



Complete Agenda

Democratic Services
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Meeting

GENERAL LICENSING COMMITTEE

Date and Time

10.00 am, MONDAY, 11TH NOVEMBER, 2024

Location

Virtual Meeting

NOTE

*** For public access to the meeting, please contact us***

Contact Point

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(DISTRIBUTED Friday, 1 November 2024)

GENERAL LICENSING COMMITTEE

MEMBERSHIP (15)

Plaid Cymru (10)

Councillors

Alan Jones Evans
Gareth Tudor Jones
Edgar Wyn Owen
Arwyn Herald Roberts
Elfed Williams

Annwen Hughes
Linda Ann Jones
Gwynfor Owen
Huw Rowlands
Vacant Seat

Independent (5)

Councillors

Gareth Williams
Anwen J. Davies
Hefin Underwood

Angela Russell
John Brynmor Hughes

Ex-officio Members

Chair and Vice-Chair of the Council

A G E N D A

1. APOLOGIES

To receive any apologies for absence.

2. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

3. URGENT ITEMS

To note any items that are a matter of urgency in the view of the Chairman for consideration.

4. MINUTES

4 - 5

The Chairman shall propose that the minutes of the meeting of this Committee, held on 10th June 2024 be signed as a true record.

5. GENERAL LICENSING SUB-COMMITTEE MINUTES

6 - 21

To submit, for information, minutes of the General Licensing Sub-committee meetings held on the following dates –

- a) 07-05-24
- b) 10-06-24
- c) 04-09-24
- d) 08-10-24

6. DELEGATION OF RIGHTS TO DETERMINE APPLICATIONS FOR TAXI LICENCES

22 - 30

To approve the amendment to the procedure for delegating decisions to the Sub – Committee in accordance with the procedure recommended in the report.

GENERAL LICENSING COMMITTEE
10 June 2024

Attendance:

Councillors: Anwen Davies, Annwen Hughes, John Brynmor Hughes, Gareth Tudor Jones, Linda Ann Jones, Edgar Wyn Owen, Huw Rowlands, Elfed Williams, Gwynfor Owen, Arwyn Herald Roberts, Angela Russell, Gareth Williams and Hefin Underwood

Officers: Gareth Jones (Assistant Head, Environment Department), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democracy Services Officer)

1. TO ELECT A CHAIR FOR 2024/25

RESOLVED TO RE-ELECT COUNCILLOR ELFED WILLIAMS AS CHAIR FOR 2024/25.

2. ELECTION OF VICE-CHAIR FOR 2024/25

RESOLVED TO RE-ELECT COUNCILLOR GWYNFOR OWEN AS VICE-CHAIR FOR 2024/25.

3. APOLOGIES

None to note.

4. DECLARATION OF PERSONAL INTEREST

Councillor Arwyn Herald Roberts declared a personal interest in item 7 on the agenda, as he had a close connection with local taxi companies. Following guidance from the Licensing Manager it was not a prejudicial interest as it was a general update on the policy. He did not have to leave the meeting.

5. URGENT ITEMS

None to note.

6. MINUTES OF THE PREVIOUS MEETING

The Chair signed the minutes of the previous meeting of this committee, held on 4 March 2024, as a true record.

7. MINUTES OF THE GENERAL LICENSING SUB-COMMITTEES

Submitted and received, for information, the minutes of the General Licensing Sub-committees held on 20 March 2024 and 9 April 2024.

8. UPDATE ON THE POLICY FOR HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Licensing Manager presented a verbal update on the policy for hackney carriages and private hire vehicles. She highlighted that the current policy was fragmented and included many policies therefore the intention was to create one document. She reiterated that there was not a specific cycle for reviewing the policy, but that some aspects needed updating. She noted that there was a delay in the work because the Welsh Government was expected to review legislation regarding reconciling the regulations of the taxi industry. However, a statement by the Welsh Government noted that the legislation would not come into force soon, therefore the Local Authorities were instructed to reconcile their own policies.

Regarding a timescale, once the policy had been reviewed, there would be a need to hold a consultation with the public and submit the draft policy to the Committee to highlight any adaptations. It was highlighted that although some aspects such as considering the age of the taxi vehicle, safeguarding training, presenting a fresh DBS every three years and that drivers over the age of 65 received a medical check-up every year were already in place and were being implemented, they did need to be included in the policy. As a result, the addition to the policy would not be new to the industry.

Observations arising from the ensuing discussion:

- a need to try and encourage better provision in the countryside.
- that the 'Suitability Criteria for Drivers and Operators' document was published in 2014, therefore it had dated and needed to be updated.

In response to the comments, the Licensing Manager noted that it was difficult to influence the numbers to come into the industry especially with some being attracted to urban work because there was no consistency of work in rural areas. However, the Licensing Unit would try and encourage better provision in the countryside.

The comment that the criteria document had dated and included some older aspects that would be reviewed was accepted. However, it was noted, although the document was published in 2014, that the content continued to pass the test. One element that needed to be included in the document were speeding points.

In response to a question as to whether bus drivers needed to be assessed through the same criteria, it was noted that bus driver applications were being approved through a different procedure (Wales Traffic Commissioner). It was added that the licensing policy was specifically for an 8-seater or less vehicle.

Thanks were given for the update.

The meeting commenced at 10:00 and concluded at 10:25.

GENERAL LICENSING SUB-COMMITTEE 07-05-24

Attendance:

Councillors: Elfed Williams (Chair), Gareth Jones and Angela Russell

Officers: Siôn Huws (Senior Solicitor – Corporate), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democracy Services Officer)

Others invited:

Item 5:

Applicant – Mr A and his partner

Item 6:

Applicant – Mr B

Item 7:

Applicant – Mr C

1. APOLOGIES

None to note

2. DECLARATION OF PERSONAL INTEREST

None to note

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

It was **RESOLVED** to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, or their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR A HACKNEY / PRIVATE HIRE DRIVER'S LICENCE – Mr A

The Chair welcomed everyone to the meeting. He explained that the decision would be made in accordance with Cyngor Gwynedd's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person is a fit and proper person
- The person does not pose a threat to the public

- The public are safeguarded from dishonest persons
- Children and young people are protected
- Vulnerable persons are protected
- The public have confidence in using licensed vehicles.

The Licensing Manager presented the written report on the application received from Mr A for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the relevant convictions.

The Licensing Authority recommended that the Sub-committee should approve the application.

The applicant was invited to expand on the application and provide information about the background of the points on his licence, the conviction for a serious driving offence and his personal circumstances. He highlighted that the serious driving conviction had occurred in January 2016 and not in June 2015 as noted in the report.

In response to a question regarding the date of signing the application (27-02-2005) the applicant noted that this was a mistake and that he had confused the date with the birthday of a family member.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney/private hire vehicle driver's licence from Cyngor Gwynedd.

In reaching its decision, the Sub-committee had considered the following:

- The requirements of 'Cyngor Gwynedd's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The report of the Licensing Department
- DBS Statement
- The report of the Driver and Vehicle Licensing Agency
- The applicant's application form
- Verbal observations by the applicant

Specific consideration was given to the following matters:

Background

In April 2023, the applicant received six penalty points on his driving licence for not disclosing information relating to the driver of the car, etc.

In May 2023, the applicant received three additional penalty points on his driving licence for Breaching the Speed Limit on a Public Road.

In January 2016 the applicant was convicted for the offence of Causing a Dangerous Incident on/over a Road, contrary to the Road Traffic Act 1988. He was fined £155, ordered to pay costs of £85 and additional costs of £20.

RELEVANT CLAUSES OF THE POLICY

Paragraph 2.2 of the Council's Policy was considered, which states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he/she is a fit and proper person to hold a licence. The onus is on the applicant to show that he/she is a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other

matter(s) to be considered in connection with that, the Council cannot review the merits of that conviction or the other matter.

Paragraph 4.5 was considered which states that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allows the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Section 12 of the Policy relates to motoring convictions, and paragraph 12.3 states that an application will be refused if there is a conviction against the applicant and he/she has not been free of the conviction for at least six months.

Paragraph 12.4 notes that an application will be refused if the applicant has more than one major traffic offence within the last five years, and no further application should be considered until a period of at least three years free from such convictions has elapsed.

Section 13 relates to minor traffic offences and refers mainly to offences that are not listed in paragraph 12.2 of the Policy with paragraph 13.1 defining 'minor traffic offences' as offences that incurred between 1 and 3 penalty points.

CONCLUSIONS

The Policy's provisions, the applicant's explanation of the circumstances, and the Licensing Manager's recommendation were considered.

In this case, the Sub-committee had no reason to diverge from the policy's provisions and it was determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence. However, they were concerned that the applicant had a tendency of attempting to avoid responsibility and of trying to excuse behaviour that was a criminal offence. In explaining the reasons for breaching the speed limit, it must be recognised that speeding is a criminal offence whatever the circumstances – in other words, speeding is speeding. The Sub-committee emphasised that drivers are expected to ensure a high standard of behaviour when driving a taxi and to report to the Licensing Unit on any relevant incident or update, in accordance with the licence conditions.

The Sub-committee determined in favour of granting the application and that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

6. APPLICATION TO RENEW A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE – Mr B

The Chair welcomed everyone to the meeting. He explained that the decision would be made in accordance with Cyngor Gwynedd's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person is a fit and proper person
- The person does not pose a threat to the public
- The public are safeguarded from dishonest persons
- Children and young people are protected
- Vulnerable persons are protected
- The public have confidence in using licensed vehicles.

The Licensing Manager submitted the written report on the application received from Mr B for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the relevant convictions. It was noted that the applicant had acknowledged the conviction on his application form for a licence.

The Licensing Authority recommended that the Sub-committee should approve the application.

The applicant was invited to expand on his application and provide information about the background of the offence. He noted that the incident had happened when he was around twenty years old. He had pleaded guilty to the charge and had not offended since.

RESOLVED

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Cyngor Gwynedd's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The report of the Licensing Department
- DBS Statement
- The applicant's application form
- Verbal observations by the applicant

Specific consideration was given to the following matters:

Background

In April 1987, the applicant received a conviction in Bangor Magistrates' Court for causing Grievous Bodily Harm contrary to S47 of the Offences Against the Person Act 1861. He was fined £50 with costs of £80 and additional costs of £20.

RELEVANT CLAUSES OF THE POLICY

Paragraph 2.2 of the Council's Policy was considered, which states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he/she is a fit and proper person to hold a licence. The onus is on the applicant to show that he/she is a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other matter(s) to be considered in connection with that, the Council cannot review the merits of that conviction or the other matter.

Paragraph 4.5 was considered which states that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allows the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Paragraph 6.0 of the Policy addresses violent offences. Paragraph 6.1 states that, since licensed drivers come into close contact regularly with the public, the sub-committee shall adopt a firm stance towards those who have offences involving violence.

Paragraph 6.2 notes that anyone found guilty of an offence relating to violence is unlikely to be granted a licence until they have been free from such a conviction for a minimum of three years. However, when considering the range of offences involving violence, consideration must be given to the nature of the offence.

CONCLUSIONS

The Policy's provisions, the applicant's explanation of the circumstances, and the Licensing Manager's recommendation were considered.

The Sub-committee decided in favour of approving the application as the only conviction had happened over 37 years ago therefore far beyond the three-year period and there was no evidence of any misconduct since then. The applicant was thanked for being open and honest when discussing the background to his conviction.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

7. APPLICATION TO RENEW A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE – Mr C

The Chair welcomed everyone to the meeting. He explained that the decision would be made in accordance with Cyngor Gwynedd's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person is a fit and proper person
- The person does not pose a threat to the public
- The public are safeguarded from dishonest persons
- Children and young people are protected
- Vulnerable persons are protected
- The public have confidence in using licensed vehicles.

The Licensing Manager submitted the written report on the application received from Mr C for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the relevant convictions. It was noted that the applicant had acknowledged the conviction on his application form for a licence.

The Licensing Authority recommended that the Sub-committee should approve the application.

The applicant was invited to expand on his application and provide information about the background of the offence. He noted that the incident had happened during a difficult divorce. He emphasised that the conviction was non-violent (A2) and related to a lack of communication. He added that he always explained the situation to employers and was embarrassed by his behaviour.

RESOLVED

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Cyngor Gwynedd's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The report of the Licensing Department
- DBS Statement
- The applicant's application form
- Verbal observations by the applicant

Specific consideration was given to the following matters:

Background

In March 2017, the applicant received a conviction at Gwynedd Magistrates' Court for conduct amounting to harassment, contrary to the Protection from Harassment Act 1997 S.2(1) + S.2(2). The applicant received a 20-week sentence suspended for 18 months plus a £425 fine, a requirement to undertake unpaid work and rehabilitation activity. A restraining order was also imposed on the applicant.

RELEVANT CLAUSES OF THE POLICY

Paragraph 2.2 of the Council's Policy was considered, which states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he/she is a fit and proper person to hold a licence. The onus is on the applicant to show that he/she is a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other matter(s) to be considered in connection with that, the Council cannot review the merits of that conviction or the other matter.

Paragraph 4.5 was considered which states that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allows the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Paragraph 6.0 of the Policy addresses violent offences. Paragraph 6.1 states that, since licensed drivers come into close contact regularly with the public, the sub-committee shall adopt a firm stance towards those who have offences involving violence.

Paragraph 6.2 notes that anyone found guilty of an offence relating to violence is unlikely to be granted a licence until they have been free from such a conviction for a minimum of three years. However, when considering the range of offences involving violence, consideration must be given to the nature of the offence.

CONCLUSIONS

The Policy's provisions, the applicant's explanation of the circumstances, and the Licensing Manager's recommendation were considered.

The Sub-committee decided in favour of approving the application as the only conviction had happened seven years ago therefore far beyond the three-year period and there was no evidence of any misconduct since then. It was accepted that the offence had taken place during a period of difficult personal circumstances, and the applicant was thanked for being open and honest when discussing the background to his conviction, acknowledging and accepting responsibility for his behaviour in full. There was no evidence of further convictions and therefore the Sub-committee was satisfied that the applicant was a fit and proper person to be issued with a licence.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

The meeting commenced at 14:15 and concluded at 15:50.

GENERAL LICENSING SUB-COMMITTEE 10-06-24

Attendance:

Councillors: Elfed Williams (Chair), Annwen Hughes and Edgar Owen

Officers: Siôn Huws (Senior Solicitor – Corporate), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democracy Services Officer)

Others invited:

Item 5: Applicant – Mr A

1. APOLOGIES

None to note

2. DECLARATION OF PERSONAL INTEREST

None to note

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, or their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR A HACKNEY / PRIVATE HIRE DRIVER'S LICENCE – Mr A

The Chair welcomed everyone to the meeting. He explained that the decision would be made in accordance with Cyngor Gwynedd's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person is a fit and proper person
- The person does not pose a threat to the public
- The public are safeguarded from dishonest persons
- Children and young people are protected
- Vulnerable persons are protected
- The public have confidence in using licensed vehicles.

The Licensing Manager presented the written report on the application received from Mr A for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the relevant convictions.

The Licensing Authority recommended that the Sub-committee should refuse the application.

The applicant was invited to expand on the application and provide information about the background of the offences and his personal circumstances. He highlighted that the offences had occurred during his time in the army and that he had not offended since. He reiterated that he was now working full time and seeking work on the weekend to get a second income to buy a house locally.

In response to a question by the Licensing Manager regarding his ability to control his temper when dealing with challenging customers, he noted that he had matured since his time in the army, and he could ignore any trigger to respond violently.

RESOLVED that the applicant was a fit and proper person to be issued with a 12-month hackney/private hire vehicle driver's licence from Cyngor Gwynedd.

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Cyngor Gwynedd's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The report of the Licensing Department
- DBS Statement
- The report of the Driver and Vehicle Licensing Agency
- The applicant's application form
- Verbal observations by the applicant

Specific consideration was given to the following matters:

Background

In June 2017, the applicant was found guilty of common assault, contrary to the Criminal Justice Act 1988 (S.39) at Surrey Magistrates Court. He received a fine of £350.00, costs of £85, compensation of £200 and a Surcharge of £35 to the Victim.

In May 2017, the applicant was found guilty of Destroying / Damaging Property (value of the damage being less than £5000) under the Criminal Damages Act 1971.

In April 2013 the applicant was found guilty of 3 incidents of Serious Driving Offences contrary to the Road Traffic Act 1988 S.5 (1) (A). He received a fine of £300 and was disqualified from driving for 12 months.

In November 2021, the applicant received six penalty points for failure to provide information about the identity of a driver – these points would expire 17 November 2024.

No other convictions to consider

RELEVANT CLAUSES OF THE POLICY

Paragraph 2.2 of the Council's Policy was considered, which states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but he would be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he is a fit and proper person to hold a

licence. The onus was on the applicant to prove that he was a fit and proper person. Paragraph 2.4 stated that when an applicant had a conviction(s) or there were other matter(s) to be considered in connection with that, the Council could not review the merits of that conviction or the other matter.

Paragraph 4.5 was considered which stated that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allowed the Sub-committee to consider all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Paragraph 6.0 of the Policy addressed violent offences. Paragraph 6.1 stated that, since licensed drivers came into close contact regularly with the public, the sub-committee shall adopt a firm stance towards those who had offences involving violence.

Paragraph 11.0 which addressed drink-driving offences, was considered. In paragraph 11.1, it was noted that a serious view would be taken of convictions for driving or being in charge of a vehicle under the influence of alcohol / drugs. Anyone who had been found guilty of offences relating to drink-driving was unlikely to receive a licence until they had been free from such conviction(s) for at least three years. A conviction for 'refusing or failing to provide a sample' was dealt with in the same manner.

Section 12 of the Policy related to motoring convictions, and paragraph 12.2 listed serious traffic offences for the purposes of the Policy. Amongst the offences were IN10 (use of an uninsured vehicle). It was noted that an application would normally be refused (12.10) where the applicant had a conviction resulting in a period of disqualification of 12 months or more unless a period of 18 months had elapsed from the end of the disqualification period.

CONCLUSIONS

The Policy's provisions, the applicant's explanation of the circumstances, and the Licensing Manager's recommendation were considered. The members believed that the convictions, individually, satisfied the policy's criteria, however, with the number of convictions, the Sub-committee needed to consider the pattern of re-offending.

The serious driving convictions had happened 10 years ago and the current points that were on the applicant's licence would expire in November 2024. However, concern was highlighted that the 2017 convictions involved violence, and in accordance with the policy's requirements, 10 years had not elapsed. However, consideration was given to the fact that seven years had elapsed since the 2017 convictions and that the applicant's situation had changed since then. He was now out of the army and in a fixed and full-time employment. With the need to show that this type of behaviour belonged in the past, it was considered appropriate in this case to approve the licence for only a year and for any licence renewal application to appear before the Sub-committee in 12 months' time.

The Sub-committee determined in favour of granting the application. It was determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence for 12 months.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

The meeting commenced at 11:15 and concluded at 12:05.

GENERAL LICENSING SUB-COMMITTEE 04-9-24

Present:

Councillors: Elfed Williams (Chair), Annwen Hughes and Edgar Wyn Owen

Officers: Siôn Huws (Senior Solicitor - Corporate), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democracy Services Officer)

Others invited:

Item 5: Applicant - Mr A

1. APOLOGIES

None to note.

2. DECLARATION OF PERSONAL INTEREST

None to note.

3. URGENT ITEMS

None to note.

4. EXCLUSION OF THE PRESS AND PUBLIC

It was **RESOLVED** to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, or their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR A HACKNEY / PRIVATE HIRE DRIVER'S LICENCE – Mr A

The Chair welcomed everyone to the meeting. He explained that the decision would be made in accordance with Cyngor Gwynedd's Licensing Policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person is a fit and proper person.
- The person does not pose a threat to the public.
- The public are safeguarded from dishonest persons.
- Children and young people are protected.
- Vulnerable persons are protected.
- The public have confidence in using licensed vehicles.

The Licensing Manager presented the written report on the application received from Mr A for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the relevant convictions.

The Licensing Authority recommended that the Sub-committee should approve the application.

The applicant was invited to expand on the application and provide information about the background of the offences and his personal circumstances. He highlighted that the offences had occurred during one incident and during a challenging and vulnerable time in his life and he had not offended since. He added that he was now working full time in a responsible job, and this included working in situations of anti-social behaviour, and he volunteered in a local school.

In response to a question by one of the Members regarding his ability to control his temper when dealing with challenging customers, he noted that he had matured since his time in the army, and he could ignore any trigger to respond violently.

RESOLVED that the applicant was a fit and proper person to be issued with a 12-month hackney/private hire vehicle driver's licence from Cyngor Gwynedd.

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'.
- The report of the Licensing Department.
- DBS Statement.
- The report of the Driver and Vehicle Licensing Agency.
- The applicant's application form.
- Verbal observations by the applicant.

Specific consideration was given to the following matters:

Background

In October 2008, the applicant was found guilty of battery contrary, to the Criminal Justice Act 1988 (s.39) and Actual Bodily Harm, contrary to the Offences Against the Person Act 1861 (s.47).

There were no other convictions to consider.

RELEVANT CLAUSES OF THE POLICY

Paragraph 2.2 of the Council's Policy was considered, which states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but they will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that they are a fit and proper person to hold a licence. The onus was on the applicant to prove that he was a fit and proper person. Paragraph 2.4 stated that when an applicant had a conviction(s) or there were other matter(s) to be considered in connection with that, the Council could not review the merits of that conviction or the other matter.

Paragraph 4.5 was considered which stated that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allowed the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Paragraph 6.0 of the Policy addressed violent offences. Paragraph 6.1 stated that, since licensed drivers came into close contact regularly with the public, the sub-committee shall adopt a firm stance towards those who had offences involving violence.

Paragraph 6.2 notes that anyone found guilty of an offence relating to violence is unlikely to be granted a licence until they have been free from such a conviction for a minimum of three years. However, when considering the range of offences involving violence, consideration must be given to the nature of the offence.

CONCLUSIONS

The Policy's provisions, the applicant's explanation of his circumstances, and the Licensing Manager's recommendation were considered. The members were of the opinion that the conviction, satisfied the policy's criteria.

The Sub-committee considered the fact that 16 years had elapsed since the offences and that there was no evidence of any conviction or other relevant matter since then. The applicant's explanation was considered that the incident was totally contrary to his character and had taken place during a difficult period following his return having served in the armed forces. The applicant's explanation was accepted and that he had now been working as a site warden for a local company for seven years and had to deal with situations of anti-social behaviour as part of his daily duties. He highlighted that he was confident that he could deal with the types of difficult situations that may arise when driving a taxi.

The Sub-committee determined in favour of granting the application and that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

The meeting commenced at 2:00pm and concluded at 2:30pm

GENERAL LICENSING SUB-COMMITTEE 08-10-24

Present:

Councillors: Councillor Elfed Williams (Chair), Huw Rowlands and Gareth Williams

Officers: Nia Grisdale (Legal Services Manager), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democracy Services Officer)

Others invited:

Item 5:

Applicant - Mr A

The applicant's representative

Cllr Hefin Underwood - observing

1. APOLOGIES

None to note

2. DECLARATION OF PERSONAL INTEREST

None to note

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

It was **RESOLVED** to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, or their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR A HACKNEY / PRIVATE HIRE DRIVER'S LICENCE – Mr A

The Chair welcomed everyone to the meeting. He explained that the decision would be made in accordance with Cyngor Gwynedd's Licensing Policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person is a fit and proper person
- The person does not pose a threat to the public
- The public are safeguarded from dishonest persons

- Children and young people are protected
- Vulnerable persons are protected
- The public have confidence in using licensed vehicles.

The Licensing Manager presented the written report on the application received from Mr A for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the relevant convictions.

The Licensing Authority recommended that the Sub-committee should approve the application.

In accordance with the hearing procedure, the applicant and / or his representative was given an opportunity to ask questions of the Council's representative.

It was asked why a hearing had to be held and why the Environment Department did not have delegated powers to approve the application - the applicant's representative suggested that this meant unnecessary costs to the taxpayer.

In response, the Licensing Manager noted that the Gwynedd Delegated Rights Scheme had arrangements in place whereby an application with any offence appearing on the applicants' DBS would be presented to a Sub-committee for a decision. It was added, in accordance with the Council's Constitution, that neither she nor the Head of the Environment Department had the power to make a decision be that due to a historical conviction or otherwise.

It was noted that the procedure and process were being reviewed with discussions taking place with the Legal Department to consider cases where a decision could be delegated. Any amendment to the Constitution would be presented to the Licensing Committee and to the Full Council.

In response to a question regarding whether the Licensing Manager had the right to suspend or revoke a licence, the Licensing Manager confirmed that she had the right to do this.

The applicant was invited to elaborate on the application giving information about the background to the conviction and his personal circumstances, however, the applicant was eager for his representative to discuss the application with the Members. His representative highlighted that the conviction had occurred when the applicant was 18 years old, 42 years ago, and he had not offended since. He added that the applicant had been a school bus driver and that post entailed responsibility and trust.

Attention was drawn to paragraph 6.5 of the Licensing Policy which stated that an application will be refused if the applicant has a conviction that is less than 3 years prior to the date of the application - he emphasised once more that 39 years had elapsed. He added that the applicant had been unemployed while waiting for a hearing and that the process was unsuitable and inappropriate. He asked the Panel to consider his request to change the process.

RESOLVED that the applicant was a fit and proper person to be issued with a 12 month hackney/private hire vehicle driver's licence from Cyngor Gwynedd.

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The report of the Licensing Department
- DBS Statement

- The report of the Driver and Vehicle Licensing Agency
- The applicant's application form
- Verbal observations by the applicant's representative

Specific consideration was given to the following matters:

Background

In June 1982, the applicant was found guilty of Assault causing Actual Bodily Harm (ABH) contrary to the Offences Against the Person Act 1861 (S.47) that led to a bail order for two years.

There were no other convictions to consider.

RELEVANT CLAUSES OF THE POLICY

Paragraph 2.2 of the Council's Policy was considered, which states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but he will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he is a fit and proper person to hold a licence. The onus was on the applicant to prove that he was a fit and proper person. Paragraph 2.4 stated that when an applicant had a conviction(s) or there were other matter(s) to be considered in connection with that, the Council could not review the merits of that conviction or the other matter.

Paragraph 4.5 was considered which stated that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allowed the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Paragraph 6.0 of the Policy addressed violent offences. Paragraph 6.1 stated that, since licensed drivers came into close contact regularly with the public, the sub-committee shall adopt a firm stance towards those who had offences involving violence.

Paragraph 6.5 of the Policy stated that an application for a licence would normally be refused if the applicant had a matter to be considered for common assault and/or criminal damage and/or an offence under the Public Order Act 1986 which happened less than three years before the date of application.

CONCLUSIONS

The Policy's provisions, the applicant's explanation of his circumstances and the Licensing officer's recommendation were considered to approve the application. The members were of the opinion that the conviction satisfied the policy's criteria.

The Sub-committee considered the fact that 42 years had elapsed since the offence and that there was no evidence of any conviction or other relevant matter since then. The applicant's explanation of the incident in 1982 was considered (when he was 18 years old) and the fact that he took the blame and pleaded guilty. It was also noted that he had been employed over the years, and for the last 10 years he had been driving a school bus which was in essence a post of trust.

In response to a question regarding the bus licence arrangements, it was noted that an arrangement to check the suitability of a driver would also be relevant to the post of a bus driver under a different process to the taxi driver licence process.

The Sub-committee determined in favour of granting the application and that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant and the comments of the Applicant's Representative regarding the hearings procedure would be considered.

The meeting commenced at 3:00pm and concluded at 3:30pm.

COMMITTEE	GENERAL LICENSING COMMITTEE
DATE:	11 NOVEMBER 2024
TITLE:	DELEGATION OF RIGHTS TO DETERMINE APPLICATIONS FOR TAXI LICENCES.
PURPOSE:	TO REVIEW THE DELEGATION SCHEME AND CONSIDER OPTIONS FOR AMENDING THE ARRANGEMENTS
AUTHOR:	HEAD OF ENVIRONMENT DEPARTMENT

1.0 BACKGROUND INFORMATION – LEGAL CONTEXT

- 1.1 The Council as a Licensing Authority has a duty under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to license private hire and hackney vehicle drivers, vehicles and operators.
- 1.2 The power to grant driver/operator licences is included in Sections 51, 55, and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (The Act). The Licensing Authority is required to ensure that an individual applying for a driver/operator's licence, or applying for the renewal of such a licence, is a 'fit and proper' person to hold that licence.
- 1.3 The powers to suspend, revoke or refuse to renew a driver's licence are included in Section 61 of the Act. The power applies to situations where the applicant/licence holder has
- been found guilty of an offence involving dishonesty; indecency or violence
 - Failed to comply with the provisions of the Town Police Clauses Act 1847
 - Failed to comply with the provisions of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976
 - Or any other fair reason.
- 1.4 The main purpose of licensing vehicles, operators and drivers is to safeguard the public; and this is the priority no matter what the Council's arrangements may be for deciding whether an application for a licence is to be approved or not.

2. THE CONSTITUTION AND DELEGATED POWERS

- 2.1 The Constitution sets out a specific procedure in terms of which decisions are delegated to officers; and which decisions fall under the Sub-committee's responsibility. Clause 11.3.5 of Appendix 3 to Section 3 states that decisions regarding taxi licences are delegated to the Head of Environment Department, with the exception of the matters listed below -

11.3.5 Exercising the Council's powers in the field of hackney and private hire vehicle licensing except for the following matters which are the responsibility of the Sub-committee of the General Licensing Committee.

- a) Determining an application for a hackney/private hire driver's licence when the report of the Criminal Records Bureau discloses a conviction or police caution.
- b) Determining an application for a hackney/private hire vehicle licence where the vehicle does not comply with the authority's policy.
- c) Determining an application for a private hire operator's licence when the report of the Disclosure and Barring Service discloses a conviction or police caution.

2.2 All other decisions relating to the above legal requirements are delegated to the Head of Environment Department, who has authorised specific officers to implement these powers on his behalf.

2.3 The power to revoke or suspend a licence is regularly exercised by officers authorised by the Head of Environment Department. When an individual is unsatisfied with the decision to suspend or revoke a licence; the individual may appeal to a Magistrates Court within 21 days of receiving the suspension/revocation notice.

2. OTHER MATTERS TO CONSIDER

2.1 In addition to the need to refer applications by individuals who have convictions or Police cautions noted on their DBS; there are wider circumstances where applications are referred to the General Licensing Sub-committee for a decision.

2.2 This can include an accusation or information received regarding an individual's behaviour which has not led to a conviction, or where the case has not yet been heard in court.

2.3 In accordance with the requirements of current Council policy – *Suitability Criteria for Drivers and Operators* – the following circumstances also lead to an individual's referral to a Sub-committee hearing for a decision, namely:

- Breach of an Act, a By-law or a Licensing condition
- Serious traffic offences or several convictions for minor traffic offences

4 THE DECISION OF THE GENERAL LICENSING COMMITTEE - 2 DECEMBER 2019

4.1 A report was presented to this Committee on 2 December 2019 (please see the appendix to this report) outlining the current arrangements, and with initial options for reviewing the current arrangements in terms of delegating decisions.

4.2 In discussing the current system it was noted that the submission of a formal report with a recommendation is an effective method of ensuring that the Sub-committee is given clear guidance on an application including relevant evidence which forms the basis for the recommendation. The report also formally provides the applicant (and any other parties) with information regarding how the Officer has reached his/her

recommendation for the application, and the applicant has the opportunity to expand on their application.

- 4.3 The system for the approval or refusal of applications for taxi licences includes the right to appeal to a Magistrates Court. Decisions made by a Sub-committee to refuse applications, or by officers to revoke or suspend licences, are made in order to protect the public; however, it is important that we are able to evidence the reasoning behind a decision as there are rights to appeal against these decisions.
- 4.5 It is believed that the side-effects of the Delegation Scheme in its current form cause:
- An unnecessary workload for the Sub-committee due to the number of applications that must be reported because the applicant has a conviction
 - An unnecessary workload for the Licensing and Committees Services due to the need to prepare reports and organise meetings of the Sub-committee at random.
 - Delays in the decision process for applications because of the need to report to the Sub-committee, meaning that applicants have to wait longer for a decision
- 4.6 The Committee agreed that there is a need to look at the procedures for delegating decisions so that the Sub-committee continues to be able to award decisions in an objective and rational manner, where the applications, by their nature, justify a Sub-committee decision.
- 4.7 The Committee decided to give the right to the Legal Service and the Licensing Service to investigate further how the delegation scheme could be reviewed to address all the identified disadvantages of the current system; while at the same time preserving the resilience, fairness and transparency of the current system.
- 4.8 It was agreed that the wording of the reviewed delegated rights will be clear and explicit and that the preferred revised version will be submitted to this Committee for a final decision.

5 FURTHER REVIEW OF THE DELEGATED RIGHTS IN RELATION TO APPLICATIONS FOR PRIVATE HIRE DRIVER, VEHICLE AND OPERATORS' LICENCES

- 5.1 It is believed that the delegation system can be reviewed, ensuring continued resilience of the decisions made by officers and the Sub-committee; but allowing an opportunity for the Sub-committee to focus on the most contentious or complex applications.
- 5.2 Arrangements like these for the delegation of decisions vary from Council to Council. Some Licensing Authorities delegate the right to an officer to determine any application that is not contrary to policy. Some delegate the right to make decisions to an Officer, but with a procedure for appealing to a Sub-committee should the applicant not agree with the decision.
- 5.3 From Cyngor Gwynedd's point of view we believe that the Sub-committee has an important role in considering and deciding applications that are contrary to any policy in operation at the time; such as the current policy that provides guidance on determining whether an individual is fit and proper to hold a taxi driver's licence – (*Suitability Criteria for Drivers and Operators Policy*). There needs to be explicitness in terms of defining the circumstances in which an application should be referred to the Sub-committee.

5.4 It is therefore proposed that the delegated rights be revised as follows –

6 Delegated Rights of Head of Environment: review clause 11.3.5 as follows-

- 6.1 To exercise the Council’s powers in the field of hackney and private hire vehicle licensing except for the following matters which are the responsibility of the Sub-committee of the General Licensing Committee.
- (a) To determine an application for a hackney/private hire driver's licence when the report of the Criminal Records Bureau discloses a conviction or police caution and when the application is contrary to the Authority’s policy.
- b) To determine an application for a hackney/private hire vehicle licence where the vehicle does not comply with the authority’s policy.
- c) To determine an application for a private hire operator's licence when the report of the Disclosure and Barring Service discloses a conviction or police caution and when the application is contrary to the Authority’s policy.
- 6.2 Changing the procedure as above would ensure that the decision is delegated to an officer in circumstances where the individual's criminal history, or any matter to be considered, is not contrary to policy. It should be noted however that the Head of Department has the discretion under the Scheme of Delegation to refer any application for a Sub-Committee hearing where circumstances warrant doing so; and the changes will not affect the right to do so.
- 6.3 If the Committee agrees with the changes , they will be presented for approval by Full Council as part of the Monitoring Officer’s Report on the Review of the Constitution.

RECOMMENDATION -

The Committee is asked to approve the amendment to the procedure for delegating decisions to the Sub – Committee in accordance with the procedure recommended in the report.

COMMITTEE	GENERAL LICENSING COMMITTEE
DATE:	2 DECEMBER 2019
TITLE:	DELEGATION OF POWERS TO DETERMINE APPLICATIONS FOR TAXI LICENCES.
PURPOSE:	TO REVIEW THE DELEGATION SCHEME AND CONSIDER OPTIONS FOR AMENDING THE ARRANGEMENTS
AUTHOR:	HEAD OF ENVIRONMENT DEPARTMENT

1.0 BACKGROUND INFORMATION - LEGAL CONTEXT

- 1.1 The Council as a Licensing Authority has a duty under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to license private hire and hackney vehicle drivers, vehicles and operators.
- 1.2 The powers to grant driver/operator licences are included in Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (The Act). The Licensing Authority is required to ensure that an individual applying for a driver's/operator's licence, or applying for the renewal of such a licence, is a 'fit and proper' person to hold that licence.
- 1.3 The powers to suspend, revoke or refuse to renew a driver's licence are included in Section 61 of the Act. The powers are relevant to situations where the applicant / licence holder has
- been found guilty of an offence involving dishonesty, indecency or violence
 - failed to comply with the provisions of the Town Police Clauses Act 1847
 - failure to comply with the provisions of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976
 - Or any other fair reason.
- 1.4 The main purpose of licensing vehicles, operators and drivers is to safeguard public health. This is the main priority no matter what the Council's arrangements may be for deciding whether or not an application for a licence is to be approved.

2. THE CONSTITUTION AND DELEGATED POWERS

- 2.1 The Constitution sets out a specific procedure in terms of which decisions are delegated to officers; and which decisions fall under the Sub-committee's responsibility. Clause 11.3.5 of Appendix 3 to Section 3 notes that decisions regarding taxi licences are delegated to the Head of Environment Department, with the exception of the matters noted below -

11.3.5 To exercise the Council's powers in the field of hackney and private hire vehicle licensing except for the following matters which are the responsibility of the Sub-committee of the General Licensing Committee.

- a) To determine an application for a hackney/private hire driver's licence when the report of the Criminal Records Bureau discloses a conviction or police caution.
- b) To determine an application for a hackney/private hire vehicle licence when the vehicle does not comply with the authority's policy.
- c) To determine an application for a private hire operator licence when the report of the Disclosure and Barring Service discloses a conviction or police caution.

2.2 All other decisions relating to the above legal requirements are delegated to the Head of Environment Department, who has authorised specific officers to implement these powers on his behalf.

2.3 The power to revoke or suspend a licence is regularly exercised by officers authorised by the Head of Environment Department. When an individual is unsatisfied with the decision to suspend or revoke a licence; the individual may appeal to a Magistrates Court within 21 days of receiving the suspension/revocation notice.

3. OTHER MATTERS FOR CONSIDERATION

3.1 In addition to the need to refer applications by individuals who have convictions or Police cautions noted on their DBS; there are wider circumstances which cause applications to be referred to the General Licensing Sub-committee for a decision.

3.2 This can include an accusation or information received regarding an individual's behaviour which has not led to a conviction, or where the case has not yet been heard in court.

3.3 In accordance with the requirements of current Council policy - *Suitability Criteria for Drivers and Operators* - the following circumstances also lead to an individual's referral to a Sub-committee hearing for a decision, namely:

- Breach of an Act, a Bye-law or a Licensing condition
- Serious traffic offences or several convictions for minor traffic offences

4 THE CURRENT SITUATION

4.1 As has been the case for over a year, a report is submitted to the Sub - Committee with a recommendation based on guidance from current Council Policy - *Suitability Criteria for Drivers and Operators*, and the Officer's professional opinion. The report gives detail on the offences or other relevant matters; and the application form, DBS and any relevant information submitted for the Sub - Committee to consider. The offences are elaborated upon in the context of relevant clauses of the policy. It is believed that

submitting a formal report with a recommendation is an effective method of ensuring that the Sub-committee is given clear guidance on an application, including relevant evidence which forms the basis for the recommendation. The report also formally provides the applicant (and any other parties) with information regarding how the Officer has reached his/her recommendation for the application.

4.2 Every applicant who appears before the Sub - committee is given the opportunity to give the background of the offences or relevant matters. Therefore, the Officer's report and recommendation, in addition to evidence submitted by the applicant, ensure that the Sub-committee has all the evidence and information necessary for it to reach its decision.

4.3 The table below shows applications referred to the General Licensing Sub-Committee, along with the recommendation and decision, between October 2018 and September 2019.

DATE	RECOMMENDATION	DECISION	DATE	RECOMMENDATION	DECISION
17/10/18	Refuse	Approved	20/3/19	Refuse	Approved
21/11/18	Refuse	Refused	20/3/19	Refuse	Approved
21/11/18	Refuse	Approved	12/4/19	Approve	Approved
27/11/18	Refuse	Refused	16/4/19	Refuse	Approved
27/11/18	Approve	Approved	16/4/19	Refuse	Refused
10/12/18	Approve	Approved	3/6/19	Approve	Approved
20/12/18	Refuse	Refused	20/6/19	Approve	Approved
28/1/19	Refuse	Approved	01/8/19	Refuse	Refused
28/1/19	Refuse	Approved	18/9/19	Approve	Approved
28/1/19	Refuse	Approved	18/9/19	Approve	Approved
20/3/19	Refuse	Approved	18/9/19	Approve	Approved

4.4 22 applications were referred to the Sub - committee for a decision between October 2018 and September 2019. 9 applications were approved contrary to the recommendation for refusal based on policy. 5 applications were refused in accordance with the recommendation; and 8 applications were approved in accordance with the recommendation. Approval was given in accordance with the recommendation in every case where the offences did not contravene the policy for approval.

4.5 The Sub-committee's decisions are robust as each applicant receives a fair hearing; and is given a full verbal and written explanation of the reasoning behind the decision by

the Solicitor. There is specific reference to the relevance of policy clauses in the decision letter; as well as any other matters which were material considerations in deciding whether the applicant was a 'fit and proper' person.

- 4.6 The 8 applications approved in accordance with the recommendation over the past year were applications where it was apparent that the offences or other matters for consideration were not contrary to policy. These are usually applications where there has been no recent conviction; or in the case of multiple convictions or other matters, where over 10 years has elapsed since the most recent offence. There are certain examples of applications which have been referred to the Sub - committee with only one historic conviction for a violent offence where over 20 years have elapsed. Many applications have been referred lately due to driving licence points only.
- 4.7 The system for the approval or refusal of applications for taxi licences includes the right to appeal to a Magistrates Court. Decisions made by a Sub - committee to refuse applications, or by officers to revoke or suspend licences, are made in order to protect the public; however, it is important that we are able to give evidence for the reasoning behind a decision, as there are rights to appeal against these decisions.
- 4.8 It is believed that the side effects of the Delegation Scheme as it is cause:
- An unnecessary workload for the Sub-committee due to the number of applications which have to be reported as the applicant has a conviction
 - An unnecessary workload for the Licensing and Committees Services due to the need to prepare reports and organise meetings of the Sub-committee at random
 - Delays in the decision process for applications because of the need to report to the Sub-committee, meaning that applicants have to wait longer for a decision
- 4.9 It is believed that there is a need to look at the procedures for the delegation of decisions so that the Sub-committee can continue in its ability to make decisions in an objective and rational way, where the cases, by nature, justify a Sub - committee decision. It is suggested that options should be considered to ensure that applications where there are one or two minor historical offences are not referred to the Sub - Committee.

5 OPTIONS FOR CONSIDERATION

- 5.1 It is believed that the delegation procedure could be reviewed, ensuring that the robustness of decisions made by officers and the Sub - committee continues - but achieving this by allowing the Sub - committee to focus on the most contentious or complex applications.
- 5.2 Arrangements for the delegation of decisions vary from Council to Council. Some Licensing Authorities delegate the right to an officer to decide on any application which is not contrary to policy. Some delegate the right to make decisions to an Officer, but with a procedure for appealing to a Sub - committee should the applicant not agree with a decision.
- 5.3 It is Gwynedd Council's view that the Sub-committee has an important role in considering and making decisions regarding licences, but it seems that the challenge

lies in defining the circumstances in which an application should be referred to the Sub-committee.

5.4 The following options are proposed as initial options to be considered and discussed for approval by the Committee, and for the Licensing Service in consultation with the Legal Department to look at the options (or a combination of options) in more detail.

5.5 **Option A** - To continue with similar arrangements to those already in place, but confirming:

- That applications are referred to a Sub - committee where there are offences or convictions, whether on a DBS report or otherwise
- That there is no need to refer applications if the offences have been previously considered by a Sub-committee (and where the application was approved at that point).

5.6 **Option B** - Delegation to officers of the right to decide to approve applications where offences or other matters for consideration are not contrary to the policy; and where there are one or two historical offences or other matters, with over ten years having elapsed since the most recent offence.

5.7 Option B would mean that applications would be referred to the Sub - committee where an officer recommends refusal on the grounds that the application is contrary to Policy, or that there are other matters to be considered and evidence that the applicant is not a 'fit and proper' person.

5.8 **Option C** - To refer any application to a Sub - committee where there are multiple recent offences, serious and relevant offences, or any other matter for consideration; and where there would be substantial risks to public safety should a decision to refuse be successfully challenged upon appeal.

5.9 **Option D** - To refer decisions to the Sub - committee according to the Head of Environment Department's discretion

6. RECOMMENDATION -

6.1 The Committee is asked to:

- Support the principle of reviewing the current delegation scheme
- Consider the initial options and give approval for the Licensing Service, in consultation with the Legal Service, to look in more detail at the options - or a combination of the options - and to report back to the Committee with final options and the preferred option before the end of March 2020.