

## **LICENSING COMMITTEE**

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Russell House, Rhyl on Wednesday, 3 December 2014 at 9.30 am.

### **PRESENT**

Councillors Bill Cowie, Win Mullen-James, Peter Owen, Arwel Roberts and Cefyn Williams (Chair)

### **ALSO PRESENT**

Principal Solicitor (AL); Licensing Officers (NJ & JT); Licensing Enforcement Officer (HB); Senior Community Safety Enforcement Officer (TWE); Public Protection Business Manager (IM), and Committee Administrator (KEJ)

### **PRELIMINARY ISSUE - LICENCE REVIEWS (AGENDA ITEMS 8 AND 9)**

Prior to commencement of the meeting some members expressed reservations that two licence reviews had been submitted for determination despite pending criminal proceedings which could result in them being brought back to committee and/or could prove detrimental in an appeal situation. The Principal Solicitor advised that the trial's outcome was largely irrelevant given that the committee was not tasked with considering the guilt or otherwise of the drivers but whether they were considered fit and proper to hold a licence on the basis of the allegations raised and the information being put to them. For the committee there were different considerations and very different elements of law. She was satisfied that the committee had sufficient information to determine the licence reviews. In terms of the matter being brought back to committee, the nature of any conviction in this case would result in officers determining the matter under delegated authority. Members had mixed views on whether the matter should proceed to hearing at this stage and following debate the committee agreed to defer consideration of the two licence reviews pending the outcome of the criminal proceedings. It was also agreed that a special meeting of the committee be convened as soon as possible thereafter to determine the licence holders' suitability.

The committee's decision was conveyed separately to the licensed drivers concerned. The Chair noted arguments against deferral put forward by Driver No. 047857's legal representative but denied her request to proceed with the review before the outcome of the trial was known. It was also noted that an application for adjournment in this case had been made by the legal representative of Driver No. 047689.

#### **1 APOLOGIES**

Councillors Joan Butterfield, Richard Davies, Stuart Davies, Hugh Irving, Pat Jones and Barry Mellor

#### **2 DECLARATION OF INTERESTS**

No declarations of personal or prejudicial 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 24 September 2014 were submitted.

**Accuracy** – Councillor Peter Owen advised that his apologies for absence had not been recorded within the minutes.

***RESOLVED** that, subject to the above, the minutes of the meeting held on 24 September 2014 be received and confirmed as a correct record.*

### **5 HACKNEY CARRIAGE AND PRIVATE HIRE CONDITIONS - PROPOSED AMENDMENTS RELATING TO TIPPING OF SEATS**

The Licensing Officer (JT) submitted a report by the Head of Planning and Public Protection (previously circulated) detailing proposals to amend conditions relating to the tipping of seats in licensed vehicles.

Officers explained the reasoning behind the proposal to remove condition 2.1(h) relating to the tipping of seats in private hire vehicles to allow access and egress from the vehicle following the latest Department of Transport guidance (attached to the report) and concerns raised by operators. In light of the impact on the hackney carriage fleet and differing vehicle specification it was recommended that a review of the hackney carriage specification be carried out and the findings reported back to a future meeting for members' consideration.

Members considered the Department of Transport guidance and also noted that all previous private hire vehicle applications submitted to the committee because they did not fulfil condition 2.1(h) had been approved. In terms of the timescale for the proposed hackney carriage specification review officers advised of the intention to commence the process and report back to committee as soon as possible.

**RESOLVED** that –

- (a) *proposals to remove condition 2.1(h) contained in the Hackney Carriage and Private Hire Licensing Conditions relating to the tipping of seats be supported and formal consultation commence with all licence holders thereon, and*
- (b) *a review of the hackney carriage vehicle specification relating to the removal of the condition relating to the tipping of seats be carried out and the findings reported back to a future meeting of the committee for consideration.*

### **6 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2014/15**

A report by the Head of Planning and Public Protection was submitted (previously circulated) detailing some minor changes to the Licensing Committee's future work programme since its approval in March 2014.

Officers reported upon work undertaken following an internal audit of taxi licensing procedures in order to improve background checks for taxi licensing together with new legislation requiring a review of the Sex Establishment Policy. Members noted the impact of those requirements on the work programme and suggested changes to the work programme as a result. Consequently it was –

**RESOLVED** that the report be noted and the proposed amendments to the work programme as detailed within paragraph 3.4 of 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 14 of Part 4 of Schedule 12A of the Act.

### **7 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 14/0985/TXJDR**

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

- (i) an application received from Applicant No. 14/0985/TXJDR for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the application due to the Applicant's accrual of 10 valid penalty points on this DVLA Drivers Licence;
- (iii) a summary of the motoring endorsements having been provided together with details of the Applicant's previous history as a licensed driver;
- (iv) the Council's current policy with regard to the relevance of convictions, and
- (v) the Applicant having been requested to attend the meeting in support of his application and to answer members' questions thereon.

The Licensing Officer (NJ) provided a summary of the report and advised that the Applicant was not in attendance but regularly worked away from home which might explain his absence.

The committee adjourned to consider the application and it was –

**RESOLVED** that the application for a hackney carriage and private hire vehicle drivers licence from Applicant No. 14/0985/TXJDR be granted with a formal warning issued as to his future conduct.

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

The committee noted the type and nature of motoring convictions accrued by the Applicant together with his previous history and on that basis considered him to be a fit and proper person to hold a hackney carriage and private hire vehicle drivers licence. However, in light of the number of penalty points accrued it was also considered appropriate that a formal warning be issued as to his future conduct.

**8 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 047689**

A written application for adjournment had been made on behalf of Driver No. 047689. Notwithstanding that request the matter had been considered as a preliminary issue immediately prior to the meeting and Driver No. 047689 had been informed of the outcome. Consequently members –

**RESOLVED** that the review of the licence to drive hackney carriage and private hire vehicles issued to Driver No. 047689 be deferred pending the outcome of the criminal proceedings in this case.

**9 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 047857**

The committee had considered whether or not to proceed with the licence review as a preliminary issue immediately prior to the meeting. The decision to defer the matter had been conveyed to Driver No. 047857 and his legal representative who had argued in favour of the review being heard. The request to proceed with the review hearing at this time had been denied. Consequently members –

**RESOLVED** that the review of the licence to drive hackney carriage and private hire vehicles issued to Driver No. 047857 be deferred pending the outcome of the criminal proceedings in this case.

**10 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 048126**

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

- (i) the suitability of Driver No. 048126 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) a complaint having been made against Driver No. 048126 on 23 September 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), and
- (iii) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Senior Community Safety Enforcement Officer (TWE) presented the report and confirmed that the Applicant was not present despite being invited to attend. Members took the opportunity to raise questions with officers regarding the facts of the case and sought clarification on a number of issues.

The committee adjourned to consider the application and it was –

***RESOLVED*** that the hackney carriage and private hire vehicle driver's licence issued to Driver No. 048126 be revoked on public safety grounds with immediate effect.

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

The committee carefully considered the evidence presented including the nature of the complaint and use of the hackney carriage vehicle. Members found that the Driver had behaved inappropriately and had breached his position of trust as a taxi driver and therefore considered he was not a fit and proper person to hold a licence. In addition the committee considered that his actions had brought the Council into disrepute. In view of the nature and seriousness of the incident the committee could not be assured as to the public's safety and determined that the licence be revoked on the grounds of public safety.

The meeting concluded at 10.35 a.m.