

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 24 September 2014 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Bill Cowie, Richard Davies, Stuart Davies, Pat Jones, Barry Mellor (Vice-Chair), Win Mullen-James and Cefyn Williams (Chair)

Observer – Councillor Meirick Davies

ALSO PRESENT

Head of Legal, HR and Democratic Services (GW), Licensing Officers (NJ & JT), Licensing Enforcement Officer (HB), Senior Community Safety Enforcement Officer (TWE), Public Protection Business Manager (IM) and Committee Administrator (KEJ)

1 APOLOGIES

Councillors Hugh Irving and Arwel Roberts

2 DECLARATION OF INTERESTS

Councillor Cefyn Williams declared a personal and prejudicial interest in Agenda Item 11 – Application for a Licence to Drive Private Hire Vehicles, because he knew the applicant in question.

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 11 June 2014 were submitted.

RESOLVED that the minutes of the meeting held on 11 June 2014 be received and confirmed as a correct record.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 14 of Part 4 of Schedule 12A of the Act.

5 DISPENSATION FROM REQUIREMENT TO DISPLAY PRIVATE HIRE VEHICLE LICENCE PLATES

[This item was brought forward on the agenda with the consent of the Chair]

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

- (i) an application for dispensation from the requirement to display licence plates on a Private Hire Vehicle;
- (ii) the Council's powers to grant a proprietor dispensation from displaying the licence plate taking into account the executive nature of the work along with the quality of the vehicle involved and where the vehicle would be operated;
- (iii) the applicant having provided full details of both the vehicle and nature of the business (Appendix A to the report), and
- (iv) other determining factors requiring consideration and suggested conditions (Appendix B to the report) should members be minded to grant the dispensation request.

The Licensing Officer provided a summary of the report which also recommended the production of a policy on private hire vehicle licence plate exemption to enable future applications to be considered in a consistent manner.

The Applicant was in attendance at the meeting and elaborated upon the operation and nature of his business and reasoning behind his request for dispensation. He confirmed he had read the proposed conditions to be attached to the dispensation if granted which included signing an undertaking that he fully understood and accepted those conditions. In determining the request for dispensation it was –

RESOLVED that –

- (a) the request for dispensation from the requirement to display the private hire vehicle licence plate and door stickers be approved subject to the conditions as detailed in Appendix B to the report, and*
- (b) officers be authorised to amend the committee's forward work programme to include a draft policy on Private Hire Vehicle Licence Plate Exemption to be scheduled at a future meeting.*

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

Having considered the report and submission of the Applicant members were satisfied that the nature of the work and quality of the vehicle involved met the criteria for exemption in this case. The conditions had been imposed in order to aid regulation and enforcement.

OPEN SESSION

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

6 PROPOSED AMENDED PENALTY POINT POLICY AND PROCEDURE

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting an amended Penalty Point Policy and Procedure for approval.

Members were reminded they had received a revised policy at their last meeting but in light of concerns raised by the taxi trade and low response to consultation it was resolved that a special meeting be convened to consider the policy in detail taking into account the views of the taxi and private hire trade. A further two week consultation had taken place and officers had subsequently reviewed the policy and made some minor changes to the list of breaches/infringements taking into account the views of licence holders following a recent workshop with members. Officers were also recommending that the scheme be run over 24 months.

Members acknowledged the significant amount of time taken to review the policy, particularly the allocation of points for particular infringements, and were satisfied that all the issues raised previously had been dealt with. Consequently it was –

RESOLVED that –

- (a) *the revised Penalty Point Policy and Procedure as detailed in Appendix A to the report be approved to replace the existing Penalty Point Scheme currently found in the “Blue Book” – the Council’s Hackney Carriage and Private Hire Licensing Conditions, and*
- (b) *the scheme be implemented from the 1 November 2014, with a grace period of one month before enforcement of the scheme is introduced.*

7 PROPOSED REVISED HACKNEY CARRIAGE BYELAWS

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting revised Byelaws relating to Hackney Carriage regulation for approval to consultation.

The legal responsibilities and relevant legislation for licensing hackney carriages and their drivers had been detailed within the report. Existing byelaws related to Rhyl and Prestatyn and it was recommended that the Council adopt Byelaws covering the whole county to ensure they accurately reflected changes in legislation and that a fair, transparent and consistent approach was taken when determining enforcement and other issues relating to hackney carriage vehicles and drivers. The Department for Transport had produced a set of Model Byelaws which officers recommended for adoption subject to consultation with all hackney carriage proprietors and licensed drivers.

Members noted that following consultation any representations would be submitted to full Council for members’ consideration prior to adoption.

RESOLVED *that the proposed Department of Transport Model Byelaws as detailed in the appendix to the report be supported and officers be authorised to commence consultation with all hackney carriage proprietors and licensed drivers.*

8 PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE CODE OF GOOD CONDUCT

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting the proposed Hackney Carriage and Private Hire Driver Code of Good Conduct for approval to consultation.

The purpose of the Code was to further improve standards of hackney carriage and private hire drivers and would assist officers in monitoring compliance of licence holders and take enforcement action where necessary. It included the responsibilities of licensed drivers to the trade, passengers, and residents and at ranks and offices, together with some general responsibilities. If members approved the Code for consultation the outcome would be reported back to their next meeting.

Councillors Joan Butterfield and Barry Mellor highlighted the abundance of taxis operating in the Rhyl area which was leading to fractions between taxi drivers, particularly at ranks. Questions were raised regarding the management of the problem and enforcement of the Code, including order at taxi ranks. In light of these problems Councillor Mellor felt there would be merit in considering limiting the number of vehicle licences issued. The Licensing Enforcement Officer confirmed that taxi drivers operated an informal rank etiquette whereby customers were expected to take the first taxi at the front of a rank although this was not binding and the customer had a choice as to which vehicle they used. Whilst acknowledging there were more taxis than rank spaces available the licence holder had a responsibility to use ranks effectively as it was impractical for Enforcement Officers to police them full time. The Head of Legal, HR and Democratic Services added that reference to failure to observe rank discipline was included within the Penalty Point Scheme. In response to a request from Councillor Win Mullen-James officers agreed to insert timings during which it was unlawful to sound a vehicle's horn within the Code.

RESOLVED that, subject to members' comments above, the proposed Hackney Carriage and Private Hire Driver Code of Good Conduct as detailed in the appendix to the report be supported and officers be authorised to commence consultation thereon.

9 PROPOSED AMENDED HACKNEY CARRIAGE AND PRIVATE HIRE DRESS CODE

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting an amended Hackney Carriage and Private Hire Dress Code for approval to consultation.

The purpose of the Dress Code for licensed drivers was to improve standards and to address safety concerns and the impression left with both visitors and residents when inappropriate clothing was worn. The current Dress Code was extremely limited and during its review it was acknowledged that a balance must be struck

between drivers presenting a good image for the county without impacting on an individual's freedom to wear clothes that were not prescriptive.

Members considered the proposed acceptable standard of dress within the code together with unacceptable standards in order to encourage a professional image of the trade. Councillor Bill Cowie queried the difference between a round neck and open neck t shirt and the Licensing Officer explained that a collared t shirt was considered to be more professional. The committee supported the introduction of a stricter dress code despite noting some criticism in the local press in that regard. Members likened the professions of taxi drivers and bus drivers and noted that uniforms were a requirement for the latter and did convey a more professional and presentable image. It was noted that breaches of the dress code would be dealt with by use of the Penalty Point System.

RESOLVED that the proposed revised Hackney Carriage and Private Hire Driver Dress Code as detailed in the appendix to the report be supported and officers be authorised to commence formal consultation thereon.

10 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2014/15

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme. It was confirmed that any requests from members for items to be included within the work programme could be made via the Chair.

RESOLVED that the Licensing Committee's work programme 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 14 of Part 4 of Schedule 12A of the Act.

11 APPLICATION FOR A LICENCE TO DRIVE PRIVATE HIRE VEHICLES - APPLICANT NO. 051260

[Councillor Cefyn Williams declared a personal and prejudicial interest and left the meeting during consideration of this item. Councillor Barry Mellor (Vice Chair) took the Chair.]

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

- (i) an application received from Applicant No. 051260 for a licence to drive private hire vehicles;
- (ii) officers having not been in a position to grant the application in light of the information revealed following an enhanced disclosure from the Disclosure and Barring Service;

- (iii) a summary of the convictions disclosed having been provided which related to a number of offences spanning a period from 1965 to 1995 including incidents relating to theft, traffic offences, drunkenness and other related offences and dishonesty;
- (iv) the Council's current policy with regard to the relevance of convictions, and
- (v) the Applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

The Licensing Officer (JT) provided a summary of the report advising that the matter had been brought before the committee to assess the Applicant's suitability to hold a licence in light of the convictions disclosed. She further advised that the Applicant was not in attendance and reminded members that the application had been deferred from the last meeting because the Applicant had failed to attend. Given that the Applicant had been provided with two opportunities to attend the hearing of his application, and in the absence of an explanation regarding his non-attendance, the committee agreed to proceed in his absence.

After careful deliberation it was –

RESOLVED that the application for a private hire vehicle drivers licence from Applicant No. 051260 be refused.

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

The committee had considered the application solely on the facts as detailed within the report. The seriousness of the offences disclosed meant that the committee had not been satisfied that the Applicant was a fit and proper person to drive private hire vehicles. In the absence of any explanation given regarding his failure to disclose his convictions upon application and the nature of those convictions the committee was not happy to grant the application.

12 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 00327

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

- (i) the suitability of Driver No. 00327 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) a complaint of assault having been made against the Driver in July 2014 which was subsequently investigated by Licensing Enforcement Officers (a summary of facts together with witness statements and associated documentation had been attached to the report);

- (iii) the North Wales Police having confirmed the Driver admitted to common assault during interview and had been issued with a Community Resolution Notice, and
- (iv) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Licensing Enforcement Officer (HB) detailed the facts of the case and advised that the Driver was in attendance at the meeting. The Driver addressed the committee in support of his licence review and elaborated upon the circumstances surrounding the incident and explained his version of events. He disputed a number of facts contained within the witness statement of the passenger involved together with the account provided by the complainant. He also questioned the credibility of the complainant and the complainant's conduct. To attest to his good character the Driver had provided written references for consideration and he elaborated upon his long serving career as a taxi driver without previous incident.

The Driver responded to members' questions regarding the bullying allegation; rank etiquette and the complainant's conduct. He also advised that he had been previously unaware that his actions amounted to common assault.

In his final statement the Driver elaborated upon the rank etiquette observed by taxi drivers but acknowledged that customers had a choice as to which vehicle they could use. He reiterated that neither passenger in this case had advised him that they wished to use a different vehicle.

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

RESOLVED that a formal warning be issued to Driver No. 00327 as to his future conduct.

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

Members had carefully considered the contents of the report and submissions presented by the Driver in this case. It had been accepted by the Driver that he had committed common assault and that an altercation had taken place but the committee concluded that there was sufficient mitigation not to suspend or revoke the licence and that a formal warning as to future conduct was appropriate. The Driver was warned to ensure that he resolved any such matters through other means in future.

The committee's decision and reasons therefore were conveyed to the Driver.

13 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 045728

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

- (i) the suitability of Driver No. 045728 to hold a licence to drive private hire vehicles;
- (ii) a report having been received in July 2014 stating that the Driver had committed assault during an incident in June 2014 which was subsequently investigated by Licensing Enforcement Officers (a summary of facts together with witness statements and associated documentation had been attached to the report);
- (iii) the North Wales Police having confirmed that during interview the Driver had admitted the offence and was cautioned for Common Assault;
- (iv) the Driver having refused to attend interview with Licensing Enforcement Officers and had subsequently destroyed and returned his licensed driver badge, and
- (v) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Licensing Enforcement Officer (HB) detailed the facts of the case and advised that the Driver was not in attendance.

The committee adjourned to consider the case and it was –

RESOLVED that the hackney carriage and private hire driver's licence issued to Driver No.045728 be revoked on public safety grounds.

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

The committee carefully considered the report and associated documentation and noted that the Driver had admitted common assault and a caution had been issued by the Police. Given the serious nature of the assault resulting in hospital treatment for the victim and the fact that no mitigation had been put forward by the Driver the committee considered the Driver was not a fit and proper person to hold a licence. As members could not be assured as to the public's safety the committee determined that the licence be revoked on the grounds of public safety.

The meeting concluded at 11.25 a.m.