

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 22 June 2022 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Gwyneth Ellis, Bobby Feeley, Martyn Hogg, Hugh Irving, Alan James, Delyth Jones, Paul Keddie and Andrea Tomlin

Observer – Councillor Barry Mellor

ALSO PRESENT

Head of Legal, HR and Democratic Services (GW), Public Protection Business Manager (IM), Senior Licensing Officer (NJ), Enforcement Officers (Licensing) (KB & NS) and Committee Officers (KEJ & RTJ [Webcaster])

1 APOLOGIES

Councillor Win Mullen-James

Councillor Michelle Walker had been unable to join the meeting via Zoom due to technical issues with the video conferencing system.

2 APPOINTMENT OF CHAIR

Nominations were sought for Chair of the Licensing Committee for 2021/22. Councillor Andrea Tomlin proposed, seconded by Councillor Hugh Irving, that Councillor Bobby Feeley be appointed Chair. There were no further nominations.

RESOLVED that Councillor Bobby Feeley be appointed Chair of the Licensing Committee for the ensuing year.

3 APPOINTMENT OF VICE CHAIR

Nominations were sought for Vice Chair of the Licensing Committee for 2021/22. Councillor Andrea Tomlin proposed, seconded by Councillor Paul Keddie, that Councillor Hugh Irving be appointed Vice Chair. There were no further nominations.

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

4 DECLARATION OF INTERESTS

Councillor Joan Butterfield declared a personal interest in agenda item 10 because she used taxis and knew most of the taxi drivers.

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 2 March 2022 were submitted.

***RESOLVED** that the minutes of the meeting held on 2 March 2022 be received and confirmed as a correct record.*

7 PROPOSED CHANGES TO HACKNEY CARRIAGE VEHICLES TABLE OF FEES AND CHARGES

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) seeking members' further review of the proposed tariff charges for hackney carriage vehicles (taxis) in light of the consultation responses received.

The proposed changes to hackney carriage fares and charges had been approved for consultation by the Licensing Committee in March 2022 and had followed a request from licensed drivers for a review of the tariff charges. Fourteen objections had been received in response to the consultation together with a number of representations received in support of the proposed tariff changes and two petitions signed by 38 licensed drivers. The proposed changes to the current tariff had been highlighted and reference had also been made to the authority's current position in the "league table" of taxi fares in comparison with the proposal. Members were asked to review the proposed tariff charges and consider whether or not to modify the proposed tariff charges, or reject the proposals, in light of the information provided and responses received. Particular areas for consideration included the timing of Tariff 2, the days where Tariff 2 was implemented, and whether the rate per mile was the appropriate measurement for subsequent distance.

The PPBM guided members through the detail of the report and the responses received to the consultation, highlighting the issues raised in those representations. In brief, there were mixed objections to the proposed tariff charges relating to various aspects of the proposals with some objecting to specific elements of the proposal and others to any and all tariff increases. Most objections had been against the timing of Tariff 2 on a Friday and Saturday and the introduction of Tariff 2 on a Sunday. Other objectors supported an increase in the start fare but not per mile and others questioned the rate per mile as an appropriate measure. The main basis of the objections was that the proposed fee increase would deter taxi use and have a detrimental impact on the trade, with valuable trade lost as a result. Those in favour of the increase cited the cost of living increases having a significant impact on the viability of the trade and a shortage of drivers to meet customer demand. The PPBM also referred to an email sent directly to members from a taxi operator in response to representations received in support of the proposed tariff changes.

Councillor Martyn Hogg did not feel sufficient information had been provided to understand the full effects of the rate increase but accepted the need for a tariff rise due to cost increases incurred by the taxi trade. The current proposal was higher

than inflation and taking into account the consultation responses he proposed an amendment (as a compromise) in line with inflation (around 10%) as follows –

- Tariff 1 – Start fare £4.00 (includes first mile), fare per mile thereafter £2.20
- Tariff 2 – Start fare £5.50 (includes first mile), fare per mile thereafter £3.30
- Fare to be charged in one tenth of a mile increments
- No change to timings of Tariff 2

Councillor Hogg explained his reasoning behind the amendment and provided examples of the percentage increases in the cost per journey as a consequence. He felt further work should be undertaken to understand the average taxi journeys in the county and to review the tariff timings as soon as possible. The proposed amendment had been discussed with the PPPM who confirmed that the Tariff 2 proposal needed to be reviewed as did the rate per mile. The practicalities of the amendment were acknowledged but no calculations had been carried out on the revised proposals. Councillor Joan Butterfield seconded the amendment and also called for a review in six months' time. She had been disappointed to note only one consultation response from the public.

The Head of Legal, HR and Democratic Services set out the legislation relating to the review of fares and charges and the processes to be followed in that regard together with the options available to the Committee to approve/amend the proposed tariffs with an implementation date of 1 July 2022, or to reject them. If members were minded to carry out further consultation, then the process would effectively recommence which would delay any implementation of the tariffs.

Members carefully considered the report, including the consultation responses, the proposed tariff and subsequent amendment to that tariff, and took the opportunity to raise questions with the PPBM, and also heard from two members of the taxi trade, one for and one against the proposed tariff increase. Mr. L. Peake spoke against the proposed tariff increase, highlighting the problems for taxi operators advertising discounted fares with some drivers subsequently charging the maximum fee which was difficult for operators to address, particularly in the case of owner-drivers. He argued the proposed tariff increase was too high and customers would be lost. Mr I. Horvath spoke for the proposed tariff increase highlighting the significant cost increases associated with an average vehicle and gave examples of typical journeys and costs incurred in different areas of the county and longer distances.

During debate the following points were raised –

- the start fare in the proposed tariff also included the first mile
- tariff charges set by the Council were the maximum permitted and a lesser fee could be agreed with the customer
- the majority of respondents were in support of the proposed tariff increase
- the majority of the objections related to proposed changes to Tariff 2
- charging an incremental rate per mile rather than a flat rate per mile meant that the customer only paid for the actual mileage incurred rather than a full mile
- there may be unintended consequences of tabling amendments to the proposed tariffs given the detail had not been properly examined beforehand

- the tariff proposals agreed by the Committee for consultation had been based on proposals put forward by a number of licensed drivers, not by officers
- there was no one representative body for taxi drivers in Denbighshire
- the tariff proposals consulted upon in percentage terms rose from 7% for a two-mile journey and increased over additional miles, the further the journey the higher percentage increase. However, the proposed Tariff 2 would potentially double or treble the fare and would be a contentious issue for customers.

The Head of Legal, HR and Democratic Services provided advice in terms of the decision making process and rules of procedure with regard to amendments to motions. At this point the Chair called for a vote on the amendment proposed by Councillor Hogg, seconded by Councillor Joan Butterfield, which was then restated for the benefit of members. Upon being put to the vote the amendment was **LOST**.

Councillor Delyth Jones highlighted the need for an increase in fares to support the taxi industry to move towards environmentally friendly vehicles. She supported an incremental rate per mile from the second mile onwards in the interest of fairness for customers, but felt there should be no change to Tariff 2 timings pending an early review of the consequences of its implementation. Consequently, Councillor Jones proposed a further amendment, seconded by Councillor Paul Keddie, that the tariff be as set out in the original proposals, subject to additional miles being measured in one tenth of a mile increments, and there being no changes to Tariff 2 timings (which would be subject to an early review). Upon being put to the vote the amendment was **CARRIED** thereby taking the place of the original motion and becoming the substantive motion to which any further amendments could be moved.

The PPBM noted at this point that the 20p surcharge per passenger for journeys more than 4 passengers had been omitted from the report. He asked that members consider implementing that element of the proposal as part of their deliberations.

Whilst it was acknowledged that amendments to the proposed tariff could be tabled at the meeting, both Councillors Joan Butterfield and Hugh Irving expressed concern there may be unintended consequences as a result given that the detail had not been properly examined by officers and put before members beforehand with the full effects ascertained. The Head of Legal, HR and Democratic Services set out the legislative requirements and rules of procedure and he was satisfied that the statutory processes had been followed and it was perfectly in order for a decision to be made. However, if members were not happy to make that decision and wished to defer or seek further consultation it was entirely a matter for them. If a decision was deferred, the current fares would remain in place, and the process would be recommenced. Councillor Hogg reiterated his concerns that insufficient information had been provided from the outset to make a fully informed decision and requested a proper process for assessing taxi fares in the future to include inflationary costs and the effects on customers and hospitality.

The Chair called for a vote on the substantive motion, which was restated, with the inclusion of a 20p surcharge per passenger for journeys more than 4 passengers.

Upon being put to the vote it was unanimously –

RESOLVED that –

- (a) *the proposed tariff as detailed in Appendix D to the report be approved with an implementation date of 1 July 2022, subject to additional miles being measured in one tenth of a mile increments, there being no change to the tariff timings which would remain as currently set in 2018, and there being a surcharge per passenger of more than 4 passengers of 20p, and*
- (b) *a review of the tariffs, including Tariff 2 timings, be undertaken with a report back to members for further consideration in approximately six months' time.*

At this juncture (11.25 am) the meeting adjourned for a short break.

8 UPDATE ON THE WORK OF THE LICENSING SECTION IN 2021/22

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) updating members on the work of the Licensing Section during 2021/22 which focused on both operational and management matters.

The PPBM took members through the report which provided statistical data of the number of licences issued, complaints and service requests received covering the main functions – Alcohol and Entertainment; Hackney and Private Hire Licensing; Gambling, Gaming and Lotteries; Street Trading; Charity Collections and Scrap Metal together with Covid related work and other ancillary matters including overall workload results and communications. Management matters included policies, fees, complaints against the service together with future workload considerations.

Councillor Hugh Irving highlighted the heavy workload of the Licensing Team as reflected in the report, and congratulated them on their efforts which he had seen first-hand when shadowing officers in the undertaking of their duties.

Officers clarified various aspects of the report in response to questions as follows –

- the three complaints in respect of scrap metal issues related to potential unlicensed activity which involved the collection of scrap metal without the necessary licence or having an unlicensed site
- the Freedom of Information legislation provided that for the vast majority of requests a charge could not be made. However, there were provisions for a charge of £25 per hour to be made if responding to the request would entail more than eighteen hours of officer time. There was an obligation to assist with refining the request to ensure it was easier to respond to in such cases
- underage alcohol sales were dealt with proportionally and reacted to as appropriate based on intelligence received, generally via a test purchase in the first instance with advice given or a warning issued. Further actions could be taken for repeated offences with prosecution being the ultimate step
- tobacco and cigarette sales were generally not a matter for the Licensing Committee but any information received would be followed up and appropriate action taken within the powers available, and people were encouraged to report those matters as the service reacted to intelligence received. Councillor Joan

Butterfield highlighted a particular case in her ward and confirmed she would forward the necessary information directly to the PPBM.

RESOLVED that the contents of the report be noted.

9 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2022

The Senior Licensing Officer submitted a report (previously circulated) on the priorities of the Licensing Section together with an update on rescheduled items and the proposed revised forward work programme for 2022.

The priorities of the Licensing Section reflected the duty placed on the authority in relation to its responsibilities for the licensing function and the effective regulation, control and enforcement of licensees together with the authority's commitment to safer communities and the development of the economy. Due to unforeseen priorities the previously approved forward work programme had been amended with items rescheduled and a revised work programme presented for consideration.

An update was provided to members on those rescheduled items which related to –

- Review of Hackney Carriage/Private Hire Statement of Licensing Policy
- Review of Statement of Principles – Gambling Act 2005
- Review of Street Trading Policy
- Statement of Licensing Policy – Licensing Act 2003

Members noted the update and proposed revisions to the forward work programme.

RESOLVED that –

- (a) the contents of the report be noted, and
- (b) the revised forward work programme for 2022 as detailed in Appendix A 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 items 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.

10 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 557452

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. 557452 for a licence to drive hackney carriage and private hire vehicles;

- (ii) the Applicant having previously held a licence to drive hackney carriage and private hire vehicles which had subsequently been revoked in May 2021 following an accumulation of motoring convictions for speeding and resultant disqualification from driving for a period of six months under the totting up of points procedures (TT99);
- (iii) the application having been referred to the Licensing Committee on 2 March 2022 for determination and following consideration of all the evidence presented, including the Applicant's submission and response to questions, the Committee had resolved to grant the application subject to all other necessary checks associated with the application being satisfactory;
- (iv) subsequent checks having revealed that two of the speeding offences had occurred in a licensed taxi, contrary to the Applicant's account the speeding convictions had been obtained solely whilst driving a motorbike through leisure pursuits and not in a professional capacity as a licensed driver;
- (v) the matter having been referred back to the Licensing Committee in light of the new information which called into question the honesty of the Applicant;
- (vi) the Council's policy with regard to the suitability of Applicants and options available to the Committee when considering the application, 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 he had received the report and committee procedures.

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

The Applicant apologised for the incorrect information provided at the last meeting. He had contacted the DLVA to obtain the necessary information but had been advised that it was no longer available and so he had answered to the best of his knowledge. He had been unaware that the information could have been obtained from the Magistrates Court. He had a number of different vehicles and it was difficult to know in which vehicle the convictions had been obtained. Reference was made to the effect of the driving ban on his personal circumstances and he gave assurances as regard to his future driving conduct. He had been a licensed driver for fourteen years without issue and had provided references attesting to his character and good service. In response to questions the Applicant advised that he had incurred no speeding convictions since the reinstatement of his DVLA licence.

In terms of dishonesty in the application process an explanation was sought as to how the wrong information came to be put before the Committee. The Applicant explained he had a number of different vehicles, three of which were licensed, and he had since sold both motorbikes – he had been more worried about the speeding convictions rather than the vehicle they had been obtained in which had only been brought up in March. He had contacted the DVLA with a view to proving that he had not been driving much over the speed limit but could not obtain the information. He had been asked the question off the cuff by the Committee and had answered

as honestly as he could without having the necessary information. He was not a public speaker and had panicked to answer the question. In his final statement the Applicant apologised again to the Committee for his actions and hoped to move on.

The Committee adjourned to consider the application following which it was –

RESOLVED that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 557452 be refused.

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

The decision made by the Committee on 2 March 2022 had been based on the fact that the speeding convictions had been obtained by the Applicant solely whilst driving a motorbike through leisure pursuits and not in a professional capacity as a licensed driver. That decision had also imposed a condition that the licence be granted, subject to all the necessary checks associated with the application being satisfactory. Those checks had revealed that the speeding convictions presented to the Committee related to two different licensed vehicles.

The Committee had carefully considered the particular circumstances of the case as set out in the report together with the Applicant's submissions, response to questions, and references provided. Members had also considered the relevant sections of the Council's Statement of Licensing Policy regarding the suitability of applicants and licensees in the hackney carriage and private hire trades. In particular, the Committee had considered section 4.20 which provided that any dishonesty by the applicant which was discovered to have occurred in any part of any application process would result in a licence being refused. Given that 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. The Committee had taken into account the explanation provided by the Applicant with regard to the question of dishonesty together with the references provided and previous history as a licensed driver, but did not feel there was sufficient basis to depart from its policy provision in section 4.20. Consequently, the Committee resolved to refuse the application.

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

The Applicant was also advised that the Committee's decision did not preclude him from making a further application in the future. However, the Committee impressed upon the Applicant the importance of being completely honest and transparent in any information provided in any future application.

The Applicant was further advised of the right of appeal against the decision within 21 days of receipt of the formal decision letter.

The meeting concluded at 1.15 pm.