

Public Document Pack

Gareth Owens LL.B Barrister/Bargyfreithiwr
Head of Legal and Democratic Services
Pennaeth Gwasanaethau Cyfreithiol a Democraataidd



To: Cllr Tony Sharps (Chairman)

CS/NG

Councillors: Glyn Banks, David Cox, Alan Diskin,
Rosetta Dolphin, Ian Dunbar, Brian Dunn,
Jim Falshaw, Phil Lightfoot, Hilary McGuill,
Mike Reece and Gareth Roberts

2 May 2013

Nicola Gittins 01352 702345
nicola.gittins@flintshire.gov.uk

Dear Sir / Madam

A meeting of the **LICENSING COMMITTEE** will be held in the **DELYN COMMITTEE ROOM, COUNTY HALL, MOLD CH7 6NA** on **THURSDAY, 9TH MAY, 2013** at **10.00 AM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

AGENDA

- 1 **APOLOGIES**
- 2 **MINUTES** (Pages 1 - 4)
To confirm as a correct record the minutes of the last meeting
- 3 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

County Hall, Mold. CH7 6NA
Tel. 01352 702400 DX 708591 Mold 4
www.flintshire.gov.uk
Neuadd y Sir, Yr Wyddgrug. CH7 6NR
Ffôn 01352 702400 DX 708591 Mold 4
www.siryfflint.gov.uk

The Council welcomes correspondence in Welsh or English
Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

- 4 **LAW COMMISSION REVIEW OF TAXI LEGISLATION** (Pages 5 - 10)
To inform Members of the interim findings of the Law Commission

- 5 **TAXI LICENSING PROCEDURE - ANGER MANAGEMENT** (Pages 11 - 14)
To request that Members approve a procedure to allow drivers to be required to attend an Anger Management course when deemed necessary following a Licensing Sub Committee hearing

- 6 **PROPOSALS TO DEREGULATE SOME ASPECTS OF THE LICENSING ACT** (Pages 15 - 18)
To inform Members of forthcoming deregulation proposals

- 7 **LICENSING COLLABORATION PROPOSALS WITH WREXHAM** (Pages 19 - 22)
To inform Members of collaboration proposals involving Licensing

- 8 **SCRAP METAL DEALERS ACT 2013** (Pages 23 - 26)
To request that Members note the new legislation covering scrap metal dealers and the role of the Licensing Committee.

LICENSING COMMITTEE 29 NOVEMBER 2012

Minutes of the meeting of the Licensing Committee of Flintshire County Council held at County Hall, Mold on Thursday 29 November, 2012

PRESENT: Councillor L.A. Sharps (Chairman)

Councillors: G. Banks, D.L. Cox, R. Dolphin, I. Dunbar, B. Dunn, J.E. Falshaw, H.J. McGuill, M.A. Reece, H.G. Roberts.

APOLOGIES:

Councillor A.G. Diskin

IN ATTENDANCE:

Solicitor (Litigation), Community Protection Manager, Committee Officer

10. MINUTES

The minutes of the meeting held on 24 September 2012 had been circulated with the agenda.

Matters arising

There were no matters arising.

RESOLVED:

That the minutes be approved as a correct record and signed by the Chairman.

11. DECLARATIONS OF INTEREST

No declarations of interest were made.

12. IMPOSING SANCTIONS ON PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS

The Community Protection Manager delivered an update on the judicial review addressing suspension of a licence and when this sanction should be used.

Flintshire County Council had previously been able to suspend a Private Hire/Hackney Carriage driver's licence pending further investigation, for example when serious allegations in relation to the conduct of the driver have been made by a child or vulnerable passenger. The power to suspend and revoke drivers' licences was contained in Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

A recent Judicial Review had made it clear that suspension of a Driver's Licence was a final decision in relation to whether the individual was a fit and proper person. It should not be used as an interim measure pending further investigations. Following the Judicial Review, any suspension used in this way would be unlawful. A suspension could be used as a lesser sanction than revocation, such as a time specific suspension.

The Community Protection Manager said that alternatives to temporary suspension of licence by the Council, would be the driver voluntarily suspending themselves, suspension by the Private Hire Operator or employer or by Flintshire County Council Transportation and Social Services Departments if the driver was under contract to them, and finally, when driving was prohibited under bail conditions during a police investigation.

Councillor D. Cox said that the change in legislation meant that a driver would not have their licence suspended until proven guilty in court.

Councillor R. Dolphin was concerned that the judgement now meant that persons under investigation of offences could continue to operate as licensed private hire and hackney carriage drivers. The Solicitor (Litigation) advised the Committee that it would be up to the police to prohibit persons under criminal investigation from operating as a licensed private hire/hackney carriage drivers.

Councillor B. Dunn asked if there were any suspensions at present. The Solicitor (Litigation) said that all recent cases had been dealt with and could not be challenged as the time limit had expired for the right to appeal and request a judicial review.

Councillor G. Banks said that the new guidance would ensure safeguards for drivers who faced unfounded or malicious allegations. The Community Protection Manager said that the previous Chair of the Licensing Committee had voiced concern about the suspension of licences based on the testimony of one person against another, without witnesses.

Councillor H.J. McGuill suggested that drivers under criminal investigation by the police who were under contract to Flintshire County Council should be made to work on a different route to their normal route, if they had no driving restrictions imposed by the police.

Councillor R. Dolphin asked if the Council could request police to suspend a licence and the Solicitor (Litigation) said that the Council would be unable to request this. He said that they would have to trust the judgement of police who should undertake their own risk assessments on the suspect.

Councillor I. Dunbar said that in the case of drivers under criminal investigation, the police would visit their employer and have them taken off a particular route. He asked about arrangements concerning companies under contract to Flintshire. The Community Protection Manager said that he would

contact Adult and Children's Services for details of their transport policies and would forward the information to Councillor I. Dunbar.

RESOLVED:

- (a) That members note the recent judicial review judgement in respect of temporary suspension of a private hire/hackney carriage driver's licence.
- (b) That proposed changes to 1847 and 1976 legislation in relation to the suspension of Private Hire and Hackney Carriage licences by the Law Commission be shared with the Committee once they became available.

13. THE GAMBLING ACT 2005 – THREE YEAR LICENSING POLICY 2013-16

The Community Protection Manager presented a draft copy of the proposed Flintshire County Council Gambling Act 2005 Three Year Licensing Policy 2013-16. It was a requirement of Section 349 of the Gambling Act 2005 that a Licensing Authority renew their policy on a three year cycle. The existing policy had come into force on 31 January 2010.

There had been few changes to the policy apart from the updating of factual information that had changed. The Council were required to undertake a consultation process which had been completed. The Community Protection Manager said that one response had been received as a result of the consultation from Hope Community Council. They wrote of their concern at the upsurge of gambling on television, the internet and mobile phones and asked if any controls could be implemented. The Community Protection Manager informed Committee that matters that related to remote gambling were under the remit of the Gambling Commission and the UK Government.

Councillor H. McGuill asked the Chair if the Council could write to the UK Government to raise the concerns of Hope Community Council. The Chair said that this would not be pursued as responsibility rested with the Gambling Commission.

Councillor I. Dunbar asked about paragraph 4.6 (Unlicensed Family Entertainment Centres) and the types of convictions which would make an applicant unsuitable. The Community Protection Manager said that he would check Gambling Commission Guidelines and forward this information to Councillor Dunbar. The Solicitor (Litigation) said that dishonesty offences would make an applicant unsuitable.

RESOLVED:

- (a) That Members approve the Flintshire County Council Gambling Act 2005 Statement of Licensing Policy to cover the period 2013-2016.

14. FOR INFORMATION

The Community Protection Manager circulated an information note about the newly announced Home Office consultation on a range of measures to cut crime, save lives and reduce alcohol consumption. The consultation would conclude on 6 February 2013.

15. DURATION OF MEETING

The meeting commenced at 10.00 a.m. and ended at 10.35 a.m.

16. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There was one member of the press present.

.....
Chairman

FLINTSHIRE COUNTY COUNCIL

REPORT TO: LICENSING COMMITTEE
DATE: THURSDAY, 9 MAY 2013
REPORT BY: DIRECTOR OF ENVIRONMENT
SUBJECT: LAW COMMISSION REVIEW OF TAXI LEGISLATION

1.00 PURPOSE OF REPORT

1.01 To request that Members note the contents of an Interim Statement by the Law Commission

2.00 BACKGROUND

2.01 In July 2011 the Law Commission started working on a project to review the law relating to the regulation of taxis and private hire vehicles. The main current legislation dates from 1847 and 1976 and there have been a large number of case law decisions over time.

2.02 A four month consultation period was opened in May 2012 and over 3000 written responses were received.

3.00 CONSIDERATIONS

3.01 The Law Commission has issued its brief interim statement in order to give an indication of what will be contained in a proposed draft Bill due at the end of 2013.

3.02 The full statement (4 pages) is attached to this report.

4.00 RECOMMENDATIONS

4.01 That Members note the contents of the Interim Statement by the Law Commission on the review of taxi legislation.

5.00 FINANCIAL IMPLICATIONS

None in relation to this report

6.00 ANTI POVERTY IMPACT

None

7.00 ENVIRONMENTAL IMPACT

None

8.00 EQUALITIES IMPACT

None
9.00 **PERSONNEL IMPLICATIONS**

None
10.00 **CONSULTATION REQUIRED**

None
11.00 **CONSULTATION UNDERTAKEN**

None
12.00 **APPENDICES**

Law Commission Interim Report

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

None
Contact Officer: Michael Lovatt
Telephone: Extension 3393
Email: michael.lovatt@flintshire.gov.uk

TAXI AND PRIVATE HIRE LAW COMMISSION INTERIM STATEMENT

INTRODUCTION

1. In July 2011 the Law Commission started working on the project to review of the law relating to the regulation of taxis and private hire vehicles. We opened a four month consultation period in May 2012, outlining provisional proposals and questions, with a view to publishing a final report and draft Bill at the end of this year. Once we publish the draft Bill, it is up to government whether to accept our recommendations. We will publish our final report and a draft Bill at the end of 2013.
2. This is not a further consultation nor does this document include our analysis of the responses received. Our discussion of the responses and our reasoning will be published in the final report. This is an interim document outlining the key decisions we have reached. It is not normal practice for the Law Commission to publish any indication of its preferred policy at this point; however, we recognise that many stakeholders are concerned about possible changes to taxi and private hire licensing laws. We appreciate that waiting until the end of this year for our conclusions to be published is a long time. That is why we have decided to depart from our usual procedure and publish our thinking at this interim stage.
3. This deliberately short paper gives an indication of what will be contained in the proposed Law Commission draft Bill. We publish this alongside the responses we received during consultation. It should be stressed that this document is an interim statement and not our final report, and we will continue working on developing policy alongside Parliamentary counsel until the end of the year. It is important to be aware that our final recommendations might differ as a result of that process from those set out here. We continue to work to the government's deadline of December 2013 for our final report and draft Bill, but we would take this opportunity to stress that our recommendations cannot change the law, and the decision whether to accept the proposed policy rests with the government.

THE CONSULTATION

4. The consultation attracted over 3000 written responses from a wide range of stakeholders, including taxi drivers and private hire operators, licensing officers, disability groups, specialist consultants, trade unions and the police. We attended consultation meetings and events over a period of four months. We attended 84 meetings across England and Wales, many of which attracted large-scale attendance, including conferences and meetings organised by taxi associations and trades unions representing taxi drivers, the Institute of Licensing and the National Association of Licensing and Enforcement Officers, trade associations and councillors, as well as a two day road show at an exhibition event, organised by the National Private Hire Association. The Private Hire and Taxi Monthly magazine undertook a significant survey based on our provisional proposals, with over 800 responses. We were also assisted by some very helpful discussions with experts in the field, including an advisory group and an expert legal panel on plying for hire.

REFORM TO TAXI AND PRIVATE HIRE LAW

Retaining a two-tier system

5. The two-tier system, distinguishing between taxis on the one hand, and private hire vehicles on the other, should remain. Only taxis should be allowed to pick passengers up from hails or at ranks. Private hire vehicles should only be able to pick up passengers if pre-booked through a licensed operator. When requested, operators should be required to give passengers the price of the journey up-front, as is already the case in London. London should be covered by the reforms, which we think give enough flexibility to allow for the significant differences in its taxi and private hire markets. We suggest moving away from the out-dated concept of plying for hire and use instead a more modern definition of the limits to the way private hire services may be offered, using the concept of pre-booking (which would be statutorily defined) through a licensed operator.

Quantity controls

6. We no longer recommend abolishing quantity controls. We initially proposed that local authorities should lose the ability to limit the number of taxis licensed in their area on the basis of economic theory, whereby the market could be left to determine the appropriate number of vehicles. The weight of evidence received during consultation and further comparative research have led us to change this key recommendation in order to allow licensing authorities to limit taxi numbers should they wish to do so.
7. We propose that in any areas where the licensing authority chooses to implement new quantity restrictions, vehicle licences would not be transferrable, meaning that licences would not have a saleable value. In areas that already have quantity restrictions, transfers would continue (and therefore licences could still have a value), but we will recommend that the Secretary of State and Welsh Ministers should consider the future of licence transfers.

Who and what would be covered by licensing?

8. During consultation many stakeholders complained about vehicles operating at the fringes of licensing, or outside of licensing altogether. Pedicabs and stretch limousines are two examples that we recommend bringing clearly within the scope of taxi and private hire regulation, such that they may be controlled as necessary.
9. We recommend that wedding and funeral cars should continue to be exempted from licensing. Our provisional recommendation in respect of the wedding and funeral car exemption raised unparalleled concern among members of these trades, although licensing authorities and the police agreed that the current exemption could cause problems. On balance, we have concluded that there are valid arguments to keep the exclusion from licensing in primary legislation.

Standard-setting

10. Our provisional proposals for national safety standards for both taxi and private hire services proved popular and we maintain this recommendation. We think that the Secretary of State and Welsh Ministers should have the power to set standards in relation to safety, accessibility and enforcement.

Local standards for taxis

11. We also suggested that in respect of taxis, local authorities should retain their ability to impose additional conditions on top of national standards, and this too proved uncontroversial. Taxis would continue to only be able to be flagged down and use ranks in their licensing area, but would still be free to take pre-bookings elsewhere.

National standards for private hire services

12. We continue to recommend that only national standards should apply to private hire services. We appreciate the concerns of those who thought that local knowledge tests and signage should be retained, but think that appropriate national standards, including driver training, and vehicle signage, can address these concerns, alongside added customer protection through up-front pricing requirements for private hire journeys.

Cross-border

13. It would remain the case that taxis would only be allowed to pick up passengers in their own area (unless they had a pre-booking). However, we will recommend freeing up cross-border working for private hire services. Operators would no longer be limited to using drivers and vehicles from their own area; nor would they be restricted to only inviting or accepting bookings within that same licensing area. Under no circumstances would a private hire vehicle be allowed to pick up a passenger without a pre-booking with a valid operator.

Operators, taxi radio circuits and intermediaries

14. We support the retention of private hire operator licensing, but recommend a tighter definition that would only cover dispatch functions. We suggest that requiring a licence for the mere acceptance or invitation of bookings (as under current law) is unnecessary and creates grey areas around smartphone applications, aggregator websites and other intermediaries. We recommend that intermediaries should only be liable if acting in the course of business, and if they assist in the provision of an unlicensed journey. We do not propose to extend licensing to taxi radio circuits.

Equality and accessibility

15. We regard the Secretary of State and Welsh Ministers' powers to set standards to promote accessibility as striking the right balance between local and national control.
16. Stakeholders highlighted the problem of drivers avoiding disabled passengers through ignoring their hails. In order to help address this problem, we recommend clarifying compellability, combining it with a new duty to stop in certain circumstances. In addition, taxi legislation should make it clear that drivers are not allowed to charge passengers more for the time it takes them to board the vehicle, reflecting the Department for Transport best practice guidance. Provisions to make complaints procedures more accessible can also be particularly valuable to empower disabled users. We will continue to recommend that all drivers should undergo disability awareness training.

Enforcement

17. Consultees were very concerned about enforcement – both that the current system was being insufficiently enforced, and that our proposals for opening up cross-border activities of private hire vehicles would increase the practical difficulties in information sharing and licence fee allocation. We recommend introducing a range of tougher powers for licensing officers, including the ability to stop licensed vehicles, impounding and fixed penalty schemes. We also recommend that such powers should apply in respect of out-of-area vehicles. We also recommend clarifying the scope of the touting offence and reinforcing licensing officers' powers in dealing with it.

Hearings and appeals

18. Magistrates' courts would continue to hear appeals in respect of licensing decisions. We think it should be easier to challenge local taxi conditions. We therefore recommend a simplified judicial review procedure in the County Court, akin to procedures that exist in relation to some housing challenges.

FLINTSHIRE COUNTY COUNCIL

REPORT TO: LICENSING COMMITTEE

DATE: THURSDAY, 9 MAY 2013

REPORT BY: DIRECTOR OF ENVIRONMENT

SUBJECT: TAXI LICENSING PROCEDURE - ANGER
MANAGEMENT

1.00 PURPOSE OF REPORT

1.01 To inform Members of the different options when using attendance at 'Anger Management' courses as a sanction following a Licensing Sub Committee

2.00 BACKGROUND

2.01 In July 2012, a licensed Private Hire Driver appeared before Licensing Sub Committee following the accrual of penalty points on his DVLA drivers licence, which would have seen him banned from driving under the 'totting up' procedure.

2.02 Officers were unaware of these motoring convictions until the driver applied to renew his licence, and his DVLA drivers licence showed he had been granted exceptional hardship following the accrual of 15 penalty points, allowing him to continue to drive.

2.03 The Licensing Sub Committee saw a written explanation of the motoring convictions provided by the driver upon the request of the Licensing team. They also had the opportunity to question him in person at the hearing.

2.04 As the Members were concerned about the applicant becoming involved with 'road rage' type incidents, which they felt may have influenced his manner whilst speeding, one of the resolutions from the hearing was that the applicant was to attend an Anger Management / Road Rage Course within 6 months of the hearing at his own expense.

2.05 This was the first time there had been such a sanction within Flintshire, and it was felt that this was a proportionate and sensible resolution.

3.00 CONSIDERATIONS

3.01 The driver in question admittedly left it late, but struggled to find an appropriate course. He asked if he could attend one session with a private counsellor. This, of course may be an option but the decision

wording referred to the completion of a course.

- 3.02 Research in to appropriate courses was instigated by Licensing Officers.
- 3.03 Aberconwy Mind specialise in these types of courses. They run a specific Anger Management Course including dealing with conflict, managing difficult situations and improving relationships. This runs for two hours a week for six weeks,
- 3.04 Mind also runs a 'Coping with Life' Course, which includes aspects of anger management, along with managing anxiety and stress. This runs for 2 hours a week for 4 weeks.
- 3.05 There are Flintshire and Denbighshire branches of Mind which may offer the courses more sporadically.
- 3.06 An alternative may be sessions provided by persons registered with the British Association for Counselling and Psychotherapy. Their accredited register is easily accessed on the BACP website by typing in the first half of a postcode such as CH7 or CH5. This then brings up the list of accredited providers in the local area.

4.00 RECOMMENDATIONS

- 4.01 That when using an anger management sanction following a Licensing Sub Committee, Members specify which type of course and the duration of course which is appropriate for the individual circumstance. This information should be included in the wording of the decision.
- 4.02 For Members to consider whether a time bound session with a private counsellor is an appropriate way of fulfilling an anger management resolution.

5.00 FINANCIAL IMPLICATIONS

- 5.02 Any course undertaken would be at the expense of the subject.

6.00 ANTI POVERTY IMPACT

- 5.03 None

7.00 ENVIRONMENTAL IMPACT

- 7.01 None

8.00 EQUALITIES IMPACT

- 8.01 None

9.00 PERSONNEL IMPLICATIONS

- 9.01 None

10.00 CONSULTATION REQUIRED

10.01 None

11.00 CONSULTATION UNDERTAKEN

11.01 None

12.00 APPENDICES

12.01 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

Contact Officer: Gemma Potter
Telephone: 01352 703371
Email: gemma.potter@flintshire.gov.uk

This page is intentionally left blank

FLINTSHIRE COUNTY COUNCIL

REPORT TO: LICENSING COMMITTEE
DATE: THURSDAY, 9 MAY 2013
REPORT BY: DIRECTOR OF ENVIRONMENT
SUBJECT: PROPOSALS TO DEREGULATE SOME ASPECTS OF THE LICENSING ACT 2003

1.00 PURPOSE OF REPORT

1.01 To inform Members of forthcoming changes to the Licensing Act 2003

2.00 BACKGROUND

2.01 Since the Act came into force in 2005 there have been a number of significant changes made by successive Governments.

2.02 An example would be the 'rebalancing' provisions intended to provide additional safeguards to the public who are affected by licensed premises.

2.03 Other changes were intended to help licensed premises to thrive, for example, the lessening of some restrictions on the provision of live music in pubs.

3.00 CONSIDERATIONS

3.01 The current proposals follow the Department of Culture Media and Sport (DCMS) consultation in late 2011 which looked at potential deregulation of Schedule 1 of the Licensing Act 2003 which lists the regulated activities (such as plays, films, music, singing, dancing etc) The consultation was the Government's response to calls to reduce unnecessary regulation arising from the Licensing Act 2003 for low risk premises.

3.02 Proposals include removing the requirement for premises licences, between 8am and 11pm, for indoor sport activities for audiences of 1000 or less, plays and dance to audiences of 500 or less, and live and recorded music in alcohol licensed premises for audiences of 500 or less.

3.03 The measures will also exempt plays, dance and indoor sport events that take place in community venues, schools, hospitals and local authority owned premises from needing to be licensed.

- 3.04** The key provisions of the Live Music Act 2012 will be retained, but the permitted audience limits increased from 200 to 500 in on-licensed premises and workplaces. Regulation for recorded music (mainly discos and DJs) will be suspended between 8am – 11pm in on-licensed premises such as bars and clubs, but this will be subject to controls via the premises licence review system.
- 3.05** The DCMS will be consulting on further proposals that examine community film screenings later this year although it is intended that age restrictions will be maintained.
- 3.06** The measures to deregulate plays, dance and indoor sport will be put to Parliament soon with the intention of bringing the measures into effect in mid 2013.
- 3.07** The remaining legislative measures, including live and recorded music and entertainment activities at community venues will be introduced to Parliament as soon as possible although it is understood that this is a more complex (and lengthy) process requiring Regulatory Reform Orders.
- 3.08** The changes will necessitate revisions to the Section 182 Statutory Guidance which will be undertaken in stages to correspond with the relevant changes.

4.00 **RECOMMENDATIONS**

- 4.01** That Members note the forthcoming changes to the Licensing Act 2003.

5.00 **FINANCIAL IMPLICATIONS**

None in respect of this report

6.00 **ANTI POVERTY IMPACT**

None

7.00 **ENVIRONMENTAL IMPACT**

The prevention of public nuisance is one of the four licensing objectives. Deregulating live and recorded music may lead to increased risk of noise nuisance but the general statutory nuisance legislation in the Environmental Protection Act remains in place for all premises and activities at all times.

8.00 **EQUALITIES IMPACT**

None

9.00 **PERSONNEL IMPLICATIONS**

None

10.00 CONSULTATION REQUIRED

None

11.00 CONSULTATION UNDERTAKEN

None

12.00 APPENDICES

None

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

Licensing Act 2003

Section 182 Guidance to Local Authorities

Contact Officer: Michael Lovatt

Telephone: Ext 3393

Email: michael.lovatt@flintshire.gov.uk

This page is intentionally left blank

FLINTSHIRE COUNTY COUNCIL

REPORT TO: LICENSING COMMITTEE
DATE: THURSDAY, 9 MAY 2013
REPORT BY: DIRECTOR OF ENVIRONMENT
SUBJECT: LICENSING COLLABORATION PROPOSALS WITH WREXHAM

1.00 PURPOSE OF REPORT

To request that Members note the collaboration that is proposed with Wrexham County Borough Council in respect of Licensing

2.00 BACKGROUND

2.01 Senior Officers from the two Counties have been meeting on a regular basis to formulate proposals to work more collaboratively together.

2.02 Various areas of the Public Protection function have been considered on a pilot basis and Licensing is one of those.

2.03 There are formal arrangements proceeding towards Member approval that will allow officers from Flintshire to carry out duties in Wrexham and vice versa.

3.00 CONSIDERATIONS

3.01 Some specific proposals were drawn up and agreed at a recent meeting of Public Protection senior officers and these are appended to this report.

4.00 RECOMMENDATIONS

4.01 That Members note the collaboration that is proposed with Wrexham County Borough Council in respect of Licensing

5.00 FINANCIAL IMPLICATIONS

These are pilot proposals and there will be no direct financial implications for either Council at this stage.

6.00 ANTI POVERTY IMPACT

None

7.00 ENVIRONMENTAL IMPACT

None

8.00 EQUALITIES IMPACT

None

9.00 PERSONNEL IMPLICATIONS

None

10.00 CONSULTATION REQUIRED

None

11.00 CONSULTATION UNDERTAKEN

None

12.00 APPENDICES

Proposals for Collaboration in Licensing

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

Contact Officer: Michael Lovatt

Telephone: Ext 3393

Email: michael.lovatt@flintshire.gov.uk

Collaboration Proposals in Licensing – Flintshire and Wrexham

Whilst it is acknowledged that the two Counties have significantly different profiles there are a number of areas where collaborative working could be worthwhile and effective.

Wrexham	Flintshire
Main town centre focus	Dispersed market towns
Well developed late night economy	Urbanised Deeside 'Strip'
Established student population	Large holiday caravan sites in north
Football Club on edge of town	Football Club on edge of retail park
Rural hinterland	Rural hinterland

Licensing Act 2003

Proposal 1

There is a statutory requirement for a full formal review and consultation process in respect of the 'statement of licensing policy' in 2015. We will produce a single document that covers both Counties.

Proposal 2

It would be useful for the existing policy statements to be augmented because of the number of legislative changes that have come about in the last 18 months or so. Rather than a wholesale review as required for 2015 we propose a joint addendum to the two existing policies that will be placed on the respective council websites.

Proposal 3

Engage in agreed joint enforcement initiatives, working with partner organisations when necessary.

Proposal 4

Engage in the provision and dissemination of jointly produced information, advice and guidance.

Gambling Act 2005

Proposal 5

Engage in agreed joint enforcement initiatives, working with partner organisations when necessary

Proposal 6

Engage in the provision and dissemination of jointly produced information, advice and guidance.

Proposal 7

The next review of the Gambling Act Statement of Licensing Policy is due in 2016. We will produce a single document that covers both Counties.

Private Hire and Hackney Carriage Licensing

Proposal 8

Adopt identical policies, procedures and standards based upon the outcome of the current Law Commission review of taxi legislation and any Welsh Government interpretation of the findings.

Proposal 9

Work year by year towards standardising fees and charges.

Proposal 10

Engage in agreed joint enforcement initiatives, working with partner organisations when necessary.

Proposal 11

Engage in the provision and dissemination of jointly produced information, advice and guidance.

General

Proposal 12

Jointly identify any training needs for Licensing Officers, Elected Members, Legal Dept colleagues, staff from other Public Protection disciplines and partner organisations. Jointly facilitate any training opportunities identified.

FLINTSHIRE COUNTY COUNCIL

REPORT TO: LICENSING COMMITTEE
DATE: THURSDAY, 9 MAY 2013
REPORT BY: DIRECTOR OF ENVIRONMENT
SUBJECT: SCRAP METAL DEALERS ACT 2013

1.00 PURPOSE OF REPORT

1.01 To request that Members note the new legislation covering scrap metal dealers and the role of the Licensing Committee.

2.00 BACKGROUND

2.01 Increases in metal theft driven by the rise in commodity prices have had a wide ranging impact, and cost the economy between £220 million and £777 million a year according to two recent estimates. It has seen disruption to energy supplies, transport and telecommunications, as well as manhole covers stolen and war memorials desecrated. It has also highlighted how ineffective the regulation of scrap metal dealers dating from the 1960s had become.

2.02 The new Act repeals the Scrap Metal Dealers Act 1964 and Part 1 of Vehicles (Crime) Act 2001 (relating to motor salvage operators) and brings forward a revised regulatory regime for the scrap metal dealing and vehicle dismantling industries. The Act maintains local authorities as the principal regulator of these industries.

3.00 CONSIDERATIONS

3.01 The Act gives local authorities the power to better regulate these industries by providing a power to refuse to grant a licence and revoke licences if the dealer is considered 'unsuitable'.

3.02 Unsuitability will be based on a number of factors including any relevant criminal convictions. The Act will also provide local authorities and police officers with powers of entry and inspection.

3.03 The Licensing Sub-Committee system will be used to determine applications that are contentious or involve judgements about the past criminal record of applicants.

- 3.04 The Home Office currently plan for the measures to commence in October 2013, but this is dependent on a national register of scrap metal dealers being established by the Environment Agency.

Key features of the Act include:-

Requiring all individuals and businesses to complete an enhanced application process to obtain a scrap metal dealer licence. Local authorities will have the power to turn down unsuitable applicants.

Giving local authorities the power to revoke a licence.

Requiring all sellers of metal to provide personal identification at the point of sale, which is then recorded by the scrap metal dealer.

Extending the offence of buying metal with cash to itinerant metal collectors.

New powers for the police and local authorities to enter and inspect sites.

Creating a central public register, hosted by the Environment Agency, of all individuals and businesses licensed as scrap metal dealers.

Widening the definition of a scrap metal dealer to include motor salvage operators.

4.00 RECOMMENDATIONS

- 4.01 That Members note the new legislation covering scrap metal dealers and the role of the Licensing Committee in determining contentious applications.

5.00 FINANCIAL IMPLICATIONS

- 5.01 The main intention of the legislation is to reduce metal theft and the consequential financial impact upon property, equipment and infrastructure owners.

- 5.02 Local authorities will be able to charge a licence fee, which is set locally. In setting the fee, local authorities must have regard to any guidance issued by the Secretary of State

6.00 ANTI POVERTY IMPACT

None

7.00 ENVIRONMENTAL IMPACT

Enhanced regulation of scrap metal sites generally and environmental convictions will be able to be taken into account during consideration of applications.

8.00 EQUALITIES IMPACT

None

9.00 PERSONNEL IMPLICATIONS

None

10.00 CONSULTATION REQUIRED

None

11.00 CONSULTATION UNDERTAKEN

None

12.00 APPENDICES

None

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

Scrap Metal Dealers Act 2013

Contact Officer: Michael Lovatt

Telephone: Ext 3393

Email: michael.lovatt@flintshire.gov.uk

This page is intentionally left blank