

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Russell House, Rhyl on Wednesday, 9 March 2016 at 9.30 am.

PRESENT

Councillors Stuart Davies, Barry Mellor (Vice-Chair), Arwel Roberts, Cefyn Williams (Chair) and Huw Williams

ALSO PRESENT

Principal Solicitor (AL), Public Protection Business Manager (IM), Licensing Officer (NJ), Community Safety Enforcement Officer (HB) and Committee Administrator (KEJ)

POINT OF NOTICE

The Chair agreed to vary the order of the agenda to accommodate individuals attending for particular items.

1 APOLOGIES

Councillors Joan Butterfield, Bill Cowie, Richard Davies, Hugh Irving, Win Mullen-James and Pete Prendergast

2 DECLARATION OF INTERESTS

Councillor Barry Mellor declared a personal and prejudicial interest in Agenda Item 11 – Review of a Licence to Drive Hackney Carriage and Private Hire Vehicles because he knew the driver subject of the review.

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 2 December 2015 were submitted.

RESOLVED that the minutes of the meeting held on 2 December 2015 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 13 of Part 4 of Schedule 12A of the Act.

5 DISPENSATION FROM REQUIREMENT TO DISPLAY PRIVATE HIRE VEHICLE LICENCE PLATES

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 B to the report);
- (iv) other determining factors requiring consideration together with the Council's draft policy when considering such requests (Appendix A to the report) and suggested conditions for consideration (Appendix C to the report) should members be minded to grant the dispensation request.

The Licensing Officer provided a summary of the report and application.

The Applicant elaborated upon the operation and nature of his business and reasoning behind his request for dispensation in order to meet the needs of his clients and enable him to compete with rival businesses. He provided two written endorsements from existing clients in support of his business and particular provision for unmarked but licensed vehicles. In response to questions from members the Applicant argued that he was best placed to choose a vehicle to meet the needs and expectations of his clients and he provided a discrete professional executive travel service. Officers confirmed that if members were minded to grant the application the relevant terms and conditions would apply in line with other licensed private hire vehicles subject to the requirement to display a licence plate and door stickers. It was also confirmed that the Council's current policy was to licence vehicles up to five years old unless the vehicle was in exceptional condition although that policy was currently under review.

The committee adjourned to consider the case and it was –

RESOLVED that the request for dispensation from the requirement to display the private hire vehicle plate and door stickers be approved subject to the conditions as detailed in Appendix C to the report.

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

Having considered the report and submission of the Applicant there was some debate as to whether the vehicle specification met the exemption requirements in terms of luxurious quality with mixed views in that regard. Members were satisfied that the nature of the work met the criteria for exemption in this case and overall it was agreed that the quality of the vehicle also met the criteria in terms of

specification taking into account the needs of the Applicant's clients and bespoke service provided. Consequently it was agreed that the application be granted. The conditions had been imposed in order to aid regulation and enforcement.

As an aside reference had been made to the draft policy for dealing with requests for exemptions to display private hire licence plates and door stickers. It was noted that the policy would be submitted to full Council for approval and it was suggested that more flexibility be applied in terms of vehicle specification taking into account some clients' needs for discretion and anonymity.

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

6 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/1123/TXJDR

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

- (i) the suitability of Driver No. 15/1123/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following accrual of 20 penalty points under the Council's penalty point scheme for presenting a licensed vehicle for test in an unsafe and dangerous condition;
- (ii) details of the defects noted following presentation of the vehicle for a Compliance/MOT test had been included within the report together with associated witness statements and documentation, and
- (iii) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Enforcement Officer introduced the report and detailed the facts of the case. In cases where 20 or more penalty points had been accrued in a 24 month period the matter was referred to committee for review.

The Driver submitted a written response in support of his case advising that he took passenger safety seriously and would not knowingly drive passengers in a vehicle that was in a dangerous condition. The vehicle had been in for repair immediately prior to its submission for MOT/Compliance and some of the failures had been disputed. As far as the Driver was aware the vehicle had been in good condition except for an issue with the brakes. He had been a taxi driver for some considerable time without previous complaint.

Members took the opportunity to question the Driver regarding the circumstances of the case including the general condition of the vehicle and its maintenance regime which led to the presentation of the vehicle in a dangerous condition and him knowingly driving an unfit vehicle. In response to questions the Driver reiterated that he had submitted the vehicle for repair a week prior to the inspection and work had been carried out with that in mind. There was dust both inside and outside the vehicle from the repair work which he attempted to clean in the limited time available. He had driven directly from the garage to the testing station which was

when he had noticed an issue with the brakes and did not recall being advised at the time of failure that the vehicle was unsafe to drive. He had driven the vehicle from the testing station with a view to getting it repaired. The Driver assured the committee that he checked the vehicle on a daily basis and it was regularly serviced every three months.

In making a final statement the Driver advised that he considered himself a good driver and was willing to take on suggestions from the committee with regard to a future vehicle maintenance regime in light of the current failings.

The committee adjourned to consider the case and it was –

RESOLVED that the hackney carriage and private hire vehicle driver's licence issued to Driver No. 15/1123/TXJDR be revoked on the grounds of public safety with immediate effect.

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

During deliberations members carefully considered the evidence presented and the Driver's submissions in support of his licence review. The committee did not consider the Driver's version of events credible because he would have known the vehicle was in a filthy state, in addition to the dust from the repair work, because some were clearly visible and there were many other signs that it was not maintained properly. By his own admission the Driver presented the vehicle for inspection knowing that there was an issue with the brakes and the committee felt it was clear that he did not understand his responsibilities as a licensed driver and the need to maintain his vehicle to an acceptable standard. Serious concerns were expressed that the Driver had failed to maintain the vehicle to a safe standard and had knowingly driven the vehicle with dangerous defects following the MOT failure and had placed the public at risk. Consequently the committee considered that the Driver was not a fit and proper person to drive hackney carriage and private hire vehicles and it was resolved that his licence be revoked with immediate effect in the interests of public safety.

The committee's decision and reasons therefore were conveyed to the Driver and he was advised of his right of appeal against the decision to the Magistrates Court within twenty one days.

7 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/0427/TXJDR

Councillor Barry Mellor declared a personal and prejudicial interest in this item because he knew the Driver subject of the review and therefore could not adjudicate in this case. As a result the committee was inquorate and unable to proceed to hear the case.

It was agreed that a special meeting of the Licensing Committee be convened as soon as practicable to consider the licence review.

OPEN SESSION

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

8 PROPOSED SCRAP METAL DEALERS POLICY

The Licensing Officer submitted a report by the Head of Planning and Public Protection (previously circulated) presenting the Scrap Metal Dealers Act 2013 – Statement of Licensing Policy for consideration and approval for consultation.

The Council had previously approved the application process along with delegation of power and fees for licences required under the Scrap Metal Dealers Act. Members were advised of a collaborative approach with other Welsh authorities in preparing a draft policy which aimed to assist officers with enforcement and ensure consistency in dealing with applications. The policy would also provide guidance to new applicants, existing licence holders and the public as to how the Act would be administered and enforced. Following consultation with relevant parties a final report would be presented to Cabinet for adoption (not Full Council as referred to in the report). Officers confirmed that itinerant traders would also require a licence.

RESOLVED that –

- (a) *the Scrap Metal Dealers Act 2013 – Statement of Licensing Policy as detailed in Appendix A to the report be endorsed;*
- (b) *a suitable period of consultation be undertaken to those licensed by Denbighshire under the remit of the Scrap Metal Dealers Act 2013, North Wales Police, British Transport Police, Natural Resource Wales and Industry Associations be approved, and*
- (c) *to authorise officers that where any relevant responses received as a result of the consultation are considered and where relevant the policy is amended accordingly before presenting to Cabinet.*

9 CONSIDERATION OF TRAINING FOR LICENSED DRIVERS

The Public Protection Business Manager submitted a report by the Head of Planning and Public Protection (previously circulated) recommending mandatory safeguarding awareness training for licensed drivers following a number of recent high profile safeguarding issues around the country particularly relating to child sexual exploitation and links with local authority licensed vehicles.

Specific reference was made to the findings of Professor Alexis Jay's inquiry into child exploitation in Rotherham 1997 – 2013 which highlighted the prominent role of taxi drivers directly linked to children who were being abused. A training scheme for licensed drivers in Conwy had been introduced in September 2015 and community safety partners also encouraged this approach in Denbighshire.

Members welcomed the introduction of a mandatory training scheme to help identify exploitation and safeguarding issues and asked that the training also be extended to private hire operators. It was noted that some drivers licensed by other

authorities also operated within Denbighshire but the Council had no remit over their training provisions. However it was acknowledged that the Council may exercise some control when awarding school contracts to out of county operators. Officers agreed to liaise with school transport colleagues with a view to making safeguarding training for licensed drivers operating in Denbighshire a mandatory condition within future school contracts. In considering the training format officers advised that a standard training package subsequently tailored for Denbighshire would be used and would involve a number of events across the county. Members were also keen to see the development of formal training, such as BTEC or equivalent for licensed drivers.

RESOLVED that –

- (a) *officers be instructed to introduce mandatory safeguarding awareness training for all licensed Denbighshire hackney carriage and private hire drivers and operators during 2016, and*
- (b) *officers be instructed to prepare a proposal for formal training for licensed drivers and operators.*

10 REVIEW OF CURRENT PENALTY POINTS POLICY AND PROCEDURE

The Public Protection Business Manager submitted a report by the Head of Planning and Public Protection (previously circulated) presented an amended Penalty Point Policy and Procedure for approval following formal consultation.

The document detailed how the Council dealt with minor breaches in respect of taxi licensing and included a number of revisions as approved by the Licensing Committee in September 2015. No representations had been received during the consultation period and no further amendment had been made to the scheme.

Officers responded to questions regarding enforcement of the policy and confirmed the Council currently had two Licensing Enforcement Officers. Councillor Stuart Davies raised concerns regarding cross border hiring but officers confirmed that the practice was lawful. Any concerns regarding the licensing of those vehicles must be addressed with the relevant licensing authority. It was also noted that the number of penalty points for smoking in a licensed vehicle had increased to 10 points and if proven a fixed penalty notice would also be issued.

RESOLVED that –

- (a) *the revised Penalty Point Policy and Procedure detailed in Appendix A to the report be approved to replace the existing 2014 Penalty Point Scheme, and*
- (b) *the scheme be implemented with immediate effect.*

11 LICENSING COMMITTEE FORWARD WORK PROGRAMME

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme for 2016. The only

change since the last meeting was slippage on the Sex Establishment Policy review which had been rescheduled from March to December 2016.

RESOLVED that the *Licensing Committee's work programme be approved.*

The meeting concluded at 11.45 a.m.