



Complete Agenda

Democratic Services
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Meeting

GENERAL LICENSING COMMITTEE

Date and Time

10.00 am, MONDAY, 5TH MARCH, 2018

Location

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

Contact Point

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(DISTRIBUTED Friday, 23 February 2018)

GENERAL LICENSING COMMITTEE

MEMBERSHIP (15)

Plaid Cymru (8)

Councillors

Steve Collings
Dafydd Owen
Rheinallt Puw
Elfed Williams

Annwen Hughes
Edgar Wyn Owen
Peter Read
Annwen Daniels

Independent (5)

Councillors

John Brynmor Hughes
Jason Wayne Parry
Angela Russell

Eryl Jones-Williams
Dewi Wyn Roberts

Llais Gwynedd (1)

Councillor
Gareth Williams

Lib / Lab (1)

Sion W. Jones

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 - 6

The Chairman shall propose that the minutes of the meeting of this Committee, held on 11.12.17 be signed as a true record.

5. GENERAL LICENSING SUB-COMMITTEE MINUTES

7 - 10

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

a) 12.01.2018

6. HACKNEY CARRIAGE METER SPECIFICATION.

11 - 13

To consider the report of the Head of Environment

7. REVIEW OF GWYNEDD COUNCIL TAXI POLICY

To receive verbal update on recent developments

Agenda Item 4

GENERAL LICENSING COMMITTEE, 11.12.17

Present: Councillors Steve Collings, Eryl Jones-Williams, Dafydd Owen, Edgar Wyn Owen, Rheinallt Puw, Peter Read, Dewi Roberts, Elfed W. Williams and Gareth Williams

Also in Attendance: Gareth Jones (Senior Planning and Environment Manager), Gwenan Mai Roberts (Licensing Manager), Geraint B. Edwards (Solicitor) and Lowri Haf Evans (Member Support Officer)

1. APOLOGIES

Apologies had been received by Councillors Annwen Daniels, Annwen Hughes, John Brynmor Hughes, Sion Jones and Jason W Parry.

2. DECLARATION OF PERSONAL INTEREST

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

3. URGENT ITEMS

None to note

4. MINUTES OF THE PREVIOUS MEETING

The Chair signed the minutes of the meeting of this Committee, that took place on 11 September 2017, as a true record.

5. MINUTES OF THE GENERAL LICENSING SUB-COMMITTEES

Submitted - for information, the minutes of a meeting of the General Licensing Sub-committee held on 22.8.17 and 13.11.17.

6. IMPLEMENTATION OF THE EQUALITY ACT 2010 - ACCESSIBLE TAXIS FOR WHEELCHAIRS

Submitted – the report of the Head of Environment advising the Members on the elements of the Equality Act 2010 that have been operational since April 2017. It was reported that sections 165, 166 and 167 which are relevant to vehicles accessible to wheelchairs, made it a requirement for the Licensing Authority to decide whether they wish to publish the list of vehicles that have been designated as accessible. The intention was to ensure that better information would be available for wheelchair users about the vehicles that were suitable for them in their areas, and for them to be confident that they would receive the required assistance to travel safely.

It was noted that Section 167 of the Act gave the Authority permission to maintain a designated list of vehicles accessible to wheelchairs. Although there was no legal obligation or statutory requirement to maintain a list, it was noted that the government strongly suggested that Local Authorities should ensure that the list was correct and up-to-date. Reference was made to the statutory guidelines the Transportation Unit had determined in regards to implementing the sections along with a recommendation to which process the Local Authorities should consider to ensure that the Act was implemented effectively.

It was reported that there were 53 licensed vehicles that would be designated as accessible to wheelchairs in Gwynedd (13% of the County's total). It was noted that publishing a list would be a way to encourage and increase in licence applications for such vehicles and would be an encouragement for companies to realise the potential economic value of including accessible vehicles as a part of their fleet.

During the ensuing discussion, the following points were highlighted by individual Members:

- A list would set the framework for Gwynedd Council's provision
- It would be a good guide to promote service
- There would be a possibility of collaborating and sharing the list with the County's hospitals
- Ideally, every hackney vehicle should be accessible to wheelchairs and that this should be the vision for the future
- There was a need to introduce the new system gradually to encourage use of multi-purpose vehicles - The Council needed to be innovative
- Smaller companies more likely to invest following public pressure
- It would be a challenge for the department to keep the list up-to-date

RESOLVED to approve:

- a) **implement the requirements of sections 165, 166 and 167 of the Equality Act 2010.**
- b) **officers to prepare a policy to be considered by the committee on the criteria for the exceptions and the procedures for drivers who are not able to conform to the duties imposed by the Act for medical or physical reasons.**
- c) **the policy provision for implementing these procedures to be included in the upcoming review of taxis policies; and include them in the unitary taxi policy which will be ready to be consulted upon soon.**

7. REVIEW OF GWYNEDD COUNCIL TAXI POLICIES

An oral update from the Licensing Manager was provided on the process of reviewing all Gwynedd Council taxis policies and the Members were reminded that the intention was to submit one unitary policy which would include the Committee's decision to implement sections 165, 166 and 167 of the Equality Act. It was reported that James Button (JB) (Specialist lawyer in the licensing field) was also conducting a national review to strengthen and improve the convictions policy. It was added that Gwynedd Council welcomed this work and appreciated any improvements / updates, as the Council made extensive use of the policy when considering hackney license / taxi driver applications. It was reported that JB's

review would likely be completed by April 2018 and that any adaptations would be included in Gwynedd's unitary policy.

During the ensuing discussion, the following points were highlighted by individual Members:

- The need to rationalise and reconcile the policies for the three areas in Gwynedd was welcomed
- Needed to ensure a general convictions policy for everyone - the policies were currently being misinterpreted which made some situations difficult
- Needed to ensure that the adaptations / changes were implemented at the same time
 - one adaptation

In response to an observation regarding the timetable for publishing the unitary policy, it was emphasised that this was dependent on ensuring that all elements were ready along with conducting a formal and official consultation. It was added that the elements would be driving the timetable, but hopefully the unitary policy would be operational by June 2018.

The information was ACCEPTED.

The meeting commenced at 10:00am and concluded at 10:50am

GENERAL LICENSING SUB-COMMITTEE 12.01.2018

Present: Councillor Eryl Jones-Williams (Chair), Councillors Steve Collings and Dafydd Owen

Officers: Geraint B Edwards (Solicitor), Gwenan M Roberts (Licensing Manager), and Lowri Haf Evans (Member Support Officer).

1. APOLOGIES

None to note

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 due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12 A, 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, nor 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 Chairman welcomed everyone to the meeting. He highlighted that the decision would be made in accordance with Gwynedd Council'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 and the aim was to protect the public by ensuring that:

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

The Licensing Manager presented a 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 DBS record, and the guidelines on relevant criminal offences and convictions.

The applicant was invited to expand on the application and provide information about the background of the offences. He highlighted that he was very fond of driving and had been driving lorries for 35 years. He noted that he had been offered a taxi driver job with a local company. He had not considered bringing a representative with him to the hearing. The

applicant withdrew from the room while the Sub-committee members discussed the application.

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

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

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- the applicant's application form
- verbal observations presented by the applicant during the hearing
- the Licensing Department's report along with the DBS statement disclosing the convictions

Specific consideration was given to the following matters.

The conviction (received from Porthmadog Magistrates' Court - July 1982) was for using threatening, abusive or offensive language or behaviour contrary to section 5 of the Public Order Act 1936, in addition to an ABH assault contrary to section 47 of the Offences Against the Person Act 1861. The applicant received a £100 fine and an order to pay costs of £3 for the public order offence, and he received a fine of £100 for the ABH offence. Attention was drawn to the fact that he had no convictions for crimes of a violent nature.

Paragraph 6.5 of the Council's Policy was considered, where it was noted that the application would usually be refused when the applicant had one conviction for ABH that was less than three years old. As the conviction had taken place over 35 years ago, the Sub-committee was satisfied that the conviction was not a reason for refusing the application.

The conviction (received from Mold Magistrates' Court - March 2017) was for a series of environmental offences (two charges of keeping controlled waste in a manner likely to cause pollution of the environment or harm to human health contrary to section 33(1) (c) of the Environmental Protection Act 1990, and seven charges contrary to regulation 38 of the Environmental Permitting (England and Wales) 2010 Regulations). For the charge under the 1990 Act, the applicant was sentenced to six months in prison; for the second charge under the same Act, he was sentenced to four months in prison (running consecutively) and for one charge under Regulations 2010, he received a six month prison sentence (again, running consecutively). No separate penalties were received for the other charges under the 2010 Act.

Although the conviction did not appear relevant to any of the categories of offences that are specifically addressed in the Policy (violent or sexual crimes, or crimes relating to dishonesty, drugs or driving offences, etc.), the Sub-committee considered that the application fell under paragraph 17 - general breach of legislation. The paragraph noted that it was unlikely that a licence would be granted to an applicant with a conviction for breaching legislation, unless a 12 month period had passed since the most recent case.

Having considered the applicant's observations that the charge relating to breaches extended over a period from 2014 to August 2016 where a period of 16 months had passed since the date the most recent breach, the Sub-committee was satisfied that this was outside of the exclusion period. In addition, with an honest explanation on the failure of his business to conform to licensing requirements, which led to the conviction in March 2017, the Sub-committee was satisfied that the conviction was not a case of putting profit

before safety and that the applicant had behaved responsibly towards his staff when attempting to maintain the viability of the business for as long as possible.

As the Sub-committee had also considered that the applicant had previous experience of driving as a living - he was a driver in the RAF between 1979 and 1983, and had held a class 1 lorry licence for 35 years, it was deemed that the applicant was a fit and proper person to hold a hackney vehicle and private hire driver's licence.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the Licensing Unit would confirm the licence's arrangement.

6. APPLICATION FOR HACKNEY/PRIVATE HIRE DRIVER'S LICENCE - Ms B

The Chairman welcomed everyone to the meeting. He highlighted that the decision would be made in accordance with Gwynedd Council'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 and the aim was to protect the public by ensuring that:

- A 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 their use of licensed vehicles.

The Licensing Manager submitted the written report on the application received from Ms B for a new hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the DBS record, and the guidelines on relevant criminal offences and convictions.

The applicant was invited to expand on the application and provide information about the background of the offences. She highlighted that the crimes had taken place during her teenage years and that she was now a mother to three children and was trying to do the best for them. She reiterated that she had written letters of apology to everyone who had been affected by her behaviour in January 2004. She noted that she had been offered a part-time job driving a taxi to transport children, the elderly and the disabled. Her wish was to assist and offer a service for the public. The applicant withdrew from the room while the Sub-committee members discussed the application.

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

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

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire'
- the applicant's application form
- verbal observations presented by the applicant and his representative during the hearing
- the Licensing Department's report along with the DBS statement that disclosed convictions

Specific consideration was given to the following matters.

The applicant had received a conviction from Caernarfon Magistrates' Court - February

2004 for a series of offences that took place on January 2004, of taking a motor vehicle without permission and two charges of theft. As a result, the applicant received an 11 month referral order and an order to pay costs of £25.00. The applicant had no other convictions.

Paragraph 8.2 of the Policy was considered, where it was noted that the application would usually be refused when the conviction of theft was less than three years old. As the conviction had taken place over 13 years ago, the Sub-committee was satisfied that the conviction was not a reason for refusing the application. The Sub-committee also considered section 12 and 13 of the Policy in relation to the offence of taking without consent. The Sub-committee found that the conviction was tantamount to a minor driving offence, and it should not be reason for refusing the application.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant with details of her right to appeal.

The meeting commenced at 10.55am and concluded at 12.20pm.

PWYLLGOR	GENERAL LICENSING COMMITTEE
DYDDIAD:	5 MARCH 2018
TEITL:	HACKNEY CARRIAGE METER SPECIFICATION
PWRPAS:	TO APPROVE THE REVIEW OF THE LICENCE CONDITIONS IN RESPECT OF INSTALLATION AND USE OF TAXIMETERS
AWDUR:	HEAD OF ENVIRONMENT

1.0 BACKGROUND AND RECENT DEVELOPMENTS

- 1.1 The Council is the licensing authority for hackney carriage vehicles by virtue of the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The authority sets licence conditions that must be complied with for a vehicle licence to be granted.
- 1.2 Gwynedd Council hackney carriage byelaws and the Local Government (Miscellaneous Provisions) Act 1976 require all hackney carriages to be fitted with a taximeter.
- 1.3 Taximeters are devices for registering the fare of a journey based on a combination of the distance travelled and waiting time. Taximeters are predominately electronic computing devices which measure distance using a transponder to convert vehicle movement to distance travelled and displays a constantly updated fare for the journey showing how much the hiring is costing. The licensing authority is responsible for setting the maximum fare that a hackney carriage driver can charge for any journey within Gwynedd Council and the taximeter must be set accordingly. Hackney carriage vehicles must be equipped with a taximeter which must be used when a passenger hires the vehicle.
- 1.4 The use of a taximeter has advantages for both the driver and passenger. The display of the fare clearly indicates to the passenger what the fare will be and the driver does not have to manually calculate the fare. The fare charged is therefore transparent and clear and assists in minimising disputes. Members of the public rely on licensed vehicles to transport them throughout Gwynedd and it is important that they can rely on the accuracy of the fitted taximeter.
- 1.5 Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 gives power to any authorised officer of the Council or any constable to inspect and test, for the purpose of ascertaining its fitness, any taximeter fitted to a hackney carriage.
- 1.6 The Measuring Instruments (Taximeters) Regulations 2006 came into effect on 30th October 2006. These regulations implement the EU Measuring Instruments Directive (MID) in relation to taximeters. All taximeters must comply with these regulations and be approved by a notified body designated by the Secretary of State. It is an offence under Regulation 4(2) to place on the market, and put into use, a taximeter that does not comply with the regulations and which has not been Authorised by a notified body; (notified bodies are those designated by the Secretary of State as persons /organisations that meet the notified body criteria).
- 1.7 In recent years there has been a rise in the use of Global Positioning Systems (GPS) to measure fares in licensed vehicles. This system comprises of an office based central dispatch system linked to a mobile data terminal in the vehicle using GPS. The mobile data terminal is similar to a satellite navigation terminal, but also

includes a taximeter function.

1.8 GPS systems are used by operators to manage and dispatch vehicles to customers and can also be used to calculate the fare for the journey. A few local companies have started to use such devices instead of approved taximeters; and the legal situation in respect of the use of such systems has been considered.

Whilst new technology is welcomed, no GPS system currently complies with the requirements of the Measuring Instruments (Taximeters) Regulations 2006 and therefore cannot be used as an approved taximeter.

2. CURRENT CONDITIONS

The current conditions in respect of taximeters are worded accordingly –

A hackney carriage shall always be fitted with a taximeter and every taximeter, shall comply with the following requirements:-

- (a) the taximeter shall be fitted with a key, flag or other device, the turning of which brings the machinery or the taximeter into operation and causes the word "HIRED" to appear on the face of the taximeter.
- (b) such key, flag or other device shall be capable of being locked in a position so that the machinery of the taximeter is not in operation and that no fare is recorded on the face of the taximeter.
- (c) when the machinery of the taximeter is in operation there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate of fare which has been set by this authority as duly notified in writing to the operator.
- (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as to relate clearly to the fare recorded on it.
- (e) the taximeter shall be so placed that all letters and figures displayed on it are at all times plainly visible to any person being conveyed in the licensed vehicle, and for that purpose the letters and the figures shall be capable of being suitably illuminated during any period of hiring.
- (f) the taximeter and all ancillary fittings shall be affixed to the licensed vehicle with seals or other appliances at the time of fitting so that it shall not be practicable for any persons to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances. The meter shall be used for each and every run. The fare charged shall not be more than that displayed on the meter.
- (g) the taximeter must be maintained in a satisfactory working condition and must be presented for inspection at the place designated by an authorised officer of the Council or a Constable if so required by a notice under Section 68 of the Act or to comply with Condition 9 above.

3. PROPOSED CONDITIONS

3.1 Hackney carriages in Gwynedd are not currently required to have their taximeter periodically tested.

It is proposed that the following condition be inserted into the meter and equipment specification section of the hackney carriage conditions.

3.2 "All hackney carriages must be fitted with a taximeter of approved design, properly sealed and tested and all such taximeters must be kept in good repair and proper working order clearly visible to all passengers without affecting passenger comfort or infringing construction and use regulations.

3.3 *The vehicle proprietors will be required to provide a certificate upon first application for a vehicle licence confirming that the taximeter is of an approved specification and has been fitted in accordance with The Measuring Instruments (Taximeters) Regulations 2006.*

3.4 *The fitted meter shall be calibrated to include only Gwynedd Council tariffs applicable to the number of passengers permitted in that vehicle. The proprietor shall produce annually to the Licensing Authority a certificate issued by a taximeter installer/tester approved by the Licensing Authority stating that the meter is accurate and contains only the current Gwynedd Council hackney carriage tariff.”*

3.5 These proposed new conditions will provide a robust process for ensuring taximeters are set to the correct tariff, helping to maintain public trust that the fare charged on the meter is correct.

3.6 As stated in paragraph 3.4, it proposed that vehicle proprietors will produce a certificate annually to show that the taximeter is accurate and only contains the Gwynedd Council hackney carriage tariff.

3.7 It is therefore proposed that the licensing unit will establish a list of approved taximeter testers to fit and undertake annual tests . It will be the responsibility of the proprietors of the vehicles to pay for the fitting and annual checking of each taximeter.

3.8 As stated in paragraph 3.3 all taximeters must comply with the requirements outlined in The Measuring Instruments (Taximeters) Regulations 2006. There are currently no GPS systems on the market that comply with these regulations.

3.9 It is proposed that a condition is added to the hackney carriage vehicle licence conditions clarifying the current legal status of GPS taxi management and dispatch systems. Below is the proposed condition

“A GPS taxi management & dispatch system consisting of a mobile data head and a central dispatch system may be fitted in accordance with the manufacturer’s instructions. The GPS system is not a taximeter. It can be used alongside the vehicle’s approved taximeter but must not replace it.”

3.10 The proposal will require consultation with the trade, and this will be undertaken as a part of the wider consultation on the review of the taxi licence policies.

4. FINANCIAL IMPLICATIONS

4.1 Annual testing of taximeters will be undertaken and paid for by the trade, which will not increase the financial burden on taxi proprietors fully complying with the current conditions in respect of taximeters.

5. RECOMMENDATIONS

That the committee approve the proposal to amend the conditions in respect of taximeters as a part of the wider review of taxi licensing policies and conditions which is currently being undertaken.