

To: Members of the Licensing
Committee

Date: 28 November 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 **WEDNESDAY, 4 DECEMBER 2019** in the **COUNCIL CHAMBER, COUNTY HALL, RUTHIN.**

Yours sincerely

G Williams
Head of Legal, HR 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 7 - 12)

To receive the minutes of the Licensing Committee held on 12 June 2019 (copy enclosed).

5 PROPOSED CHANGES TO TAXI LICENSING FEES AND CHARGES
(Pages 13 - 18)

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

6 REVIEW OF THE EXISTING APPROVED TESTING STATION PROCESS
(Pages 19 - 28)

To consider a report by the Head of Planning and Public Protection (copy enclosed) seeking members' review of the current process for nominating approved testing stations to carry out compliance testing for hackney carriage and private hire vehicles within the county.

7 REVIEW OF PENALTY POINTS POLICY AND PROCEDURE (Pages 29 - 44)

To consider a report by the Head of Planning and Public Protection (copy enclosed) seeking members' support to remove the Penalty Points Policy and Procedure process.

8 PROPOSED HOUSE TO HOUSE COLLECTION POLICY (Pages 45 - 56)

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the proposed House to House Collection Policy for formal consultation prior to approval.

9 PROPOSED STREET COLLECTION POLICY (Pages 57 - 66)

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the proposed Street Collection Policy for formal consultation prior to approval.

10 LICENSING COMMITTEE FORWARD WORK PROGRAMME (Pages 67 - 70)

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

PART 2 - CONFIDENTIAL ITEMS

No Items.

MEMBERSHIP

Councillors

Hugh Irving (Chair)

Brian Jones (Vice-Chair)

Joan Butterfield
Alan James
Richard Mainon
Barry Mellor
Melvyn Mile

Arwel Roberts
Rhys Thomas
Tony Thomas
Huw Williams

COPIES TO:

All Councillors for information
Press and Libraries
Town and Community Councils

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LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

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

Denbighshire County Council

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

*(*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)**

Signed

Date

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

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LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 12 June 2019 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Hugh Irving, Alan James, Brian Jones, Richard Mainon, Barry Mellor, Melvyn Mile, Arwel Roberts, Rhys Thomas, Tony Thomas and Huw Williams

Observer – Councillor Meirick Davies

ALSO PRESENT

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

POINT OF NOTICE

The start of the meeting was delayed until 9.50 a.m. due to travel disruption caused by surface water and flooding issues in the area which affected attendance. The order of agenda items was subsequently changed to ensure the Solicitor was present for those business items for which the Committee required a Legal Adviser (minute items 8 – 10).

1 APOLOGIES

There were no apologies.

2 APPOINTMENT OF CHAIR

Nominations were sought for Chair of the Licensing Committee for 2019/20. Councillor Tony Thomas proposed, seconded by Councillor Huw Williams that Councillor Hugh Irving be appointed Chair. Councillor Joan Butterfield proposed, seconded by Councillor Barry Mellor that Councillor Alan James be appointed Chair. There being no further nominations and upon being put to the vote it was –

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

3 APPOINTMENT OF VICE CHAIR

The Chair invited nominations for Vice Chair of the Licensing Committee for 2019/20. Councillor Joan Butterfield proposed, seconded by Councillor Barry Mellor that Councillor Alan James be appointed Vice Chair. Councillor Richard Mainon proposed, seconded by Councillor Tony Thomas that Councillor Brian Jones be appointed Vice Chair. There being no further nominations and upon being put to the vote it was –

***RESOLVED** that Councillor Brian Jones be appointed Vice Chair of the Licensing Committee for the ensuing year.*

4 DECLARATION OF INTERESTS

No declarations of interest had been raised.

5 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

6 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 5 March 2019 were submitted.

***RESOLVED** that the minutes of the meeting held on 5 March 2019 be received and confirmed as a correct record.*

7 LICENSING COMMITTEE FORWARD WORK PROGRAMME

A report by the Head of Planning and Public Protection was submitted (previously circulated) presenting the Licensing Committee's work programme for 2019/20.

***RESOLVED** that the proposed forward work programme as detailed in the appendix to the report be approved.*

8 UPDATE ON STATEMENT OF POLICY REGARDING THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE HACKNEY CARRIAGE AND PRIVATE HIRE TRADES

The Licensing Officer submitted a report (previously circulated) presenting the draft Statement of Policy regarding the suitability of applicants and licensees in the hackney carriage and private hire trades for approval with effect from 1 July 2019.

On 5 December 2018 the Licensing Committee resolved to adopt the Institute of Licensing Guidance and instructed officers to draft a policy which met the contents of the document. Since then much work had been undertaken to engage with licensees and raise awareness of the Guidance which included a newsletter to all members of the licensed trade, a social media campaign and a number of licensing surgeries held throughout the county. It was intended to apply the policy to all new licences from 1 July 2019 with existing licensees only being subject to review in the event that additional convictions were accrued. Given that the Council was adopting a national policy it was noted that changes could be made nationally and members were asked to consider whether to authorise officers to adopt minor changes without reporting back to the Committee. Where significant changes were made it was recommended officers update members at the next available meeting.

During debate members were extremely disappointed to note that only three licence holders had attended the licensing surgeries, particularly given the significant

efforts made by officers to engage with the trade. In addition to the social media campaign officers confirmed that a newsletter had been sent to every licence holder within the county. Reference was made to the hard work of both officers and members in continually reviewing and adopting policies in order to raise standards and effect improvements within the licensed trade and the Statement of Policy was the latest document within that process of continual improvement. Notwithstanding the lack of response from the trade despite best efforts to engage them in the process, it was accepted that all licence holders had been given ample opportunity to respond and therefore members agreed to adopt the policy and authorise officers to adopt any subsequent changes made nationally. However Councillor Joan Butterfield proposed, seconded by Councillor Alan James that in the event of any future complaint or enquiry from licensees regarding the document, the officers, in consultation with the Chair, be authorised to respond confirming that the matter would not be brought back before the Committee given that the opportunity to respond to the Statement of Policy had passed. Upon being put to the vote it was –

RESOLVED that –

- (a) *the Statement of Policy regarding the suitability of applicants and licensees in the hackney carriage and private hire trades (attached at Appendix A to the report) be adopted with an implementation date of 1 July 2019;*
- (b) *officers be authorised to make such changes as detailed in paragraph 4.8 of the report so that the Statement of Policy regarding the Suitability of Applicants and Licensees in the Hackney Carriage and Private Hire Trades maintains consistency with the national guidance document, and*
- (c) *in the event of any future complaint or enquiry from licensees regarding the Statement of Policy document the officers, in consultation with the Chair, be authorised to respond confirming that the matter would not be brought back before the Licensing Committee given that the opportunity to respond to the policy document had passed.*

EXCLUSION OF PRESS AND PUBLIC

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

9 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) officers having not been in a position to grant the application as the vehicle presented for licensing did not comply with the Council's policy with regard to the five year age limit for vehicles licensed under a new application;

- (iii) additional conditions being applicable to the licensing of specialist vehicle types such as the one presented in this case together with photographs of the vehicle subject of the application, 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 he had received the report and committee procedures.

The Licensing Officer summarised the report and explained that the Applicant initially presented the vehicle as a substitute vehicle for licensing at the Committee's last meeting but on reflection had proceeded with the original vehicle as detailed on his application form which was subsequently granted. However the Applicant had never used the licensed vehicle and instead preferred to licence the substitute vehicle. The Council's policy specified that vehicles subject of a new application must be no older than five years and the vehicle presented for licensing was eleven years old. Consequently members were asked to consider the Applicant's request to depart from the Council's policy and grant the application.

The Applicant presented his case advising that he was a responsible, long established specialist vehicle operator but had fallen foul of the new vehicle age specification. He referred to his presentation before the last Licensing Committee when he was granted a vehicle licence, contrary to the five year age limit, on the basis of the vehicle type, being a specialist luxury vehicle used for specific pre booked occasions and events. Since purchasing that vehicle he had acquired a newer, superior model – hence his subsequent application to the Licensing Committee. In elaborating upon the merits of the proposed vehicle for licensing he provided evidence of maintenance and service schedules together with assurances regarding high vehicle standards. In response to questions he further elaborated upon the nature and operation of his business. The Applicant indicated that he had nothing further to add in terms of a final statement.

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

RESOLVED that the application for a Private Hire Vehicle Licence be granted subject to the additional conditions as detailed in Appendix 2 to the report.

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

Members had carefully considered the application and case put forward by the Applicant and noted the nature and type of business operated and that he was a reputable and long established operator of such specialist services. On that basis and having considered specifically the type of vehicle proposed to be licensed members agreed that a case had been made to deviate from their age limit policy in this instance and grant the application as applied for, subject to the additional conditions applicable to the specialist vehicle type.

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

10 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 533519

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

- (i) an application having been received from Applicant No. 533519 for a licence to drive hackney carriage and private hire vehicles;
- (ii) the Applicant having failed to disclose three criminal convictions and a police caution relating to offences committed between 1977 – 2000 which had been revealed following an enhanced Disclosure and Barring Service check;
- (iii) relevant documentation relating to the case including the Applicant's formal interview and explanation of the circumstances relating to the convictions and reasoning for non-disclosure having been attached to the report, and
- (iv) the Applicant having been invited to the meeting in support of his application and to answer members' questions thereon.

The Applicant was accompanied by a relative and confirmed he had received the report and committee procedures.

The Enforcement Officer (HB) summarised the report and facts of the case.

The Applicant provided some context to the historic convictions and his personal circumstances during that time and also explained how his life had changed since then with a view to demonstrating that he was trustworthy and responsible individual and a fit and proper person to hold a licence. A reference was provided from the Applicant's current employer attesting to his good character, his excellent customer relations and positive outlook and he was accompanied by a relative who also spoke on his behalf. He also responded to questions raised by members with a view to ascertaining his suitability to hold a licence. With regard to his non-disclosure of convictions the Applicant explained there had been no intention to deceive given that he had provided all necessary details to enable a police check but had thought it related specifically to prison sentences and that his convictions were long spent.

The committee adjourned to consider the application and it was –

RESOLVED that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 533519 be granted.

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

Members had carefully considered the application and case made by the Applicant for granting a licence. The Committee noted that the convictions had been imposed a considerable time ago and that the Applicant had undergone significant life changing events since then and were satisfied that there was a low risk of re-

offending. The Committee found the Applicant to be genuine in his submissions and honest in responding to questions and accepted his explanation behind the non-disclosure believing there had been no deliberate intention to deceive. It was considered that the Applicant had demonstrated, through his submissions, character reference and family support that he was responsible, trustworthy and of good character and therefore a fit and proper person to hold a licence. However members impressed upon the Applicant the importance of full and correct disclosure in the future.

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

The meeting concluded at 11.00 a.m.

REPORT TO:	Licensing Committee
DATE:	4th December 2019
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Licensing Officer (Technical) licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Proposed Changes to Taxi Licensing Fees and Charges

1.0 PURPOSE OF THE REPORT

- 1.1 To seek Members' approval for proposed changes to fees and charges relating to the taxi licensing regime.

2.0 EXECUTIVE SUMMARY

- 2.1. Members are requested to consider the approval of revised fees for the determination and administration of the Hackney Carriage and Private Hire Licensing regime, notably operator, vehicle, some types of driver licences and knowledge tests.

3.0 POWER TO MAKE THE DECISION

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

4.0 BACKGROUND INFORMATION

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

- 4.3 The cost for the enforcement of unlicensed drivers, vehicles or operators cannot be included in the calculation.
- 4.4 The Council cannot make a profit from licence fees and there must be a carry forward of any surplus, conversely there can also be recovery of any deficit. The reconciliation of any surplus and deficit is over a three-year cycle.
- 4.5 Since October 2015, licences can be issued for a maximum period of 5 years for operators, 3 years for drivers and 1 year for vehicles and the Council has adopted this practice.
- 4.6 A fees and charges methodology has been devised to allow for a detailed review of fees and charges in line with the relevant licensing process.
- 4.7 The current and proposed fee structures are shown at Appendix A.
- 4.8 The last increase in the fees and charges for taxi licensing was in April 2018, although the fees for vehicles have remained static for 11 years.
- 4.9 Legislation allows for the issuing of licences for a lesser duration in certain circumstances but this must be due to an individual case, not because of a blanket policy.
- 4.10 Members will wish to note that should they approve the revised table of fees, then Section 70 of the Act also requires that they be advertised in the local press, allowing at least 28 days for objections.
- 4.11 In the event of any objections being received as a result of the advertisement, these will need to be considered and reported back to this Committee, along with any revisions considered appropriate.
- 4.12 If no objections are received, then these fees will come into effect on 1st April 2020
- 4.13 It is essential that fees are reviewed periodically to ensure that fees are proportionate and in-line with relevant costs. Given that associated costs can increase on an annual basis and processes can be changed officers carry out a review annually.
- 4.14 Finally, Officers wish to remind Members that since the introduction of the 3 yearly driver licences, driver renewals follow the 3 year DBS process and to ensure that drivers outside of the DBS cycle are not disadvantaged, the annual renewals are maintained until such time as a driver's DBS becomes due. Members will also recall that the DBS

service has been contracted out and that drivers are now responsible for obtaining their own DBS checks. The cost of this is not included in the fee for a driver licence.

5.0 CONSULTATIONS

5.1 As noted in paragraph 4.10 above that there is a requirement to publish proposed fees which are then subject to a 28 day objection period.

5.2 The Head of Planning and Public Protection Services has reviewed the proposed fees and supports those listed at Appendix A

6.0 RECOMMENDATIONS

6.1 That Members:

- 1) Approve the fees and charges as detailed at Appendix A.
- 2) Authorise officers to publish the proposed changes to the Taxi Licensing fees in a local newspaper for the necessary consultation and, if no objections are received, they will come into effect on 1st April 2020.
- 3) Request that where any objections are received, the Licensing Committee will consider those objections at their next Meeting with a view to implementing (with or without modification) no later than 1st April 2020.

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LICENSING FEES & CHARGES

Licence/Activity	Current	Proposed
Private Hire Operators (up to 10 vehicles) – 5 years	420.00	500.00
Private Hire Operators (for each 10 vehicles) – 5 years	250.00	200.00
Hackney Carriage Vehicle NEW (Annual)	200.00	230.00
Hackney Carriage Vehicle RENEWAL (Annual)	200.00	215.00
Private Hire Vehicle NEW (Annual)	200.00	220.00
Private Hire Vehicle RENEWAL (Annual)	200.00	210.00
Driver (3 year) NEW	270.00	270.00
Driver (3 year) RENEWAL	270.00	230.00
Driver (Annual) NEW	250.00	250.00
Driver (Annual) RENEWAL 1&2	170.00	170.00
Driver (Annual) for 3 rd year	200.00	200.00
Knowledge Test RESIT	35.00	35.00
Transfer of Vehicle Proprietor	60.00	40.00
Replacement Rear Plate	35.00	35.00
Replacement Front Plate	30.00	30.00
Replacement Sign (SINGLE)	25.00	25.00
Replacement Sign (PAIR)	N/A	30.00
Replacement Badge	25.00	25.00

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REPORT TO:	Licensing Committee
DATE:	4 December 2019
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706433
SUBJECT:	Review of the existing Approved Testing Station process

1. PURPOSE OF THE REPORT

- 1.1 For Members to consider reviewing the current process for nominating approved testing stations to carry out compliance testing for hackney carriage and private hire vehicles within the County and to consider some options of improving the existing regime.

2. EXECUTIVE SUMMARY

- 2.1 To seek the views of Members on the current process and to further seek approval to review and consult with key stakeholders on an up to date and improved process.
- 2.2 Under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 a licensing authority has a duty to ensure that hackney carriage and private hire vehicles are of a suitable type, comfortable and in a suitable mechanical condition so as to be safe for the purpose.
- 2.3 By reviewing the existing process for nominated Testing Stations, to establish if it remains fit for purpose and recommend improvements to ensure consistency and compliance across the County.

3. BACKGROUND INFORMATION

- 3.1 Denbighshire currently has 8 nominated Testing Stations throughout the County, 5 in the North (one being the County's Fleet Management Centre in Bodelwyddan) and 3 in the South, which Fleet Services approve on an

annual basis.

- 3.2 The fees charged for a compliance test, by the nominated Testing Stations are set by the individual garages and vary per garage. The variation in the cost of tests causes some concern amongst Officers that there is a possibility that competitive pricing may be linked to a reduction in the quality of testing.
- 3.3 In 2010 Members approved a process for licensing all approved Testing Stations within the County that carried out compliance tests on behalf of the Council. It was envisaged that by introducing a standardised process for testing stations, would in turn, ensure consistency across the Testing Stations.
- 3.4 The process involved the following:
1. To utilise experts that exist within the County's Fleet Management Section to ensure the Council's Policy in relation to standards is appropriate and consistent across the County to ensure safety and comfort of passengers is maintained.
 2. Testing Stations will be required to record information regarding testing requirements as deemed necessary by the Council, and submit the information within 24 hours of the test by FAX to Fleet Services Department at Bodelwyddan and submit on a weekly basis a report to the Licensing Administration Team of all vehicles that have been tested within the last seven days, whether the vehicle has passes/failed/advised.
 3. Testing Stations will be subject to supervisory visits from suitably qualified persons who, on demand, will afford the opportunity to view the testing process and examine any equipment being used to carry out the test.
 4. Testing Stations will comply with and follow the "Best Practice Guide National Inspection Standards for Hackney Carriage and Private Hire Vehicles" issued by the Public Authority Transport Network (PATN).
- 3.5 Approved testing stations are issued with a permit and conditions, which can be found at Appendix A.
- 3.6 Over the years, it has become apparent that the above process, as detailed at 3.4, is not being fully adhered to by all Testing Stations and the standard of testing differs from each garage.
- 3.7 Since the beginning of the year we have been notified of very few test failures.

- 3.8 Some Testing Stations only carry out a handful of compliance tests a year, and Officers are mindful that these garages may not be familiar with the policy and standards, unlike a garage that carries out tests on a regular basis, resulting in a lack of consistency throughout the current testing process.
- 3.9 Taking the above into consideration, Officers would like to review the current process to consider the following options:
1. No change to the current authorised Testing Stations
 2. Invite expressions of interest from MOT garages to a specific Service Level Agreement
 3. Reduce the number of authorised Testing Stations in the County
 4. Move over to In-house compliance testing
- 3.10 Members can view the advantages and disadvantages of the above 4 options at Appendix B.
- 3.11 If Members were minded to support in-house testing by the County's Fleet Services Depot in Bodelwyddan, there would potentially be a need for Fleet Services to provide an additional site in the south of the County. Early enquiries with Fleet Services have indicated that they should be able to support such a request.
- 3.12 Officers have consulted with the County's Passenger Transport Section, and they would be supportive of any change that improves the safety of the current licensed vehicle fleet, and they also support moving towards in house testing.
- 3.13 Officers have also consulted with all North Wales Licensing Authorities to establish whether they have in-house testing or have considered same. At the time of writing this report, no responses have been received from any of our neighbouring authorities. Officers will report on any update at the committee meeting.

4.0 **RECOMMENDATIONS**

- 4.1 To look at in house testing as a preferred option but subject to further review and consultation with all relevant parties.
- 4.2 If Members were not to support in-house testing at this time, then Officers recommend a review of the current process is conducted.

Appendix A



Denbighshire Licensing Statement of Responsibilities.

All testing must be conducted in accordance with the following requirements:-

- 1] Section 45 of the Road Traffic Act 1968; the Motor Vehicles [Tests] Regulations.
- 2] The MOT Testing Guide and supplementary information issued from time to time by VOSA.
- 3] The Public Authority Transport Network [PATN] Best Practice Guide and National Standards for Hackney Carriage & Private Hire Vehicles.
- 4] Denbighshire County Council Hackney Carriage/Private Hire Vehicle Compliance Test – Explanatory Guidance Notes.

When these requirements are amended or superseded testing must be carried out in accordance with the requirements applicable at the time of the test.

All statutory testing must be carried out:

- a] At the premises authorised and agreed by Denbighshire County Council Fleet Services.
- b] Using only the equipment and facilities specified in this agreement and agreed by Denbighshire County Council, and which should be maintained in good working order and where necessary calibrated at the required intervals.
- c] Only on those classes of vehicles for which authorisation has been granted.
- d] Only by persons listed on this agreement.
- e] Utilising an assistant for those parts of the tests requiring it.
- f] Without avoidable distraction or interruption.

Any vehicle of a class for which authorisation is granted must be accepted for test, unless it is of such size or weight that it cannot be properly or safely tested on the approved facilities. If a test cannot be carried out immediately, an appointment must be offered at the earliest practicable time subject to;

- a] Physical limits;
- b] Reasons for not starting test.

Authorisation may cease for any failure to comply with the requirements set out above or if any statement made in this application is untrue.

DECLARATION:

I declare that:

1] The information provided within the supporting documentation is, to the best of my knowledge, true and correct.

2] I have read, understood and accept the above 'Statement of Responsibilities' and have the authority to accept it on behalf of the applicant[s].

Signature _____

Print Name_____

Date_____

Comparison table of options for review of current authorised testing station process

Option	Advantages	Disadvantages
<p>No change to the current authorised Testing Stations</p>	<p>No advantages identified</p>	<ul style="list-style-type: none"> • Inconsistencies between current testing stations standard of tests • No standard test fee • Lack of confidence of data on what vehicles are being failed and re-tested. Leading to potential for conflicts of interest – businesses wanting to retain testing work for a customer may advise / repair and not fail thus not accurately reported the compliance of a vehicle at all times. • Allowing tests to be carried out at multiple test stations will require additional enforcement and compliance work to ensure consistent application of standards across each testing station. Given resource limitations, this will also reduce capacity for general enforcement work. • A risk of applicants with vehicles in a poorer condition may favour a test station which takes a more lenient approach of the testing standards – if an applicant believed that one station would fail their vehicle and one would pass it, they will inevitably take the vehicle to the latter. Therefore it's not a true reflection on how the vehicle has been maintained

		in the 6 months prior to its compliance test.
Invite expressions of interest from MOT garages to a specific Service Level Agreement	<ul style="list-style-type: none"> • More customer choice • Less travel time for licence holders • Control over setting fee for testing • More control over operating conditions and actions for non-compliance (of garages) 	<ul style="list-style-type: none"> • Allowing tests to be carried out at multiple test stations will require additional enforcement and compliance work to ensure consistent application of standards across each testing station. Given resource limitations, this will also reduce capacity for general enforcement work. • Insufficient interest from garages leading to little choice
Reduce the number of authorised Testing Stations in the County	<ul style="list-style-type: none"> • Customer choice • Less travel time for licence holders • Reduce Officer time for enforcement and compliance of testing stations 	<ul style="list-style-type: none"> • Inconsistencies between current testing stations standard of tests • Allowing tests to be carried out at multiple test stations will require additional enforcement and compliance work to ensure consistent application of standards across each testing station. Given resource limitations, this will also reduce capacity for general enforcement work. • Lack of confidence of data on what vehicles are being failed and re-tested. Leading to potential for conflicts of interest – businesses wanting to retain testing work for a customer may advise / repair and not fail thus not accurately reported the compliance of a vehicle at all times.

		<ul style="list-style-type: none"> • A risk of applicants with vehicles in a poorer condition may favour a test station which takes a more lenient approach of the testing standards – if an applicant believed that one station would fail their vehicle and one would pass it, they will inevitably take the vehicle to the latter. • Reduces customer choice
<p>Move over to In-house compliance testing</p>	<ul style="list-style-type: none"> • Eliminate inconsistencies within the current testing regime. • Testing slots would be available up to 19:00 hrs – Monday to Friday (potential to open on a Saturday should there be demand) • Impartial testing as Fleet Services do not carry out any repairs on the vehicle • Standard test fee which will be published • True reflection on 1st time presented failure / pass rates. Better data on how vehicles are being maintained by the operator, and potential reduction in enforcement workload by enabling enforcement to concentrate on the vehicles and operators that are actually failing on 1st time presented basis. 	<ul style="list-style-type: none"> • Increased travel time for licence holders. However, testing is only required once every 6 months, therefore it should be minimal impact on licence holders. • Possible increase in fees for operators as some have potentially struck deals with preferred garage • Capacity at testing station

REPORT TO:	Licensing Committee
DATE:	4 th December 2019
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Public Protection Business Manager licensing@denbighshire.gov.uk 01824 706066
SUBJECT:	Review of Penalty Points Policy & Procedure

1. PURPOSE OF THE REPORT

- 1.1 To provide members with an update on the Penalty Policy & Procedure and make recommendations on the use of the process.

2. EXECUTIVE SUMMARY

- 2.1 The Penalty Points Policy and Procedure is a single document encompassing how the Council will deal with minor breaches in respect of taxi licensing and was approved by Members in September 2014 and further updated in September 2015.
- 2.2 Officers have reviewed the process and seek support to adapt how such breaches are dealt with in the future.

3. POWER TO MAKE THE DECISION

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

4.0 BACKGROUND INFORMATION

- 4.1 The council's key responsibility under the licensing legislation is to ensure that only fit and proper persons are granted and remain hackney carriage / private hire drivers or operators. This is to ensure the safety of those using hackney carriages and private hire vehicles and general public.
- 4.2 Members resolved to adopt the Penalty Points Policy and Procedure firstly in September 2014 and further revised in 2015 and 2016.
- 4.3 The Policy and Procedure is to be reviewed every three years.

- 4.4 Members will be aware that the Policy and Procedure laid down how officers would deal with breaches of conditions or legislation and also gave breaches a points value.
- 4.5 An accumulation of 20 points in two years by a licensee would lead to that person being reported to the next available Licensing Committee.
- 4.6 Where a matter was serious then a single penalty of 20 points was given to the relevant licensee (driver or proprietor or operator). Thereafter, further action was to be determined by the Head of Service in consultation with the Chair or Vice Chair of the Licensing Committee.
- 4.6 The scheme allows for a 10 day appeal process irrespective of the level of points or incidents.
- 4.7 Members will be aware that through the Constitution and Scheme of Delegation that the Licensing Committee has delegated functions to the Head of Service who in turn has delegated certain functions to certain officers. These functions include, in certain circumstances, suspension and revocation of driver, vehicle and operator licences.
- 4.8 During 2019, six incidents were reported for penalty points with one incident involving the issue of 20 points.

5.0 CONSIDERATIONS

- 5.1 The process has unintended consequences in so far as delaying appropriate action, including suspension / revocation if necessary, as time frames for appeals are specified as are individuals for certain actions.
- 5.2 Officers, working with Members and a Legal Services have developed a "*Procedure for the Revocation or Suspension of a Private Hire or Hackney Carriage licence*" (Appendix A) which outlines actions to consider in determining whether or not to suspend or revoke and also specifies officer delegations.
- 5.3 The issuing of points does not easily allow for discretion or deviation where circumstances might warrant it, for example where an individual is continuing with non-compliance and is subject to multiple incidents of low scoring points it could be some time before further action is taken. Given the repetition of warnings officers may consider further action is warranted before reaching 20 points.
- 5.4 Officers are minded to remove the Penalty Point Policy and Procedure and in its place allow Officers, who are already authorised to enforce specific legislation including that associated with hackney carriage and private hire industry, to deal with each case on its merits whilst having regard to the Planning and Public Protection Service "Enforcement Protocol". Officers' competency is regularly assessed and training provided as necessary.
- 5.5 There are not significant numbers of incidents being reported for points.

- 5.6 Databases allow for the recording of warnings and / or advice. This data would be used in consideration of appropriate action against a licensee where necessary.
- 5.7 The scoring matrix developed over the previous years is a beneficial guide to officers and service users of the perceived severity of issues likely to be found in a licensing authority.

6.0 RECOMMENDATION

- 6.1 Members support the removal of the Penalty Points Policy & Procedure process.

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PLANNING AND PUBLIC PROTECTION SERVICE

Procedure for the Revocation or Suspension of a
 Private Hire or Hackney Carriage licence

Author/Custodian:	Ian Millington
Date Agreed and Implemented:	09/07/2019
Agreed by:	Emlyn Jones, Head of Planning & Public Protection
Frequency of Review:	1 year
Review Date:	08/07/2020
Member Involvement (If any):	Committee
Internal or Public Domain:	Public
Head of Service Approval:	<i>Emlyn Jones</i>

Version Control:			
Reference	Status	Authorised By	Date
V1.0	Approved	<i>Emlyn Jones</i>	09/07/2019

1. Purpose

To ensure consistency of administering and enforcing the Hackney Carriage and Private Hire legislation and the safety of the travelling public throughout the County of Denbighshire. This procedure aims to provide practical guidelines for to follow when information/complaints have been received from interested parties on alleged conduct/inappropriate behaviour of an existing licensed driver and to ensure legislation is adhered to.

2. Related Documents

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) Act 1976 (“LGMPA76”)

Taxi Licensing Conditions and Policy booklet

3. Officer Delegations

The Licensing Committee have delegated to the Head of Service who has subsequently authorised the following officers to carry out the functions detailed below.

DELEGATIONS	
Function	Officer
Revocation of licence	In consultation with Legal Services, the Head of Service or Built Environment & Public Protection Manager
Suspension of licence	Business Manager or Built Environment & Public Protection Manager
Points policy	Licensing Officers
Written warnings	Licensing Officers
Prosecution	Business Manager or Built Environment & Public Protection Manager
Simple caution	Business Manager or Built Environment & Public Protection Manager
Reinstatement	Business Manager or Built Environment & Public Protection Manager
Informal Advice / Guidance	Licensing Officers
No action	Licensing Officers

4. Legislation

Section 61 of the LGMPA 76 give a local authority powers to suspend or revoke a drivers' licence issued under section 51 of the LGMPA or section 46 of the Town

Police Clauses Act 1847, or refuse to renew a drivers' licence on any of the following grounds:

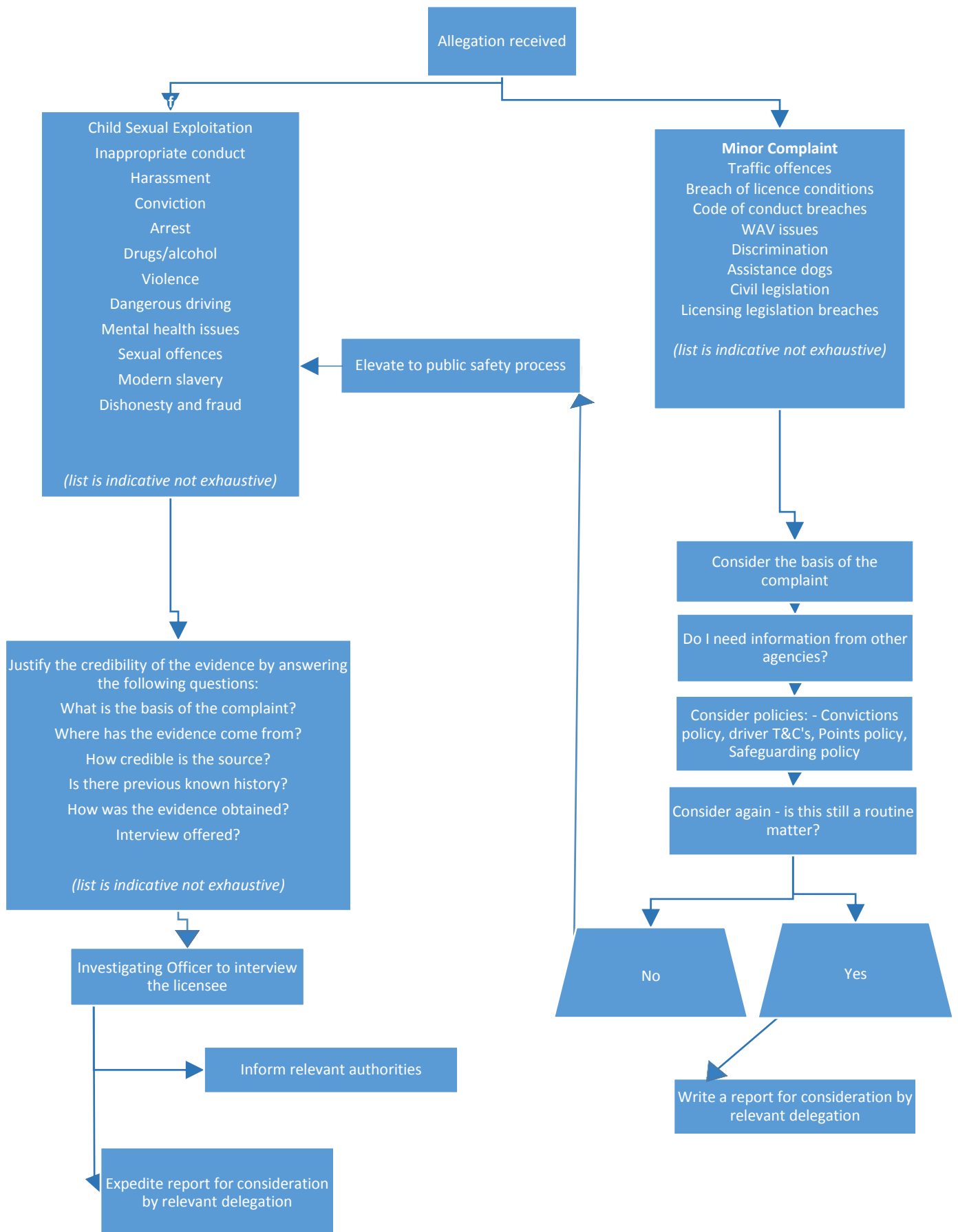
- That he has since the grant of the licence
 - o Been convicted of an offence involving dishonesty, indecency or violence; or
 - o Been convicted of an offence under or has failed to comply with the provisions of the act of 1846 or the LGMPA 76; or
- Any other reasonable cause.

5. Process

- I. Information is received from partners/interested parties on the conduct of an existing driver or a conviction as detailed in section 4 above.
- II. The officer will assess whether the allegation is an issue of public safety or a more minor complaint. A list of examples can be found on the flowchart.
- III. Where an allegation or information is received about a licensed driver, and is of such a nature that a real and reasonable concern is raised in terms of public safety, or crime and disorder, about the suitability of a licensed driver to continue to hold a Local Authority driver licence, then consideration should be given to immediate revocation of that licence. Circumstances where such an action should be considered include;
 - committed a serious offence (such as outlined in the flowchart at Section 6 below)
 - are alleged to have committed a serious offence
 - are in breach of the requirements placed upon that type of licence within primary legislation
 - are in conflict with a significant part of the Council's safety policy, or
 - where there is intelligence provided which raises a significant concern and it is necessary to immediately remove that potential risk.
- IV. If it is a matter of public safety the officer should justify the credibility of the evidence by answering the following questions;
 - What is the basis of the complaint?
 - Where has the evidence come from?
 - How credible is the source?
 - Is there previous known history?
 - How was the evidence obtained?
 - Interview offered?
- V. The officer should interview the licensee without undue delay. Consideration as to the public safety aspect should be a factor in arranging any interview.

- VI. The relevant authorities should be informed; Police, Social Services, Other Local Authorities etc.
- VII. Officers should consider other relevant policies, procedures and documents e.g. convictions policy, driver T&C's, Points policy, safeguarding policy
- VIII. After gathering information, officers should, after discussing with line managers, consider again – is this still a routine matter?
 - IX. If yes, continue with written report for consideration by relevant delegation
 - X. If no, elevate to public safety process.
 - XI. Decision
 - XII. Inform other relevant authorities

6. Process Flowchart



7. Decisions

Officers will take the appropriate action under the scheme of delegation.

In all circumstances the guidance in Appendix 1 will be considered throughout the process.

The licensee will be provided with written confirmation of the decision and the reasons for reaching that decision.

Licensing Committee Members and other relevant authorities will be given written confirmation of actions taken.

The table below lists the possible outcomes.

PENALTIES	
No Further Action	There is insufficient evidence to substantiate the allegations made.
Simple Caution	A formal caution given as an alternative to prosecution – if the Driver accepts the wrong doing. Retain a copy on the Driver's file.
Written Warning	A formal written warning on the Driver's file about the offending behaviour.
Penalty Points	In accordance with current Penalty Points Policy
Suspension	For an appropriate period to be determined on each case.
Revocation	Where there is sufficient evidence to believe that the licensed driver is no longer a fit and proper person to hold a licence.

8. Right of Appeal

A person aggrieved by the Council's decision has rights of appeal to the Magistrates Court within 21 days.

9. Reinstatement

Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 enables a decision to suspend or revoke a Hackney Carriage / Private Hire drivers licence to take immediate effect should the council believe it to be necessary in the interests of public safety. This means the driver cannot continue to drive Hackney Carriage / Private Hire vehicles during the appeal period.

If, within 21 days, information comes to light which demonstrates that a driver is indeed fit and proper the authority may reinstate a previously revoked licence. A 'fast track' procedure will be adopted to re-licence those drivers who have had their licence revoked but have subsequently been found to be fit and proper. In these cases, the driver will supply the council with a new application form but there will be no subsequent application fee. All pre-check enquiries (DBS, medical etc.) would stand and the dates they were previously due to expire would be valid, as would the licence itself.

10. Review of Procedure

This procedure will be reviewed by the licensing section and section manager on an annual basis or sooner if changes to legislation are made

Appendix 1 - GUIDANCE ON IMMEDIATE SUSPENSION AND REVOCATION

Legislation

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle on any of the following grounds.

- (a) That he has since the grant of the licence
- i. Been convicted of an offence involving dishonesty, indecency or violence; or
 - ii. Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of this of this Act; or
- (b) Any other reasonable cause.

Section 61(2) goes on to provide that a suspension or revocation normally takes effect at the end of the period of 21 days beginning on the day on which notice is given to the driver but;

If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes the statement that this is so and an explanation why then the suspension or revocation takes immediate effect when the notice is given.

These provisions (setting out when the decision takes effect) were inserted by the Road Safety Act 2006.

Guidance on decision making – Suspensions and Revocations generally

Section 61 requires the licensing authority to make a finding on the balance of probabilities that that the grounds set out in the legislation are made out.

In Section 61(1)(a)(i) the offence in question must involve dishonesty, indecency or violence. Dishonesty, indecency or violence must be part of the commission of the criminal offence for this subsection to apply but it is not necessary for the offence to be one of dishonesty, indecency or violence.

Section 61(1)(b) allows suspension or revocation (or refusal to renew) for any other reasonable cause. No further definition is given of reasonable cause within the legislation and ultimately the question is a matter for the discretion of the decision maker.

Guidance is given in a number of cases from which the following principles can be drawn.

- The decision maker is entitled to take into account hearsay evidence. *McCool v Rushcliffe Borough Council (1998)*
- The fact that no criminal case is pursued against the driver is a relevant factor that can be outweighed by other evidence. *McCool v Rushcliffe Borough Council (1998)*
- The burden of proof is on the applicant to establish that he is a fit and proper person to hold the licence. *R v Maidstone Crown Court ex parte Olson (1992)*
- Once the driver has established a case that he is a fit and proper person, the evidential burden shifts to the Local Authority to rebut the case put forward by the driver. Rebuttal does not require the decision maker to prove that a person is not a fit and proper person and nor does pursuing that argument amount to double jeopardy.
- They would not have good reason to question or doubt the applicant's case if the evidence amounts to assertions shown to be ill founded gossip or rumour or for any other evidence which a reasonable and fair minded decision maker acting in good faith with proper regard to the interests of the public and the applicant would not think it right to rely on. *McCool v Rushcliffe Borough Council (1998)*

The discretion under this Section is wide and is not restricted to convictions for criminal offences nor is proof required to the criminal standard.

The taxi licensing regime is clearly and expressly in place to protect members of the public travelling in taxi and private hire vehicles. Consideration may be given to applying the following test - "*Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any other person I care for or any vulnerable person I know, to get into a vehicle with this person alone?*"

There are issues which undermine that protection which amount to criminal offences in their own right but there are other issues which have significance for the protection of the travelling public where a criminal offence might not have been committed or proved.

Immediate suspension or revocation

Both standard and immediate suspensions require the decision maker to consider the same matters, i.e. whether there has been a relevant conviction or "any other reasonable cause".

As suspension or revocation can only take immediate effect in the interests of public safety there must be an additional consideration. That means the decision maker

should consider whether there is a clear connection between the incidents alleged and the safety of the travelling public which justifies taking this additional step.

However there are no further limits or restrictions on the decision maker's exercise of judgment or discretion providing a proper judgment is made weighing up the evidence available.

There is no requirement in the legislation limiting this power to cases where there has been a conviction for a criminal offence nor that any alleged incident or offence is 'serious'.

The decision must be taken in the interests of public safety and should be fair, reasonable, proportionate and in accordance with human rights and natural justice principles.

The Council has a published Conviction Policy relating to those with criminal convictions. The council will have regard to that policy when considering whether an offence, allegation or complaint should be considered as warranting immediate suspension in the public interest. This will be judged against all the circumstances of the case, including any admissions or denials made and any other relevant evidence.

Examples of situations where immediate suspension or revocation might be warranted include:

- Allegations of violence against a passenger or person wishing to travel.
- Allegations of indecency including sexual assault and rape against a passenger or person wishing to travel.
- Allegations of safeguarding nature
- Allegations that the driver is unfit to drive as a result of being under the influence of drugs or alcohol.
- Admitted sexual contact with a passenger in the vehicle
- Allegations of dishonesty relating to use of the vehicle such as attempting to pervert the course of justice in relation to a road traffic accident, fraudulent use of tax or insurance documentation, knowingly driving an uninsured vehicle to convey members of the travelling public (e.g. plying for hire).
- Allegations of dangerous driving or driving without due care and attention thereby endangering the safety of passengers and other road users.

Each case must be decided on its own facts and any examples given in this guidance are only illustrative. Each case must be considered on its own merits and the powers should be exercised in a consistent and reasonable manner having regard to the facts of the case and the risk posed to the public.

Any decision to suspend or revoke a licence should never be taken lightly. However, the licensing system is designed to protect the public and it would be wrong not to suspend or revoke where such course of action is clearly appropriate on the facts of an individual case. If there is any doubt whatsoever as to the driver's suitability to hold a licence as a fit and proper person serious consideration must be given to refusal, revocation or suspension.

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REPORT TO:	Licensing Committee
DATE:	4 th December 2019
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706433
SUBJECT:	Proposed House to House Collection Policy

1. PURPOSE OF THE REPORT

- 1.2 To present to Members, a proposed House to House Collection Policy, for their consideration, which will allow the Council to make consistent and transparent decisions.

2. EXECUTIVE SUMMARY

- 2.1 The Council currently does not have a clear and detailed Policy to consider such applications, causing some uncertainty to both applicants and Licensing Officers.
- 2.2 Officers have drafted an up to date policy for consideration so that all interested parties are informed of the requirements and process.

3. POWER TO MAKE THE DECISION

- 3.1 House to House Collections Act 1939 and the House to House Collections Regulations 1947.

4. BACKGROUND INFORMATION

- 4.1 House to house collections are a vital source of funds for many charities and they offer a positive opportunity for the public to support them. However, such collections need to be carried out for the benefit of the charity and in accordance with the law. Incidents of bogus house to house collections are on the increase nationally and as such it is vital that licences are issued to legitimate collectors, thus giving the public confidence that their donations are being directed to the appropriate charity.

- 4.2 Licences for house to house collections are generally issued by the Council, however, there are 'National Exemption' Orders available to charities who wish to undertake a high number of simultaneous collections across the country. 'National exemption' orders are issued by the Secretary of State.
- 4.3 The current policy is *“permits are granted to organisations without Home Office Exemption Orders provided such collections do not overlap with other collections and societies be limited to one collection within a twelve month period.”*
- 4.4 Whilst it is not a legal requirement for the Council to have such a policy, it is considered best practice to adopt such a policy to provide applicants with guidance and the Council with a framework to make consistent and transparent decisions when considering applications. A documented process will help give people who wish to donate to charity confidence that they are able to do so in good faith knowing that the money or products they donate will directly benefit the charity.
- 4.5 The proposed policy aims to avoid saturating the area with collectors from different charities.
- 4.6 A copy of the proposed House to House Collection Policy can be found at Appendix A.

5. **CONSULTATION**

- 5.1 Given that the proposed policy will cover all aspects of the process and requirements, Officers have assessed that as there is no significant change to the purpose of the existing policy, as detailed in 4.3 above and should Members be minded to support the proposed House to House Collection Policy, consultation will only take place with charitable organisations that have applied and collected within the County over the last 12 months.
- 5.2 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 House to House Collection Policy as detailed at Appendix A, and in doing so authorise

Officers to commence formal consultation as detailed in 5.1.

- 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 House to House Collection Policy with effect from the 1st April 2020.

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Draft House to House Collection Policy and Procedure

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Policy Aims	Error! Bookmark not defined.
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1. Policy Aim

- 1.1 The aims of the Council are to:
- a. safeguard the interests of both public donors and beneficiaries
 - b. facilitate well organised collections by bona fide charitable institutions and to ensure that good standards are met
 - c. prevent unlicensed collections from taking place
 - d. Ensure money is collected securely and proceeds properly accounted for
 - e. Reduce nuisance to residents and visitors
 - f. achieve a fair balance between local and national causes

2. Introduction

- 2.1 House to House collections are a vital source of funds for many charities and they offer a positive opportunity for the public to support them. However, they need to be carried out for the benefit of the charity and in accordance with the legislation. Incidents of bogus house to house collections are on the increase and as such it is vital that licences are issued to legitimate collectors. Ensuring collectors hold the relevant licence gives the public confidence that their donations are being directed to the appropriate charity.
- 2.2 House to House collections are regulated by the House to House Collections Act 1939 (the Act) and the House to House Collections Regulations 1947, as amended.
- 2.3 As a general rule, house to house collections are for charitable, benevolent or philanthropic purposes, whether or not the purpose is charitable within the meaning of the rule of law, are required to be licensed by the Council.
- 2.4 The definition of “collection” is an appeal to the public made by means of visits from house to house, to give, whether for consideration or not, money or other property. This could include the sale of magazines, requests for unwanted clothing and household items.
- 2.5 The definition of “House” includes a place of business.
- 2.6 No collection for a charitable purpose may be made unless the provisions of the Act and the Regulations are complied with, otherwise a criminal offence is committed.
- 2.7 The Council recommends that all organisations adhere to the Institute of Fundraising’s Code of Fundraising Practice. A copy of this code of practice can be found at www.institute-of-fundraising.org.uk

- 2.8 The Code of Charity Retailing promotes good practice and high standards for charity retailing. Compliance with the Code is a mandatory part of membership of the Association for UK charity members. A copy of this code of practice can be found at <http://www.charityretail.org.uk/ccr2011.pdf>
- 2.9 The Council recognises that collections of direct debit details, house to house, are outside the scope of the 1939 Act. However, such collectors are again advised to consider the advice provided by the Public Fundraising Regulatory Association.
- 2.10 Applicants should be aware that No Cold Calling zones are being developed in the County. The purpose of the zones is to discourage cold callers from specific residential areas usually street or small cluster of houses. The zones provide householders with the opportunity to collectively discourage the often unwelcome practice of cold calling. The zones are visibly identified by overt signs and by each resident displaying a sticker on their door. Residents are given information on how to deal with cold callers should the signs be ignored and they are instructed to notify Denbighshire Trading Standards should this occur.
- 2.11 Individual residents who are not part of a collective No Cold Calling Zone may also indicate through the use of signs and stickers that they do not want to receive cold calls. In all case collectors must not call at these properties. If they do it will be considered a breach of the Consumer Protection from Unfair Trading Regulations 2008 and a breach of this policy.
- 2.12 Where the authority receives negative feedback in respect of collections taking place at unsociable hours, or with regard to undue pressure/misrepresentation by agents; and/or receives complaints about calls to properties displaying such a sticker, consideration will be given to the refusal of future applications or revocation of the current certificate.
- 2.13 Information relating to the current location of No Cold Calling Zones in the County can be obtained from contacting Denbighshire Trading Standards Denbighshire by telephone via Citizens Advice consumer service on [03454 04 05 06](tel:03454040506) or or by emailing tradingstandards@denbighshire.gov.uk

3 Waiving a need for a licence

- 3.1 There are two circumstances where the need for a licence can be waived:
- i. Organisations that have been granted an “Exemption Certificate” issued by the Secretary of State under the provisions of the House to House Collections Act 1939. This Certificate allows an organisation to collect in the County without applying for a licence. The organisation must inform the Council of the dates and areas of any planned collections. Organisations can generally obtain national exemption orders if they have house-to-house collection licences in at least 70–100 local authority licensing areas for the two preceding years.

- ii. Where the chief constable for the police area is satisfied that the purpose is local in character, and that the collection is likely to be completed within a short period he may then under s.1 (4) of the Act grant to the promoter of the collection a certificate in the prescribed form. Where a certificate is granted, a licence from the Council is not required, and the provisions of the regulations shall not apply to a collection made in conformity with such certificate.

4. Allocation of Permit

- 4.1 To avoid the prospect of multiple collections being made in any one day, the Council will not grant licences for a period of twelve months. To give sufficient time to undertake a collection, it will be the policy of the Council not to grant licences for periods in excess of 14 days unless the Council is satisfied that exceptional circumstances exist.
- 4.2 Applications will be dealt with on a first come first served basis, where there is more than one application received at the same time, preference will be given to local charities.
- 4.3 No more than one organisation shall be permitted to collect in the same town per week.
- 4.4 In order to allow as many organisations as possible to collect, no individual organisation will be granted more than one collection per town per calendar year.
- 4.5 The designated areas for House to House Collections in Denbighshire will be Bodelwyddan, Corwen, Denbigh, Llangollen, Prestatyn, Rhuddlan, Rhyl, Ruthin, St Asaph, The Council will also permit collections in other areas in the County including surrounding villages.
- 4.6 If the applicant indicates that the organisation has been refused a licence to carry out a house to house collection by another local authority, unless there are special circumstances for the refusal, the default position of the Council will be to refuse the application.
- 4.7 If an organisation is found to have carried out unlicensed collections, no licences will be granted to that organisation until a period of at least three years has passed without further contraventions.

5. Fees and Charges

- 5.1 The Council makes no charge for the processing of House to House Collection Permits.

6. Decision Making

- 6.1 In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this Policy document and the principles set out therein.

- 6.2 Notwithstanding the existence of this Policy, each application will be considered on its own merits based on the licensing principles detailed in this Policy.
- 6.3 Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons for doing so must be given. The Head of Planning and Public Protection may authorise a departure from the policy in accordance with this section if he/she considers it necessary in the specific circumstances.

7. Refusal of Issue of Permit

- 7.1 The authority can refuse or revoke a licence for a number of reasons, as detailed in the Act:
- If too high a proportion of the proceeds are to be spent on expenses;
 - If not enough of the proceeds are to be given to the charity or cause;
 - If incorrect information was provided on the application form;
 - If the promoter or any other person involved in the collection has been convicted of certain criminal offences ie burglary, blackmail or fraud
 - If the grant of the licence would be likely to facilitate the commission of an offence under section 3 of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection.
 - If the applicant or holder of the licence has failed to exercise due diligence to ensure that the collectors are fit and proper, to ensure compliance with the provisions of the House to House Regulation or to prevent prescribed badges or certificates of authority being obtained other than by authorised persons.
- 7.2 If the applicant or holder of the licence has refused or neglected to furnish to the Authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs.
- 7.3 There is a right of appeal to the Secretary of State against the refusal or revocation of a licence within 14 days from the date on which the notice is given of the refusal or revocation.

8 Determining amount devoted to charity

- 8.1 Section 2 (3) of the Act allows the Council to refuse to issue a licence where the total amount likely to be applied for charitable purposes as a result of the collection is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).
- 8.2 In deciding whether the amount given to charity is proportionate the Council will use the following as a guideline:
- a. The Council understand there are costs associated with organising and carrying out a house to house collection, however, the costs associated with any one

collection need to be balanced against the perception of the public that all of the items or money they donate will be given to charity;

b. It is also common practice for collectors to be paid by organisations to collect money and products. When determining the remuneration and whether it is excessive, the nature of the business and the overheads should be taken into account and balanced against the amount being given to the charity. The salaries received by Directors and key employees should also be considered as part of this assessment.

c. The Council will consider each application on its merits.

8.3 In order to assess the level of proceeds going to charitable purposes consideration will be given to:

- a. the costs involved with making the collection eg transport/remuneration/materials
- b. the revenue generated from the goods collected
- c. the level of proceeds from the collection that will be donated to the charity
- d. annual accounts submitted

9 Making a complaint

9.1 Should you have a complaint about the way we have provided a service, then you can make a complaint to the Head of Planning and Public Protection, at the address given at the end of this document. Alternatively, you could contact the Council's Complaints Officer on 01824 706169. Every complaint will be investigated and responded to in accordance to the Council's Complaints Policy. The Council's Complaints Policy can be viewed on the website: www.denbighshire.gov.uk.

10 Contacts

10.1 This Policy is available in Welsh. Copies can also be made available in any other language, on request. Please refer to the contact detail below.



Licensing Section, PO Box 62, Ruthin, Denbighshire, LL15



licensing@denbighshire.gov.uk



01824 706342

REPORT TO:	Licensing Committee
DATE:	4 th December 2019
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706433
SUBJECT:	Proposed Street Collection Policy

1. PURPOSE OF THE REPORT

- 1.2 To present to Members, a proposed Street Collection Policy, for their consideration, which will allow the Council to make consistent and transparent decisions.

2. EXECUTIVE SUMMARY

- 2.1 Legislation requires that the Council must licence Street Collections in any street or public place for charitable or other purposes.
- 2.2 The Council currently does not have a clear and detailed Policy to consider such applications, causing some uncertainty to both applicants and Licensing Officers.
- 2.3 Officers have drafted an up to date policy for consideration so that all interested parties are informed of the requirements and process.

3. POWER TO MAKE THE DECISION

- 3.1 Section 5 of the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 (as amended by the Local Government Act 1972, s 251 and Schedule 29)

4. BACKGROUND INFORMATION

- 4.1 The Council is empowered under the above Act to licence collections made in any street or public place for charitable or other purposes.

- 4.2 In addition to the above powers, the Council has made Regulations under the above legislation for the control of Street Collections within the County.
- 4.3 The current policy is ***“only one street collection is permitted each week in respect of each town/community. Societies may only carry out one collection in each town/community within a twelve month period”***.
- 4.4 Whilst it is not a legal requirement for the Council to have such a policy, it is considered best practice to adopt such a policy to provide applicants with guidance and the Council with a framework to make consistent and transparent decisions when considering applications. A documented process will help give people who wish to donate to charity confidence that they are able to do so in good faith knowing that the money or products they donate will directly benefit the charity.
- 4.5 The proposed policy also aims to avoid saturating the area with collectors from different charities.
- 4.6 Over the years, charitable collections have evolved and Members will be aware of the powerful fund raising platforms currently available online known as ‘crowd-funding’. There remains a demand for fundraising by street collection however the frequency and ultimately, success of these collections depend on the numbers of visitors attracted to the collection area.
- 4.7 A copy of the proposed Street Collection Policy can be found at Appendix A.

5. **CONSULTATION**

- 5.1 Given that the proposed policy will cover all aspects of the process and requirements, Officers have assessed that as there is no significant change to the purpose of the existing policy, as detailed in 4.3 above, and should Members be minded to support the proposed Street Collection Policy, consultation will only take place with charitable organisations that have applied and collected within the County over the last 12 months.
- 5.2 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 Street Collection Policy as detailed at Appendix A, and in doing so authorise Officers to commence formal consultation as detailed in 5.1.
- 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 Street Collection Policy with effect from the 1st April 2020.

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Draft Street Collection Policy and Procedure

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Draft Street Collection Policy and Procedure

1. Policy Aims

- 1.1 The aims of the Council are to:
 - a. safeguard the interests of both public donors and beneficiaries
 - b. facilitate well organised collections by bona fide charitable institutions and to ensure that good standards are met
 - c. prevent unlicensed collections from taking place
 - d. Ensure money is collected securely and proceeds properly accounted for
 - e. Reduce nuisance to residents and visitors
 - f. achieve a fair balance between local and national causes

2. Introduction

- 2.1 The Council is empowered under section 5 of the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 (as amended by the Local Government Act 1972, s.251 and Schedule 29) to licence collections made in “any street or public place” for “charitable or other purposes”.
- 1.2 In accordance with its powers the Council has made Regulations under the above legislation for the control of Street Collections in the area of Denbighshire, in respect of the places where and the conditions under which, persons may be permitted in any street or public place to collect money or sell articles for the benefit of charitable or other purposes.
- 1.3 The legislation and regulations stipulate that any collection to be undertaken in a street or public place requires a Street Collection Permit. It is a criminal offence to conduct a Street Collection within the County of Denbighshire without first obtaining such a permit from the Council.
- 1.4 For clarity a ‘Street’ and ‘Public Place’ are defined in statute as the following:

‘**Street**’ is defined as including any highway and any public bridge, road, lane, footway, square, court, alley or passage whether a thoroughfare or not

‘**Public Place**’ is defined as a “place where the public has access” and can include privately owned land eg shop doorways or car parks. It is the Council’s view that the foyer of a supermarket is considered to be “behind closed doors” therefore would only require the consent of the Manager of the store, however if the collection also took place outside or in the car park, a licence would need to be applied for.
- 1.5 If once approved, Permit holders are not restricted to collecting money, they can also sell charitable articles which is exempt from the requirement of a Street Traders’ Licence under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

- 1.6 If the sale of charitable items in a street or public place requires the use of a stall or table, written permission to erect same must be obtained from Denbighshire's Highway Section or the owner of the land prior to a Street Collection Permit being issued by the Licensing Authority.
- 2.7 The Council acknowledges that collections of direct debit details in the street are not regulated by the 1916 Act. However, such collectors are advised to consider the advice provided by the Public Fundraising Regulatory Association. This can be found at www.pfra.org.uk.

3 Allocation of Street collection days

- 3.1 The designated areas for Street Collections in Denbighshire will be on streets and/or public places in the towns of Bodelwyddan, Corwen, Denbigh, Llangollen, Prestatyn, Rhuddlan, Rhyl, Rhyl Events Arena, Ruthin, St Asaph, The Council will also permit collections in other areas in the County including surrounding villages.
- 3.2 Street Collections will not be allowed on any of the Promenade areas within the County whether for charitable or other purposes. However exceptions may be made where the charitable collection is part of a larger national/countywide event and the collectors are merely passing through the area.
- 3.3 The Council will permit a maximum of one collection per town each week, ie no more than one organisation can collect within the same area on the same day, except by written consent by the Council if the application falls within the exceptions detailed within 3.7 below.
- 3.4 Street Collections will be restricted to Saturdays, with the exception that collections will be permitted on other days of the week if that collection is associated with a nationally, or regionally organised event as detailed in 3.7 below.
- 3.5 In order to allow as many organisations as possible to collect, no individual organisation will be granted more than one collection per town per calendar year.
- 3.6 Applications will be determined on a first come first served basis, although preference will be given to local charities or charities with a local connection. Exceptions to this are detailed in 3.7 below
- 3.7 The following exceptions to this policy will apply:
 - 3.7.1 Poppy Appeal collections organised by The Royal British Legion will be permitted to apply for up to a maximum of seven days in November of each year.
 - 3.7.2 National Collections being Children In Need, Comic Relief, Sports Relief will be permitted to collect on both the day of the appeal and the day after to coincide with their appeal.
 - 3.7.3 Collection of donations from the public along the route of a carnival procession or similar event is exempt

- 3.7.4 For a charity stall on a Regulated Market.
- 3.7.5 Collections required in times of national and international disasters
- 3.7.6 Where the charitable collection is part of a larger national/countywide event and the collectors are merely passing through the area.

4. Fees and Charges

- 4.1 The Council makes no charge for the processing of Street Collection Permits.

5. Decision Making

- 6.1 In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this Policy document and the principles set out therein.
- 6.2 Notwithstanding the existence of this Policy, each application will be considered on its own merits based on the licensing principles detailed in this Policy.
- 6.3 Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons for doing so must be given. The Head of Planning and Public Protection may authorise a departure from the policy in accordance with this section if he/she considers it necessary in the specific circumstances.
- 6.4 When deciding whether to grant a Street Collection Permit, consideration will be given to:
 - if the collection is linked to specific events within the district
 - if the collection is linked to a nationwide campaign, eg Children in Need, Comic Relief, Remembrance Day
 - if the collection is on behalf of a national charity, is there likely to be some benefit for the residents of Denbighshire
 - what proportion of the funds collected will be applied for charitable purposes
 - has a permit been previously refused by Denbighshire County Council or any other local authority

7. Refusal of Issue of Permit

- 7.1 There are no statutory grounds for refusing an application for a Street Collection Permit. However, The Council reserves the right to refuse any application for a Street Collection Permit and it is likely that any previous contraventions of the Council's Street Collection Regulations would result in such action being taken or any other relevant/appropriate grounds.
- 7.2 There is no formal right of appeal against any decision made by the Council to grant or refuse an application for a Street Collection Permit, other than by way of Judicial Review. However, in the interest of fairness an applicant can lodge a request to the Head of Planning and Public Protection for a decision to be reviewed.

8 Making a complaint

- 8.1 Should you have a complaint about the way we have provided a service, then you can make a complaint to the Head of Planning and Public Protection, at the address given at the end of this document. Alternatively, you could contact the Council's Complaints Officer on 01824 706169. Every complaint will be investigated and responded to in accordance to the Council's Complaints Policy. The Council's Complaints Policy can be viewed on the website: www.denbighshire.gov.uk.

9 Contacts

- 9.1 This Policy is available in Welsh. Copies can also be made available in any other language, on request. Please refer to the contact detail below.



Licensing Section, PO Box 62, Ruthin, Denbighshire, LL15



licensing@denbighshire.gov.uk



01824 706342

REPORT TO:	Licensing Committee
DATE:	4 th December 2019
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706433
SUBJECT:	Forward Work Programme 2019/20

1. PURPOSE OF THE REPORT

- 1.2 To provide Members with a proposed Forward Work Programme for 2020.

2. EXECUTIVE SUMMARY

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

3. BACKGROUND INFORMATION

- 3.1 Members will be aware that at a previous Licensing Committee in December 2018, Members approved a 12 month rolling Forward Work Programme.
- 3.2 In drafting this Forward Work Programme, Officers have considered the policies relevant to the Licensing committee and the review dates of those policies along with any potential legislative changes being proposed by central government.
- 3.3 Due to the cancellation of the September meeting, Officers have re-scheduled matters to be considered, as detailed in the attached Appendix.
- 3.4 Officers are working on producing a full 12 month Forward Work Programme to present to Members at the next committee meeting in March.

4. **RECOMMENDATION**

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

Licensing Committee

Work Programme 2020

Committee Date	Report	Comment
March 2020	Hackney Carriage and Private Hire Vehicle Conditions/Policy	Review
	Update on the work of the Licensing Team	Update
June 2020	Review of approved Testing Stations	Update on review
	Film Classification Policy	Review

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