



Complete Agenda

Democratic Services
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Meeting

GENERAL LICENSING COMMITTEE

Date and Time

10.00 am, MONDAY, 2ND DECEMBER, 2019

Location

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

Contact Point

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(DISTRIBUTED Friday, 22 November 2019)

GENERAL LICENSING COMMITTEE

MEMBERSHIP (15)

Plaid Cymru (8)

Councillors

Steve Collings
Dafydd Owen
Peter Read
Vacant Seat - Plaid Cymru

Annwen Hughes
Edgar Wyn Owen
Elfed Williams
Gareth Jones

Independent (4)

Councillors

John Brynmor Hughes
Jason Wayne Parry

Eryl Jones-Williams
Angela Russell

Llais Gwynedd (1)

Councillor Gareth Williams

Individual Member (2)

Councillor Roy Owen

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 9th September 2019 be signed as a true record.

5. GENERAL LICENSING SUB-COMMITTEE MINUTES

6 - 24

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

- a) 01.08.2019
- b) 18.09.2019
- c) 20.09.2019
- d) 07.10.2019

6. DELEGATION OF POWERS TO DETERMINE APPLICATIONS FOR TAXI LICENCES.

25 - 29

To consider the report

Agenda Item 4

GENERAL LICENSING COMMITTEE, 09.09.19

Present: Councillors Steve Collings, Annwen Hughes, Gareth Jones, Eryl Jones-Williams, Edgar Wyn Owen, Dafydd Owen, Roy Owen, Jason Wayne Parry, Angela Russell, Elfed W. Williams (Chair) and Gareth Williams

Also in Attendance: Gareth Jones (Assistant Head - Planning and Environment), Gwenan Mai Roberts (Licensing Manager), and Lowri Haf Evans (Member Support Officer)

Others invited: Councillor Gareth Griffiths, Cabinet Member for the Environment

1. APOLOGIES

Apologies was received from Councillors John Brynmor Hughes and Peter Read

Councillor W. Roy Owen was welcomed as a new member of Central Licensing Committee.

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 a meeting of this Committee, that took place on 3 June 2019, 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 03.06.19 and 20.06.19

6. MAXIMUM HACKNEY CARRIAGE TAXI FARES

Submitted – a report by the Head of the Environment Department asking the Committee to approve the proposal from the taxi industry to review the maximum fee that may be charged for journeys in a hackney carriage in the County. It was highlighted that it was a requirement that any application to change the maximum fee should be submitted by the industry, and it was confirmed that a recent application to review fees had been submitted by Mr J Pritchard, owner of a local taxi company. It was added that no application to review the maximum fee had been received since 2011, and it was stressed that the maximum fee was not applicable to journeys in private hire vehicles.

Reference was made to a table in the report that compared matching fares for a two mile journey. It was noted that the proposed increase had been calculated by adding inflation at an average of 2.6% per annum, to the journey fare per mile specified in 2011. It was suggested within the industry that it was journey fares that drove competition and it was stated that it was unlikely that every company would raise their fares.

At a meeting of the General Licensing Committee on the 11th of April 2019, it was determined to accept the proposal to increase the maximum fare that could be charged for a journey in a hackney vehicle in accordance with the recommendation; subject to statutory public consultation. It was reported that a public consultation had taken place and four responses had been received from individuals within the taxi industry, and from one member of the public. It was added that the proposed maximum fare did not come into force following the consultation due to the fact that responses had been received to the consultation. Reference was made to the responses that had been included in the report for the Committee to consider prior to coming to a final decision on the maximum fare.

Members expressed their thanks for the report and the proposal to set the maximum fare was welcomed.

One member noted that he agreed with the proposal to setting the first mile at £3.60 and then 30p for each part of the following 10 miles as otherwise it would be complex to set the taxi meter. In response to one of the responses regarding that the fee for soiling a taxi was too low (£45) and consideration should be given to increasing it to at least £70, it was argued that it was possible to pay £40 for cleaning a car locally, therefore an increase to £70 was considered excessive. The Licensing Manager stated that if the Committee approved the proposal to charge the maximum, then the cleaning fee would remain at £45.

In response to a comment that companies in rural areas as well as urban/city areas should be treated fairly, it was accepted that it was difficult to get access to services in the countryside, but there was no necessity for companies to raise their fares - it was a maximum that was being set. It was noted that it would be possible for companies to respond better to competition with this freedom.

A further comment was made that the Gwynedd proposed maximum fare continued to be competitive with the maximum fares of the other north Wales Counties and that this was to be welcomed.

IT WAS RESOLVED, HAVING CONSIDERED THE RESPONSES RECEIVED DURING THE CONSULTATION PERIOD, TO APPROVE THE PROPOSAL TO INCREASE THE MAXIMUM FARE THE TAXI INDUSTRY MAY CHARGE FOR JOURNEYS IN HACKNEY VEHICLES WITHIN THE COUNTY.

The meeting commenced at 10.00am and concluded at 10.20am

Agenda Item 5

GENERAL LICENSING SUB-COMMITTEE 01.08.2019

Present: Councillor Annwen Hughes (Chair), Councillors John Brynmor Hughes and Angela Russell

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

1. **APOLOGIES**

An apology was received from Councillor Peter Read.

It was noted that he had recently received surgery and he was sent best wishes for a speedy recovery.

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, 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**

- a) The Chair welcomed everyone to the meeting. She explained 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 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 Officer presented a written report on an 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 to the offences and his personal circumstances. He highlighted that the 1988 conviction was one that had occurred when he was in his teens and he had not been in any sort of trouble since. He added that the 1989 conviction was not relevant to him and he presented a letter from the Disclosure and Barring Service (dated 26.9.19) confirming this. He also noted that an amended certificate would be sent to him.

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

b) **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.**

c) 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 applicant's application form
- verbal observations presented by the applicant during the hearing
- the Licensing Department's report along with the DBS statement

ch) The applicant was found guilty by Menai Bridge Magistrates' Court in September 1988 on two charges - one of assault causing bodily harm contrary to Section 47 of the Offences Against the Person Act 1861, and one charge of affray contrary to Section 3 of the Public Order Act 1986. He received a fine of £400.00 and an order to pay costs of £47.00.

According to the applicant's DBS statement he had a conviction (March 1989) for three charges of shoplifting, contrary to section 1 of the Theft Act 1968. However, he confirmed at the hearing that this record had been included in error and he presented a letter to the Sub-committee from the DBS confirming that the disclosure included an error.

d) 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 permanently barred from obtaining a licence, but should be expected to be free from conviction for an appropriate period as stated in the Policy, and to show evidence that he was a fit and proper person to hold a licence. The applicant has a responsibility to show that he is a fit and proper person.

Paragraph 4.5 of the Council policy 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 of the Policy addresses violent offences. Paragraph 6.1 states that licensed drivers have close regular contact with the public therefore the sub-committee should adopt a robust stance with those who have offences involving violence. Paragraph 6.2 states, that anyone who has been found guilty of violence-related offences is unlikely to receive a licence until they have been free from such a conviction(s) 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 for common assault that is less than three years prior to the date of application. The paragraph lists offences and common assault is included in the list.

Paragraph 8.0 of the Policy, which addresses dishonesty offences, was considered together with paragraph 8.1 that states that a serious view is taken of any conviction involving dishonesty. Paragraph 8.2 notes that an application would normally be refused where the applicant/licence holder has a conviction(s) for an offence listed, and that the

conviction was received less than three years prior to the date of application. It was noted that the list of offences included burglary, amongst other offences.

Paragraph 16.1 of the Council's policy deals with repeat offending. Firstly, it is necessary to ensure that the convictions, independently, satisfy the policy guidelines, but that, collectively, they create a history of repeat offending that indicates a lack of respect for the welfare and property of others. The Policy states that 10 years must have elapsed since the most recent conviction.

- dd) The Sub-committee determined that the 1988 offences were violent offences. However, as these offences had occurred over 30 years ago, beyond the period of 3 years, paragraphs 6.2 and 6.5 of the Policy were irrelevant, and there was no reason to refuse the application. In weighing up the 1989 conviction for the purposes of the application, it was noted that the letter received from the Disclosure and Barring Service (dated 26.7.19) did not note the error appropriately, and therefore the applicant's statement was accepted. However, as the offence had occurred over 30 years ago, this would not have led to refusal of the application, neither independently under paragraph 8.2, or collectively with the 1988 conviction under paragraph 16.1 as it was beyond the appropriate periods.

The Sub-committee was of the opinion 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 to the applicant.

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

- a) The Chair welcomed everyone to the meeting. She explained 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 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 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 her application and provide information about the background of the offence and her personal circumstances. She highlighted that the offence had occurred as a result of 'being in the wrong place at the wrong time'. She noted that her family ran a taxi company and she had been offered work to assist the business over the weekends.

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

- b) **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.**

c) 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 applicant's application form
- verbal observations presented by the applicant during the hearing
- the Licensing Department's report along with the DBS statement

ch) The applicant had received a caution from North Wales Police (June 2015) for an offence of Battery contrary to section 39 of the Criminal Justice Act 1988.

d) 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 permanently barred from obtaining a licence, but should be expected to be free from conviction for an appropriate period as stated in the Policy, and to show evidence that she was a fit and proper person to hold a licence. The applicant has a responsibility to show that she is a fit and proper person. Paragraph 2.3 of the Policy states that 'other matters for consideration' include cautions.

Paragraph 4.5 of the Council policy 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 of the Policy addresses violent offences. Paragraph 6.1 states that licensed drivers have close regular contact with the public therefore the sub-committee should adopt a robust stance with those who have offences involving violence. Paragraph 6.2 states that anyone who has been found guilty of violence-related offences is unlikely to receive a licence until he/she has been free from such conviction(s) 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 for common assault that is less than three years prior to the date of application. The paragraph lists offences and common assault is included in the list.

dd) The Sub-committee determined that the 2015 offence was a violent offence. However, as this had occurred over 4 years ago, beyond the period of 3 years, paragraphs 6.2 and 6.5 of the Policy were irrelevant, and there was no reason to refuse the application.

The Sub-committee was of the opinion 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 to the applicant.

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

Also in attendance: Owain Williams (Public Protection Enforcement Officer - responsible officer for leading the prosecution in September 2016) and Alun Merfyn Roberts (Public Protection Enforcement Officer – Observer)

a) The Chair welcomed everyone to the meeting. She explained 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 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 Officer presented a 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 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 to the offences and his personal circumstances. He stated that he had been through a difficult time recently with a marriage break-up, his son had been in a serious accident and the death of one of his brothers. He noted that although he was not making any excuses he had let matters slip regarding the administration and running of his taxi business. He added that he was a good driver and he wished to return to work in north Wales. He argued that he should not be criticised for one mistake as he had been a faultless taxi driver.

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

- b) **RESOLVED that the applicant was not a fit and proper person to be issued with a hackney vehicle/private hire driver's licence from Gwynedd Council.**
- c) 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 applicant's application form
 - verbal observations presented by the applicant during the hearing
 - verbal observations presented by the enforcement officer during the hearing
 - the Licensing Department's report along with the DBS statement
- ch) The applicant had received a conviction from Liverpool Youth Court (June 1979) for one charge of theft, contrary to section 1 of the Theft Act 1968. He received a conditional discharge for 12 months (conviction 1). In August 1984, the applicant was found guilty by Wirral Magistrates' Court for one charge of stealing from a vehicle contrary to the Theft Act 1968. He received a fine of £50.00 and an order to pay damages of £12.00 (conviction 2). In November 1986, the applicant was found guilty by Birkenhead Magistrates' Court on two counts of fraudulently claiming child benefit contrary to section 11 of the Child Benefit Act 1975. He received a fine of £60.00 and an order to pay costs of £30.00 and damages of £8.00 (conviction 3).

The applicant received a conviction in July 1991 by Dolgellau Magistrates' Court on three charges - one of obstructing the police, contrary to section 51 (3) Police Act 1964, and two charges of fraudently receiving property contrary to section 15 of the Theft Act 1968. For the first charge, he received a fine of £100.00 and ordered to pay £20.00 in costs. For the other two charges, he received two conditional discharges for 12 months and an order to pay damages of £195.00 (conviction 4).

In September 1991, the applicant was found guilty by Wirral Magistrates' Court for one charge of criminal damage contrary to Section 1 of the Criminal Damages Act 1971. He was ordered to pay damages of £212.13 (conviction 5). In November 1998, the applicant was found guilty by Ynys Môn Magistrate's Court of forging a document separate to a

prescription for a listed drug contrary to section 1 of the Forgery and Counterfeiting Act 1981. He received a fine of £40.00 and an order to pay costs of £35.00 (conviction 6).

In September 2000, the applicant was found guilty by Meirionnydd Magistrates' Court for one charge of drink driving, contrary to Section 5 of the Road Traffic Act 1988. He received a fine of £100.00, an order to pay costs of £35.00, and was banned from driving for 18 months (conviction 7).

The applicant was found guilty of three charges (April 2017) by Caernarfon Magistrates' Court in a prosecution made by Gwynedd Council (conviction 8) in relation to allowing an unlicensed vehicle to be driven without a current licence or valid insurance policy whilst transporting school children in accordance with the Transport Contract, contrary to section 46 of the Local Government (Miscellaneous Provisions) Act 1976. For these offences he received a fine of £200 and 6 penalty points on his licence. Following the incident several letters were sent to the applicant giving him an opportunity to explain the circumstances of the incident, however, it was found that he had moved away from the area. Under the provisions of section 44 of the Town Police Clauses Act 1847, it is required that the owner of a hackney vehicle informs the Council of a change of dwelling. He received a fine of £40 for this charge.

- d) 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 permanently barred from obtaining a licence, but should be expected to be free from conviction for an appropriate period as stated in the Policy, and to show evidence that he was a fit and proper person to hold a licence. The applicant has a responsibility to show that he is a fit and proper person. Paragraph 2.3 of the Policy states that 'other matters for consideration' include 'fixed penalty notices'. Paragraph 2.4 states that 'where an applicant has a conviction(s) or other matter(s) to be considered for a criminal offence, the council cannot review the merits of the conviction or other matter'.

Paragraph 4.5 of the Council policy was considered, which states 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 of the Policy addresses violent offences. Paragraph 6.1 states that licensed drivers have close regular contact with the public therefore the sub-committee should adopt a robust stance with those who have offences involving violence. Paragraph 6.2 states that anyone who has been found guilty of violence-related offences is unlikely to receive a licence until he/she has been free from such conviction(s) 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 for common assault that is less than three years prior to the date of application. The paragraph lists offences and criminal damage and obstruction are included in the list. Paragraph 6.6 states that an application will normally be refused if an applicant has more than one conviction, or other matter, to be considered in the last 10 years for an offence of a violent nature.

Paragraph 8.0 of the Policy, which addresses dishonesty offences, was considered together with paragraph 8.1 that states that a serious view is taken of any conviction involving dishonesty. Paragraph 8.2 notes that an application would normally be refused where the applicant has a conviction(s) for an offence listed, and the conviction was received less than three years prior to the date of application. It was noted that the list of offences included, amongst others, benefit fraud, forgery and burglary.

Paragraph 11.1 of the Council's policy deals with drink driving and states that a single conviction may not result in an application being refused provided that at least three years have elapsed since the ending of the disqualification.

Consideration was given to paragraph 12.2, which lists serious traffic offences for the purposes of the Policy. Amongst the offences included were 'using a vehicle uninsured against third party risks'. Paragraph 12.3 notes that an application will usually be refused where the applicant has a conviction for a major traffic offence and has not been free of the conviction for at least 6 months

Paragraph 16.1 of the Council's policy deals with repeat offending. Firstly, it is necessary to ensure that the convictions, independently, satisfy the policy guidelines, but that, collectively, they create a history of repeat offending that indicates a lack of respect for the welfare and property of others. The Policy states that 10 years must have elapsed since the most recent conviction.

dd) The Sub-committee resolved that

- convictions 1, 2, 3, 4 (charges 2 and 3) and 6 dealt with offences of dishonesty. However, as the last offence had occurred in 1998, over 20 years ago (beyond the period of 3 years), paragraph 8.2 was irrelevant, and there was no reason to refuse the application. Nevertheless, there could be grounds to refuse the application collectively with other convictions in light of paragraph 16.1.
- that convictions 4 (charge 1) and 5 dealt with violence-related offences. However, as the last conviction occurred in 1991, over 27 years ago (beyond the period of 10 years), paragraph 6.6 of the Policy was irrelevant and there was no reason to refuse the application. Nevertheless, there could be grounds to refuse the application collectively with other convictions in light of paragraph 16.1.
- that conviction 7 involved drink-driving. As the disqualification had ended in 2002 at the latest, paragraph 11.1 of the Policy was irrelevant and there was no reason to refuse the application. Nevertheless, there could be grounds to refuse the application collectively with other convictions in light of paragraph 16.1.
- that conviction 8 (charge 2) concerned a serious traffic offence. The applicant argued that he was insured despite his guilty plea and he presented a letter from his insurers to support this. However, the applicant did not present evidence that he had taken measures to appeal or to overturn the conviction through the Court. In addition, paragraph 2.4 was considered which clearly states that the merits of the conviction cannot be reviewed. Nevertheless, as the conviction occurred over six months ago, paragraph 12.3 was irrelevant, although there could be grounds to refuse the application collectively with other convictions in light of paragraph 16.1.

In considering the convictions the Sub-committee was of the opinion that repeat offending indicated a lack of respect for the welfare or property of others. Consequently, paragraph 16.6 of the policy was relevant. The Solicitor highlighted that the Policy's provisions were not mandatory and it was possible to deviate from the recommendation if the facts of the case justified this. Special consideration was given to paragraph 4.2 of the report that included the seriousness of the offences, relevance, the date committed, the date of conviction and the applicant's age at the time of conviction, the sentence given by the Court and whether there was a pattern of offending, as well as any other relevant factors.

The applicant explained that he was going through a difficult personal time during the period that lead up to the 2017 conviction. Although the Sub-committee sympathised with the applicant, they had to give priority and protect public safety. Having fully considered the circumstances, the Sub-committee was not convinced that this was a case where they could justify deviating from the policy.

The Sub-committee was of the opinion that the applicant was not 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 to the applicant.

The meeting commenced at 10:00am and concluded at 12:45pm.

Present: Councillor Peter Read (Chair), Councillors Steve Collings and Gareth Williams

Officers: Geraint Brython Edwards (Solicitor), Alun Merfyn Roberts (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, 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

a) The Chair welcomed everyone to the meeting. He explained 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 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 Officer presented a written report on an 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's representative was invited to expand on the application and provide information about the background of the offences and his personal circumstances. It was highlighted that the offence had occurred when the applicant was in his teens. It was

reiterated that the applicant had been working in the care field for over 12 years and now wanted to change direction.

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

- b) **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.**
- c) 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 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

The applicant received a conviction from Anglesey Magistrates' Court in February 2005 on one charge of burglary and theft from a residential property, contrary to section 9(1) of the Theft Act 1968. He received an 18 month supervision order. Later in May 2005, he received two convictions from Anglesey Magistrates' Court for stealing from a person, again, contrary to Section 1, Theft Act 1968. For these convictions, he received a supervision order and an order to pay compensation and costs. Both supervision orders were quashed early on the grounds of good behaviour.

Paragraph 2.2 of the Council's Policy was considered, in which it stated 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 had a responsibility to prove that he was a fit and proper person.

Paragraph 4.5 of the Council policy 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 8.0 of the Policy, which addressed dishonesty offences, was considered together with paragraph 8.1 that stated that a serious view was taken of any conviction involving dishonesty. Paragraph 8.2 noted that an application would normally be refused where the applicant had a conviction(s) for an offence listed, and that the conviction was received less than three years prior to the date of application. It was noted that the list of offences included burglary and theft, amongst other offences.

The Sub-committee determined that the offences concerned offences of dishonesty. However, as the last offence had occurred in 2006, over 13 years ago (beyond the period of 3 years), paragraph 8.2 was irrelevant, and there was no reason to refuse the application.

The Sub-committee was of the opinion 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 to the applicant.

6. APPLICATION FOR 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 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 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 Ms B 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's representative was invited to expand on the application and provide information about the background of the offences and the applicant's personal circumstances.

The applicant withdrew from the room while members of the Sub-committee 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 its decision, the Sub-committee considered the following:

- The requirements of 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- 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

In 1978 and April 1979, the applicant received convictions from Caernarfon Magistrates' Court for stealing from a shop, contrary to Section 1 of the Theft Act 1968. In January 1982, he received a conviction from Caernarfon Magistrates' Court for two offences of supplying and being in possession of controlled drugs, contrary to the Misuse of Drugs Act 1971. He was given a fine of £70 and ordered to pay costs of £3. Later in August 1984, he received another conviction of possessing controlled drugs where he was given a fine of £50. In March 1985, the applicant was found guilty of handling stolen property contrary to the Theft Act 1968 (he received an order to undertake 240 hours of community services). In 1986, the applicant received a conviction for possessing controlled drugs and was given a prison sentence for 28 days. In November 1997, he received convictions for possessing controlled drugs. Since November 1997, the applicant had no further convictions - it was noted that he had a clean driving licence.

Paragraph 2.2 of the Council's Policy was considered, in which it stated 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 had a responsibility to prove that he was a fit and proper person.

Paragraph 4.5 of the Council policy 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 8.0 of the Policy, which addressed dishonesty offences, was considered together with paragraph 8.1 that stated that a serious view was taken of any conviction involving dishonesty. Paragraph 8.2 noted that an application would normally be refused where the applicant had a conviction(s) for an offence listed, and that the conviction was received less than three years prior to the date of application. It was noted that the list of offences included burglary and theft, amongst other offences.

Consideration was given to paragraph 9.0 of the Policy which addressed drug-related offences with clause 9.1 of the policy noting that any offences related to drugs was a serious matter. Paragraph 9.2 noted that an application would be refused where the applicant had a conviction relating to the supply of drugs, and that the conviction was received less than five years prior the date of application. Paragraph 9.3 noted that an application would be refused where the applicant had a conviction relating to the possession of drugs, and that the conviction was received less than five years prior to the date of application.

The Sub-committee determined that the offences concerned offences of dishonesty. However, as the last offence had occurred in 1985, over 34 years ago (beyond the period of 3 years), paragraph 8.2 was irrelevant, and there was no reason to refuse the application.

The drug-related offences were also historical offences, the last offence had occurred in 1997 (over 22 years ago) - beyond the period of five years, paragraphs 9.1, 9.2 and 9.3 were irrelevant and, therefore, there was no reason to refuse the application.

The Sub-committee was of the opinion 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 to the applicant.

8. APPLICATION FOR 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 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 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 Officer presented a written report on an 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 DBS record, and the guidelines on relevant criminal offences and convictions.

The applicant's representative was invited to expand on the application and provide information about the background of the offences and the applicant's personal circumstances.

The applicant withdrew from the room while members of the Sub-committee 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 its decision, the Sub-committee considered the following:

- The requirements of '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

In 1976, the applicant was convicted by Nant Conwy Magistrates' Court for possessing an offensive weapon in a public place and for causing actual bodily harm contrary to the Prevention of Crime Act 1953 and the Offences Against the Person Act 1861. In June 1978, he received a conviction from Caernarfon and Gwyrfa Magistrates' Court for a series of offences - actual bodily harm, refusing to leave licensed premises and two counts of criminal damage. He was given a fine of £80 and ordered to pay damages of £9. In October 1985, the applicant was found guilty of two charges of criminal damage contrary to the Criminal Damage Act 1971 - he received a fine of £75 and ordered to pay damages of £54.07. In December 1987, the applicant received a conviction for two offences of obstructing the Police, contrary to the Police Act 1964, and criminal damage. He was given a fine of £75, an order to pay costs of £15 and a fine of £26.45. In November 2005, he received a conviction from Gwynedd Magistrates' Court on two counts of driving a vehicle without insurance and driving a vehicle under the influence of alcohol which was contrary to the Road Traffic Act 1988. He was given a fine of £100, he received points on his driving licence and he was banned from driving for 56 days.

Paragraph 2.2 of the Council's Policy was considered, in which it stated 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 had a responsibility to prove that he was a fit and proper person.

Paragraph 4.5 of the Council policy 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 of the Policy addressed violent offences. Paragraph 6.1 stated that licensed drivers had close, regular contact with the public therefore the sub-committee should adopt a robust stance with those who had offences involving violence. Paragraphs 6.3 - 6.5 of the Policy stated that an application for a licence would usually be refused if the applicant had a matter to be considered for common assault that was less than three years prior to the date of application. The paragraph listed offences, and common assault, possession of a weapon and criminal damage was included in the list. Paragraph 6.6 stated that an

application would be refused if an applicant had more than one conviction within the last 10 years for an offence of a violent nature.

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 responsible for a vehicle under the influence of alcohol / drugs. Any one who had been found guilty of offences relating to drink-driving was unlikely to receive a licence until they had been free from a conviction(s) for at least three years.

The Sub-committee resolved that a number of these offences were violence-related. However, as the last offence had occurred in 1987, over 31 years ago (which is beyond the period of 3 years), paragraph 6.6 was irrelevant and, therefore, there was no reason to refuse the application.

The Sub-committee determined that the drink-driving offence was also a historical offence, along with the driving ban. However, as the last offence had occurred in 2005, over 13 years ago, paragraph 11.1 was irrelevant and, therefore, there was no reason to refuse the application.

The Sub-committee was of the opinion 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 to the applicant.

The meeting commenced at 2:00pm and concluded at 3:25pm.

GENERAL LICENSING SUB-COMMITTEE 20.09.2019

Present: Councillor Elfed Williams (Chair), Councillors Edgar Owen and Dafydd Owen

Officers: Geraint Brython Edwards (Solicitor), Alun Merfyn Roberts (Licensing Officer) and Lowri Haf Evans (Member Support Officer).

1. **APOLOGIES**

An apology was received from the applicant

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 item 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, 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 Licensing Officer highlighted that a request had come to hand from the applicant to defer the hearing as he could not attend due to work commitments.

RESOLVED to defer the hearing in order that the applicant can attend the meeting to present his application.

The meeting commenced at 2.00pm and concluded at 2.05pm.

GENERAL LICENSING SUB-COMMITTEE 07.10.2019

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

Officers: Geraint Brython Edwards (Solicitor), Alun Merfyn Roberts (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, 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**

- a) The Chair welcomed everyone to the meeting. He explained 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 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 Officer presented a written report on an 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 report recommended that the application be refused.

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

violence-related offence that occurred in 2014, was one of hitting back when his former partner had behaved aggressively to him.

He stated that he had been driving taxis since 2008, and had received a licence following the conviction in 2014. The licence expired in 2019. The applicant's employer highlighted that she had known him for over 20 years and had not received any complaints about his behaviour during that period. She added that the incident of hitting back was out of character. She had no concerns or doubts about continuing to employ him and she trusted him.

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

- b) **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.**
- c) 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 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

In March 1983, the applicant received a conviction from Blaenau Ffestiniog Magistrates' Court for a series of five charges associated with taking a vehicle without consent contrary to Section 12 (1) of the Theft Act 1968. For these offences he received a total of £113 in fines, was disqualified from driving for 12 months and received penalty points on his driving licence. In February 1984, the applicant received a conviction from Blaenau Ffestiniog Magistrates' Court for one charge of stealing from non-residential property - contrary to Section 9 (1) (B) of the Theft Act 1968. He was given a conditional discharge of 12 months, an order to pay costs of £3 and damages of £29. In May 2014, he received a conviction from Gwynedd Magistrates' Court for one charge of battery contrary to the Criminal Justice Act 1998. He received a community order together with supervision orders and unpaid work, costs of £85 and a victim's surcharge of £60.

Paragraph 2.2 of the Council's Policy was considered, in which it 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 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 allowed the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise under the 1974 Act.

Paragraph 6 of the Policy addresses violent offences. Paragraph 6.1 states that licensed drivers have close, regular contact with the public therefore the sub-committee should adopt a robust stance with those who have offences involving violence. Paragraphs 6.3 - 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 for common assault that is less than three years prior to the date of application. The paragraph lists offences and common assault is included in the list.

Paragraph 8.0 of the Policy, which addresses dishonesty offences, was considered together with paragraph 8.1 that states that a serious view is taken of any conviction involving dishonesty. Paragraph 8.2 notes that an application would normally be refused where the applicant has a conviction(s) for an offence listed, and that the conviction was received less than three years prior to the date of application. It was noted that the list of offences included amongst other offences burglary, taking a vehicle without consent and theft.

Paragraph 12.2 notes that an application would normally be refused 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.

Paragraph 16.1 of the Council's policy deals with repeat offending. Firstly, it is necessary to ensure that the convictions, independently, satisfy the policy guidelines, but that, collectively, they create a history of repeat offending that indicates a lack of respect for the welfare and property of others. The Policy states that 10 years must have elapsed since the most recent conviction.

The Sub-committee determined that the 1983 and 1984 offences concerned offences of dishonesty. However, as the last offence had occurred over 35 years ago (beyond the period of 3 years), paragraph 8.2 was irrelevant, and there was no reason to refuse the application.

In considering the offence of speeding that lead to the driving disqualification, it was highlighted that the disqualification had ended 35 years ago and therefore paragraph 12.2 was irrelevant as grounds to refuse the application.

The sub-committee determined that the 2014 conviction was violence-related, however, as the offence had occurred over 5 years ago, there was no reason to refuse the application.

Although the Sub-committee came to the conclusion that the individual convictions were no grounds to refuse the application, it was decided to consider the convictions collectively, under paragraph 16.1. It was concluded that the convictions concerning dishonesty and violence indicated a history of repeat offending which demonstrated a lack of respect for the welfare and property of others. Consequently, this consideration was grounds to refuse the application. The Policy's provisions were not mandatory and it was possible to deviate from the recommendations if the facts of the case could justify this. In considering if discretion should be applied to deviate from the grounds presented, consideration had been given to the seriousness of the offence, its relevance, the date committed, the date of conviction, the applicant's age at the time of conviction, the sentence given, whether a pattern of criminal behaviour was seen, as well as any other relevant factors.

Specific consideration was given to

- the explanation received regarding the background of the convictions
- that the convictions in 1983 and 1984 had occurred over 35 years ago
- that there was no relevance between these historical offences and the 2014 offence
- the applicant has already been a taxi driver licence holder since 2008. Although there was no answer or reason why the applicant had received his licence back following the 2014 conviction, it was stated that the hearing formalised the procedure.
- It was noted that the applicant had been driving taxis without any recorded incident since the 2014 conviction - this was considered to be a strong element in the applicant's favour to deviate from the grounds to refuse the application.

Having weighed-up the evidence and the information carefully, the Sub-committee was willing to deviate from the Policy and it was resolved that the applicant was a fit and proper person to hold a hackney/private hire driver's licence.

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

The meeting commenced at 2.10pm and concluded at 3.05pm.

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

4.3 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.

4.4 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.

- 4.5 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.
- 4.6 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.
- 4.7 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
- 4.8 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.