

At: Aelodau'r Pwyllgor Trwyddedu

Dyddiad: 6 Mehefin 2019

Rhif Union: 01824 712568

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Annwyl Gyngorydd

Fe'ch gwahoddir i fynychu cyfarfod y **PWYLLGOR TRWYDDEDU, DYDD MERCHER, 12 MEHEFIN 2019** am **9.30 am** yn **SIAMBR Y CYNGOR, NEUADD Y SIR, RHUTHUN**.

**SYLWCH: BYDD SESIWN HYFFORDDI TRWYDDEDU AR GYFER AELODAU YN SYTH AR ÔL Y CYFARFOD**

Yn gywir iawn

G Williams  
Pennaeth Gwasanaethau Cyfreithiol a Democrataidd

## **AGENDA**

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

#### **1 YMDDIHEURIADAU**

#### **2 PENODI CADEIRYDD**

Penodi Cadeirydd y Pwyllgor Trwyddedu ar gyfer y flwyddyn i ddod.

#### **3 PENODI IS-GADEIRYDD**

Penodi Is-Gadeirydd y Pwyllgor Trwyddedu ar gyfer y flwyddyn i ddod.

#### **4 DATGANIADAU O FUDDIANT**

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

**5 MATERION BRYD FEL Y'U CYTUNWYD GAN Y CADEIRYDD**

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

**6 COFNODION Y CYFARFOD DIWETHAF** (Tudalennau 9 - 14)

Derbyn cofnodion y Pwyllgor Trwyddedu a gynhaliwyd ar 5 Mawrth 2019 (copi ynghlwm).

**RHAN 2 - MATERION CYFRINACHOL**

Argymhellir, yn unol ag Adran 100A (4) Deddf Llywodraeth Leol 1972, y dylid gwahardd y Wasg a'r Cyhoedd o'r cyfarfod wrth drafod y materion canlynol oherwydd y tebygolrwydd y caiff gwybodaeth eithriedig, fel y diffinnir ym Mharagraff 12 ac 13 Rhan 4 o Atodlen 12A y Ddeddf, ei datgelu.

**7 CAIS AM DRWYDDED AR GYFER CERBYD HURIO PREIFAT**  
(Tudalennau 15 - 36)

Ystyried adroddiad cyfrinachol gan y Pennaeth Cynllunio a Diogelu'r Cyhoedd (copi ynghlwm) yn gofyn i aelodau benderfynu ar gais am Drwydded Cerbydau Hurio Preifat.

**8 CAIS AM DRWYDDED I YRRU CERBYD HACNI A CHERBYDAU HURIO PREIFAT - RHIF YMGEISYDD 533519** (Tudalennau 37 - 62)

Ystyried adroddiad cyfrinachol gan y Pennaeth Cynllunio a Diogelu'r Cyhoedd (copi ynghlwm) yn gofyn i aelodau benderfynu ar gais i yrru cerbydau hacni a cherbydau hurio preifat gan Ymgeisydd Rhif 533519.

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

**9 DIWEDDARIAD AR Y DATGANIAD POLISI YNGHYLCH ADDASRWYDD YMGEISWYR A THRWDDEDAU YN Y MASNACHAU CERBYD HACNI A CHERBYDAU HURIO PREIFAT** (Tudalennau 63 - 80)

Ystyried adroddiad gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (copi yn amgaaedig) yn cyflwyno Datganiad Drafft y Polisi sy'n ymwneud ag addasrwydd ymgeiswyr a thrwyddedau yn y masnachau cerbyd hacni a cherbydau hurio preifat i'w cymeradwyo o 1 Gorffennaf 2019.

**10 BLAENRAGLEN WAITH Y PWYLLGOR TRWYDDEDU** (Tudalennau 81 - 84)

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

## **AELODAETH**

### **Y Cynghorwyr**

Joan Butterfield  
Hugh Irving  
Alan James  
Brian Jones  
Barry Mellor  
Melvyn Mile

Arwel Roberts  
Peter Scott  
Rhys Thomas  
Tony Thomas  
Huw Williams

### **COPIAU I'R:**

Holl Gynghorwyr er gwybodaeth  
Y Wasg a'r Llyfrgelloedd  
Cyngorau Tref a Chymuned

Mae tudalen hwn yn fwriadol wag

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

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

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

DEDDF LLYWODRAETH LEOL 2000

Cod Ymddygiad Aelodau

## DATGELU A CHOFRESTRU BUDDIANNAU

Rwyf i,  
(enw)

\*Aelod /Aelod cyfetholedig o  
(\*dileuer un)

Cyngor Sir Ddinbych

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

Dyddiad Datgelu:

Pwyllgor (nodwch):

Agenda eitem

Pwnc:

Natur y Buddiant:

(Gweler y nodyn isod)\*

Llofnod

Dyddiad

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

Mae tudalen hwn yn fwriadol wag



## PWYLLGOR TRWYDDEDU

Cofnodion cyfarfod o'r Pwyllgor Trwyddedu a gynhaliwyd yn Siambr y Cyngor, Ty Russell, Y Rhyl, Dydd Mawrth, 5 Mawrth 2019 am 9.30 am.

## YN BRESENNOL

Y Cyngorwyr Joan Butterfield, Alan James (Is Gadeirydd), Brian Jones, Richard Mainon, Barry Mellor, Arwel Roberts, Tony Thomas ac Huw Williams

**Arsylwyr** – Y Cyngorwyr Bobby Feeley a Huw Hilditch-Roberts

## HEFYD YN BRESENNOL

Cyfreithiwr (AL), Rheolwr Amgylchedd Adeiledig a Gwarchod y Cyhoedd(GR), Rheolwr Busnes Gwarchod y Cyhoedd (IM), Swyddog Trwyddedu (JT) a Gweinyddwr Pwyllgor (KEJ)

## PWYNT SYLW

Yn absenoldeb y Cadeirydd, Y Cyngorydd Hugh Irving, cadeiriwyd y cyfarfod gan yr Is-Gadeirydd, Y Cyngorydd Alan James.

### 1 YMDDIHEURIADAU

Y Cyngorwyr Hugh Irving (Cadeirydd), Melvyn Mile a Rhys Thomas

### 2 DATGANIADAU O FUDDIANT

Nododd y Cyngorydd Tony Thomas gysylltiad personol yn eitem 5 ar y rhaglen gan fod yr ymgeisydd yn breswlydd yn ei dref ac ardal ei ward sirol.

### 3 MATERION BRYN FEL Y'U CYTUNWYD GAN Y CADEIRYDD

Ni godwyd unrhyw faterion bryn.

### 4 COFNODION Y CYFARFOD DIWETHAF

Cyflwynwyd cofnodion y Pwyllgor Trwyddedu a gynhaliwyd ar y 5 Rhagfyr 2018.

**Materion yn Codi** - Tud 9: Y wybodaeth ddiweddaraf am gyflwyno rhestr o gerbydau penodedig sy'n hygyrch i gadeiriau olwyn – Mewn ymateb i gwestiwn gan y Cyngorydd Brian Jones, cadarnhaodd y Rheolwr Busnes Gwarchod y Cyhoedd fod rhestr o gerbydau penodedig sy'n hygyrch i gadeiriau olwyn wedi ei chyhoeddi ar wefan y Cyngor.

**PENDERFYNWYD** fod cofnodion y cyfarfod a gynhaliwyd ar 5 Rhagfyr 2018 yn cael eu derbyn a'u cadarnhau fel cofnod gywir.

## **GWAHARDD Y WASG A'R CYHOEDD**

**PENDERFYNWYD** o dan Adran 100A o Ddeddf Llywodraeth Leol 1972, bod y Wasg a'r Cyhoedd i'w gwahardd o'r cyfarfod ar gyfer yr eitemau busnes canlynol ar y sail eu bod yn debygol o olygu datgelu gwybodaeth eithriedig fel y'i diffinnir ym Mharagraff 1 ac 13 o Ran 4 o Atodlen 12A y Ddeddf.

### **5 CAIS AM DRWYDDED AR GYFER CERBYD HURIO PREIFAT**

Cyflwynwyd adroddiad gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (wedi ei gylchredeg yn flaenorol) ar -

- (i) gais a dderbyniwyd am Drwydded Cerbyd Hurio Preifat;
- (ii) swyddogion wedi methu caniatáu'r cais gan nad oedd y cerbyd a gyflwynwyd i'w drwyddedu yn cydymffurfio â pholisi'r Cyngor mewn perthynas a'r terfyn oed o bum mlynedd i gerbydau oedd i'w trwyddedu dan gais newydd;
- (iii) amodau ychwanegol perthnasol i drwyddedu mathau o gerbydau arbenigol megis yr un dan sylw yn yr achos hwn ynghyd â ffotograffau o'r cerbyd oedd yn sail i'r cais, a
- (iv) yr Ymgeisydd â wahoddwyd i fod yn bresennol yn y cyfarfod er mwyn cefnogi'r cais ac ateb cwestiynau'r aelodau.

Roedd yr Ymgeisydd yn bresennol a chadarnhaodd ei fod wedi derbyn yr adroddiad ynghyd â gweithdrefnau'r pwyllgor.

Cyflwynodd y Swyddog Trwyddedu'r adroddiad gan ddenu sylw'r pwyllgor at bolisi'r Cyngor oedd yn nodi fod rhaid i gerbydau oedd yn sail i gais newydd fod yn iau na phum mlynedd oed. Gan fod y cerbyd dan sylw yn dair ar ddeg oed nid oedd yn cydymffurfio â'r gofynion presennol. Gofynnwyd i'r Aelodau ystyried cais yr Ymgeisydd i wyro oddi wrth bolisi'r Cyngor a chaniatáu'r cais.

Nododd yr Ymgeisydd ei fwriad i amnewid cerbyd arall i'w drwyddedu ond ar ôl ystyried y mater cadarnhaodd ei fwriad i fwrw ymlaen gyda'r cais gwreiddiol, oedd wedi ei nodi yn yr adroddiad i'r pwyllgor. Wrth gyflwyno ei achos nododd yr ymgeisydd ei fod wedi hen ennill ei blwyf ac yn adnabyddus fel gweithredwr ceir limwsîn ar gyfer hurio preifat arbenigol. Roedd yn darparu cerbydau ar gyfer achlysuron arbennig megis priodasau, bedyddiadau, ayyb. Er ei fod yn derbyn fod rheswm dros gyflwyno terfyn oedran ar gyfer trwyddedu cerbydau hacni cyffredinol a cherbydau hurio preifat teimlai fod y cyfyngiadau'n cael effaith anghyfartal ar ei fusnes a'i hyfywedd o ystyried y natur a'r math o waith a redai ynghyd â bod yn rwystr i uwchraddio trwyddedau cerbydau presennol fel oedd wedi digwydd yn yr achos hwn. Ymhelaethodd ar rinweddau'r cerbyd a gynigiwyd i'w drwyddedu a chyflwynodd dystiolaeth o waith cynnal a chadw a manylion gwasanaeth a thriniaeth ynghyd a sicrhau'r aelodau fod y cerbyd o safon uchel. Yn olaf

gofynnodd am gael gwared o'r terfyn amser ar gyfer cerbydau arbenigol, megis limwsînau estynedig, ym mholisi'r Cyngor.

Yn y man hwn, cafwyd gohiriad er mwyn ystyried y cais.

**PENDERFYNWYD** caniatáu'r cais am drwydded Cerbyd Hurio Preifat gan osod yr amodau ychwanegol fel y nodir yn Atodlen 2 i'r adroddiad.

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

Roedd yr aelodau wedi ystyried yr achos a gyflwynwyd yn ofalus ac wedi nodi fod yr ymgeisydd yn weithredwr cyfrifol oedd yn rhedeg y busnes ers amser hir, roedd ganddo gwmni cerbydau hurio preifat i bwrpas penodol ac o safon uchel. Wedi ystyried y natur a'r math o fusnes a redai'r ymgeisydd a'r gwasanaethau penodol a ddarperir, a gan dderbyn fod y cerbyd dan sylw mewn cyflwr arbennig o dda, cytunodd yr aelodau fod achos teilwng wedi ei gyflwyno i wyro oddi wrth eu polisi ar derfynau oedran cerbydau yn yr achos hwn a chaniatáu'r cais fel y gwnaed ef, gan osod amodau penodol yn berthnasol i'r math arbennig o gerbyd. Ynglŷn â'r cais i newid y polisi ar derfyn oedran i gerbydau arbenigol, teimlai'r aelodau fod eu polisi presennol yn gywir ac y dylai pob un cais gael ei ystyried yn unigol.

Felly cafodd penderfyniad y Pwyllgor ynghyd â'r rhesymau eu cyfleu i'r Ymgeisydd.

## **SESIWN AGORED**

Ar ôl gorffen y gwaith uchod, cafodd y cyfarfod ei ail-gychwyn yn gyhoeddus.

### **6 POLISI EITHRIO CERBYD HURIO PREIFAT ARFAETHEDIG**

Cyflwynwyd adroddiad gan y Swyddog Trwyddedu (wedi ei rannu yn flaenorol) yn manylu am y Polisi Eithrio Platiau Hurio Preifat arfaethedig i'w ystyried a'i gymeradwyo i ymgynghoriad ffurfiol.

Adroddodd swyddogion am gyfreithlonrwydd materion yn ymwneud ag arddangos platiau hurio preifat ynghyd â disgresiwn y Cyngor i roi caniatâd arbennig rhag arddangos platiau trwyddedu. Byddai'r polisi arfaethedig yn cynnig arweiniad i ymgeiswyr posib ar yr isafbwynt safonau o ran y math o gerbydau y byddai'r cyngor yn ystyried ar gyfer eithriad o'r gofynion i arddangos platiau trwydded ac yn caniatáu'r Cyngor i wneud penderfyniadau tryloyw ar eithriadau addas.

Cefnogwyd y polisi gan yr aelodau fel ffordd o gynnig cysondeb wrth weithredu gyda cheisiadau am eithriad platiau ac i sicrhau nad oedd oedi diangen yn y broses o ymgeisio. Yn dilyn hyn-

**PENDERFYNWYD** fod-

- (a) *y Polisi Eithrio Platiau Hurio Preifat arfaethedig, fel y nodir yn Atodlen A i'r adroddiad i'w gefnogi a'i gymeradwyo i ymgynghoriad ffurfiol, ac*

- (b) yn dilyn ymgynghoriad swyddogion i adrodd yn ôl am unrhyw wrthwynebiad i'r Pwyllgor Trwyddedu er mwyn ystyried a chymeradwyo'r polisi arfaethedig, neu os na fydd ymatebion wedi eu derbyn, cymeradwyo'r Polisi Eithrio Platiau Hurio Preifat i gael ei fabwysiadu o'r 1 Mehefin 2019.

## **7 POLISI DEFNYDD ARFAETHEDIG CERBYD HACNI**

Cyflwynodd y Swyddog Trwyddedu adroddiad (wedi ei rannu yn flaenorol) yn cyflwyno Polisi Defnydd Arfaethedig Cerbyd Hacni i adolygiad, fel oedd yn ofynnol bob tair blynedd.

Mabwysiadwyd y polisi gan y Cyngor yn 2015 fel ffordd o reoli defnydd a gorfodaeth trwyddedau cerbydau hacni Sir Ddinbych â ganiatawyd o fewn y sir. Ystyriai'r polisi os mai'r bwriad oedd i'r cerbyd weithredu o fewn y sir neu'n bennaf ar gyfer gwaith hurio preifat y tu allan i'r sir. Ar ôl adolygu'r polisi, ystyriodd y swyddogion ei fod yn dal yn addas i'r dibenion. Nid oedd unrhyw newidiadau wedi eu hargymell, gydag adolygiad arall mewn tair blynedd.

**PENDERFYNWYD** fod cynnwys yr adroddiad i'w nodi a fod y swyddogion i'w hawdurdodi i adolygu'r Polisi Defnydd Arfaethedig Cerbyd Hacni mewn tair blynedd.

## **8 YMATEB DRAFFT I YMGYNGHORIAD LLYWODRAETH CYMRU AR WELLA CLUDIANT CYHOEDDUS**

Cyflwynwyd adroddiad gan y Rheolwr Busnes Gwarchod y Cyhoedd (wedi ei rannu yn barod) yn cyflwyno ymateb ddrafft y Cyngor i ymgynghoriad Llywodraeth Cymru ar wella trafndiaeth gyhoeddus

Hysbyswyd yr Aelodau am Bapur Gwyn Llywodraeth Cymru ar gynigion i ddeddfu ar ddiwygio cynllunio a darparu gwasanaethau bus lleol a thrwyddedu tacsis a cherbydau hurio preifat yng Nghymru. Ystyriai'r adroddiad agwedd y tacsis a hurio'n breifat yn unig a roedd y swyddogion wedi drafftio ymateb i'r cwestiynau a ofynnwyd gan Llywodraeth Cymru i'w hystyried gan yr aelodau. Bwriad yr ymateb oedd cyflwyno gwybodaeth i'r Briff Cabinet er mwyn galluogi ymateb benodol ar holl agweddau'r ymgynghoriad cyn cyflwyno'r ymateb swyddogol cyn y dyddiad cau ar 27 Mawrth 2019. Roedd pedwar prif faes trwyddedu tacsis a cherbydau hurio preifat wedi eu nodi ar gyfer ystyriaeth. Roedd y rhain yn cynnwys cynigion i osod safonau cenedlaethol; caniatáu awdurdod trwyddedu i gymryd camau gorfodi yn erbyn unrhyw gerbyd oedd yn weithredol yn ei hardal; creu mecanwaith ar gyfer rhannu gwybodaeth berthnasol ar gyfer pwrpasau diogelu, a chynigion i ail-gyfeirio swyddogaethau trwyddedu tacsis a hurio preifat i awdurdod drwyddedu genedlaethol – Awdurdod Drafnidiaeth ar y Cyd (ADC)

Trafodwyd goblygiadau'r cynigion gyda'r swyddogion a chadarnhawyd fod y Panel Trwyddedu Technegol (yn cynrychioli holl awdurdodau lleol Cymru) wedi cytuno gyda ymateb ar y cyd, gyda phob awdurdod lleol yn cael y cyfle i gynnwys sylwadau ychwanegol wedi eu teilwra i'w anghenion lleol fel yn briodol. Adroddodd y swyddogion hefyd ar gwmpas yr ymgynghoriad i roi gwybod i gyfarfod Briffio'r Cabinet. Cadarnhaodd Y Cyngorydd Brian Jones fod Fforwm Ymgynghori Trafnidiaeth Gogledd Cymru wedi ystyried y cynigion hefyd ac y byddant yn cynnig

mewnbwn er mwyn galluogi'r Cyfarfod Briffio i ystyried sefyllfa Sir Ddinbych. Nododd aelodau fod rhai nodweddion positif wedi codi o'r cynigion gan gynnwys safoni polisïau a gweithdrefnau ar draws Cymru er mwyn sicrhau ymdriniaeth gytbwys, mwy o bwerau gorfodi i awdurdodau lleol, rhannu gwybodaeth ar gyfer pwrpas diogelu, a moderneiddio prosesau. Er hyn, nododd aelodau bwysigrwydd rheolaeth leol ynghyd â manteision gwybodaeth ac atebolrwydd leol. Credant yn gryf y dylai awdurdodau lleol barhau i fod yn gyfrifol am drwyddedu tacsis a hurio preifat o fewn eu hardaloedd, gan deimlo eu bod yn y lle gorau i ddelio'n effeithiol â materion lleol a dylanwadu ar ganlyniadau lleol, gan sicrhau rheolaeth well dros dacsis a'r diwydiant hurio preifat yn y sir. Nodwyd y gwaith caled a wnaed gan aelodau a swyddogion wrth godi safonau a gweithredu gwelliannau o fewn y diwydiant hurio preifat a thacsis trwyddedig ynghyd â phwysigrwydd cario ymlaen gyda'r gwaith. Nodwyd pwysigrwydd cadw safonau. O ganlyniad, nid oedd cefnogaeth i'r cynnig i ail-gyfeirio'r swyddogaethau i ffwrdd o'r awdurdodau lleol i awdurdod drwyddedu genedlaethol. Er bod y drafodaeth wedi canolbwyntio'n bennaf ar dacsis a thrwyddedu hurio preifat cafwyd cyfeiriad tuag at bwysigrwydd darparu gwasanaethau bysiau lleol fel rhan o'r broses hon ynghyd â chlodiant yn y cymunedau gwledig; un o flaenoriaethau'r Cyngor.

**PENDEFYNWYD** fod aelodau yn-

- (a) *nodi a chefnogi cynnwys yr adroddiad a'r ymateb a gynigiwyd, ac*
- (b) *yn ddibynnol ar farn yr aelodau, awdurdodi Pennaeth Cynllunio a Gwarchod y Cyhoedd i gyflwyno'r drafft orffenedig fel ymateb i ymgynghoriad Llywodraeth Cymru ar Wella Trafnidiaeth Gyhoeddus, cyn belled â'i fod yn ymwneud â thrwyddedu hurio preifat a thacsis.*

## **9 Y WYBODAETH DDIWEDDARAF AR WAITH YR ADAIN DRWYDDEDU**

Cyflwynodd y Rheolwr Busnes Gwarchod y Cyhoedd adroddiad (wedi ei rannu yn flaenorol) yn diweddar'u aelodau ar waith Yr Adain Drwyddedu yn ystod 2018 a oedd yn canolbwyntio ar faterion rheolaethol a gweithredol.

Roedd yr adroddiad yn darparu data ystadegol ar nifer y trwyddedau a gyhoeddwyd, cwynion a'r ceisiadau gwasanaeth a dderbyniwyd yn cwmpasu'r prif swyddogaethau – Alcohol ac Adloniant; Hacni a Thrwyddedu Hurio Preifat; Hapchwarae, Lotriau a Gemau; Masnachu Ar Y Stryd; Casgliadau Elusennol, Metel Sgrap ynghyd â materion ategol eraill gan gynnwys recordio data, perfformiad a chyfathrebu. Roedd materion Rheoli yn cynnwys cyfeiriad at bolisïau, ffioedd, cwynion am y gwasanaeth ynghyd ag ystyriaeth i lwyth gwaith y dyfodol. Ymhelaethodd y Swyddogion ar nifer o agweddau o'r adroddiad gan egluro rhai materion penodol mewn ymateb i gwestiynau aelodau.

Yn ystod y drafodaeth cytunodd y Rheolwr Busnes Gwarchod y Cyhoedd i adolygu'r protocol ar ymgysylltu ag aelodau wardiau lleol lle fo materion wedi eu nodi yn eu hardaloedd penodol er mwyn sicrhau eu bod yn aros yn berthnasol ac yn briodol i bwrpasau trwyddedu. Mewn ymateb i gwestiwn am sgoriau hylendid bwyd cadarnhaodd swyddogion fod archwiliadau yn cael eu cynnal bob deunaw mis ond pan fo sgôr isel, byddai'r Cyngor yn ail-archwilio ar gais o fewn tri mis am ffi.

Manylwyd ymhellach gan y Swyddogion hefyd ar y cydweithio oedd yn digwydd ar draws yr ardaloedd gwasanaethu yn ystod archwiliadau manau trwyddedig. Talwyd teyrnged gan yr aelodau i'r gwaith caled a wnaed gan y tîm Trwyddedu er mwyn codi safonau a sicrhau arferion da ar draws y nifer o swyddogaethau trwyddedu. Roeddynt yn falch o nodi fod camau wedi eu cymryd i ddogfennu'r gwaith hwn a sicrhau monitro prosesau yn y dyfodol a fyddai'n arwain at well tryloywder Hoffai'r Pwyllgor gyfleu eu diolchiadau i'r Tîm Trwyddedu a gofynnwyd i'r gwerthfawrogiad gael ei gofnodi yn y cofnodion. Diolchodd y Rheolwr Busnes Gwarchod y Cyhoedd i'r aelodau am eu cefnogaeth a chytunodd i gyfleu eu diolchiadau i'r Tîm Trwyddedu. **PENDERFYNWYD** i dderbyn adroddiad blynyddol ar waith yr Adran Drwyddedu.

***PENDERFYNWYD*** i nodi cynnwys yr adroddiad yn ddibynnol ar sylwadau'r aelodau.

## **10 BLAENRAGLEN WAITH Y PWYLLGOR TRWYDDEDU**

Cyflwynwyd adroddiad gan y Pennaeth Cynllunio a Gwarchod y Cyhoedd (wedi ei rannu yn flaenorol) yn cyflwyno rhaglen gwaith i'r dyfodol y Pwyllgor Trwyddedu am 2019.

Roedd y rhaglen waith yn hyblyg er mwyn gallu ymateb i bwysau neu newidiadau fel yr oeddynt yn codi, ac anogwyd aelodau i gysylltu â swyddogion ynglŷn ag unrhyw faterion yr hoffent gael ei gynnwys yn y rhaglen gwaith i'r dyfodol.

Cyfeiriodd y Cynghorydd Brian Jones at yr arfer gan rai gweithredwyr o gynnig prisiau gostyngedig a nododd broblemau cysylltiol yn ymwneud â hyn a allai ddwysau yn y dyfodol. Cynghorodd y Swyddogion fod y tariff a osodwyd gan y Cyngor yn cyfeirio at symiau uchafswm a ellir eu codi, a fod rhyddid i weithredwyr godi llai na'r pris tariff a osodwyd. Cadarnhaodd y Swyddogion hefyd nad oeddynt yn ymwybodol o unrhyw broblemau yn gysylltiedig â'r arfer gan weithredwyr o godi prisiau rhatach nag eraill yn ddiweddar.

***PENDERFYNWYD*** fod y rhaglen gwaith i'r dyfodol fel y'u manylwyd yn yr atodiad i'r adroddiad yn cael ei chymeradwyo.

Daeth y cyfarfod i ben am 11.00 a.m.

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

Document is Restricted

Mae tudalen hwn yn fwriadol wag



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Deddf Llywodraeth Leol 1972.

Document is Restricted

Mae tudalen hwn yn fwriadol wag

<b>ADRODDIAD I'R:</b>	Pwyllgor Trwyddedu
<b>DYDDIAD:</b>	12 Mehefin 2019
<b>SWYDDOG ARWEINIOL:</b>	Pennaeth Cynllunio a Gwarchod y Cyhoedd
<b>SWYDDOG CYSWLLT:</b>	Uwch Swyddog Technegol (Trwyddedu) 01824 706433
<b>TESTUN:</b>	Y wybodaeth ddiweddaraf ynglŷn â Datganiad Polisi ar addasrwydd ymgeiswyr a deiliaid trwyddedau ym musnesau cerbydau hacni a cherbydau hurio preifat.

## 1. PWRPAS YR ADRODDIAD

1.1 Rhoi adroddiad i'r Aelodau o'r gwaith a gyflawnwyd wrth ddrafftio polisi sy'n bodloni'r gofynion yn nogfen ganllawiau'r Sefydliad Trwyddedu.

1.2 Ceisio cymeradwyaeth yr Aelodau o'r Datganiad Polisi drafft ar Addasrwydd Ymgeiswyr a Deiliaid Trwyddedau ym Musnesau Cerbydau Hacni a Cherbydau Hurio Preifat, i'w weithredu ar 1 Gorffennaf 2019.

## 2. CRYNODEB GWEITHREDOL

2.1 Pan gyfarfu'r Pwyllgor Trwyddedu ar 5 Rhagfyr 2018, penderfynodd yr Aelodau fabwysiadu canllawiau'r Sefydliad Trwyddedu a rhoi cyfarwyddyd i'r Swyddogion ddrafftio polisi a oedd yn bodloni'r gofynion yn y ddogfen dan sylw. Hefyd, argymhellodd yr Aelodau bod swyddogion yn meithrin cyswllt â deiliaid trwyddedau.

2.2 Wedi cyflawni'r dasg a nodwyd yn 2.1 uchod, mae'r Swyddogion bellach yn medru cyflwyno drafft terfynol o'r Datganiad Polisi ar Addasrwydd Ymgeiswyr a Deiliaid Trwyddedau ym Musnesau Cerbydau Hacni a Cherbydau Hurio Preifat er cymeradwyaeth.

## 3.

### PŴER I WNEUD Y PENDERFYNIAD

3.1 Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1976 a Deddf Cyfrifoldebau Heddluoedd Trefol 1847.

#### **4. GWYBODAETH GEFNDIR**

4.1 Gan gyfeirio at y penderfyniad a nodwyd yn 2.1 uchod, hoffai'r Swyddogion rannu'r wybodaeth ddiweddaraf â'r aelodau ynglŷn â'r gwaith a wnaethpwyd ers cyfarfod y Pwyllgor Trwyddedu fis Rhagfyr y llynedd.

4.2 Fis Ionawr eleni anfonwyd newyddlen at bob gyrrwr, Gweithredwr a pherchennog trwyddedig, i'w hysbysu o'r ffaith bod y Pwyllgor Trwyddedu wedi mabwysiadu canllawiau'r Sefydliad Trwyddedu ynglŷn ag addasrwydd ymgeiswyr a deiliaid trwyddedau yn y diwydiant taccsis. Roedd copi o ganllawiau'r Sefydliad Trwyddedu ynghlwm wrth bob newyddlen.

4.3 Nodwyd manylion yn y newyddlen ynglŷn â nifer o gymorthfeydd Trwyddedu oedd i'w cynnal ledled y Sir ym mis Chwefror a mis Ebrill, gan gynnwys sesiynau yn y bore, yn y prynhawn a gyda'r nos.

4.4 Hysbysebwyd y Cymorthfeydd Trwyddedu hefyd ar dudalennau cyfryngau cymdeithasol Sir Ddinbych a'r Gwasanaeth Trwyddedu, a rhannwyd y manylion drwy amrywiaeth o grwpiau lleol ar gyfryngau cymdeithasol.

4.5 Yn anffodus ni ddaeth ond tri o ddeiliaid trwyddedau i'r holl gymorthfeydd a gynhaliwyd ledled y Sir, ond nid oedd gan yr un ohonynt unrhyw wrthwynebiad i'r Polisi.

4.6 Bwriedir i'r Polisi fod yn berthnasol i bob trwydded newydd a gyflwynir o 1 Gorffennaf 2019 ymlaen. Bydd unrhyw ddeiliaid trwyddedau presennol y barnwyd eu bod yn "addas a phriodol" o dan y Polisi Euogfarnau presennol yn dal i gael eu hystyried felly oni cheir unrhyw euogfarnau pellach yn eu herbyn. Os bydd yno unrhyw euogfarnau pellach, caiff pob mater felly ei gymryd i ystyriaeth pan ddaw'r amser i adnewyddu'r drwydded, neu pan hysbysir y Cyngor o unrhyw drosedd felly.

4.7 Yn Atodiad A mae copi o'r Datganiad Polisi drafft ar Addasrwydd Ymgeiswyr a Deiliaid Trwyddedau ym Musnesau Cerbydau Hacni a Cherbydau Hurio Preifat.

Mae'r Swyddogion am dynnu sylw'r Aelodau at y ffaith y gallai'r polisi cenedlaethol hwn fod yn destun newidiadau y tu hwnt i reolaeth y Cyngor hwn. Pe byddai hynny'n digwydd, gallai'r Aelodau ystyried awdurdodi Swyddogion i fabwysiadu unrhyw newidiadau yn y Datganiad Polisi heb



- 5.0 ddod â'r mater yn ôl gerbron y Pwyllgor. Fodd bynnag, pe byddai newidiadau mawr ar lefel genedlaethol yn cael effaith sylweddol ar y polisi fel y'i mabwysiadwyd, yna byddai'r Swyddogion yn rhannu'r wybodaeth â'r Aelodau yn y cyfarfod cyntaf o'r Pwyllgor wedi hynny.

5.1

## **YMGYNGHORI**

6. Mae'r Cyngor fel arfer yn ymgynghori â'r holl randdeiliaid allweddol pan fwriedir newid unrhyw bolisi, ond yn yr achos hwn mae canllawiau'r Sefydliad Trwyddedu'n ddogfen genedlaethol, a byddai gwro o'r ddogfen honno mewn unrhyw ffordd yn creu anghysonder yn y Sir, ac ni fyddai hynny'n briodol. Felly, aethpwyd ati i gynnal rhaglen o
- 6.1 ddogwyddiadau codi ymwybyddiaeth.

## **ARGYMHELLION**

- 6.2 Bod yr Aelodau'n mabwysiadu'r Datganiad Polisi drafft ar Addasrwydd Ymgeiswyr a Deiliaid Trwyddedau ym Musnesau Cerbydau Hacni a Cherbydau Hurio Preifat, sydd ynghlwm yn Atodiad A, i'w weithredu ar 1 Gorffennaf 2019.

Bod yr Aelodau'n awdurdodi swyddogion i wneud unrhyw newidiadau fel y nodir yn 4.8 uchod, fel bod y Datganiad Polisi ar Addasrwydd Ymgeiswyr a Deiliaid Trwyddedau ym Musnesau Cerbydau Hacni a Cherbydau Hurio Preifat yn gyson â'r ddogfen ganllawiau genedlaethol.

Mae tudalen hwn yn fwriadol wag

## **STATEMENT OF POLICY REGARDING THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE HACKNEY CARRIAGE AND PRIVATE HIRE TRADES**

### **1.0 Introduction**

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper, or safe and suitable (refer to section 3.13) person to hold a licence.
- 1.1 This document aims to provide guidance to any person with an interest in hackney carriage and private hire licensing. In particular, but not exclusively:
  - Applicants for driver / operator licences
  - Existing licensed drivers / operators whose licences are being reviewed
  - Licensing Officers and Police
  - Members of the Licensing Committee/ Panel (or other relevant decision making body)
  - Magistrates and Crown Court hearing appeals against local authority decisions
- 1.2 This policy is largely based on the 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' produced by the Institute of Licensing (2018). As a result, some sections of this policy will read as a form of 'guidance for all', and the rationale for keeping this information within this policy is simple; the reasoning employed by decision makers should be consistent and transparent. The additional information provided therefore serves to 'set the scene' and better inform all of those involved or interested in this area.
- 1.3 Additionally, this policy is closely aligned to the Institute of Licensing's guidance because this authority recognises that a consistent approach is required across the country to ensure that public safety is at the forefront of decision making.
- 1.4 The only amendments that have been made from the guidance produced by the Institute of Licensing are to reflect specific Denbighshire County Council requirements or to give definitive statements.
- 1.5 This policy will be immediately applied to all new licences. In addition, any existing licensees that have been considered as "fit and proper" under the previous conviction policy, will have "grandfather rights". However, should any existing licensee re-offend (either criminal or motoring), all previous convictions will be taken into account at the time of renewal or when the Council has been notified of such offence.
- 1.6 The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered which result in an individual no longer being considered fit and proper.

- 1.7 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.8 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.9 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.10 This policy takes a 'bright line approach' and says "never", but it should be noted that it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority* (2007).
- 1.11 Section 2 this policy explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.10 and elsewhere in this document.
- 1.12 This policy contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation.

## **2.0 Offenders and Offending – An Overview**

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public. With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.

- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of reoffending and harm. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

### **Risk of re-offending**

- 2.6 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance (Maguire et al, 2002). Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past” (Kurlychek et al, 2007).
- 2.7 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

### **3.0 ‘Taxi’ Licensing Overview**

- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver’s hands.
- 3.2 Local authorities are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the Department for Transport (DfT) “Taxi and Private Hire Licensing – Best Practice Guide”, paragraph 8 which states: “The aim of local authority licensing of the taxi and PHV trades is to protect the public.”
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.

- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion and additional information on the requirements for Denbighshire can be found within the full Hackney Carriage and Private Hire Policy.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.

### **Taxi Drivers**

- 3.9 The term “taxi driver” encompasses two different occupations: hackney carriage drivers and private hire drivers. “Taxi driver” is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory criteria to be met before a licence can be granted and this licensing authority issue “dual” or “combined” licences to cover driving both types of vehicle.
- 3.10 The specific requirements of an application for this authority are outlined within the Hackney Carriage and Private Hire guidance attached to the application form. This includes the requirement to hold a full DVLA licence, have the right to work in the UK and pass a knowledge test. In addition to this, the individual must also be a “fit and proper” person.
- 3.11 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain (2003)*. Silber J said:
 

“... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”
- 3.12 This is reflected in a test widely used by a number of local authorities, including Denbighshire County Council:
 

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’
- 3.13 This authority recognises that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.
- 3.14 The local authority has the power to require an applicant to provide:
 

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any

such licence.” Local Government (Miscellaneous Provisions) Act 1976 s57(1)). All requirements are detailed within the Hackney Carriage and Private Hire Driver application form.

- 3.15 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.
- 3.16 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker. **NOTE:** “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates. In all cases an enhanced DBS Certificate is required on first application and on a three yearly cycle thereafter.
- 3.17 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.18 Case law makes it clear that the impact of losing (or not being granted) a driver’s licence on the applicant and his family is not a consideration to be taken into account (Leeds City Council v Hussain, 2002).
- 3.19 It is vital that Councillors recognise that this policy, whilst remaining a policy and therefore the Authority’s own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.20 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.
- 3.21 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.

3.22 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.

3.23 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.

### **Private Hire Operators**

3.24 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person.

3.25 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.

3.26 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.

3.27 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used: “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”

3.28 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.



3.29 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

### **Vehicle Proprietors**

3.30 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.

3.31 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.

3.32 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.

3.33 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process is applied as for private hire operators – Basic disclosure, statutory declaration and consideration of spent convictions. This will then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.

3.34 A suitable test would be: “Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”.

### **4.0 Guidance on Determination**

4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.

4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.

4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast

majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.

- 4.4 The purpose of this document is to set out how this licensing authority can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, this policy can and will say 'never' but each case will still be considered on its own merits.

#### **Pre-application requirements**

- 4.5 This authority has its own specific pre-application requirements for drivers, vehicles and operators and they can be seen within the relevant sections of the hackney carriage and private hire policy and/or on the appropriate application form.
- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor's licence.
- 4.9 "Fit and proper" means that the individual (or in the case of a private hire operator's licence, the limited company together with its directors and secretary, or all members of a partnership) is "safe and suitable" to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person's behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual's attitude and temperament.
- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution. Fixed penalties and community resolutions will also be considered in the same way as a conviction. This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn.

Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.

- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare or disclose convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution. Licence holders must be aware of this and the requirement to notify the Council, in writing, within 72 hours, of any conviction, caution, arrest etc, whether it be motoring or criminal etc.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.

- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this policy, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.
- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.
- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence imposed upon conviction (or the date of conviction if a fine was imposed) before a licence will be granted.

#### **Crimes resulting in death**

- 4.29 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

#### **Exploitation**

- 4.30 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional, physical or financial abuse, but this is not an exhaustive list.

#### **Offences involving violence**

- 4.31 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

#### **Possession of a weapon**

- 4.32 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Sex and indecency offences**

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

### **Dishonesty**

- 4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Drugs**

- 4.36 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 4.37 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

### **Discrimination**

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Motoring convictions**

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

### **Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving**

- 4.40 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

### **Other motoring offences**

4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Hackney carriage and private hire offences**

4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Vehicle use offences**

4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Private Hire Operators**

4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.

4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.

4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic disclosure certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.

4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

### **Vehicle proprietors**

4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.

4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.

4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.

4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.

4.54 As public trust and confidence in the overall safety and integrity of the system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

Mae tudalen hwn yn fwriadol wag



<b>ADRODDIAD I'R:</b>	Pwyllgor Trwyddedu
<b>DYDDIAD:</b>	12 Mehefin 2019
<b>SWYDDOG ARWEINIOL:</b>	Pennaeth Cynllunio a Gwarchod y Cyhoedd
<b>SWYDDOG CYSWLLT:</b>	Uwch Swyddog Technegol (Trwyddedu) <a href="mailto:trwyddedu@sirddinbych.gov.uk">trwyddedu@sirddinbych.gov.uk</a> 01824 706433
<b>TESTUN:</b>	Rhaglen Gwaith i'r Dyfodol 2019/20

## 1. PWRPAS YR ADRODDIAD

- 1.2 Darparu Rhaglen Gwaith i'r Dyfodol arfaethedig ar gyfer 2019/20 i'r Aelodau.

## 2. CRYNODEB GWEITHREDOL

- 2.1 Mae Rhaglen Gwaith i'r Dyfodol arfaethedig ynghlwm, yn Atodiad 1, i'r Aelodau ei hystyried a'i chymeradwyo.

## 3. GWYBODAETH GEFNDIR

- 3.1 Bydd yr Aelodau'n ymwybodol iddynt gymeradwyo Rhaglen Gwaith i'r Dyfodol 12 mis o hyd yn un o gyfarfodydd blaenorol y Pwyllgor Trwyddedu ym mis Rhagfyr 2018.
- 3.2 Wrth ddrafftio'r Rhaglen Gwaith i'r Dyfodol, mae Swyddogion wedi ystyried y polisiau sy'n berthnasol i'r Pwyllgor Trwyddedu a dyddiadau adolygu'r polisiau hynny ynghyd ag unrhyw newid deddfwriaethol posib' a gynigir gan lywodraeth ganolog.

## 4. ARGYMHELLION

- 4.1 Bod yr Aelodau yn cymeradwyo'r Rhaglen Gwaith i'r Dyfodol arfaethedig, fel y nodwyd yn yr Atodiad.

Mae tudalen hwn yn fwriadol wag

**Pwyllgor Trwyddedu**

**Rhaglen Waith 2019/20**

<b>Dyddiad y Pwyllgor</b>	<b>Adroddiad</b>	<b>Sylw</b>
<b>Medi 2019</b>	Polisi Casglu ar y Stryd	Cymeradwyo
	Polisi Drws i Ddrws	Cymeradwyo
<b>Rhagfyr 2019</b>	Polisi/Amodau Cerbydau Hacni a Cherbydau Hurio Preifat	Adolygu
<b>Mawrth 2020</b>	Polisi/Amodau Cerbydau Hacni a Cherbydau Hurio Preifat	Cymeradwyo
	Polisi Dosbarthiad Ffilm	Cymeradwyo

Mae tudalen hwn yn fwriadol wag