



# Complete Agenda

**Democratic Services**  
Swyddfa'r Cyngor  
CAERNARFON  
Gwynedd  
LL55 1SH

Meeting

**GENERAL LICENSING COMMITTEE**

Date and Time

**10.00 am, MONDAY, 10TH DECEMBER, 2018**

Location

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

Contact Point

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(DISTRIBUTED Friday, 30 November 2018)

# **GENERAL LICENSING COMMITTEE**

## **MEMBERSHIP (15)**

### **Plaid Cymru (8)**

Councillors

Steve Collings  
Dafydd Owen  
Peter Read  
Vacant Seat - Plaid Cymru x 2

Annwen Hughes  
Edgar Wyn Owen  
Elfed Williams

### **Independent (4)**

Councillors

John Brynmor Hughes  
Jason Wayne Parry

Eryl Jones-Williams  
Angela Russell

### **Llais Gwynedd (1)**

Councillor  
Gareth Williams

### **Individual Member (2)**

Councillor  
Sion W. Jones

Vacant Seat - Individual Member

### **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 10 September 2018 be signed as a true record.

## **5. GENERAL LICENSING SUB-COMMITTEE MINUTES**

6 - 11

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

- a) 10.09.2018
- b) 17.10.2018

## **6. REVIEWING ARRANGEMENTS FOR MECHANICAL TESTS OF TAXI VEHICLES**

12 - 13

To consider the report of the Head of Environment

## **7. INFORM THE COMMITTEE OF THE NEXT STEPS IN RELATION TO DEVELOPMENT OF THE NEW UNIFIED TAXI LICENSING POLICY**

Purpose – to verbally inform the members of the intention to establish a Task and Finish Group of members to consider the main aspects of the draft Unified Taxi Licensing Policy, before public consultation – and to establish terms of reference for the group.

# Agenda Item 4

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## GENERAL LICENSING COMMITTEE, 10.09.18

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**Present:** Councillors, Steve Collings, Annwen Hughes, Eryl Jones-Williams, Dafydd Owen, Edgar Wyn Owen, Jason Wayne Parry, Peter Read, Angela Russell, Elfed W. Williams and Gareth Williams.

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

### 1. APOLOGIES

Apologies were received from Councillor John Brynmor Hughes, Siôn Jones, Rheinallt Puw and Annwen Daniels.

### 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 Chairman signed the minutes of the previous meeting of this committee held on 11 June 2018 as a true record.

### 5. MINUTES OF THE GENERAL LICENSING SUB-COMMITTEE

Submitted - for information, the minutes of a meeting of the General Licensing Sub-committee that took place on 22.05.2018, 17.07.2018 and 24.07.2018.

### 6. PROPOSED TAXI LICENCE FEES 2018/19

A report was presented by the Head of the Environment Department on the response to the public consultation regarding increasing taxi licence fees in order to ensure that costs associated with licensing administration are fully recovered. Members were reminded that Sections 53 and 70 of the Local Government

(Miscellaneous Provisions) Act 1976 state that fees may be charged at a level sufficient to recover reasonable costs; the increase on average will be 28%.

It was reported that the consultation had expired on 30th August and it was confirmed that no objections or written observations had been received. It was highlighted that one local company had mentioned in an email that it would be an idea to review the fares the industry can charge customers. This observation was received as no application for a review had been made for years.

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

- Much work had been done to address and protect the industry in the past
- An application for a three-year licence was ultimately cheaper than a one-year licence and that the saving was substantial.

In response to a comment that a suggestion had been made to review customer fares, it was noted that a written request was required from an industry representative in order to formally commence the process. It was added that the officers would encourage the industry to submit a letter.

In response to a question regarding briefing discussions with Cabinet Members, regarding the matter, it was reported that regular meetings took place with the Cabinet Member and the Cabinet Member was aware that the principle was to recover the costs.

In response to a question regarding reviewing and reconciling the regulations across Gwynedd, it was noted that this would be considered when reviewing Gwynedd Council Taxi Policies.

**It was RESOLVED to finally approve the proposal to increase the fees to be operational from 1st October 2018, to the level recommended; in accordance with the procedure outlined in the public consultation.**

The meeting commenced at 10.00am and concluded at 10:15am.

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## GENERAL LICENSING SUB-COMMITTEE 10.09.2018

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**Present:** Councillor Peter Read (Chairman), Councillors Jason W Parry and Dafydd Owen.

**Officers:** Geraint B. Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager), Rhian Jones (Licensing Officer) 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
- The safeguarding of children and young people
- The safeguarding of vulnerable persons
- The public have confidence in their use of licensed vehicles.

The Licensing Officer 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 DBS record, and the guidelines on relevant criminal offences and convictions.

The applicant was invited to expand on his application and provide information about the background of the offences and also his personal circumstances. He noted that he had experience of driving a car for work and that was at night. He highlighted that a local company had offered him a job if his application was to be successful.

The applicant withdrew from the room whilst 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 convictions.

Specific consideration was given to the following matters.

The applicant had received a formal warning from North Wales Police (February 2015) on two charges concerning the possession of drugs contrary to section 5 (2) of the Misuse of Drugs Act 1971.

The applicant received a conviction from Gwynedd Magistrates' Court (January 2016) on two charges of being in possession of goods with a false trade mark to be sold or hired contrary to section 92 (1)(c) of the Trade Marks Act 1994. He received a 12 month community order together with an order to pay costs, unpaid work and a victims surcharge.

Paragraph 2.2 of the Council's Policy was considered, this states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to remain free of conviction for an appropriate period as stated in the Policy, and to show evidence that he/she was a fit and proper person to hold a licence. The applicant has a responsibility to show that he/she is a fit and proper person.

Paragraph 4.5 of the Council policy 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 8 of the Policy states that an application will normally be refused where the applicant has a conviction that is less than 3 years prior to the date of application for a crime regarding dishonesty.

Paragraph 9.4 of the Policy states that an application will normally be refused where the applicant has an isolated conviction for an offence related to the possession of drugs within the last 3 years. It was also noted that the nature of the drugs in question should be considered.

Paragraph 17 of the Policy notes that an applicant with a conviction is unlikely to be granted a licence unless a period of at least 12 months has elapsed since the most recent breach.

The Sub-committee concluded that the warning in 2015 concerned drugs, however, as the offence had occurred 3 years and 7 months ago, the period of three years had elapsed. Therefore, there was no reason to refuse the application.

In considering the 2016 conviction the Sub-committee needed to see if the conviction fell under the Policy's dishonesty provisions. Following legal advice, it was highlighted that

dishonesty under section 92 (1) (c) did not need to be proven under the Trade Marks Act 1994. It was concluded that the ban under section 8 of the Policy was not relevant to this conviction. The general provision under section 17 of the Policy was considered, however, as the conviction was in relation to an offence that had occurred over 3 years ago, there was no grounds to refuse the application.

The Sub-committee was also grateful to the applicant for being open and honest when he explained the circumstances of the convictions.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant and that he also had the right to appeal against the Sub-committee's decision within 21 days of receiving the letter.

The meeting commenced at 13:00pm and concluded at 13:25pm



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## GENERAL LICENSING SUB-COMMITTEE 17.10.2018

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**Present:** Councillor Peter Read (Chairman), Councillors Stephen Collings and Gareth Williams

**Officers:** Geraint B. Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager), Rhian Jones (Licensing Officer) 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
- The safeguarding of children and young people
- The safeguarding of vulnerable persons
- The public have confidence in their use of licensed vehicles.

The applicant was invited to expand on his application and provide information about the background of the offence and also his personal circumstances. Mr A noted that his behaviour was out of character and that he was not a violent person. He regretted what had happened and had been annoyed for some time by the victim. He added that he had a quality taxi company, that he employed local drivers and his priority was to retain the business.

The video was shown to the Sub-committee and the applicant explained the incident.

The applicant withdrew from the room whilst 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, documents, photographs submitted by the applicant during the hearing
- reference letters received supporting the applicant's application.
- the Licensing Department's report along with the DBS statement disclosing convictions.

Specific consideration was given to the following matters.

The applicant had received a formal warning from North Wales Police (May 2018) on a charge of assaulting a person contrary to section 39 of the Criminal Justice Act 1988.

Paragraph 2.2 of the Council's Policy was considered, this states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to remain free of 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 applicant has a responsibility to show that he/she is a fit and proper person.

Paragraph 2.3 of the Policy was considered, where reference is made to formal warnings.

Paragraph 6 of the Policy addresses offences of violence and paragraph 6.2 notes that an application where an applicant who has been found guilty of violence-related offences is unlikely to receive a licence until they have been free from such convictions for at least three years.

Paragraph 6.5 of the Policy states that an application for a licence will usually be refused if the applicant has a matter to be considered (including warnings) for common assault that is less than three years prior to the date of application.

The Sub-committee concluded that the warning dating from 2018 was in relation to a violent offence. It was noted that the warning had occurred less than 6 months ago and was therefore within three years. In accordance with paragraph 6.5 of the Policy, and the recommendation of the Licensing Manager, the initial considerations were in favour of refusing the application. However, the Sub-committee was also aware that the Policy was only a guide, and that it was possible to deviate from it if there was justification.

The Sub-committee determined that the circumstances of this application justified a deviation from the Policy, for the following reasons:

- That the applicant had shown remorse for the assault
- The incident was out of character and this was highlighted in the many reference letters received supporting the applicant's application
- That there was no record of any conviction or warning against the applicant as noted on the DBS record
- That the applicant was already under caution by the Police and was therefore aware not to breach the law again
- That the attack was not a violent one against the public, but rather against another competitor in the taxi industry.
- The victim of the attack was not without blame. The attack had been provoked, in a location that had CCTV coverage
- The attack had arisen in the context of a lengthy campaign of harassment and provocation by the victim of the attack
- An honest explanation was given as to why the applicant had not appealed against the decision (11.05.18) to remove his licence - he was going through a difficult personal time regarding his son's health.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the Licensing Unit would be in contact to confirm the licence documentation.

The meeting commenced at 14.15pm and concluded at 15.25pm

# Agenda Item 6

<b>COMMITTEE</b>	<b>GENERAL LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>10 DECEMBER 2018</b>
<b>TITLE:</b>	<b>REVIEWING ARRANGEMENTS FOR MECHANICAL TESTS OF TAXI VEHICLES</b>
<b>PURPOSE:</b>	<b>APPROVE A NEW PROCEDURE OF TESTING VEHICLES OVER 10 YEARS OLD FROM APRIL 2019</b>
<b>AUTHOR:</b>	<b>HEAD OF ENVIRONMENT DEPARTMENT</b>

## 1.0 BACKGROUND INFORMATION

It is a requirement that every hackney and private hire vehicle has a standard MOT test annually. It is also a condition that every vehicle receives a mechanical test by the council prior to submitting an application for a vehicle licence. In addition, the vehicle must have a mechanical test (LA test) once a year whilst the vehicle is licensed. The vehicle licensing conditions also require two mechanical tests during the year once the vehicle reaches 10 years old. These tests are key to ensuring the safety of taxi vehicles.

- 1.1 These requirements are incorporated as licensing conditions and have been adopted in the Council's taxi vehicle licensing policy. Also, the requirements were based on the guidelines provided by the Ministry of Transport's good practice guidance.
- 1.2 Vehicle owners are responsible for paying and arranging mechanical tests themselves, and a copy of the inspection form is sent to the Licensing Unit once the test has been undertaken.
- 1.3 At a meeting of this Committee on 25 June 2012, members agreed to enable garages throughout Gwynedd to register an interest to conduct these tests for the taxi industry. Prior to this, there were three designated garages in the county (including the Council's garage in Dolgellau) authorised to undertake tests on taxi vehicles. Vehicle owners found it difficult to get inspection appointments for their vehicles with only three garages; therefore it was decided to ask eligible garages throughout the County to register an interest in offering the service.
- 1.4 By now 16 garages have been authorised to conduct the tests. The industry has welcomed the flexibility and the choice this has allowed.
- 1.5 Every authorised garage is qualified to undertake MOT tests and therefore operate in accordance with national statutory standards. The number of mechanical tests required over the next 12 months on vehicles are currently as follows -

<b>Area</b>	<b>No. of mechanical tests currently required up to December 2019</b>
Arfon	270
Dwyfor	91
Meirionnydd	63

## 2. REASONS FOR REVIEWING THE PROCEDURE

- 2.1 In 2012, this Committee approved the flexibility to allow some first time vehicle licence applications for vehicles older than the age noted in the policy. This step was taken in

response to the economic situation; based on the argument that it is the mechanical condition and the safety of the vehicle which is key to ensuring public safety; rather than the actual age of the vehicle itself.

- 2.2 Consequently, a continuous review of our vehicle testing arrangements is required to ensure that the vehicles receive the required checks; and that the standards of the test remain high, with consistency between garages.
- 2.3 Recently, there has been a small increase in the number of complaints received about the condition of vehicles; and officers on some occasions have used their enforcement powers during random inspections to refer vehicles to have an additional mechanical test due to specific concerns about the condition of the vehicle.
- 2.4 A number of Councils due to concerns over controlling the standard and consistency of mechanical tests, authorise council garages that serve the Authority's fleet of vehicles to undertake the mechanical tests on licensed vehicles.  
It is reported that this is beneficial as it is possible to keep a tight control on the standards and it is also an opportunity to generate income for the Council.

### **3. DISCUSSIONS WITH THE COUNCIL'S GARAGES MANAGER**

- 3.1 There are 3 garages under the Council's ownership that maintain the Council's fleet of vehicles across the County. The garage in Dolgellau already offers a mechanical test service for taxi vehicles, as there has not been much interest in the area from private garages.
- 3.2 Following an assessment of the workload and capacity of the Council's garages - the following has been proposed -
  - That cars over 10 years old requiring two mechanical tests per annum are referred to the Council garages at Cibyn, Pwllheli and Dolgellau for the tests.
  - That three other garages are authorised as 'reserve' garages during the periods when Council garages are too busy to undertake the tests.
  - That a procedure is established to enable vehicle owners to be able to make arrangements and pay to have vehicle tests in Council garages via a self-service electronic form.
  - That a discussion takes place with the Royal Mail's vehicle testing centre in Llandygái in order to try and find out if they would be interested in offering a taxi vehicle testing service.
  - That Council garages continue to receive cars for testing occasionally that are randomly referred by the Licensing enforcement officer, in accordance with the inspection powers under section 68 of the Local Government (Miscellaneous Provisions) Act 1976; whatever the age of the vehicle.
  - That it is intended that the arrangement will be operational from April 2019 if the Committee approve this.
  - That vehicles under 10 years old continue to be tested in accordance with the current procedure.

### **RECOMMENDATION**

That the Committee approve the arrangement recommended in 3.2 above.