LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin and by video conference on Wednesday, 6 December 2023 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Ellie Chard, Gwyneth Ellis, Bobby Feeley (Chair), Hugh Irving (Vice Chair), Alan James, Brian Jones, Delyth Jones, Paul Keddie, and Win Mullen-James

ALSO PRESENT

Solicitor (LB), Public Protection Business Managers (IM), Senior Technical Officer – Environmental Health (MM), Senior Licensing Officer (NJ), Licensing Officer (ES), Enforcement Officers – Licensing (KB & NS), and Committee Administrators (KEJ & SJ [Webcaster])

1 APOLOGIES

Councillor Andrea Tomlin

2 DECLARATION OF INTERESTS

Councillor Brian Jones declared a personal and prejudicial interest in agenda item 9 – Review of a Licence to Drive Hackney Carriage and Private Hire Vehicles as he became aware, once he had seen the Driver subject of the review, that he was known to him. Councillor Jones left the meeting for the deliberation of this item.

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 13 September 2023 were submitted.

RESOLVED *that the minutes of the meeting held on 13 September 2023 be received and confirmed as a correct record.*

5 PROPOSED CHANGES TO HACKNEY CARRIAGE VEHICLES TABLE OF FARES AND CHARGES

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) updating members on the review of the current tariffs for hackney carriage vehicles (taxis) and presenting a number of options for consideration.

Licensing Committee in September 2023 had considered a report on proposals to increase the current tariffs and authorised officers to consult on the implementation of a 5% increase (rounded to the nearest full %) in line with the Retail Price Index for Motoring. Details of the statutory consultation had been provided together with the responses received, including a breakdown of respondents (trade/public), those who supported a 5% increase (14), those against a 5% increase (37) and those who supported an increase over 5% (9). A comparison table of each tariff based on full miles had also been provided. The fare review was in addition to the review of fares aligned to a tariff calculator review (recommended by the Licensing Consultant following the fare review in 2022) which was reliant on data from the licensed trade. That work was ongoing with an initial meeting held in November 2023 with licence holders who had expressed an interest to contribute.

The PPBM guided members through the report detail, elaborating on the consultation responses and other considerations including the impact on both the taxi trade and taxi users as a result of an increase in the fares, possible indirect impact on the school transport budget, and costs associated with calibrating taxi meters. Members were asked to consider the following options –

- retain the current table of fares
- retain the current tables of fares pending the outcome of the fare calculator review and refer back to a future Licensing Committee for consideration
- approve the proposal of 5% increase as consulted
- approve a different increase

Members considered the report and options available to them, highlighting the difficulties presented given the lack of a definitive view arising from the consultation responses. Questions were raised with the PPBM who explained that the tariff calculator provided a methodology for calculating future fares, but it was reliant on sufficient engagement and meaningful data from the licensed trade. The initial meeting with licence holders in November 2023 had been productive but more information was required, particularly from owner/drivers and the self-employed.

Councillor Hugh Irving stated that the request for an increase in fares had originated from one taxi proprietor with a large proportion of the trade against an increase and he also highlighted the negative impact an increase would have on service users and indirectly on school transport budgets. His view was that the fare calculator review would provide the best basis for calculating future fares. Consequently, Councillor Irving proposed that the current table of fares be retained pending the outcome of the fare calculator review and the matter be referred back to the Licensing Committee for consideration. Councillor Joan Butterfield seconded the proposition, advising that she could not support a fare increase at this time.

During the ensuing debate the reference to any impact of an increase in fares on school transport budgets was challenged given that a set fee was negotiated in those cases. The PPBM reported on the requirement for hackney carriages operating as private hire vehicles solely within Denbighshire to operate under the maximum tariff. Whilst it was understood that current school transport contract prices were fixed, it was likely that the cost of future contracts would take into account any increase in the tariff set. Councillor Gwyneth Ellis did not consider that

matter should be taken into account when reaching a decision given that the price for school contracts was negotiated. Councillor Ellis also raised the possibility of the Council relinquishing the setting of hackney carriage tariffs in favour of the taxi trade setting their own tariffs to reflect individual operating costs, particularly given the vast differences in the tariff charges across the country including regional variations. The PPBM confirmed that the legislation stated only that the Council may introduce a table of fares. However, virtually every council in the UK had a tariff charge table and the fare calculator review would give an indication based on costs and relevant local circumstances with more councils using that methodology to provide a robust process to devising fares. Differences across the country were accepted given regional variations and local circumstances.

Members further discussed the proposition put forward by Councillor Irving and the importance of meaningful and representative engagement from the licensed trade in order for the tariff calculator to be effective and hoped that work could be carried out in a timely manner. The PPBM provided assurances that best endeavours would be made to engage with the trade and secure sufficient data to give a true indication of costs and robust methodology for the fare calculator. The matter could be brought back to the Committee's next meeting in March 2024 to also include tariff comparisons with the other councils across North Wales.

The Chair restated the proposition, and upon being put to the vote it was –

***RESOLVED**, by majority vote, that the current table of fares be retained pending the outcome of the fare calculator review and referred back to the next meeting of the Licensing Committee for consideration.*

6 TO OUTLINE THE REQUIREMENTS OF THE MANDATORY LICENSING OF SPECIAL PROCEDURES

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) outlining the implications of the forthcoming requirement of the Mandatory Licensing Scheme for Special Procedures due to be implemented in June 2024 as part of the provision of the Public Health (Wales) Act 2017.

The new licensing scheme made it a legal requirement for anyone undertaking activities which pierced the skin such as tattooing, piercing and acupuncture to have a licence to operate; the regime would sit under Licensing Committee structures. Current activities covered by the 'special procedures' had been detailed.

Some background to the legislation was provided and the intention to reduce health risks associated with those procedures. The new licensing scheme proposed to replace the current system of registration under the Local Government Miscellaneous Provisions Act 1982 and compliance with Denbighshire County Council Bylaws in order to bring skin piercing into a more structured and legally enforceable licensing regime, with associated guidance. Members were advised of the main requirements of the scheme, the current position, and implications of the proposed licensing scheme for special procedures and the Licensing Committee. Welsh Government (WG) was in the process of formulating a consultation document, expected in December 2023, outlining their expectations in terms of

governance which would be shared with members when available. It was recommended that members await further information from the WG and participate in online training on the role of the Licensing Committee within the new legislation.

The Committee fully supported the new legislation and regulation of such activities given the health risks associated with those procedures. Questions were raised regarding the timing relating to the introduction of the licensing scheme together with capacity and resources issues for its implementation and licences required.

The PPBM responded to members' questions as follows –

- it was anticipated that the WG consultation on the governance arrangements would commence during December for a currently unknown period of time and therefore it was considered prudent to give members advance notice at this time given the outcome of the consultation may not be concluded prior to the Committee's next meeting in March and the implementation date of June 2024
- a date had yet to be determined for the recommended on-line member training but it would likely be early in the new year and advance notice would be given
- licensing fees were being considered by a Working Group across Wales reporting back to the Welsh Government and whilst it was intended that the fees would cover the cost of the time involved in undertaking the new function, it was highly unlikely that sufficient income would be received to employ an individual
- it was expected that it would be an online application process with most of the detail recorded by the applicant and the administration process undertaken by the licensing team with Environmental Health Services undertaking inspections
- there were approximately 50 premises registered for skin piercing and 81 practitioners which would follow a transitions process into licensing to be granted within 9 – 12 months of the application process opening in June 2024, it was hoped there would be a steady flow of applications through that timeframe.

RESOLVED *that –*

(a) the contents of the report be noted, and further information be awaited from the Welsh Government, and

(b) members participate in on-line training provided by the Welsh Government on the role of the Licensing Committee within the new legislation.

7 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2024

The Senior Licensing Officer submitted a report (previously circulated) on the priorities of the Licensing Section and a revised forward work programme for 2024.

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, and the authority's commitment to safer communities and the development of the economy. The work programme had been drafted taking into account relevant policies and review dates together with any potential legislative changes proposed. Given that the Welsh Government's work on the White Paper: Taxi and Private Hire Vehicle (PHV) (Wales) Bill was

ongoing it had not been referenced on the work programme. However, once the outcome of that work was known, a report would be presented to members.

Officers confirmed that a report back on the fare calculator review, as agreed earlier on the agenda under item 5, would be added to the work programme for March.

RESOLVED *that –*

(a) the contents of the report be noted, and

(b) the forward work programme for 2024 as detailed in Appendix A to the report be approved.

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*.

8 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 572108

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. 572108 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 obtained a conviction in September 2016 for driving a motor vehicle with excess alcohol, and a conviction in April 2017 for using threatening, abusive or insulting words or behaviour with intent to cause fear or provocation of violence, both of which had been declared by the Applicant and confirmed following the usual routine checks;

(iv) further information concerning the case including the Applicant's explanation relating to the circumstances of the convictions and background information, and the Applicant currently holding a licence to drive hackney carriage and private hire vehicles with another local authority granted in November 2021;

(v) the Council's policy with regard to the relevance of convictions and suitability of applicants, and

(vi) the Applicant having been invited to attend the meeting in support of the application and to answer members' questions thereon.

The Applicant was in attendance, accompanied by his employer, and confirmed he had received the report and committee procedures.

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

The Applicant advised that he had been licensed as a driver with another local authority for over two years and explained the reasoning behind his application to drive in Denbighshire which would provide a better work/life balance. In terms of the two convictions, he was now a different person, and provided assurances that he was a fit and proper person to hold a licence.

The Applicant responded to members' questions, explaining the background to his taking up employment as a licensed driver and elaborated on his taxi work (during which it was noted that he could currently drive into Denbighshire with a fare). If members were minded to grant the application, it would provide the Applicant with both the opportunity to continue working in his current employment and also supplement that income with weekend work and to provide cover for other licensed drivers. He also elaborated on the circumstances surrounding the two convictions, confirming his guilty plea, together with the TS10 motoring offence in March 2023.

In making a final statement, the Applicant thanked members for the opportunity to put his case and reiterated that he was a fit and proper person to hold a licence.

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. 572108 be granted.*

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

Members had carefully considered the particular circumstances of the case as set out in the report together with the Applicant's submissions and response to questions. Members had also considered the relevant sections of the Council's Statement of Policy regarding the suitability of applicants and licensees in the hackney carriage and private hire trades.

The Committee had been satisfied that the Applicant was a fit and proper person to hold a licence and concluded that there were exceptional circumstances and justifiable reasons to deviate from the policy on this occasion and grant the licence based on the following –

- the time that had passed since the convictions and good conduct since then
- the fact that there were personal circumstances surrounding the convictions
- the fact that he had pleaded guilty and acknowledged his mistakes
- the fact that he had successfully completed his driver awareness course
- the fact that he currently held a licence with a neighbouring authority that he appeared to have abided by with no issues for the past two years.

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

9 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 550166

[Councillor Brian Jones declared a personal and prejudicial interest in this item as he became aware that the Driver was known to him and he subsequently left the meeting before the decision-making stage taking no part in the deliberations.]

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

(i) the suitability of Driver No. 550166 to hold a licence to drive hackney carriage and private hire vehicles following a complaint regarding drug use and a positive roadside drug test carried out by the North Wales Police in October 2023;

(ii) officers having referred the matter to the Licensing Committee for determination given the particular circumstances of the case;

(iii) background information having been provided including details of the complaint and written disclosure from the North Wales Police together with descriptive notes of an interview with Driver No. 550166;

(iv) the Council's policy with regard to the relevance of convictions and suitability of applicants, and

(v) the Driver having been invited to attend the meeting in support of the application and to answer members' questions thereon.

The Driver was in attendance, accompanied by a relative, and confirmed receipt of the report and committee procedures.

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

The Driver advised that he had nothing further to add to the report details but provided assurances that he had not used drugs since June 2022 and could not account for the source of the complaint. In response to members' questions, the Driver further explained the circumstances relating to the positive roadside drug test and failed attempts to obtain a blood test whilst he was in custody leading to the absence of a blood sample; continued to deny that he had taken any drugs on that day, describing the manner of the roadside drug test and his explanation as to the positive result due to residue transference from money taken and subsequently consumed via food or smoking; elaborated on his personal circumstances during June 2022 and previous drug use together with his rehabilitation but denied any drug addiction; explained the circumstances of his release from custody and confirmed he had not heard from the Police since his arrest and had been advised that no further action would be taken. The Enforcement Officer also responded to members' questions regarding the basis of conducting a roadside drugs test, including for a motoring traffic offence only, with no other indicators necessary.

The Committee adjourned to consider the case during which members raised further questions. Consequently, all parties were recalled to enable their questions to be put. In response, the Enforcement Officer explained the basis of his questions during interview in terms of the likelihood of transference of drug residue; confirmed the roadside drug test gave no indication as to precise levels detected; there was no suggestion that the Driver had failed to submit to a blood sample being taken; confirmed a Drugs Nurse in the custody suite would take the blood sample and may decide not to proceed after unsuccessful attempts in particular circumstances; further information had been sought from the Police regarding the case which they advised could not be provided for operational reasons. The Driver confirmed that he continued to drive licensed vehicles.

The Committee re-adjourned and after further deliberations again recalled all parties to put a further question concerning the report recommendations in relation to placing conditions on the licence. The Public Protection Business Manager confirmed a condition could be placed for a drugs test to be taken prior to driving taking place and to continue for a period of time at appropriate intervals. The Driver confirmed he was willing to submit to regular drug testing as required.

The Committee again adjourned to further consider the case.

During deliberations there were mixed views regarding the most suitable sanction in this case and members proposed both revocation and suspension with conditions. Upon being put to the vote the proposition for revocation was ***LOST*** and a further vote for a suspension with conditions was ***CARRIED***. Consequently, it was –

RESOLVED *that the hackney carriage and private hire vehicle driver's licence in respect of Driver No. 550166 be suspended for a period of one calendar month, or such a time as a negative drugs test result was provided to the Licensing Department by a qualified external provider as agreed between Licensing Officers and the Driver, and that a condition be attached to the Driver's licence to ensure regular drug testing on a monthly basis thereafter for a period of twelve months.*

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

Members had carefully considered the particular circumstances of the case as set out in the report together with the Driver's submissions and response to questions and the input of Licensing Officers with the relevant experience in this field. Members had also considered the relevant sections of the Council's Statement of Policy regarding the suitability of licensees in the hackney carriage and private hire trades and the fit and proper person test.

The Committee had reached their decision based on the following reasons –

- the corroborating complaint of a similar nature submitted shortly before the failed roadside drug test
- they were not satisfied evidentially by the lack of blood test which had not been obtained by North Wales Police

- concerns raised by members regarding the discrepancies contained within the report which contradicted some of the information given at interview and at Committee.

The Committee's decision and reasons therefore were conveyed to the Driver and he was advised as to a right of appeal to the Magistrates Court within 21 days.

The meeting concluded at 12.55 pm.