

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 4 December 2019 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Hugh Irving (Chair), Alan James, Brian Jones (Vice-Chair), Barry Mellor, Melvyn Mile, Arwel Roberts, Peter Scott and Huw Williams

Observer – Councillor Meirick Davies

ALSO PRESENT

Solicitor (AL), Public Protection Business Manager (IM), Licensing Officer (NJ), Fleet Performance Manager (CB) and Committee Administrator (KEJ)

POINT OF NOTICE

The Chair reported that the Licensing Committee's Legal Adviser, Alison Lessels was attending her last meeting and he conveyed the Committee's appreciation for her valued advice and service during her time with the Council and wished her well for the future.

1 APOLOGIES

Councillors Merfyn Parry and Rhys Thomas

2 DECLARATION OF INTERESTS

No declarations of 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 12 June 2019 were submitted.

RESOLVED that the minutes of the meeting held on 12 June 2019 be received and confirmed as a correct record.

5 PROPOSED CHANGES TO TAXI LICENSING FEES AND CHARGES

The Public Protection Business Manager submitted a report (previously circulated) seeking members' approval of the proposed fees and charges relating to the taxi licensing regime.

The Council could charge fees for licences in respect of hackney carriage and private hire licensing to cover costs relating to administration, inspection, control and supervision. Enforcement costs could not be included and a profit could not be made. Consequently a fees and charges methodology had been devised to allow for a detailed review of fees and charges in line with relevant licensing processes. Any changes to fees and charges would be subject to public notice with any objections being brought back before the committee. If no objections were received the fees would come into effect 1 April 2020. It was noted that the last increase in the fees and charges was in April 2018 although vehicle fees had remained static for eleven years.

In response to members' questions it was explained that officers undertook an annual review of fees and charges and for clarity the proposed table of fees included fees within the licensing regime for which the Head of Planning and Public Protection was operationally responsible and those which required member approval. The Head of Service had confirmed he supported the fees and charges as proposed. In noting a reduction in some of the fees officers advised that the savings had been achieved due to efficiencies within the process.

RESOLVED that members –

- (a) *approve the fees and charges as detailed in Appendix A to the report;*
- (b) *authorise officers to publish the changes to the Taxi Licensing fees in a local newspaper for the necessary consultation, and if no objections are received, they will come into effect on 1 April 2020, and*
- (c) *request that where any objections are received, the Licensing Committee will consider those objections at their next meeting with a view to implementing (with or without modification) no later than 1 April 2020.*

6 REVIEW OF THE EXISTING APPROVED TESTING STATION PROCESS

The Licensing Officer submitted a report (previously circulated) seeking members' review of the current process for nominating approved testing stations to carry out compliance testing for hackney carriage and private hire vehicles in the county.

Denbighshire had 8 nominated testing stations in the county, 5 in the North (including the Council's Fleet Management Centre in Bodewyddan) and 3 in the South which Fleet Services approved on an annual basis. Officers explained the reasoning behind the review given concerns that the variation in the cost of fees charged by individual garages for compliance testing and competitive pricing could be linked to a reduction in the quality of testing together with concerns that the standardised process approved for licensed testing stations was not being fully adhered to resulting in a disparity in the standard of testing carried out. There was also some concern regarding the number and frequency of tests carried out by particular garages resulting in a lack of consistency throughout the current testing process. Consequently officers had considered a number of options to address those issues and the advantages and disadvantages of each had been detailed within the report.

The following options had been put forward for review –

- no change to the current authorised testing stations
- inviting expressions of interest from MOT garages to a specific Service Level Agreement
- reducing the number of authorised testing stations in the county
- move over to in-house compliance testing.

With regard to practice in neighbouring authorities officers advised that two other North Wales local authorities carried out solely in-house testing as did eleven of the twenty-two local authorities in Wales. Officers recommended in-house testing as a preferred option subject to further review and consultation. If members did not support in-house testing a review of the current process was recommended.

Members considered the merits of the options put forward with a view to providing a greater level of consistency and ensuring further improvement in the quality of testing and vehicle standards. Some concern was also expressed that the current regime allowed for a taxi company who owned a nominated testing station to undertake testing on their own vehicles which was considered a conflict of interest. The option of in-house testing would address that issue and ensure independent and consistent testing to a specific standard.

Questions were raised regarding the current process together with the practicalities of an in-house approach and capacity issues. In response the Fleet Performance Manager provided some background to the current situation advising that Denbighshire had adopted the process for nominating testing stations of former authorities following local government reorganisation in 1996. Given the need to improve standards and consistency and that the overriding consideration was for public safety it was considered that an in-house approach represented the best option. There was capacity within Fleet Services to take on the authorised testing of all licensed vehicles within the county at the Fleet Management Centre in Bodelwyddan which currently carried out approximately 30 – 40% of all compliance testing with approximately 80% of all licensed vehicles located in the North of the county. The Fleet Management Centre operated an appointment booking system and remained open until 9.00 p.m. There would be no financial benefit to Fleet Services as a result of a move to in-house testing given that the compliance test took some time and was not considered profitable. Councillor Joan Butterfield queried the potential impact on deprivation and whether any jobs would be lost from existing nominated testing stations as a result of a move to in-house testing. Assurances were provided that the loss to nominated testing stations related solely to compliance testing and the fee for that test which was carried out twice a year on licensed vehicles – maintenance regimes and repair work would not be affected and all other work opportunities would remain for those garages.

The Licensing Committee agreed that confidence could be gained from an in-house approach which would provide a consistently high level of vehicle standards for the benefit of the travelling public and ensuring public safety. Having reviewed the options appraisal members were supportive of an in-house approach subject to further review and consultation and it was subsequently –

RESOLVED to look at in-house testing as a preferred option subject to further review and consultation with all relevant parties.

7 REVIEW OF PENALTY POINTS POLICY AND PROCEDURE

The Public Protection Business Manager submitted a report (previously circulated) seeking members' support to remove the Penalty Points Policy and Procedure process.

The Penalty Points Policy and Procedure had been approved by the Licensing Committee in September 2014 (further revised in 2015 and 2016) and detailed how the Council dealt with minor breaches of conditions or legislation in respect of taxi licensing via the allocation of a points value for breaches. An accumulation of 20 points in two years resulted in escalation to the Licensing Committee with a single penalty of 20 points resulting in further action to be determined by the Head of Service in consultation with the Chair or Vice Chair of the Licensing Committee. The scheme allowed for a 10 day appeal process irrespective of the level of points or incidents. Licensing Committee had also granted delegated powers to officers to suspend and revoke driver, vehicle and operator licences in certain circumstances.

Officers explained that the process had resulted in unintended consequences in so far as delaying appropriate action, including suspension/revocation, given the timeframes for appeals, and the issuing of points did not easily allow for discretion or deviation where warranted. Examples of minor breaches were provided and cases in point to illustrate those instances in which undue delay had been caused due to the level of bureaucracy within the process which also did not allow for the discretion of professional officers in those circumstances, particularly with persistent breaches of the same offence or where the maximum 20 points had been reached.

Whilst there was general support from members to reducing bureaucracy and streamlining the process to better effect, there was some reservation regarding the appeals process and the reducing role of the Licensing Committee in that regard. However it was also acknowledged that bringing particular issues directly before the Licensing Committee itself caused undue delay in some cases and that removing the Penalty Points Policy and Procedure Process and instead relying on professionally trained officers would bring the process into line with the practices of other regulatory services within the authority and would allow more timely action to be taken. Members also noted there had not been a significant number of incidents reported for points and that databases allowed for the recording of warning and advice which could be used in consideration of appropriate action where necessary.

Consequently members agreed to support removal of the Penalty Points Policy and Procedures process but requested a future report back on the impact of its removal and comparative effectiveness between the two systems.

RESOLVED that members –

(a) support the removal of the Penalty Points Policy and Procedure process, and

- (b) *for officers to report back to the Licensing Committee in March 2021 by way of their Annual Report, to discuss the comparative effectiveness between the two systems.*

8 PROPOSED HOUSE TO HOUSE COLLECTION POLICY

The Licensing Officer submitted a report (previously circulated) presenting the draft House to House Collection Policy for formal consultation prior to approval.

Officers explained that the Council did not have a clear and detailed policy to consider applications for house to house collections and sought members' approval of the draft policy to ensure all parties were informed of the requirements and process and would allow the Council to make consistent and transparent decisions. Some background was provided in terms of the legislative requirements and processes to be followed and it was noted that whilst licences were generally issued by the Council, there were 'National Exemption' Orders available to charities who wished to undertake a high number of simultaneous collections across the country issued by the Secretary of State. The current practice was to grant permits to organisations without Home Office Exemption Orders provided such collections did not overlap with other collections and that societies be limited to one collection within a twelve month period. This approach aimed to avoid saturating the area with collectors from different charities.

Given that the proposed policy would cover all aspects of the process and requirements and there was no significant change to the current practice officers recommended that consultation took place only with charitable organisations that had applied and collected within the county over the last twelve months, with any objections brought back before the committee. If no objections were received the policy would come into effect 1 April 2020. In response to questions officers –

- advised that Home Office Exemption Orders were issued by the UK Government to charitable organisations in England and Wales
- clarified the circumstances during which a permit would be required when collecting for a charitable purpose by means of visits from house to house
- confirmed permits would be granted by the Council in cases where a Home Office Exemption Certificate had not been issued and charitable organisations met the legislative provisions and requirements of the Council's policy document – there was no charge for a House to House Collection permits issued by the Council
- explained that the legislative requirements had not changed and there was no change proposed to the Council's existing practice, and
- if members were minded to support the policy officers would advise the Licensing Committee in the event that no objections were received in response to the formal consultation on the document which would then become effective from April 2020.

After due consideration it was –

RESOLVED *that –*

- (a) *the proposed House to House Collection Policy (Appendix A to the report) be supported and officers be authorised to commence formal consultation with charitable organisations that had applied and collected within the county over the last 12 months, and*
- (b) *following consultation officers report back any objections to the Licensing Committee for consideration and approval of the new policy, or in the event that no responses were received, the House to House Collection Policy be approved for adoption with effect from 1 April 2020.*

9 PROPOSED STREET COLLECTION POLICY

The Licensing Officer submitted a report (previously circulated) presenting the proposed Street Collection Policy for formal consultation prior to approval.

Members were advised that the Council did not have a clear and detailed policy to consider applications for street collections and approval of the draft policy was sought to ensure all parties were informed of the requirements and process and which would ensure the Council made consistent and transparent decisions. The Council was empowered to licence collections made in any street or public place for charitable or other purposes and the Council had also made Regulations for the control of street collections in the county. The current practice was to permit only one street collection each week in respect of each town/community and societies may only carry out one collection in each town/community within a twelve month period. This approach aimed to avoid saturating the area with collectors from different charities.

Given the proposed policy would cover all aspects of the process and requirements and there was no significant change to the current practice officers recommended that consultation only took place with charitable organisations that had applied and collected within the county over the last twelve months, with any objections brought back before the committee. If no objections were received the policy would come into effect 1 April 2020. In response to a question from the Chair it was clarified that the foyer of a supermarket inside the building was considered to be under the control and management of the store and therefore a licence would not be required, however if a collection took place outside the store, such as in the car park area, a licence would be required given that the public had free access to that area. In the event that no objections were received in response to the formal consultation officers would advise the Licensing Committee accordingly.

RESOLVED that –

- (a) *the proposed Street Collection Policy (Appendix A to the report) be supported and officers be authorised to commence formal consultation with charitable organisations that had applied and collected within the county over the last 12 months, and*
- (b) *following consultation officers report back any objections to the Licensing Committee for consideration and approval of the new policy, or in the event*

that no responses were received, the Street Collection Policy be approved for adoption with effect from 1 April 2020.

10 LICENSING COMMITTEE FORWARD WORK PROGRAMME

A report by the Head of Planning and Public Protection was submitted (previously circulated) presenting the Licensing Committee's work forward programme.

The Licensing Officer explained that items had been rescheduled following cancellation of the September meeting and officers were working on producing a full twelve month forward work programme to present to the next meeting in March.

RESOLVED that the proposed forward work programme as detailed in the appendix to the report be approved.

The meeting concluded at 10.30 a.m.