

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin and by video conference on Wednesday, 12 October 2022 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Gwyneth Ellis, Bobby Feeley (Chair), Martyn Hogg, Hugh Irving (Vice Chair), Delyth Jones, Paul Keddie, Win Mullen-James, Andrea Tomlin and Michelle Walker

### ALSO PRESENT

Solicitor (LB), Public Protection Business Manager (IM), Senior Licensing Officer (NJ), Enforcement Officers – Licensing (KB & NS) and Committee Administrators (KEJ & SLW [Webcaster])

#### 1 APOLOGIES

Councillor Alan James

#### 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 22 June 2022 were submitted.

**Matters Arising** – Page 10, Item 7 Proposed Changes to Hackney Carriage Vehicles Table of Fees and Charges – A review of the tariffs had been scheduled for discussion at the next meeting in December. Any proposed policy change would be subject to consultation with the licensed trade to ensure a representative view.

**RESOLVED** that the minutes of the meeting held on 22 June 2022 be received and confirmed as a correct record.

#### 5 REVIEW - LICENSING ACT 2033: STATEMENT OF LICENSING POLICY

The Senior Licensing Officer (SLO) submitted a report (previously circulated) updating members following the statutory consultation process associated with the review of the Council's Statement of Licensing Policy, and sought a recommendation from the Committee on a final policy for submission to Council for approval. [It was clarified that final approval of the draft policy rested with Council and not Cabinet as referenced in the report.]

The Council was required to consult upon and prepare a Statement of Licensing Policy at least every 5 years. The current policy had been effective from 1 April 2017 and the Licensing Committee had authorised officers to commence the statutory consultation to review the existing policy in September 2021. A review had been undertaken in partnership with other North Wales local authorities for consistency. Details of the consultation process had been provided which had resulted in one consultation response from an interested party (a national brewery) and one from the Local Health Board (LHB), both of which related to the Public Health Section of the policy only. North Wales Police had supported the proposed changes. Appendices to the report included the draft policy, summary of the proposed changes, consultation responses and officers' comments and recommendations thereon and the existing policy.

The SLO drew members' attention to the consultation responses in Appendix C together with the reasoning behind officers' recommended amendments in column 4. It was the first time the LHB had submitted comments as part of the statutory review and their input had been very much welcomed given their expertise in public health. Some of the comments from the interested party had been mitigated to their satisfaction with no amendment required and other comments had been addressed by the recommended removal of statements and statistics to be replaced with information provided by the LHB and suggested for inclusion within the policy statement. [It was noted that on page 118 of the report references to 'Appendix C' in column 4 should read 'Appendix 3']. Members were asked to either approve the draft policy subject of the consultation without changes, or approve the recommended proposed amendments to the draft policy as detailed at Appendix C (column 4) along with proposals 1 – 4 and 6 in Appendix B (which had attracted no representations), and instruct officers to move the policy for approval at Council.

Members considered the draft policy along with the consultation responses received and officer recommendations in response thereto. The Chair acknowledged the comprehensive document and paid tribute to those involved in its production. She was also pleased to note the recent engagement of the LHB in licensing matters and their input into the policy statement, reflecting the importance of public health. In response to questions, the SLO detailed the merits of the response from the LHB which provided relevant, up to date information to replace the statistics which could become dated over the lifetime of the policy, and she recommended approval of the amendments as set out and inclusion of the LHB suggestions in the policy statement.

Having considered the draft Statement of Licensing Policy along with the responses received as detailed at Appendix C it was –

**RESOLVED** that –

- (a) *the proposed recommended amendments to the draft policy as detailed in Appendix C (column 4) along with Proposals 1 – 4 and 6 in Appendix B be approved as a final draft policy, and*
- (b) *officers be instructed to move the final draft policy for approval at Council.*

## **6 REVIEW OF VEHICLE AGE FOR THE LICENSING OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) seeking members' review of the existing maximum age for vehicles for both new and renewal applications following interim amendments to the existing policy in January 2022 and request to relax the upper age limit for new vehicles.

The Hackney Carriage and Private Hire Vehicle Policy had been approved by the Licensing Committee in December 2016, effective from 1 July 2017. The policy included an age restriction on vehicles, namely all new to fleet vehicles must be a maximum of 5 years old, and any vehicle reaching the age of 12 years old must be removed. A grace period of 5 years was given for vehicles already licensed which was due to cease in July 2022. Following a request from a taxi proprietor in January 2022 to urgently review the vehicle age policy in light of the coronavirus pandemic and its impact on procuring both new and used vehicles, the Committee approved a 12-month delay to implementation of the age restriction to allow recovery time from the effects of the pandemic, with the position to be reviewed by January 2023. The same taxi proprietor also asked that the requirement for new vehicle applications be relaxed from a maximum of 5 to 8 years old. A request had since been received from a different operator to consider relaxation of the age requirement for Wheelchair Accessible Vehicles (WAVs). As those aspects constituted a policy change, they needed to be considered as part of the review and wider consultation. Information regarding vehicle age requirements for other North Wales authorities, including WAVs, had also been provided.

Members were asked to consider whether it was appropriate to relax the maximum age limit for new and renewal vehicles and if so, whether further conditional requirements would be needed. 21 of the 287 licensed vehicles were currently affected by the age limit, which would rise to 23 in July 2023 when the 5-year grace period expired. The yearly number of new to fleet vehicles since introduction of the policy in 2017 had been produced, with those vehicles having been subject to the maximum 5-year age limit. Since 1 August 2022 there had been a further 12 new to fleet vehicles. If members were minded to support any amendments to the policy a consultation would be required with all licence holders and key partners.

Members discussed the report a length with the PPBM together with the reasoning behind the introduction of an age restriction on licensed vehicles and sought further clarity in that regard and whether a separate age condition in relation to WAVs was warranted. Whilst it was noted that the vehicle age policy had been introduced to modernise the current fleet of licensed vehicles to ensure high standards, questions were raised as to the evidence base to support such a policy, and whether ensuring vehicle safety and standards would be better met through a robust maintenance regime, possibly correlating to the age or mileage of the vehicle.

During debate the PPBM responded to members' questions/comments as follows –

- the vehicle age policy had been introduced to address safety concerns and the expectation of mechanical wear and tear over time due to excessive mileage

- standards and safety were one and the same and improving vehicle standards would result in improved vehicle safety
- there would be merit in introducing a regular maintenance scheme to offset the mechanical wear and tear on vehicles due to age and mileage undertaken
- officers were unaware of any serious incidents due to vehicle age and it was not known whether or not that had been due to the current age restriction in place
- a separate age limit for WAVs could be used to encourage more accessible vehicles to be licensed, which were significantly more expensive than standard saloon vehicles, and representations had been received from Passenger Transport who had found it difficult to source WAVs for council contracts
- some local authorities had a policy that all new to fleet vehicles must be WAVs to meet demand. However, the demand for WAVs in Denbighshire was such that it would not justify a WAV only new to fleet policy
- vehicle proprietors were required to provide maintenance schedules and work was ongoing for those records to be presented to ensure they were in place
- it would be possible to introduce more stringent compliance checks for older vehicles and increase the number of inspections depending on age or mileage
- the Welsh Government was currently undertaking a review of taxi legislation following which expected standards would be set out thereby superseding some of the council's existing policies, including age restrictions, and the goal of Welsh Government was for all taxis to be electric vehicles by 2028.

During deliberations, the Chair highlighted the need to bear in mind forthcoming legislation from Welsh Government regarding national licensing standards which may result in a further revisit of hackney carriage and private hire licensing policies.

Some members felt that the vehicle age policy had been successful in improving the quality of the vehicle fleet and the number of new to fleet vehicles demonstrated that the industry was buying within those current stipulations. Other members questioned the logic of the vehicle age policy given new to fleet vehicles must be under 5 years of age to be safe but were then subsequently licensed up to 12 years, and new to fleet vehicles may have also excessive mileage but older vehicle outside of the taxi fleet may have lower mileage. However, all were in agreement that safety of the licensed fleet was of paramount importance and that there would be merit in reviewing the age limits for both renewal and new to fleet vehicles, particularly given the cost associated with WAVs and hybrid/electric vehicles, alongside an appropriate and proportionate vehicle maintenance and compliance testing regime dependent on vehicle age and mileage, and for relevant consultation to be carried out. Given the review would take some time, it was also agreed to further defer the implementation date for removing vehicles older than 12 years to July 2024. There was also some debate in relation to introducing an appropriate mechanism via the scheme of delegation for determining new applications for vehicles over 5 years' old in the interim period.

Having considered all the information contained in the report, and having agreed a way forward, the Solicitor restated, for clarity, the propositions put forward and seconded by members. Upon being put to the vote it was unanimously –

***RESOLVED that –***

- (a) *the implementation date to only licence vehicles up to the age of 12 years old from the date of first registration be deferred for a further twelve months from July 2023 to July 2024 pending a review of the current vehicle age restrictions;*
- (b) *officers be authorised to instigate a consultation process with all licence holders and key partners to consider an increase in the renewal age of vehicles to over 12 years old based on strict maintenance schedule requirements and compliance testing regime, rather than age as the sole indicator;*
- (c) *officers be authorised to instigate a consultation process with all licence holders and key partners to consider an increase in the age of new to fleet vehicles to under 8 years old based on strict maintenance schedule requirements and compliance testing regime, rather than age as the sole indicator, and*
- (d) *officers be authorised to look into a process of delegation for determining new to fleet vehicle applications for vehicles over 5 years old whilst the consultation processes above are ongoing, and bring a report back to the Committee's next meeting for consideration.*

## **7 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2022/23**

The Senior Licensing Officer submitted a report (previously circulated) on the priorities of the Licensing Section together with an update on the forward work programme for 2022/23.

The priorities of the Licensing Section reflected the duty placed on the authority in relation to its responsibilities for the licensing function and the effective regulation, control and enforcement of licensees together with the authority's commitment to safer communities and the development of the economy. Due to unforeseen priorities the previously approved work programme had been amended slightly with items rescheduled and a revised work programme presented for consideration.

Members noted the update and proposed revisions to the forward work programme.

**RESOLVED** that –

- (a) *the contents of the report be noted, and*
- (b) *the revised forward work programme for 2022/23 as detailed in Appendix A to the report be approved, subject to the inclusion of a report back in December on the delegation process for determining new to fleet vehicle applications for vehicles over 5 years old as approved under the previous minute item.*

## **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 items of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraph 12 of Part 4 of Schedule 12A of the Act.*

At this juncture (10.45 am) the meeting adjourned for a short break.

Upon resuming proceedings, the Vice Chair, Councillor Hugh Irving took the Chair as Councillor Bobby Feeley had to leave the meeting shortly for a prior engagement.

## **8 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 559870**

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

- (i) an application having been received from Applicant No. 559870 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having referred the application to the Licensing Committee for determination given the particular circumstances of the case;
- (iii) the Applicant having failed to disclose two criminal convictions relating to violent offences in 1995 and 2011 which had been revealed following a Disclosure and Barring Service (DBS) check;
- (iv) relevant information including the Applicant's explanation of the reasoning for non-disclosure together with documentation relating to the case including the application and DBS certificate having been attached to the report;
- (v) the Council's policy with regard to the suitability of applicants, and
- (vi) the Applicant having been invited to attend the meeting in support of their application and to answer members' questions thereon.

The Applicant was accompanied by a colleague and confirmed he had received the report and committee procedures.

The Enforcement Officer (NS) summarised the report and facts of the case.

The Applicant explained the circumstances surrounding the two convictions, both had been committed some time ago, the first in his youth, and he provided assurances regarding his current and future conduct. In response to members' questions the Applicant advised that the offences had not been so serious as to warrant an anger management course. In relation to his non-disclosure of the convictions he had been ill advised in that regard; given the length of time since the offences he had not thought that they would still be on his record and need to be disclosed. He had since realised that, regardless of age, the offences should have been disclosed and he apologised for the oversight. The Applicant also provided some detail as to his current personal circumstances. In terms of a final statement the Applicant confirmed he had nothing further to add.

The Committee adjourned to consider the application and it was –

**RESOLVED** that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 559870 be granted.

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

The Committee had carefully considered all of the information provided by officers in advance of the hearing and representations submitted during the hearing of this case. The Committee thanked all parties for their assistance.

In reaching their decision, the Committee had due regard to the relevant sections of the Council's Statement of Licensing Policy regarding the suitability of applicants and licensees in the hackney carriage and private hire trades. The Committee had also taken into consideration the substantive offences detailed in the Applicant's DBS enhanced certificate, the age of the Applicant during the first offence, the length of time since the offences, the Applicant's guilty pleas, and the circumstances explained in relation to the failure to disclose the two criminal convictions. The Committee was satisfied with the Applicant's explanation that the failure to disclose had been as a result of an honest misunderstanding and there had been no intention to deceive. Consequently, the Committee concluded that the Applicant was a fit and proper person to hold a licence and determined to grant the licence as applied for.

The Committee had found the Applicant to be open and honest during the hearing of his application and in response to questions. However, the Committee considered it appropriate to issue a clear warning as regards to future conduct, advising that the Applicant must be open and honest in his dealings with Licensing Officers, the Committee and the Council as a whole going forward.

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

## **9 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 559851**

[This item was brought forward on the agenda with the consent of the Chair]

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

- (i) an application having been received from Applicant No. 559851 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having referred the application to the Licensing Committee for determination given the particular circumstances of the case;
- (iii) the Applicant having failed to disclose eight convictions relating to foreign leg/cheating the public revenue in 2015 which had been revealed following a Disclosure and Barring Service (DBS) check;

- (iv) relevant documentation relating to the case including the application together with the DBS certificate and the Applicant's explanation of the reasoning for non-disclosure having been attached to the report;
- (v) the Council's policy with regard to the suitability of applicants, and
- (vi) the Applicant having been invited to attend the meeting in support of their application and to answer members' questions thereon.

The Applicant confirmed he had received the report and committee procedures.

The Enforcement Officer (KB) submitted the report and facts of the case.

The Applicant explained that he was currently licensed with a different local authority and detailed the circumstances surrounding that application and why he had been unaware of the conviction during that process, having only had sight of the basic DBS and not the enhanced check. He also explained the nature of the offence and legal process that followed and subsequent payment of the fine. The Applicant provided assurances that he would have disclosed the conviction on the application if he had been aware of it at that time. In response to questions, the date of the offence and subsequent conviction was clarified and the Applicant explained the reasoning behind his application in order to meet his own business requirements to operate in Denbighshire. He currently sub-contracted for an operator in Denbighshire who had provided a letter of recommendation on this behalf which was read out at the meeting. In his final statement the Applicant apologised for the omission and current situation.

The Committee adjourned to consider the application and it was –

***RESOLVED*** that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 559851 be granted.

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

The Committee had carefully considered all of the information provided by officers in advance of the hearing and representations submitted during the hearing of this case. The Committee thanked all parties for their assistance.

In reaching their decision, the Committee had due regard to the relevant sections of the Council's Statement of Licensing Policy regarding the suitability of applicants and licensees in the hackney carriage and private hire trades. The Committee had also taken into consideration the Applicant's submissions, letter of recommendation tabled during the hearing and response to questions, the substantive offence contained in the Applicant's DBS enhanced certificate, the circumstances explained in relation to the offence and failure to disclose the offences on the application form. The Committee was satisfied with the Applicant's explanation that the failure to disclose had been as a result of an honest misunderstanding due to previous dealings with an application in a different county being granted. Consequently, the

Committee concluded that the Applicant was a fit and proper person to hold a licence and determined to grant the licence as applied for.

The Committee had found the Applicant to be open and honest during the hearing of his application and in response to questions. However, the Committee considered it appropriate to issue a clear warning as regards to future conduct, advising that the Applicant must be open and honest in his dealings with Licensing Officers, the Committee and the Council as a whole going forward.

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

At this juncture (11.50 am) the meeting adjourned for a short break.

**10 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 559747**

The Committee heard that Applicant No. 559747 had advised he was unable to attend the hearing due to childcare issues and requested the application be heard in his absence to avoid any further delay. The Solicitor set out the options available to the Committee to either adjourn the matter to another occasion, or proceed with determining the application in the absence of the Applicant. If the Committee was minded to determine the application in the Applicant's absence, it must be satisfied there was sufficient information before it to reach a sound decision.

Having considered the Applicant's request together with the legal advice provided, the Committee considered there was sufficient information before it to make an informed decision, and upon being put to the vote, it was subsequently –

***RESOLVED*** that the Committee proceed to determine the application in the absence of the Applicant.

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

- (i) an application having been received from Applicant No. 559747 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having referred the application to the Licensing Committee for determination given the particular circumstances of the case;
- (iii) the Applicant having failed to disclose two convictions relating to cause allow another to fail to notify changes of circumstances affecting entitlement to benefit/other payment in 2013 which had been revealed following a Disclosure and Barring Service (DBS) check;
- (iv) relevant information including the Applicant's explanation of the reasoning for non-disclosure together with documentation relating to the case including the application, DBS certificate and email received in support of the application having been attached to the report:

- (v) the Council's policy with regard to the suitability of applicants, and
- (vi) the Applicant having been invited to attend the meeting in support of their application and to answer members' questions thereon.

The Committee adjourned to consider the application and it was –

***RESOLVED*** that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 559747 be granted.

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

The Committee had carefully considered all of the information provided by officers in advance of the hearing. The Applicant had been unable to attend the hearing and had requested the Committee consider the application in his absence. Having considered there to be sufficient information brought before it to enable an informed decision to be made, the Committee agreed to determine the application in the absence of the Applicant.

In reaching their decision, the Committee had due regard to the relevant sections of the Council's Statement of Licensing Policy regarding the suitability of applicants and licensees in the hackney carriage and private hire trades. The Committee had also taken into consideration the details of the Applicant's engagement with officers as detailed in paragraph 4.5 of the report, the Applicant's email of 20 July 2022 explaining the circumstances surrounding the failure to disclose the offences on the application form (Appendix C to the report), and the time that had elapsed since the substantive offence. The Committee was satisfied with the Applicant's explanation detailed in his email of 20 July 2022 that the failure to disclose on the application form had been the result of an honest misunderstanding. Consequently, the Committee concluded that the Applicant was a fit and proper person to hold a licence and determined to grant the licence as applied for. However, the Committee considered it appropriate to issue a clear warning as regards to future conduct, advising that the Applicant must be open and honest in his dealings with Licensing Officers, the Committee and the Council as a whole going forward.

The meeting concluded at 12.10 pm.