no complaints against service although there have been two enquiries concerning the Licensing remit – one in relation to a street collection licence and the other in respect the message of a generic press releases. Both have been resolved.

#### 6.4 Future Additional Workload considerations

6.4.1 The Public Health (Minimum Price for Alcohol) (Wales) Act 2018 introduces a minimum price for alcohol and may impact on the availability of cheap alcohol from supermarkets and off-licences. Further information is expected during the year.

6.4.2 The Welsh Government consultation on “Improving Public Transport” is a significant review of passenger transport in Wales which includes proposals for changes to the licensing of taxi and private hire vehicles. Proposals include transfer of functions to a single Wales wide authority, standardisation of requirements, better sharing of information and improved powers for enforcement. Consultation closes 27<sup>th</sup> March 2019 and it is anticipated that Denbighshire will respond.

6.4.3 Inspections around access of minors to age restricted gaming machines following a report indicating a significant failure rate in England.

6.4.4 Further development of database to allow online applications and public registers.

6.4.5 Officers are arranging a training event for Licensing Committee members. Information will be provided as soon as details are finalised.

### 7. **RECOMMENDATIONS**

- 7.1 That the committee –
- a) note the activity report for this year, and
  - b) note and comment on the contents of this report.

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	5 <sup>th</sup> March 2019
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Public Protection Business Manager <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706433
<b>SUBJECT:</b>	Forward Work Programme 2019/20

## 1. PURPOSE OF THE REPORT

- 1.2 To provide Members with a proposed Forward Work Programme for 2019/20.

## 2. EXECUTIVE SUMMARY

- 2.1 A proposed Forward Work Programme is attached, at Appendix 1, for Members to consider and approve.

## 3. BACKGROUND INFORMATION

- 3.1 Members will be aware that at a previous Licensing Committee in December 2018, Members approved a 12 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.

## 4. 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 2019/20**

<b>Committee Date</b>	<b>Report</b>	<b>Comment</b>
<b>June 2019</b>	Hackney Carriage and Private Hire Conviction Policy	Approval
<b>September 2019</b>	Street Collection Policy	Approval
	House to House Policy	Approval
<b>December 2019</b>	Hackney Carriage and Private Hire Vehicle Conditions/Policy	Review
<b>March 2020</b>	Hackney Carriage and Private Hire Vehicle Conditions/Policy	Approval
	Film Classification Policy	Approval

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