



Complete Agenda

Democratic Services
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Meeting

GENERAL LICENSING COMMITTEE

Date and Time

MONDAY, 22ND JUNE, 2015

(AT THE END OF THE CENTRAL LICENSING COMMITTEE)

Location

**Siambr Hywel Dda, Council Offices,
Caernarfon, Gwynedd. LL55 1SH**

Contact Point

Lowri Haf Evans

01286 679 878

lowrihafevans@gwynedd.gov.uk

(DISTRIBUTED 16 June 2015)

GENERAL LICENSING COMMITTEE

MEMBERSHIP (15)

Plaid Cymru (7)

Councillors

Craig ab Iago
Annwen Hughes
W. Tudor Owen

Edward Thomas Dogan
Christopher Hughes
Ann Williams

Vacant seat

Independent (4)

Councillors

John Brynmor Hughes
Angela Russell

Eryl Jones-Williams
Elfed Williams

Llais Gwynedd (3)

Councillors

Llywarch Bowen Jones
Peter Read

I. Dilwyn Lloyd

Individual Member (1)

Councillor Louise Hughes

Aelodau Ex-officio / Ex-officio Members

Chairman and Vice-Chairman of the Council

A G E N D A

1. CHAIRMAN

To elect a Chairman for 2015/16

2. VICE-CHAIRMAN

To elect a Vice-chairman for 2015/16

3. APOLOGIES

To receive any apologies for absence.

4. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

5. URGENT ITEMS

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

6. MINUTES

1 - 4

The Chairman shall propose that the minutes of the meeting of this Committee, held on 08 December 2014 be signed as a true record.

7. GENERAL LICENSING SUB-COMMITTEE MINUTES

5 - 8

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

- a) 08.12.2014
- b) 17.12.2014

8. AMENDMENT TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976: THE DE REGULATION ACT 2015

9 - 12

To submit the report of the Head of Regulatory Department for information / discussion

9. POLICY ON ACCEPTING PREVIOUSLY ISSUED DBS ENHANCED LEVEL CERTIFICATES FOR APPLICANTS OF A COMBINED HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE

13 - 14

To submit the report of the Head of Regulatory Department for decision

10. THE SCHEME OF DELEGATION REGARDING THE DETERMINATION OF APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES WHEN THE VEHICLES DOES NOT COMPLY WITH THE AUTHORITY'S POLICY 15 - 18

To submit the report of the Head of Regulatory Department for decision

GENERAL LICENSING COMMITTEE, 08.12.14

Present: Councillor Eryl Jones-Williams (Chairman)

Councillors, Annwen Hughes, Llywarch Bowen Jones, Dilwyn Lloyd, W.Tudor Owen, Peter Read, Angela Russell, Ann Williams, Elfed W Williams

Also in attendance: Siôn Huws (Senior Solicitor), Gwenan Mai Williams (Public Protection Manager (Health and Safety and Licensing)), Sheryl Le Bon Jones (Licensing Manager) and Lowri Haf Evans (Member Support and Scrutiny Officer)

1. ELECTION OF CHAIRMAN

Councillor Eryl Jones Williams was elected as Chairman for this meeting only.

2. WELCOME AND APOLOGIES

The Chairman, Councillor Eryl Jones Williams, welcomed everyone to the Committee. Apologies were received from Councillors Huw Edwards and Louise Hughes. It was noted that Councillor Huw Edwards was very ill and that the Committee members sent him their best wishes.

3. DECLARATION OF PERSONAL INTEREST

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

4. URGENT MATTERS

None to note.

5. MINUTES OF THE PREVIOUS MEETING

The Chairman signed the minutes of the previous meeting of this committee held on 15 September 2014, as a true record.

6. GENERAL LICENSING SUB-COMMITTEE MINUTES

31.7.2014

The sub-committee's minutes were received as information.

7. CORRECTION TO THE WORDING OF THE HACKNEY AND PRIVATE HIRE VEHICLES LICENSING POLICY

Submitted – the report of the Head of Regulatory Department stating the need to make a correction in clause 3, section C, page 4 of the Licensing Policy for Hackney and Private Hire Vehicles. Since approving the policy on 15.9.2014, it had become apparent that the words 'change of vehicle' appeared in the clause. A

revised copy of the policy had been appended the reference to 'change of vehicle' had been deleted.

IT WAS UNANIMOUSLY RESOLVED TO APPROVE THE CORRECTION TO THE WORDING OF HACKNEY AND PRIVATE HIRE VEHICLES LICENSING POLICY.

8. PROPOSED FEES AND CHARGES 2014/15 REPORT – PUBLIC PROTECTION DEPARTMENT

A table of the proposed fees and charges for the Public Protection Department for 2014/15 were submitted for the members' attention to be officially approved before it would be introduced to the public. It was noted that, where the legislation allows local discretion in terms of setting the fee levels, an assessment would be undertaken annually of the costs associated with these services. It was recommended to increase the 2014/15 fees, where there was discretion to do so, by 2.5% in line with inflation and to move towards reclaiming the costs of relevant services. It was reiterated that it would be possible for elements of some fees to be reviewed.

In a response to a question concerning the need to charge fees for property and for those providing tattoo, body piercing, electrolysis and acupuncture services, it was noted that this ensured consistency and standards within the services as there was a high staff turnover in some businesses. Setting fees ensured the hygiene of equipment and property and the suitability of the person offering the service. An important element of ensuring that the public were being protected.

Additionally, the licensing officer was asked about the work being undertaken to target people operating tattoo, body piercing, electrolysis and acupuncture services from their homes. In terms of tattoo services, it was explained that implementing such businesses from a domestic property was illegal, and that it was the Health and Safety Executive that usually enforced such matters, although the Council officers had powers that could be used in relation to preventing the spread of infectious diseases.

It was reiterated that a scheme for sharing information with the public through press statements had been implemented to draw attention to the risks associated with having work done in a person's home.

Concern was expressed amongst members that the Public Protection Service was facing service cuts, even though licensing fees had been increased to recover costs for the service. As a result, officers would be taking on additional responsibilities and the service would appear to be reactive rather than proactive.

RESOLVED to approve the fees put forward by the Head of the Regulatory Department

Additional Matters:

- a) Following changes within the structure of the Public Protection Service where the number of managers would be reduced from seven to five, it was reported that Gwenan Mai Williams would be returning to the Environment field and that Sheryl Le Bon Jones would receive responsibilities over the licensing service. Gwenan Mai Williams was thanked for her service and her support to the Licensing Committee and best wishes were expressed to her in her new post.

Ceridwen Pritchard, who had just retired as Licensing Officer, was also thanked for her work and support for the service over the years. It was noted that Eirlys Jones would be taking Ceridwen Pritchard's responsibilities.

A request was made for a copy of the new structure so that members would receive up to date information on the changes.

- b) Changes to taxi application arrangements against the policy. It was suggested that Councillor Peter Read supported Councillors Tudor Owen and Eryl Jones Williams with the changes and that he be included on the decisions panel. It was accepted that the policy needed to be reviewed soon and that the government must act on decisions urgently.

The proposal was accepted. Councillor Peter Read to contact the Licensing Manager.

Everyone was thanked for their contribution.

The meeting commenced at 10:00am and concluded at 10.40am.

GENERAL LICENSING SUB-COMMITTEE, 08.12.14

Present: Councillor Tudor Owen (Chair), Councillors Angela Russell and Dilwyn Lloyd

Others invited: Councillor Elfed Williams (Local Member)

Also in attendance: Geraint Brython Edwards (Solicitor), Gwenan Williams (Licensing Manager), Eirlys Jones (Licensing Officer) and Lowri Haf Evans (Member Support and Scrutiny Officer).

1. DECLARATION OF PERSONAL INTEREST

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

2. URGENT ITEMS

None to note

3. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items because of 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 apply because the individuals in question are entitled to privacy and there is no overriding public interest that requires the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

4. APPLICATION FOR HACKNEY/PRIVATE HIRE DRIVER'S LICENCE

The Licensing Manager submitted the written report on the application received from Mr A for a hackney/private hire driver's licence. It was explained that there was a statement of convictions referring to a relevant crime, and therefore the Committee had been requested to consider the application in accordance with the record, and in accordance with the guidance on relevant crimes and convictions. A letter had also been received providing a reference for the applicant, from the Local Member who was also present at the meeting.

The applicant noted that he had been at home for months following an accident and that he was looking forward to starting work and to have a structure to his daily life. He explained that he was an experienced driver and that he was eager to return to this profession. It was also noted that a company, E Cabs, appeared to be willing to employ him as a taxi driver.

The applicant and the Local Member withdrew from the chamber while the Sub-committee members discussed the application.

The Sub-committee took into account the Council's guidelines on convictions that were relevant to the application.

Following detailed consideration, the Sub-committee decided to approve the application.

RESOLVED to approve Mr A's application for a hackney/private hire driver's licence.

The Solicitor reported that he would aim to send out a letter notifying the applicant of the Sub-committee's decision.

The meeting commenced at 3:45pm and concluded at 4.45pm

GENERAL LICENSING SUB-COMMITTEE, 17.12.14

Present: Councillor Tudor Owen (Chair), Councillors Angela Russell and Elfed Williams

Officers: Geraint Brython Edwards (Solicitor), Gwenan Williams (Public Protection Manager (Health and Safety and Licensing)) and Lowri Haf Evans (Member Support and Scrutiny Officer).

Also in attendance: Mr Chris O'Neil (representing the applicant). Mr Aaron Thomas (Licence Trade United – observing), Mr Michael Elderkin

1. WELCOME AND APOLOGIES

The Chairman, Councillor W. Tudor Owen, welcomed everyone to the meeting. The panel and the officers were introduced to everyone present. Gwenan Mai Williams was thanked for her service and her support to the Licensing Committee Sub-Committees and best wishes were expressed to her in her new post.

An apology had been received from Councillor Llywarch Bowen Jones.

2. DECLARATION OF PERSONAL INTEREST

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

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 because of 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 apply because the individuals in question are entitled to privacy and there is no overriding public interest that requires the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

The Licensing Manager presented the written report on the application received from Mr A. for a hackney/private hire driver's licence. It was explained that there was a statement of convictions referring to a relevant crime, and therefore the Committee had been requested to consider the application in accordance with the record, and in accordance with the guidance on relevant crimes and convictions.

The applicant and / or his representative were invited to expand on the application. It was acknowledged that the last offence disclosed had happened over 24 years ago and there was no evidence of any problems since then. It was further explained that the applicant wished to work and that he had been offered a 15 hours per week post with a local company, through arrangements by the Jobcentre Plus.

Mr Elderkin confirmed that he would be the employer and that he was of the opinion that the applicant deserved a second chance.

The applicant and his representative withdrew from the chamber while the Sub-committee members discussed the application.

Following detailed consideration, the Sub-committee decided that it was appropriate to approve the application. The last offence disclosed had happened over 24 years ago and there was no evidence of any problems since then. Therefore, approving the licence would comply with the Council's policy.

RESOLVED to approve Mr A's application for a hackney/private hire driver's licence.

The Solicitor reported that he would aim to send out a letter notifying the applicant of the Sub-committee's decision.

The meeting commenced at 12:00pm and concluded at 12:30pm.

COMMITTEE:	GENERAL LICENSING COMMITTEE
DATE:	22 JUNE 2015
TITLE:	AMENDMENT TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976: THE DEREGULATION ACT 2015
PURPOSE:	FOR INFORMATION/DISCUSSION
AUTHOR:	HEAD OF REGULATORY DEPARTMENT

1.0 BACKGROUND INFORMATION

- 1.1 The Deregulation Act 2015 received Royal Assent on 26 March 2015. The Deregulation Act provides for the removal or reduction of burdens on businesses, individuals, public sector bodies and individuals.
- 1.2 The Deregulation Act 2015 covers a very wide range of measures and includes 'measures affecting business: particular areas' which contains sections regarding Taxis and Private Hire, thereby affecting the Local Government (Miscellaneous Provisions) Act 1976.

2.0 THE DEREGULATION ACT 2015

- 2.1 The deregulatory measures affecting the Taxi and Private Hire provisions of the Local Government (Miscellaneous Provisions) Act 1976 are:
 - S10 – Taxis and private hire vehicles: duration of licences
 - S11 – Private hire vehicles: sub-contracting

3.0 THE DEREGULATION ACT 2015 (COMMENCEMENT No.1 and Transitional and Savings Provisions) Order 2015

- 3.1 The Deregulation Act 2015 (Commencement No.1 and Transitional and Savings Provisions) Order 2015 was made on 27 March 2015. It specified which provisions of the Deregulation Act 2015 would come into force on the dates specified. The dates relevant to the measures affecting the Local Government (Miscellaneous Provisions) Act 1976 were as follows:-

3.2 From 1 October 2015

S10 – Taxis and private hire vehicles: duration of licences
Section 10 amends the Local Government (Miscellaneous Provisions) Act 1976 by standardising the duration of taxi and private hire driver licences at 3 years and the licence for a private hire operator at 5 years. Licences may be granted for a lesser period but only in the circumstances of an individual case and not because of a blanket policy.

S11 – Private hire vehicles: sub-contracting
Section 11 inserts two new sections (55A and 55B) into the Local Government (Miscellaneous Provisions) Act 1976 in relation to the sub-contracting of bookings from one private hire vehicle operator to another.

In the new section 55A, subsection (1) allows an operator who accepts a booking for a private hire vehicle to sub-contract it to four types of operator –

- (a) an operator licensed and located in the same district as the initial operator;
- (b) an operator licensed and located in a different district from the initial operator (a different district but one which is still governed by the same legislation);
- (c) an operator licensed and located in London; or
- (d) a person located in Scotland.

The new section 55B deals with operator liability in connection with sub-contracting.

4.0 **IMPACT OF THE DEREGULATION ACT 2015**

- 4.1 The forthcoming changes to the Local Government (Miscellaneous Provisions) Act 1976 will require that current Gwynedd Council 'Combined Hackney Carriage/Private Hire Vehicle Driver Licensing Policy' and the 'Private Hire Operator's Policy' be updated and amended. This will include amendments to the licensing conditions.
- 4.2 At present Gwynedd Council issue 1 year hackney carriage and private hire driver licences and 1 year private hire operator licences. The current cost of a 1 year hackney carriage and private hire driver licence is £122.77 and the cost of a 1 year private hire operator licence is £163.20.
- 4.3 The change in duration of the licence will impact the fee that will be set for these licences. The fees charged must be reasonable and with a view to recover the running and enforcement costs of the each licensing scheme.
- 4.4 The number of new hackney carriage and private hire driver licence applications received during the last four financial years are as follows:

New	AR	DW	ME	Total
2011-12	49	13	18	80
2012-13	33	13	10	56
2013-14	45	17	12	74
2014-15	30	16	25	71
Grand Total	157	59	65	281

- 4.5 The number of applications to renew a hackney carriage and private hire driver licence received during the last four financial years are as follows:

Renewals	AR	DW	ME	Total
2011-12	246	86	98	430
2012-13	245	90	90	425
2013-14	231	83	81	395
2014-15	230	85	80	395
Grand Total	952	344	349	1645

- 4.6 The current (10 June 2015) number of hackney carriage and private hire driver licences in Gwynedd is 448 of which 330 will expire after 1 October 2015 and will, if renewed, be granted a 3 year licence. The remaining 118 licences will expire before October 2015 and will, if renewed, be granted a 1 year licence - they will then expire before October 2016 and will, upon renewal be granted a 3 year licence.
- 4.7 All hackney carriage and private hire driver licences issued from 1 October 2015 onwards will ordinarily be for a period of 3 years or for a lesser period but only in the circumstances of an individual case. Therefore during the transitional period October 2017 to September 2018 the service is unlikely to receive many applications to renew hackney carriage and private hire driver licences. It will however continue

to receive an estimated 70 new applications per year, during this period. These changes will affect the costs for running this licensing scheme during the 2016-17 and 2017-18 financial years and in turn, the fees charged.

- 4.8 The number of new private hire operator licence applications received during the last four financial years is 13.

New	AR	DW	ME	Total
2011-12	3	0	1	4
2012-13	4	1	0	5
2013-14	3	0	1	4
2014-15	0	0	0	0
Grand Total	10	1	2	13

- 4.9 The number of applications to renew a private hire operator licence received during the last four financial years is 131.

Renewals	AR	DW	ME	Total
2011-12	13	7	15	35
2012-13	19	6	9	34
2013-14	17	4	11	32
2014-15	19	3	8	30
Grand Total	68	20	43	131

- 4.10 The current (10 June 2015) number of private hire operator licences in Gwynedd is 32 of which 26 will expire after 1 October 2015. The other 6 licences will expire before October 2015 and will, if renewed, be granted a 1 year licence - they will then expire before October 2016 and will, upon renewal be granted a 5 year licence.
- 4.11 All private hire operator licences issued from 1 October 2015 onwards will ordinarily be for a period of 5 years or for a lesser period but only in the circumstances of an individual case. Therefore, during the transitional period October 2016 to September 2020 the service is unlikely to receive many applications to renew private hire operator licences although new administrative processes will have to be introduced ensure that the data held for the 5 years remains accurate. It will also continue to receive an estimated 3 new applications per year, during this period. These changes will affect the costs for running this licensing scheme during the financial years from 2017-18 onwards.
- 4.12 The Council is now required to recalculate the fees for the a 3 year driver licence and a 5 year private hire operator licence. The council may amend the fee for a driver licence without public consultation however the fee setting of the private hire operator licence is subject to public notice procedure.
- 4.13 The process for recalculating the fee structure is ongoing. It is intended that the new fee structure proposal will be submitted before a special meeting of this Committee during the coming weeks. If approved, the new fee structure regarding private hire operator licences will then be subject to a public notice procedure. On conclusion of the public consultation the fee structure may then be formally approved by the Committee during its September 2015 meeting, for implementation on 1 October 2015.

5.0 RECOMMENDATION

- 5.1 That the Committee note the recent changes to the Local Government (Miscellaneous Provisions) Act 1976 following the commencement of the provisions of the Deregulation Act 2015 and note its impact on the costs for running each licensing scheme.
- 5.2 That a special meeting of this Committee will be held during the coming weeks to consider the proposed fee structure that must be implemented by 1 October 2015.

COMMITTEE:	GENERAL LICENSING COMMITTEE
DATE:	22 JUNE 2015
TITLE:	POLICY ON ACCEPTING PREVIOUSLY ISSUED DBS ENHANCED LEVEL CERTIFICATES FOR APPLICANTS OF A COMBINED HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE
PURPOSE:	FOR DECISION
AUTHOR:	HEAD OF REGULATORY DEPARTMENT

1.0 BACKGROUND INFORMATION

- 1.1 Applicants of a 'Combined Hackney Carriage/Private Hire Vehicle Driver Licence' are exempt from the provisions of the Rehabilitation of Offenders Act, 1974 and the Rehabilitation of Offenders Act, 1974 (Exception) (Amendment) Order, 2002. Applicants are required to disclose ALL convictions, cautions and fixed penalties.
- 1.2 In accordance with s46 of the Town Police Clauses Act and s51 Local Government (Miscellaneous Provisions) Act 1976 the council shall not grant a combined 'Hackney Carriage and Private Hire Driver Licence' unless they are satisfied that the applicant is a 'fit and proper person' to hold a licence.
- 1.3 As part of the fit and proper person test the council require applicants to provide a Disclosure and Barring Service (DBS) Enhanced Level Certificate (previously known as a Criminal Records Bureau (CRB) Disclosure).
- 1.4 The existing Gwynedd Council 'Combined Hackney Carriage/Private Hire Vehicle Driver Licensing Policy' was adopted by the Committee on 22 October 2010. This document was also referred to as an information pack containing guidance. The document contains reference to section "5 – Guidance Notes – Applying for Disclosure" however, the section is not clearly identifiable within the document.
- 1.5 The document does however contain the following information regarding disclosure requirements in the section labelled "The Application".

NB. an appointment must be made with an authorised officer of the Licensing Team so that a Criminal Records Bureau Disclosure(Enhanced) form may be completed. On attendance at this meeting you must bring your DVLA licence, Passport, Birth Certificate/Marriage Certificate and another form of identification showing your current address i.e. utility bill.

On receipt of a satisfactory reply to the CRB form, and submission of all the necessary documentation the applicant will be granted his/her Combined Hackney Carriage/Private Hire Vehicle Drivers License and Badge.

An application will need to be considered by the Licensing Committee if:

1. there are relevant conviction(s)

2.0 DISCLOSURE AND BARRING ENHANCED LEVEL CERTIFICATE WITH A BARRED LIST CHECKS

- 2.1 In s113BA of the Police Act 1997 it specifies "in such cases as prescribed, an enhanced criminal record certificate must also include suitability information relating

to children” and in SI 13BB is specifies “in such cases as prescribed, an enhanced criminal record certificate must also include suitability information relating to adults.”

- 2.2 Considering an applicant’s suitability to obtain or hold a hackney carriage driver licence or a private hire driver licence are specified as ‘prescribed purposes’ in the s5 and s6 of the Police Act 1997 (Criminal Records) (No 2) Regulations 2009.
- 2.3 The suitability information relating to children and adults is obtained by submitting an application for an ‘Enhanced Level Disclosure with a Barred List Checks’. Two barred lists exist, one for children and one for adults.
- 2.4 As specified in the Police Act 1997, the enhanced criminal record certificate when considering an applicant’s suitability to obtain or hold a hackney carriage driver licence or a private hire driver licence, MUST also include suitability information, i.e. a barred list check, relating to children and adults.

3.0 ACCEPTING PREVIOUSLY ISSUED DBS ENHANCED LEVEL CERTIFICATES

- 3.1 The existing policy document does not make reference to accepting previously issued DBS Enhanced level certificates nor does it specify the duration a DBS Enhanced level certificate is considered to be valid.
- 3.2 Standard practice in Gwynedd and amongst other local authorities in Wales is to accept previously issued DBS Enhanced Level Certificates provided that they are less than 3 months old and certificates are considered to be valid for a period of 3 years from the date of issue.
- 3.3 The current cost of an Enhanced Level Certificate with barred list checks is £44.00. This fee is set nationally. An additional administration cost of £7.19 is imposed by the Council to process the application.
- 3.4 Taking the legal requirements into consideration, the practice of accepting previously issued DBS Enhanced level certificates may continue ONLY IF the previously issued certificate is an Enhanced Level Certificate and it includes the children barred list and adult barred list check.

4.0 RECOMMENDATION

- 4.1 That the Committee note that when considering an applicant’s suitability to obtain or hold a hackney carriage driver licence or a private hire driver licence ONLY Enhanced Level Certificates with a children barred list and adult barred list check may be accepted.
- 4.2 That the Committee decide that the practice of accepting previously issued Enhanced Level Certificates may continue ONLY IF they are dated less than 3 months from the date of issue to the date of application and include a children barred list and adult barred list check.
- 4.3 That the Committee decide that the ‘DBS Enhanced Level Certificate with the barred list checks’ of licensed hackney carriage/private hire vehicle drivers will be considered as being valid for 3 years from the date of issue.

COMMITTEE:	GENERAL LICENSING COMMITTEE
DATE:	22 JUNE 2015
TITLE:	THE SCHEME OF DELEGATION REGARDING THE DETERMINATION OF APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES WHEN THE VEHICLES DOES NOT COMPLY WITH THE AUTHORITY'S POLICY
PURPOSE:	FOR DECISION
AUTHOR:	HEAD OF REGULATORY DEPARTMENT

I.0 BACKGROUND INFORMATION

- I.1 The Committee decided on 17 September 2012 to delegate the power to the Head of Regulatory Department, in consultation with the Chair and Vice-chair of the General Licensing Sub-committee, to approve taxi vehicle licensing decisions for vehicles that do not comply with the authority's policy.
- I.2 On 8 December 2014, the Committee decided that an additional member, Councillor Peter Read was to be included on the 'decisions panel'.
- I.3 In October 2014, the Council Constitution was updated and provides in Appendix 3 to Section 13, regarding Officer Scheme of Delegation that the duties of the Head of Regulatory Department are:

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 Criminal Records Bureau discloses a conviction or police caution.

2.0 DECISIONS

- 2.1 During the period 17 September 2012 to 30 April 2015 a total of 73 licences have been granted for vehicles which are contrary to the current Gwynedd Council Hackney Carriage vehicle policy.

The 73 licences can be categorised as follows:

Replacement Vehicles - a total of 30 licences have been granted contrary to policy to proprietors as a replacement to an existing licensed vehicle.

Wheelchair Accessible over 3 years – a total of 16 licences were granted to proprietors of wheelchair accessible vehicles however the vehicles were contrary to the 3 year old policy requirement at the time of licensing.

Not Wheelchair Accessible under 3 years - a total of 9 licences were granted to proprietors of hackney vehicles that did not comply with the policy requirements in terms of wheelchair accessibility but did comply in terms of age requirement.

Not Wheelchair Accessible over 3 years – a total of 18 licences were granted to proprietors of hackney vehicles that did not comply with the policy requirements in terms wheelchair accessibility or age requirement.

- 2.2 During this period to April 2015, the records show that only 1 application was refused.

3.0 REVIEW OF CURRENT ARRANGEMENT

- 3.1 The number of applications to licence vehicles that fail to comply with the policy has increased considerably since the decision was made to delegate the licensing decisions to the Head of Regulatory in consultation with the 'decisions panel'.
- 3.2 The Licensing Unit received 9 applications in 2013, 48 applications in 2014 and 29 applications in the 2015 in first four months to alone.
- 3.3 The process of the consultation requires the licensing officer to consult and communicate decisions between the applicant and the three members of the 'decision panel'. The process is quite intensive as many applicants are anxious to receive a decision on their request as soon as possible.
- 3.4 A number of complaints have been made recently to the Council regarding delays and the way in which applications to licence a vehicle that does not comply with the policy are being processed. In light of these complaints the Head of Regulatory consulted with the Legal Department to obtain advice regarding the current arrangement for making decisions. Their advice was as follows:
- In accordance with the Council's Scheme of Delegation, decisions on formal applications are made by the General Licensing Sub-committee.
 - To have access to the appeal provisions of the Local Government (Miscellaneous Provisions) Act 1976, the applicant must submit a formal application.
 - The General Licensing Committee and Sub-committee have no power to provide advice.
 - Decisions must only be made on formal applications.
 - If members of the 'decision panel' failed to reach a decision then they would be excluded from voting on the case at the General Licensing Sub-Committee hearing.
- 3.5 The current procedure for dealing with applications to licence a vehicle contrary to policy must be reconsidered. The process must consider whether the requisition/representation received from the applicant satisfies the requirement of a 'formal application'. Requisitions that fail to satisfy the requirements of a 'formal application' cannot be decided upon.

4.0 'FORMAL APPLICATION' or 'APPLICATION IN PRINCIPLE'

- 4.1 A 'formal application' is one that satisfies the requirements of s40 of the Town Police Clauses Act 1847. The requirements are as follows:

- The proprietor or one of the proprietors of the hackney carriage in respect of which a licence is applied for, must sign a requisition for that purpose.
 - The requisition shall state
 - the name, surname and place of abode of the person applying for such licence
 - the name, surname and place of abode of every proprietor or part proprietor of the hackney carriage
 - the name, surname and place of abode of every person concerned either solely or in partnership with any other person, in the keeping, employing or letting to hire of the hackney carriage.
- 4.2 The council also has the power under s57 Local Government (Miscellaneous Provisions) Act 1976, to require applicants to submit such information as they may reasonably consider necessary to determine whether the licence should be granted.
- 4.3 The current vehicle licensing application forms used by the council requires the applicant to provide the following information and documentation.
- Vehicle registration number
 - Make and type of vehicle
 - Engine capacity c.c. (as described on the vehicle's registration document)
 - Colour of vehicle (as described on the vehicle's registration document)
 - Number of passengers
 - Place(s) where vehicle is normally kept when not in use
 - Provide a copy of the Vehicle Registration Document (on first application only)
 - Provide a copy of the MoT Test Certificate if the vehicle is over 3 years old
 - Provide a copy of the Certificate of Insurance for the vehicle confirming use for 'Plying for Hire'
 - Provide a copy of the Home Office Radio Licence (If applicable)
- 4.4 Applications that satisfy the requirements of s40 TPCA 1847 and s57 LG(MP)A 1976, should be treated as a 'formal application' and should conclude with a hackney carriage licence being granted or refused.
- 4.5 Applications that fail to satisfy these requirements cannot be decided upon and will therefore be treated as an 'application in principle'. Every application in principle will conclude with advice being given to the applicant, on a without prejudice basis, on the likely outcome of their request, before submitting a formal application.

5.0 RECOMMENDATION

- 5.1 That the Committee decide that all 'formal applications' for hackney carriage/private hire vehicles when the vehicle does not comply with the authority's policy, are determined in accordance with the Council's Constitution dated October 2014, i.e. will be decided by the General Licensing Sub-committee. The process will then allow for the applicant the right to appeal the decision.
- 5.2 That the Committee decide that all 'applications in principle' i.e. those that fail to satisfy the requirements of a formal application are provided with pre-application advice from the Licensing Unit, on a without prejudice basis, on the likely outcome of their request, before submitting a formal application.

- 5.3 In light of the above and the impact the changes specified in the Deregulation Act 2015 will have on the Taxi and Private Hire Licensing schemes, that the Committee agrees that the policies and working practices relating to Taxi and Private Hire Licensing are updated and reviewed. The policies to be reviewed are:-
- Combined Hackney Carriage/Private Hire Vehicle Driver Licence Policy
 - Private Hire Operator's Licensing Policy
 - Hackney Carriage & Private Hire Vehicle Licensing Policy