

To: Members of the Licensing
Committee

Date: 1 December 2021

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Dear Councillor

You are invited to attend a meeting of the **LICENSING COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 8 DECEMBER 2021 BY VIDEO CONFERENCE**.

Yours sincerely

G Williams
Head of Legal and Democratic Services

AGENDA

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

1 APOLOGIES

2 DECLARATION OF INTERESTS

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

3 URGENT MATTERS AS AGREED BY THE CHAIR

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

4 MINUTES OF THE LAST MEETING (Pages 7 - 12)

To receive the minutes of the Licensing Committee held on 15 September 2021 (copy enclosed).

5 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2022 (Pages 13 - 18)

To consider a report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) on the priorities of the Licensing Section together with an update on rescheduled items and the revised forward work programme.

PART 2 - CONFIDENTIAL ITEMS

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

6 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 554278 (Pages 19 - 30)

To consider a confidential report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) seeking members' determination of an application to drive hackney carriage and private hire vehicles from Applicant No. 554278.

MEMBERSHIP

Councillors

Hugh Irving (Chair)

Brian Jones (Vice-Chair)

Joan Butterfield

Arwel Roberts

Barry Mellor

Peter Scott

Melvyn Mile

Rhys Thomas

Merfyn Parry

Huw Williams

Pete Prendergast

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LICENSING COMMITTEE PROCEDURE FOR THE DETERMINATION OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE APPLICATIONS AND REVIEWS OF EXISTING LICENSED DRIVERS

STEP	DESCRIPTION
1.	The Chair to welcome and introduce the applicant/licence holder to all parties present.
2.	Solicitor to ask the applicant/licence holder to confirm that he/she has received the report and the Committee procedures. If applicant confirms same, move onto step 4.
3.	If it should occur that the applicant/licence holder states that the report has not been received, then such matter will be addressed at this stage. Members may wish to consider adjourning the matter, for a short period, in order for the applicant/licence holder to read the report.
4.	Head of Planning and Public Protection (or representative) briefly introduces the application/review
5.	The applicant/licence holder is requested to present his/her case The applicant/licence holder can call any witnesses he/she chooses in support of the application, for which advance notice should have been given to the Licensing Officers.
6.	Committee Members can question the applicant/licence holder and or his witnesses
7.	Technical officers are invited to present any findings (Licensing/Community Enforcement, First Contact Team (Social Services), School Transport.)
8.	The Committee Members followed by the applicant/licence holder can ask questions of the technical officers
9.	The applicant/licence holder will be invited to make a final statement, if they so wish
10.	The following will be requested to leave the meeting whilst the application/review is discussed by Members – the applicant/licence holder, all third parties, Head of Planning and Public Protection, technical officers NB The only people remaining should be – Committee Members, translator, committee’s legal adviser and the minute taker

11.	The committee members will consider the application/review taking into account the evidence heard
12	Should Committee Members prove it necessary to recommence the asking of questions and recall any party to provide further information or clarification, all persons who have withdrawn from the meeting will be invited to return. After the question(s) have been determined all third parties will be asked to withdraw again for Members to consider all evidence.
13.	When the Members have reached their decision, all parties will be recalled and the applicant/licence holder will be informed of the Members decision by the Chairman.
14.	The Chair will inform the applicant/licence holder of the decision reached. This will include any specific conditions or penalties which may have been imposed. If necessary the Council's Solicitor to provide further clarification of the decision and its implications to the applicant/licence holder.
15.	If the decision is to refuse or there is a decision to suspend or revoke, the Council's Solicitor to inform the applicant/licence holder of the right of appeal to the Magistrates' Court (the decision letter will also include these details).
16.	For an existing licensed driver (issued by Denbighshire), and the decision involves a resolution by the Committee to suspend or revoke the existing licence, Members may do so under either: <ul style="list-style-type: none"> 1. Section 61 (2A) of the Local Government (Miscellaneous Provisions) Act 1976. 2. Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976. This decision will have IMMEDIATE EFFECT and can only be used when the grounds for suspension/revocation are a public safety matter. <p>The Solicitor will explain to the licence holder the implications of the decision.</p>
17.	The applicant/licence holder will be informed of the decision in writing as soon as practicable.
18.	The applicant/licence holder will be invited to discuss any matter they are unsure of with Licensing Officers after the Committee

LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

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

Denbighshire County Council

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

*(*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)**

Signed

Date

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

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LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held by video conference on Wednesday, 15 September 2021 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Hugh Irving (Chair), Brian Jones (Vice Chair), Barry Mellor, Melvyn Mile, Merfyn Parry, Pete Prendergast, Peter Scott, Rhys Thomas and Huw Williams

Observers: Councillors Meirick Davies and Tony Thomas

ALSO PRESENT

Solicitor – Team Leader – Places (TD), Public Protection Business Manager (IM), Senior Licensing Officer (NJ), Licensing Officer (ES), Legal Officer (SR) and Committee Officers (KEJ & SJ [Webcaster])

1 APOLOGIES

Councillor Arwel Roberts

2 DECLARATION OF INTERESTS

No declarations of interest had been raised.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 23 June 2021 were submitted.

RESOLVED that the minutes of the meeting held on 23 June 2021 be received and confirmed as a correct record.

5 REVIEW - LICENSING ACT 2003: STATEMENT OF LICENSING POLICY

The Senior Licensing Officer submitted a report (previously circulated) seeking members' review of the Council's Statement of Licensing Policy prior to formal consultation and subsequent submission to full Council. The policy established a local framework for decision-making when considering applications for relevant permissions or variations to existing terms and conditions and it was a statutory requirement to consult and review the policy on at least a 5 yearly basis.

Given the benefits of a consistent policy across North Wales the majority of the proposed changes had been drafted by the six North Wales licensing authorities

and had been highlighted in red for members' consideration. No significant changes had been proposed other than to include legislative changes, health board responsibilities and to strengthen matters relating to drugs and the inclusion of local initiatives. The consultation process included public notice of the draft policy together with contacting statutory consultees and all licence and permit holders. Officers recommended that any representations received be reported back to the Committee but in the event of no representations a report be submitted to full Council to approve the draft policy.

The Committee considered the draft Statement of Licensing Policy and discussed with officers various requirements and reasonable steps the local authority expected from licensed premises. Officers responded to members' questions and comments regarding various aspects of the policy and provided clarity in a number of areas. Main points of debate focused on the following –

- officers confirmed it was a legislative requirement for all premises licensed for the supply of alcohol to provide free drinking water on request
- members had queried the proposed reference to the provision of a first aid room and equipment (including a defibrillator in larger venues) and whether it needed to be included in the policy given that the responsibility for such rested with the licensed premises themselves and not the licensing authority. Officers confirmed that any requirement to provide first aid facilities would be determined within the risk assessments undertaken by licensed premises themselves and also regard to the Health and Safety at Work Act. However it was appropriate that the policy considered the management of licensed premises in its entirety and to encourage all reasonable steps to be undertaken. No specific stipulations for licensed premises had been proposed in terms of first aid provisions given that it was for the individual licensed premises to determine what was reasonable for them
- it was clarified that drinking from bottles would be permitted unless there was a condition on the individual premises licence prohibiting that practice and officers agreed to revisit the wording within the policy to ensure clarity in that regard
- controls over drinking alcohol in streets/public places would be subject to Public Space Protection Orders
- Appendix 6 within the policy referred to mandatory conditions which could not be changed
- in terms of staff training expectations, each licensed premises was responsible for staff training and would have its own training programme
- whilst there was no definition of 'larger venues' the expectation was that any additional measures required given the size of the venue would be determined within the risk assessment of the individual premises
- in responding to comments regarding the lack of reference to building control regulations in section 5 of the policy officers advised that Planning Services were statutory consultees and had the opportunity to input into the policy review; officers agreed to seek the views of Building Control specifically in that regard
- Councillor Meirick Davies referred to the reference in the policy (page 64) to "alcohol is a toxic substance" and asked whether "and a drug, and habit forming" could be added. Officers agreed to seek the views of the Health Board thereon.

RESOLVED that, subject to members' comments and observations, the Committee authorise officers to commence consultation, and –

- (a) in the event of no representations being received as a result of the consultation the draft Statement of Licensing Policy be submitted to full Council for approval, or
- (b) in the event of representations being received as a result of the consultation officers report back to the next meeting of the Licensing Committee in December 2021.

6 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2021/22

A report was submitted (previously circulated) presenting the Licensing Committee's proposed forward work programme for 2021/22.

At the last meeting members had been advised of the difficulties in maintaining a forward work programme for the Committee over the previous twelve months in light of the coronavirus pandemic and it had been agreed that officers redraft a forward work programme for submission to the next meeting for approval. In drafting the forward work programme officers had considered policies relevant to the Committee together with the review dates of those policies and any potential legislative changes being proposed by central government. Officers advised that future meeting dates had been confirmed and would be included in future reports.

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

EXCLUSION OF PRESS AND PUBLIC

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

7 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 553562

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. 553562 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having referred the application to the Licensing Committee for determination given the particular circumstances of the case;
- (iii) the Applicant having appealed to the Magistrates Court against revocation of their licence to drive hackney carriage and private hire vehicles in July 2019 due to an alleged wounding offence, with the charge subsequently closed by

the Crown Court in October 2019 and the Applicant not convicted of any offence;

- (iv) the Magistrates Court having issued a consent order agreeing the appeal be set aside and the Applicant be permitted to apply to the licensing authority for a new licence where all matters would be considered afresh;
- (v) further information concerning the application including the Applicant's licensed driver history and all other routine checks completed satisfactorily together with character references submitted by the Applicant;
- (vi) the Council's policy with regard to the suitability of applicants, and
- (vii) the Applicant having been invited to attend the meeting in support of their application and to answer members' questions thereon.

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

The Public Protection Business Manager submitted the report and facts of the case.

The Applicant explained the events surrounding the alleged wounding offence which they strenuously denied together with the following legal processes and detrimental effect on their personal life. They were keen to regain their licence and return to the profession that they loved and to provide for their family. The Applicant responded to questions raised by members with a view to ascertaining their suitability to hold a licence confirming that they had not been working at the time the incident had occurred, they had not been involved in any previous incidents of that nature and had no anger management issues. They stressed their regret over the incident and provided assurances that they had always been, and continued to be, a fit and proper person to hold a licence. In their final statement the Applicant urged members to grant their application to enable them to work and provide for their family.

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. 553562 be granted.

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

Members had carefully considered the particular circumstances of the case as set out in the report together with the Applicant's submissions and response to questions. Members had also considered the relevant sections of the Council's Statement of Policy regarding the suitability of applicants and licensees in the hackney carriage and private hire trades.

In particular the Committee considered section 4.12 of the policy which provided that matters which had not resulted in a criminal conviction would be taken into account and any reference in relation to "conviction" in the policy included matters that amounted to criminal behaviour but had not resulted in a conviction, and

section 4.31 which provided that for offences involving/connected with violence a licence would not be granted until at least 10 years had elapsed since completion of any sentence imposed. The Committee concluded that the Applicant had not been convicted of any offence (indeed considered that a Crown Court criminal trial into the offence of wounding had resulted in the applicant being acquitted) but considered, on balance, that an altercation had taken place between the Applicant and another person. The Committee also accepted the Applicant's version of the events in relation to the incident, including the representations concerning provocation and mitigation and their denial of the specific wounding allegation.

Given the clear above policy provision, the Committee then considered section 3.19 of the same policy that provided a policy provision should only be departed from in exceptional circumstances and for justifiable reasons.

Having found that the Applicant had not ultimately been convicted of any offence with regards to the altercation and having heard from the Applicant the circumstances surrounding the incident, and taking into account the Applicant's previous driving history and character references provided, the Committee was satisfied that the Applicant was a fit and proper person to hold a licence. The Committee concluded therefore that there were exceptional circumstances and justifiable reasons, namely criminal court acquittal relating to the incident notwithstanding that was for the offence of wounding and not wider violence offences, under section 3.19 of the policy to make a departure from the provision in section 4.31 and grant the application.

The Committee's decision was conveyed to the Applicant.

The meeting concluded at 10.50 am.

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REPORT TO:	Licensing Committee
DATE:	8th December 2021
LEAD OFFICER:	Head of Planning, Public Protection and Countryside Service
CONTACT OFFICER:	Senior Licensing Officer licensing@denbighshire.gov.uk 01824 706433
SUBJECT:	Forward Work Programme 2022

1. PURPOSE OF THE REPORT

- 1.2 To advise Members of the priorities of the Licensing Section, together with an update on the agreed work programme for the Licensing Committee for the year 2022.

2. EXECUTIVE SUMMARY

- 2.1 The priorities of the Licensing Section reflect the duty placed on the Authority in relation to its responsibilities in relation to its licensing function, and the effective regulation, control and enforcement of Licensees, and the Authority's commitment to safer communities and the development of the economy.
- 2.2 Due to unforeseen priorities, the Forward Work Programme approved by Members at a previous meeting has unfortunately had to be amended and matters have been re-scheduled for consideration.

3. BACKGROUND INFORMATION

- 3.1 Members may recall that at the last meeting in September 2021, Officers presented an updated work programme which was approved. Officers were scheduled to present a number of updated matters for your consideration to this meeting, however due to a number of factors, such matters will be presented to you at a future meeting. A revised Forward Work Programme can be found at Appendix 1.
- 3.2 Officers have taken this opportunity to provide Members with an update on matters that should have been brought to this meeting as detailed below:

3.2.1 Review of Hackney Carriage and Private Statement of Licensing Policy

Work is on-going to enable Officers to publish the consultation document on a proposed Statement of Licensing Policy for the taxi trade following the recommendations by Department for Transport to implement the Statutory Standards which is supported by Welsh Government, who have recently produced a policy template for Welsh authorities use. The consultation document is now in its final stages and Officers are working with the Council's Public Engagement Officer to publish the consultation via the County Conversation portal.

3.2.2 Review of Statement of Principles – Gambling Act 2005

A review of the Gambling Act 2005 Statement of Principles is taking place collectively with the six North Wales authorities and once the review has been completed, Officers will be in a position to produce the proposed review to Members.

3.3.3 Review of Street Trading policy

Members will recall that, at the meeting of June 23rd 2021, Officers presented a draft review of the Street Trading Policy. At this meeting Members resolved to approve the draft policy for consultation and agreed to support the establishment of a Sub-Group to further consider the policy. Members also resolved that the Sub-Group should include the Chair or Vice Chair, along with a representative of each of the Member Area Groups. Unfortunately, due to demands on Members' time, the meeting with representatives that was originally planned had to be postponed and the sub group is now scheduled to meet late November. In the meantime, preparations are ongoing with the Council's Public Engagement Officer in order to publish the consultation via the County Conversation portal when we are ready to do so.

3.3.4 Statement of Licensing Policy – Licensing Act 2003

At the last meeting in September Members authorised officers to consult on a revised statement of policy. Since that meeting, it has become apparent that the current version of the policy does not meet the accessibility requirements and would need significant changes to bring it up to the acceptable standards. Officers have therefore considered options and believe it is an opportunity, to look at using the template developed by North Wales authorities. There are no significant differences to the contents of the Council's policy when compared to the North Wales template but more a case of appearance and format. Officers will therefore report back to a future meeting following consultation.

3.3.5 Review of Fees and Charges

Fees and charges for the administration of taxi licensing process were last reviewed and updated in 2018. Whilst these fees should be regularly reviewed this work was deferred as the timing coincided with the covid pandemic. Additionally, work is ongoing to implement an online application system which would significantly alter the application process. Further, officers have received requests for a review of the hackney carriage tariff charges, which were also updated in 2018.

Officers are proposing to proceed with both reviews alongside each other and consult with current licensees on those fees, charges and tariff and report back to the Licensing Committee at its March meeting

4. RECOMMENDATION

- 4.1 It is recommended that Members note the contents of the report, and
- 4.2 It is further recommended that Members consider and approve the revised Forward Work Programme detailed at Appendix 1 for the year 2022.

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Licensing Committee

Forward Work Programme 2022

Committee Date	Report	Comment
2nd March 2022	Review of Hackney Carriage and Private Statement of Licensing Policy	Update following consultation for approval
	Review of Statement of Principles – Gambling Act 2005	To review existing policy as required by legislation
	Review of Fees and Charges 2022/23	To update Members on the outcome of the consultation following review of existing table of fees
	Review of Street Trading policy	Update following consultation for approval
	Statement of Licensing Policy – Licensing Act 2003	To update Members on the outcome of the consultation should representations be received
	Review of Hackney Carriage tariff charges	To update Members on the outcome of the consultation following review of existing tariff
22nd June 2022	Hackney Carriage Byelaws	To support the model byelaws for consultation with interested parties
	Update on the work of the Licensing Team	Update
	Fees and Charges 2022/23	Only required if objections are received following public consultation
14th Sept 2022	Review Private Hire vehicle plate exemption policy	To review the exiting policy
	Review of Intended Use Policy	To review the existing policy
	Member Training	For new Committee Members should no formal training have taken place beforehand
7th Dec 2022	Hackney Carriage Byelaws	Update following review only if objections received following consultation

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

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