

Appendix

INTENDED USE POLICY FOR HACKNEY CARRIAGE VEHICLES

Applications for the new grant of a hackney carriage licence

Applicants for new licences will be expected to demonstrate a bona fide intention to ply for hire within the Denbighshire County under the terms of the licence for which an application is being made.

There will be a presumption that applicants who do not intend to entirely or predominantly ply for hire within Denbighshire will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its merits.

Even where the applicant intends to ply for hire entirely or predominantly in Denbighshire, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

Applications for the renewal of a hackney carriage licence

Section 60 of Local Government (Miscellaneous Provisions) Act 1976 also gives the Council a broad discretion to refuse to renew a licence for any reasonable cause and this intended use policy will also apply for renewals in the same way as for the grant of the licence. Each application will be decided on its merits.

Applications for the transfer of a hackney carriage licence

Should the hackney carriage licence be transferred to another proprietor during the term of the licence, the new proprietor will be asked to inform the Council whether he has a bona fide intention to use the vehicle to ply for hire within Denbighshire. New proprietors should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation. Where there is a failure to provide the requested information, the Council will give serious consideration to exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming, in addition to its powers under section 73.

New proprietors of licensed hackney carriages will be expected to have a bona fide intention to ply for hire within Denbighshire under the terms of the licence in respect of the vehicle being transferred.

If the new proprietor of a licensed hackney carriage is found to have

no intention to ply for hire entirely or predominantly within Denbighshire and/or intends to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976. Where the new proprietor proposes to operate remotely from the administrative area of Denbighshire there will be a presumption that his licence will be revoked. Each case will however be decided on its merits.

Applications for the replacement of a hackney carriage licence

When a proprietor replaces a licensed vehicle, applicants seeking the grant of hackney carriage licence for a vehicle intended to replace another licensed vehicle will be asked to inform the Council of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire entirely or predominantly within Denbighshire will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire entirely or predominantly in Denbighshire if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.

Where a licence has been granted under the terms that the applicant intends to ply for hire entirely or predominantly within Denbighshire but is subsequently found not to be plying for hire entirely or predominantly in Denbighshire and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) there will be a presumption that the licence will be revoked.

Each application will be decided on its merits. However the presumptions that intended use is to ply for hire entirely or predominantly within Denbighshire will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not compromise the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

Reasons for intended use Policy

The Council of Denbighshire wishes to ensure that applications for the grant of hackney carriage licences are determined in accordance with the guidance given by the High Court in its judgment, and the Declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008].

The Council is required to register the name of the new proprietor of a vehicle. It seems to the Council also to open up an obvious route to circumvent the decision of the High Court, unless precautionary steps are taken. It is intended to put the Council in a position to respond responsibly to the transfer of a Denbighshire hackney carriage into the name of someone who operates outside the Denbighshire County or remotely from it.

Unless there has been a change in the proprietor's intentions with regard to plying for hire within the administrative area of Denbighshire, there should be no reason why he/she should not be granted a licence for a replacement vehicle. On the other hand, an applicant who obtained the first licence on the expressed intention of plying for hire entirely or predominantly within the administrative area of Denbighshire, and who on application to replace that vehicle with another discloses that he/she no longer so intends, effectively engages the presumption against grant that is mentioned earlier.