

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 13 June 2018 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Hugh Irving, Alan James, Brian Jones, Richard Mainon, Barry Mellor, Melvyn Mile, Arwel Roberts, Tony Thomas, Rhys Thomas and Huw Williams

### ALSO PRESENT

Head of Legal, HR and Democratic Services (GW), Built Environment and Public Protection Manager (GR), Public Protection Business Manager (IM), Licensing Officer (NJ) and Committee Administrator (KEJ)

#### 1 APOLOGIES

There were no apologies.

#### 2 APPOINTMENT OF CHAIR

Nominations were sought for Chair of the Licensing Committee for 2018/19. Councillor Huw Williams proposed, seconded by Councillor Tony Thomas that Councillor Hugh Irving be appointed Chair. Councillor Joan Butterfield proposed, seconded by Councillor Barry Mellor that Councillor Alan James be appointed Chair. There being no further nominations and upon being put to the vote it was –

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

#### 3 APPOINTMENT OF VICE CHAIR

The Chair invited nominations for Vice Chair of the Licensing Committee for 2018/19. Councillor Huw Williams proposed, seconded by Councillor Joan Butterfield that Councillor Alan James be appointed Vice Chair. There being no further nominations and upon being put to the vote it was –

***RESOLVED** that Councillor Alan James be appointed Vice Chair of the Licensing Committee for the ensuing year.*

#### 4 DECLARATION OF INTERESTS

Councillor Tony Thomas declared a personal and prejudicial interest in agenda item 7 – Review of a Licence to Drive Hackney Carriage and Private Hire Vehicles because the Driver subject of the review was known to him personally.

## **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 8 March 2018 were submitted.

***RESOLVED** that the minutes of the meeting held on 8 March 2018 be received and confirmed as a correct record.*

## **EXCLUSION OF PRESS AND PUBLIC**

***RESOLVED** that under Section 100(A) 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 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 510126**

[Councillor Tony Thomas declared a personal and prejudicial interest and left the meeting for the duration of this item]

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

- (i) the suitability of Driver No. 510126 to hold a licence to drive hackney carriage and private hire vehicles following a complaint of disability discrimination and refusal to take a fare;
- (ii) details of the complaint (a summary of facts together with associated witness statements and documentation having been attached to the report), and
- (iii) the Driver having been invited to attend the meeting in support of her licence review and to answer members' questions thereon.

The Driver was in attendance at the meeting and confirmed receipt of the report and committee procedures. She had submitted two character references which had been circulated to members to be taken into account as part of the review process.

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

The Driver explained her version of events in response to the complaint and advised that, given the circumstances presented, she had sought advice from her employers on what action to take and on their instruction she had refused to take the fare. She responded to members' questions regarding the witness statements provided and her conduct during the incident, together with training/guidance issues and her familiarity with the Council's Hackney Carriage and Private Hire Licensing

Policy and Conditions. In her final statement the Driver strongly denied any conduct which amounted to disability discrimination.

The committee adjourned to consider the case and it was –

***RESOLVED*** that the complaint made in respect of Driver No. 510126 not be upheld and no action be taken.

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

Members had carefully considered all the evidence presented in this case together with the explanation provided by the Driver and response to questions. Members had considered the Driver to be open and honest in her submissions and a credible witness and had accepted her version of events. The Licensing Committee found that the Driver had acted reasonably in the circumstances presented, seeking instruction from her employer and acting upon it. Consequently it was agreed not to uphold the complaint in this case and to take no further action.

The decision and reasons for the decision were conveyed to the Driver.

Given the lack of training and guidance provided to the Driver in this case it was suggested that she seek clarity from her current/future employers regarding their policy and procedures to ensure she was prepared should a similar situation arise. Members also noted that the Driver was now fully familiar with the Hackney Carriage and Private Hire Licensing Policy and Conditions and asked that she continue to keep up to date with those rules and regulations.

As an aside members highlighted the importance of appropriate training and guidance for licensed drivers and discussed whether more could be done to ensure employers provided clear guidance to benefit both drivers and customers. Officers felt it would be opportune to assess that provision as part of the ongoing work to introduce a list of wheelchair accessible vehicles, which would also give greater clarity and place further obligations on drivers and proprietors of those vehicles. Consequently it was agreed that officers investigate the issue further and report back to a future meeting of the committee thereon.

## **OPEN SESSION**

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

### **8 REQUEST FOR ADVERTISING ON A HACKNEY CARRIAGE VEHICLE**

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

- (i) a request from a Hackney Carriage Proprietor for approval to display a large Welsh flag emblem covering the bonnet area of his licensed vehicles (computer generated images shown in Appendix A to the report);

- (ii) the Council's existing policy and vehicle specification setting out acceptable requirements relating to paintwork, signage, advertising and livery of licensed vehicles (Appendix B to the report);
- (iii) the need to consider potential implications in granting requests to display sporting emblems and patriotic signage which may attract unwelcome attention or increase the potential for criminal behaviour, and
- (iv) highlighted the inconsistency between the policy requirement relating to the paintwork for hackney carriages and private hire vehicles and sought clarification in that regard.

The Applicant had been unable to attend the meeting and submitted apologies but asked that the request for advertising be considered in his absence.

The Licensing Officer provided a summary of the report and reasoning behind the request being referred to committee given the potential implications when granting permission for emblems of this type which may attract unwelcome attention. Members had also been asked to consider rectifying the discrepancy between the requirements for hackney carriage and private hire vehicles in terms of paintwork.

During their deliberations members considered the size and scale of the design to be such that it was not suitable to be placed on a licensed vehicle and agreed that sporting emblems and patriotic signage of this type could incite an aggressive response and the potential for anti-social or criminal behaviour. It was recognised that the committee had approved a request to display a smaller emblem of this type at their meeting in September 2017 and had agreed to determine each request on its own merits. However, given the growing concern amongst members regarding signage of this nature it was felt the policy should be further reviewed in that regard.

Some members also advocated uniformity between all hackney carriage vehicles and were concerned that approving any signage or other advertisements would prove contrary to that aim. It was considered that whilst there may be merit in some advertising such as temporary advertising for specific events or charitable purposes, the selling of advertising space on licensed vehicles for general commercial purposes should be restricted and greater clarity on permissible advertisements should also be considered as part of any future policy review.

In terms of the inconsistency between the policy requirements for hackney carriage and private hire vehicles regarding paintwork, members agreed that the same policy should apply to both and that the requirement for hackney carriages should be brought in line with that for private hire vehicles to ensure a consistent approach.

**RESOLVED** that –

- (a) *the request to display emblems be refused;*
- (b) *the intended sentence relating to the policy requirement for both hackney carriage and private hire vehicles relating to paintwork to read 'The paintwork*

*shall be of a professional finish and be one consistent colour over the whole of the vehicle's bodywork', and*

- (b) *officers be asked to review the policy with regard to signs and notices on hackney carriage vehicles.*

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

Having considered the report and Applicant's request members considered the size and scale of the design submitted to be such that it was not suitable to be placed on a licensed vehicle. Members also considered that the emblem could attract unwelcome attention and an aggressive response with the potential for anti-social or criminal behaviour. On that basis it was agreed that the request be refused.

## **9 UPDATE ON THE HACKNEY CARRIAGE AND PRIVATE HIRE CONVICTION POLICY**

The Licensing Officer submitted a report (previously circulated) updating members on the review of the Council's Hackney Carriage and Private Hire Driver Conviction Policy.

Members were reminded of the work undertaken by the Institute of Licensing (IOL) to develop a national conviction policy and the final guidance on determining the suitability of applicants and licensees had been published in April 2018. The intention was for local authorities to adopt the document to standardise requirements, however initial enquiries in North Wales had indicated that only Anglesey had expressed an interest in adopting the document. Consequently there was a risk that Denbighshire could be the only local authority in North Wales to adopt the document which could lead to applicants, who did not meet the policy requirements, being granted licences by neighbouring authorities and operating in Denbighshire in some circumstances. The Licensing Technical Panel (Wales) had also agreed there was a need to scrutinise the policy further before they could support its adoption throughout Wales. In addition the Welsh Government would be producing a white paper setting out proposals for licensing in Wales which they hoped to legislate before the end of the current Assembly term. They had suggested that the IOL's policy or some similar document would likely be included in any new legislation for Wales.

In response to questions officers confirmed that Denbighshire was represented on the Licensing Technical Panel (Wales). Representation on the IOL consisted of high ranking officials and Wales was represented as part of that forum. In light of the differing work streams and potential variations the committee was minded to wait for the outcome of the Welsh Government white paper and the Licensing Technical Panel's scrutiny of the IOL policy document. In the meantime it was agreed that the Council's existing Conviction Policy be reviewed to ensure any areas of ambiguity were removed or clarified.

**RESOLVED** *that members –*

- (a) *authorise officers to continue to assess the impact on the adoption of the Institute of Licensing Relevance of Conviction Policy alongside the Welsh Government's review and report back to a future committee meeting, and*
- (b) *instruct officers to review the current Conviction Policy and report back to the next Committee meeting.*

## **10 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2018/19**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme for 2018/19.

The Public Protection Business Manager highlighted changes to the work programme to enable officers to focus on the administration of core business during the summer and autumn months with any unplanned business such as driver hearings continuing as necessary. The work programme focused predominantly on policy matters from December 2018 – September 2019. It was also confirmed that the business items discussed earlier on the agenda relating to wheelchair accessible vehicles and review of the policy relating to signage/advertising would be added to the forward work programme.

Members raised concern regarding the reduction in staffing levels due to sickness absence and officers reported upon measures being undertaken to mitigate the temporary reduction in staff resources and agreed to keep members updated on that issue. Officers also reported upon a positive meeting to discuss licensing issues with Chief Inspector Andrew Williams who was fully aware of the authority's position and supportive of it and officers would continue to build a good relationship with the Police. Members paid tribute to the hard work, commitment and dedication of licensing staff and wished to record and convey their appreciation in that regard.

**RESOLVED** *that, subject to the addition of the items agreed during the meeting, the Licensing Committee's forward work programme as detailed in Appendix A to the report be approved.*

The meeting concluded at 11.10 a.m.