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## CENTRAL LICENSING COMMITTEE, 22/10/10

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**Present:** Councillor Eryl Jones-Williams (Chairman)

Councillors: Louise Hughes, Evie Morgan Jones, W. Tudor Owen, Peter Read and Gwilym O. Williams.

**Also Present:** Amlyn ab Iorwerth (Licensing Manager), Alwyn Thomas and Robert Taylor (Licensing Enforcement Officers), Siôn Huws (Propriety Officer) Geraint B. Edwards (Solicitor) and Gwyn Parry Williams (Committee Officer)

**Apologies:** Councillors J. R. Jones, Dewi Llewelyn, Dilwyn Lloyd, Ieuan Roberts and John G. Jones (ex-officio member).

### 1. CHAIRMAN

**RESOLVED to elect Councillor Eryl Jones-Williams as Chairman of the Committee for 2010/11.**

The member gave thanks for the honour and he also thanked the former chairman, Councillor W. Tudor Owen, for his service for the past two years.

### 2. VICE-CHAIRMAN

**RESOLVED to elect Councillor Evie Morgan Jones as Vice-chairman of the Committee for 2010/11.**

### 3. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any member present.

### 4. MINUTES

The Chairman signed the minutes of the previous meeting of this committee held on 26 April, 2010 as a true record.

### 5. MINUTES OF THE CENTRAL LICENSING SUB-COMMITTEES

Submitted, for information, the minutes of the following meetings of the Central Licensing Sub-committee:-

- (a) 22 April 2010
- (b) 28 May 2010
- (c) 9 July 2010
- (ch) 5 August 2010
- (d) 9 August 2010
- (dd) 9 September 2010

**RESOLVED to accept the information.**

**6. BANGOR BLUES - UPDATE**

Submitted – the report of the Licensing Manager, noting that this premises under its former name, O'Shea's, had been before the Central Licensing Sub-committee on 13 March 2009 in response to an application for a review received from the Police. The Sub-committee's decision at that time had been to revoke the licence for a six week period. Following this period, when the name of the premises had also been changed to Bangor Blues, the Designated Premises Supervisor had changed and the premises had been reopened in May 2009. Unfortunately, further evidence of unacceptable practice had been obtained which had led again to the Police submitting a request for a review. The case had been considered by the Central Licensing Sub-committee on 21 October 2009 when it had been decided to revoke the licence.

He noted that an appeal had been lodged against this decision and because an appeal had been made, the premises was entitled to remain open until the appeal hearing on 7/8 September 2010 at Caernarfon Magistrates' Court. Evidence was submitted on behalf of the Council by Councillor W. Tudor Owen, Chairman of the Licensing Sub-committee, who had considered the case on 21 October, 2009; Councillor Dewi Llewelyn, the local member, who had submitted evidence at the Sub-committee hearing and Sergeant William Coppack, who represented the Police, the body that had originally submitted the application for a review. On behalf of Bangor Blues, evidence had been submitted by the premises licence holder and the Designated Premises Supervisor.

During the hearing, there had been an opportunity for the magistrates to challenge the evidence submitted to them, namely the evidence submitted to the sub-committee, along with relevant information from the period when the premises had been open following the appeal. Subsequently, the magistrates had decided to refuse the appeal and support the Council in its decision. In addition, the licensee had been ordered to pay £4,500 towards the Council's costs.

The licensee was entitled to ask for a Case Statement on a point of law and he would be required to request that by 29 October 2010, or for a Judicial Review on the grounds of illegal or unreasonable behaviour or on the grounds of an operational inconsistency on behalf of the court by 8 December, 2010. Contrary to what had happened following the sub-committee's decision, even if an appeal had been lodged on whichever grounds, he would not be entitled to open the premises as a licensed establishment. Unless a request was made for a Case Statement or a Judicial Review, and that the current situation remained, the only way this premises could open again as a licensed premises was if a new licence application was received and at that time, there would be a need to follow the usual procedure of dealing with the application.

The Chairman thanked the officers who had been associated with the appeal.

**RESOLVED to accept the report.**

**7. REVIEW OF THE LICENSING POLICY – LICENSING ACT 2003**

Submitted – the report of the Licensing Manager noting that it was required for the Council, in accordance with the Licensing Act 2003, to review the Licensing Policy every three years. The latest policy had been updated by the Council on 13 December 2007 and it was now intended to submit an amended policy to the Council on 16 December 2010.

He provided details of the changes, and he noted that there were no fundamental changes, with the changes reflecting changes in legislation or national guidance on how some elements were dealt with.

A copy of the policy had been sent to every Councillor, every community / town council in Gwynedd, responsible authorities and some relevant bodies. Because the date of this committee had been changed, he was not in a position to report in full on any observations received. He noted that he had received two observations thus far, however, they were not contentious observations. In light of this, should further observations be received, he asked for powers to make minor changes to the policy; however, should they be contentious issues, then he should be authorised to discuss these issues with the Chairman of the Committee so as to include any changes in the report submitted to the Council on 16 December 2010.

**RESOLVED to accept the changes; however, should further observations be received on the policy, to authorise the Licensing Manager to make minor changes to the policy; however, should they be contentious issues, the Licensing Manager to be authorised to discuss these issues with the Chairman of the Committee, so as to include any changes in the report submitted to the Council on 16 December 2010.**

**8. UPDATING HACKNEY / PRIVATE HIRE CONDITIONS**

Submitted – the report of the Licensing Manager asking for licence holders, when issued with a licence in the hackney/private hire field, to comply with conditions imposed by the Council. It was required for the conditions to be current, in order to reflect any changes in legislation or circumstances. This was a field of continuing change with technical developments and vehicles changing on a regular basis.

He noted that the hackney and private hire vehicle operators had been consulted and observations had been received by many of them in relation to the suggested conditions.

He noted the main changes and the logic for the changes, as follows -

### Vehicles

- To do away with the maximum vehicle age when a vehicle could be licensed, but that an additional mechanical test was required on any vehicle after it reached 10 years of age.

Logic - officers should not determine when a vehicle was suitable or not and the age of the vehicle was a poor consideration, provided that every vehicle complied with the mechanical requirements. The Council was unique in north Wales in terms of setting the 10 years of age restriction. He noted that the Education Department had expressed concern regarding lifting this condition. As a department they had a condition that stated that vehicles used to transport children to school did not exceed 10 years of age. This policy did not change that at all and there was no reason for the Education Department to adhere to the policy in their service.

A member referred to the current recession in this industry and that many vehicles in this field had almost reached 10 years of age; however, the owners could not afford to replace them. He was of the opinion that consideration should be given to withdrawing the 10 year condition so that this industry could overcome the recession. It was suggested that it should be changed from 10 years to 12 years and 11 months.

**RESOLVED to raise the maximum age when a vehicle can be licensed to 12 years of age.**

- That there was a need for every vehicle being licensed for the first time to be below 6 years of age.

Logic – there was a wish to see the vehicles meeting some standard. In imposing this condition, it was believed, noting the use these vehicles had, that their natural age would lead to their replacement in a few years, but not necessarily when they reached 10 years of age. This condition would prevent vehicles that were 9 years and 11 months from being licensed for the first time, as currently was the case.

**RESOLVED that there is a need for every vehicle being licensed for the first time to be below 6 years of age.**

- That every vehicle over 10 years of age received three annual tests – one statutory MOT test and two mechanical inspections carried out by a Council appointed garage.

Logic – this could ensure that every vehicle was suitable and it also went some way towards mitigating any concerns regarding the propriety of vehicles over 10 years of age.

**RESOLVED that every vehicle over 10 years of age receives three annual tests – one statutory MOT test and two mechanical inspections carried out by a Council appointed garage and every vehicle over 10 years of age to receive two annual tests.**

- That a procedure of having specific colours for the various vehicles was adopted. It was recommended that hackney vehicles should be black with a red bonnet and boot and that private hire vehicles should be white with a yellow bonnet and boot. The changes would come into force as the vehicles were replaced.

Logic - an attempt was being made to make it obvious to the public that there was a difference between a hackney vehicle and a private hire vehicle. Complaints were received on a regular basis from the industry itself that there was confusion amongst the public in terms of the difference and despite the fact that attempts were made to inform the public by means of articles in the press, adopting a policy of this type would make it visibly easier to convey the message. This procedure existed in many Councils countrywide. The impact of this was that the image of hackney vehicles in particular would be increased from seeing a row of cars of a similar colour on a rank. Relatively critical responses had been received from the industry in relation to this condition. This condition would not be relevant to vehicles receiving a Conditional Licence, e.g. only undertaking work for the Education department and being licensed in that way.

The members referred to the fact that having different colours as referred to above would incur additional costs for the owners of these vehicles. One member suggested that the hackney vehicles should be black and private hire vehicles should be white and that these changes should become operational by a specific year.

**RESOLVED to authorise the relevant officers to consult further with the industry in relation to the possibility of obtaining a specific colour for hackney vehicles and another specific colour for private hire vehicles and that a report is submitted at the next committee meeting.**

- That private hire vehicles were not permitted to display signage on their roofs.

Logic - national guidance pressed on the Council to ensure that there were obvious differences between the appearance of a hackney vehicle and a private hire vehicle. The logic was similar to the issue regarding colour and he noted that this condition would not be implemented should the colour condition be accepted.

**RESOLVED to permit hackney vehicles to display signage on their roofs but not to permit private hire vehicles to display signage on their roofs.**

### Additional matters

#### a) Different conditions for the Arfon Area

The Licensing Manager reported that different conditions existed for the Arfon Area. He referred to one specific condition, namely when an application for a new licence was made, the hackney vehicle should be suitable for the disabled. One of the hackney operators was of the opinion that this condition should be abolished. The officer was of the opinion that it would be inappropriate to consider this at present because he had not consulted on the matter; however, he suggested that when consideration was given to amending these conditions again in coming years, the three regions could be abolished at that time.

**RESOLVED to accept the officer's suggestion, namely to abolish the three regions when consideration is given to amending these conditions again in coming years.**

#### b) Stretch Limousine Policy

The Licensing Manager reported that this committee had already decided to permit stretch limousines to continue to operate after they reached 10 years of age, but that it was required for them to receive five mechanical tests per year. However; according to the Local Government (Various Provisions) Act 1976, the Council was not entitled to demand more than three mechanical tests per year. He asked for the members' views regarding increasing the maximum age when these vehicles could be licensed to 12 years of age.

**RESOLVED not to restrict the maximum age when stretch limousines are licensed to 12 years of age and to accept that the Council is not entitled to demand more than three mechanical tests per year on these vehicles.**

### Individuals

- That a points system was introduced that could lead to a driver being called before the sub-committee once the relevant number of points was reached. The points would be relevant for any 12 month period.

Logic – there were relevant conditions that related to the behaviour of a driver or operator but that they were not sufficient in themselves to be able to call the individual before the sub-committee. He noted that this condition enabled Enforcement Officers to place points against the individual; however, should an individual accumulate 12 points in any 12 month period, he would be called before the sub-committee. This gave Enforcement Officers authority as they attempted to ensure that conditions and standards were protected.

#### **RESOLVED**

**a) To agree to change the points system as noted above.**

**b) To change the penalty points noted below as follows -**

- **Failure to carry a first aid kit in the vehicle – increase to 3**

**penalty points**

- **Failure to install fire extinguishing equipment in the vehicle – increase to 3 penalty points**
  - **Failure to display a current tax disk – increase to 6 penalty points**
- That a maintenance book would need to be kept in every vehicle and the driver would be responsible for keeping the book.

Logic – that every driver, prior to taking ownership of a vehicle at the start of his shift, would sign to say that those matters related to the vehicle were in place, e.g. fire extinguisher, any appropriate badges / plates. He noted that the driver would be responsible for ensuring this.

**RESOLVED to keep a maintenance book in every vehicle, and the driver will be responsible for keeping the book.**

- That before an application for a new licence was considered, an applicant would need to undertake a written test, with the questions based on these conditions. The test would need to be completed satisfactorily before a licence application would be considered.

Logic – individuals often commented that they were unaware of the conditions. The logic here was that they would have to be aware of the conditions before receiving a licence in the first place. Tests of this type were more commonplace in different councils across England and Wales.

**RESOLVED to agree that an applicant needs to undertake a written test before a new licensing application is considered.**

Additional matters

a) Two-door / four-door vehicles

The Licensing Manager reported that it was currently demanded that every vehicle with at least four-doors had a 1400cc engine, but he did not anticipate difficulties in issuing licenses to small two-door vehicles that would be suitable to transport one person.

**RESOLVED to agree with the above-mentioned principle.**

b) Referees

The Licensing Manager reported that applicants were asked to note the names of two referees on their licence application form, namely persons such as Bank Managers, Ministers, Justice of the Peace, etc. He noted that the majority of these applicants did not know these persons and he was of the opinion that a letter from a referee could not influence the decision of a committee. He drew attention to the necessity for all individuals submitting an application for a licence to follow the procedure of making a request for a CRB check, namely the request for information regarding any crimes, and also to submit a medical certificate. As a result, he recommended abolishing the procedure of asking for the names of two referees on the application form.

**RESOLVED to abolish the procedure of asking for the names of two referees on the application form.**

c) Conditions for Fire Engines

A member suggested that condition number 15 should be abolished.

**RESOLVED to abolish condition number 15, namely “the restrictions on access to certain groups of disabled persons shall be advertised to passengers at the time of booking and in any promotional literature and advertisements.”**

**RESOLVED**

- a) **That the condition regarding increasing the maximum age when a vehicle is licensed to 12 years of age and the condition that every vehicle licensed for the first time to be less than six years of age to be operational from the date of this committee.**
- b) **That the remainder of the conditions become operational on 1 December 2010.**
- c) **To ask for the support of the Education Department in relation to the implementation of a condition to increase the maximum age when a vehicle is licensed to 12 years of age.**

The meeting commenced at 10:30am and concluded at 12:20pm