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To: **MEMBERS OF THE LICENSING COMMITTEE**

CS/NG

7 May 2015

Maureen Potter 01352 702322
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Dear Sir / Madam

A meeting of the **LICENSING COMMITTEE** will be held in the **DELYN COMMITTEE ROOM, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 13TH MAY, 2015** at **10.00 AM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

AGENDA

- 1 **APPOINTMENT OF CHAIR**
To appoint a Chair of the Committee.
- 2 **APPOINTMENT OF VICE-CHAIR**
To appoint a Vice-Chair of the Committee.
- 3 **APOLOGIES**
- 4 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**
- 5 **MINUTES** (Pages 3 - 6)
To confirm as a correct record the minutes of the last meeting

6 **MOBILE HOMES (WALES) ACT 2013** (Pages 7 - 10)

Report of Chief Officer (Planning and Environment)

7 **CHANGES TO THE PRIVATE HIRE VEHICLE SPECIFICATION** (Pages 11 - 20)

Report of Chief Officer (Planning and Environment)

LICENSING COMMITTEE **3 JULY 2014**

Minutes of the meeting of the Licensing Committee of Flintshire County Council held in the Delyn Committee Room, County Hall, Mold on Thursday, 3 July 2014

PRESENT: Councillor Tony Sharps (Chairman)

Councillors: Glyn Banks, Paul Cunningham, Rosetta Dolphin, Jim Falshaw and Hilary McGuill

APOLOGIES: Councillors: David Cox, Brian Dunn, Robin Guest, Brian Lloyd and Mike Reece

IN ATTENDANCE:

Solicitor, Community Protection Manager and Committee Officer

1. APPOINTMENT OF VICE-CHAIR

Nominations were sought for a Vice-Chair of the Committee. The Chairman's proposal for Councillor David Cox was duly seconded and supported by the Committee. No further nominations were received.

RESOLVED:

That Councillor David Cox be appointed Vice-Chairman of the Licensing Committee.

2. DECLARATIONS OF INTEREST

No declarations of interest were made.

3. MINUTES

The minutes of the meeting of the Committee held on 15 May 2014 were submitted.

RESOLVED:

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

4. THE FUTURE OF TAXI LEGISLATION

The Community Protection Manager introduced the report to advise Members of the proposals put forward by the Law Commission in respect of its review of taxi licensing legislation.

In detailing the background to the report, the Community Protection Manager explained the different operating requirements of Hackney carriages and private hire vehicles, of which there were currently six and 318 respectively in Flintshire. Whilst the new legislation retained the emphasis on driver and vehicle safety and the term

'private hire vehicle', it recommended that the term 'Hackney carriage' be replaced with 'taxi'. Other proposed changes were outlined in the report, including the adoption of national licence conditions to achieve some consistency across Wales and England.

In response to queries from Councillor Hilary McGuill, the Community Protection Manager said that there should be no private hire vehicles in Flintshire indicating the word 'taxi', with the exception of an operator in Mold who had previously been granted dispensation to do so. He went on to explain that bookings for private hire vehicles should be made via their respective offices or by telephone.

Councillor Paul Cunningham commented that many people would be unaware of the differences between private hire operators and Hackney carriages. In response to a query on non-licensed private hire vehicles touting for business, it was acknowledged that the Licensing Authority generally relied on intelligence from the public and other licensed private hire operators, however this was not a major problem in Flintshire and some prosecutions had been made.

Following comments from Councillor Rosetta Dolphin on the low number of Hackney carriages currently operating in Flintshire, it was felt that this may be due to the lack of a public focal point such as a county hospital. The Community Protection Manager said that another factor may have been the requirement in Flintshire that, under the Disability Discrimination Act 1995, such vehicles offered full disabled access as opposed to other areas where ordinary saloon cars could be licensed as Hackney carriages.

The Community Protection Manager responded to a number of queries from Councillor Glyn Banks. It was explained that the Private Hire Operators' Forum had been consulted on the proposals which had also been made available to the public via a press release and on the website. On the proposed change to allow vehicles with up to 16 passengers to be licensed in particular circumstances, it was hoped that the guidelines would provide further clarification.

RESOLVED:

- (a) That the proposed changes in respect of taxi and private hire legislation be noted;
- (b) That further reports are prepared for the Licensing Committee as the Government's intentions in respect of the Law Commission Review become clearer, and secondary legislation, guidance and the new national standards are published; and
- (c) That, following its review of taxi licensing legislation, the availability of the full 290 page Law Commission report on its website be noted.

5. LICENSING ACT 2003 - PERSONAL LICENCES

The Community Protection Manager introduced the report to inform Members of issues surrounding the renewal of Licensing Act personal licences in 2015.

Reference was made to the implementation of the Licensing Act 2003 which came into effect in 2005, where hundreds of applications had been received to transfer to the new arrangements. Applications to renew personal licences after ten years would need to be made to the Licensing Authority in which the applicant was ordinarily resident. As 460 applications had been received in Flintshire between April and August 2005, this was the expected number due for renewal in the Spring and Summer of 2015. The report indicated the potentially significant amount of work involved with this renewal process, which may require additional resources.

In response to a question from Councillor Hilary McGuill, it was explained that both a premises licence and a personal licence for the appointed Designated Premises Supervisor (DPS) were needed. Any establishments which had failed to renew their licences would be prohibited from selling alcohol but could re-apply at any time. If the existing DPS had not applied for a renewal to their personal licence, a different person could apply.

Following a comment from Councillor Rosetta Dolphin, the Chairman said that personal licence holders were able to work anywhere in the country.

RESOLVED:

That the significant additional workload arising from hundreds of personal licences due for renewal in 2015 be noted.

6. ATTENDANCE BY MEMBERS OF THE PRESS AND PUBLIC

There were no members of the press or public in attendance.

The meeting commenced at 9.30am and finished at 10.05am

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Chairman

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **LICENSING COMMITTEE**
DATE: **WEDNESDAY, 13 MAY 2015**
REPORT BY: **CHIEF OFFICER (PLANNING & ENVIRONMENT)**
SUBJECT: **MOBILE HOMES (WALES) ACT 2013**

1.00 PURPOSE OF REPORT

1.01 To Provide details of the new legislation and to inform Members of the arrangements for the approval of licence applications.

2.00 BACKGROUND

2.01 The Mobile Homes (Wales) Act came in to force on 1st October 2014. The key aim of the Act is to better protect the rights of people living in residential mobile homes as their primary residence.

2.02 The Act makes provision for how these sites should be managed and maintained in Wales and gives residents improved rights.

2.03 The Act requires all residential mobile home parks to be relicensed by the Local Authority. It also introduces changes to the procedures for applying for a site licence, including a 'fit and proper person' test for owners and managers, a range of enforcement provisions for the Local Authority and a longer – five year licence.

2.04 The Act places a responsibility on the Local Authority to issue Site Licenses (where appropriate) within 2 months of an application being made, to have regard to the Model Standards for Caravan Sites in Wales 2008 and to keep a register of site licenses issues within its area.

3.00 CONSIDERATIONS

3.01 A report went before Cabinet on 21st April to request delegation arrangements.

3.02 The Act offers a range of powers to the Local Authority. It was requested that day to day enforcement powers be delegated to appropriate officers, namely Environmental Health Officers and Licensing Officers, which was agreed by Cabinet.

3.03 As the new arrangements for Caravan Site Licensing include the introduction of a “fit and proper person” test, it was felt that a Sub Committee of the Licensing Committee would be ideally placed to consider applications where such issues need to be considered. It was agreed by Cabinet Members that any application for a site licence where the fitness and propriety of the applicant is questioned is referred to and determined by a Licensing Sub Committee.

3.04 In order to make their decision, the Sub Committee will be provided with information in relation to the applicant’s criminal record, and any information Environmental Health feel is appropriate to disclose in relation to records or intelligence they may hold.

3.05 Fee setting delegation will fall to the Chief Officer (Planning & Environment in consultation with the Cabinet Member for Waste Strategy, Public Protection and Leisure.

4.00 RECOMMENDATIONS

4.01 None in respect of this report

5.00 FINANCIAL IMPLICATIONS

5.01 It is anticipated that fees will be higher than under the current regime, however these costs will reflect the additional time spent on the administration of the licenses and the additional compliance checks. The fees will not exceed the cost of operating the new regime. The fees will be reviewed after the initial five year period.

6.00 ANTI POVERTY IMPACT

6.01 None in respect of this report

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 Public consultation

11.00 CONSULTATION UNDERTAKEN

11.01 Public consultation has been carried out by the Welsh Government.

12.00 APPENDICES

12.01 None in respect of this report

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

Mobile Homes (Wales) Act 2013

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **LICENSING COMMITTEE**
DATE: **WEDNESDAY, 13 MAY 2015**
REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**
SUBJECT: **CHANGES TO THE PRIVATE HIRE VEHICLE SPECIFICATION**

1.00 PURPOSE OF REPORT

1.01 For Members to consider approving changes to the Private Hire Vehicle Specification

2.00 BACKGROUND

2.01 Flintshire County Council have a Private Hire Vehicle Specification, which allows Private Hire drivers to understand what is required when applying to licence a vehicle for Private Hire. The specification is shown at Appendix A

2.02 Number 2 of the specification includes the wording that 'Any seat must measure 400mm at the narrowest point'

2.03 The conditions of a Private Hire Vehicle Licence state that 'The minimum acceptable width of seat section per person is 400mm'. A copy of the conditions is shown at Appendix B

2.04 Recently the slight difference between the Private Hire Vehicle Specification and the Conditions of Licence has been causing some confusion with some nominated testing stations measuring across the back seat as a whole and ensuring each passenger has 400mm or more if the length is divided in to three, and some measuring between seat belt anchorages, which result in the 'narrowest' part of the seat often being too small to comply.

3.00 CONSIDERATIONS

3.01 Many vehicles including a Ford Mondeo, a large Mercedes, a Vauxhall Astra and a Range Rover have been measured by two of our nominated testing stations. One hundred percent of the vehicles measured by them would not pass the Council test if the measurement had to be taken between the seat belt anchorage points.

- 3.02** Vehicles must go through stringent testing by the manufacturers to ensure the safety of passengers. Where there are three seat belts, vehicles can seat three passengers safely in the rear.
- 3.03** The condition exists in relation to comfort rather than safety.
- 3.04** Our neighbouring Authority, Wrexham have a similar condition which is worded in the following way: 'The minimum acceptable width of seat section per person is 410 millimetres at the widest point of the seat which can include unequal seated sections'. This caters for the middle seat in the rear of a vehicle which is small if it is measured between the seat belt anchorages
- 3.05** It is proposed that the wording 'at the narrowest point' is removed from number 2 on the Private Hire Vehicle Specification, and the wording of the condition is amended to reflect the wording of the Private Hire Vehicle Conditions. This will then ensure that all nominated testing stations measure the rear seat as a whole and divide the measurement by three to ensure that all passengers have the comfort of 400mm seat width per person.

4.00 RECOMMENDATIONS

- 4.01** That the Committee approve that number 2 of the Private Hire Vehicle Specification is changed to 'The minimum acceptable width of seat section per person is 400mm'

5.00 FINANCIAL IMPLICATIONS

- 5.01** None

6.00 ANTI POVERTY IMPACT

- 6.01** 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 Appendix A: Private Hire Vehicle Specification
Appendix B: Conditions of Licence – Private Hire Vehicle

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

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Private Hire Vehicle Specification

1. The vehicle must have 4 wheels and be fitted with at least 4 doors. A door is defined as a means of direct access into and egress from the vehicle, and which is not obstructed by seating or luggage or by any other cause, and which can be opened from both inside and outside of the vehicle by the passenger.
2. The following additional condition applies to vehicles licensed to carry more than 4 persons:-
Each passenger must have direct access to and egress from the vehicle without the need to climb over other seats or luggage. This would not include where a seat has to be tipped to allow access or egress. Any seat must measure 400mm at the narrowest point.
3. The vehicle must be right-hand drive.
4. The vehicle must have a current M.O.T. Certificate where appropriate.
5. The vehicle must be presented for inspection in a clean and roadworthy condition, and all its fittings and equipment shall at all times be kept in an efficient, safe, tidy and clean condition and must comply with all relevant statutory requirements, including those contained in the Motor Vehicles (Construction and Use) Regulations.
6. The vehicle must not be of such type, design or appearance as to lead any person to believe that the vehicle is a Hackney Carriage vehicle.
7. Vehicles must have adequate space for luggage within the car; whilst a roof rack is permissible, this should be to provide extra luggage accommodation, not as an alternative - no other roof fitting will be permissible.
8. The vehicle must be fitted with a fire extinguisher (dry powder type, minimum weight 2.00 kg) in such a position to be readily available for use.
9. The vehicle must be equipped with an appropriate first-aid box, minimum contents to be as follows: card giving the general first-aid guidance, six individually wrapped sterile adhesive dressings, one large sterile unmedicated dressing, two triangular bandages, two safety pins and individually wrapped moist cleansing wipes and one pair of disposal gloves.
10. The vehicle must be capable of carrying at least 4 and not more than 8 passengers, in addition to the driver.
11. There must be in force a current Certificate of Insurance in relation to the vehicle.
12. The vehicle must pass the County Council's vehicle mechanical and suitability test before a licence can be issued.
13. Each and every front seat passenger must be provided with a lap & diagonal seat belt, and head restraints.

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PRIVATE HIRE VEHICLE

CONDITIONS OF LICENCE

1. Maintenance and Condition of Vehicle:

- (a) The vehicle and all its fittings and equipment shall at all times, when the vehicle is in use or available for hire, be kept in an efficient, safe, tidy, clean condition and in good order and repair, and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction & Use) Regulations) shall be fully complied with.
- (b) The vehicle must pass the Council's vehicle mechanical and suitability test before a licence can be issued.

2. Alteration of Vehicle:

No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Council at any time whilst the licence is in force.

3. Seating Capacity:

- (a) Vehicles must be capable of carrying at least 4 and not more than 8 passengers, in addition to the driver.
- (b) Each and every front seat passenger must be provided with a lap and diagonal seat belt and head restraint.
- (c) The minimum acceptable width of seat section per person is 400mm.

4. Rear Licence Identification Plate:

The licence identification plate issued by the Council shall be securely affixed, to the satisfaction of the Council, to the rearmost part of the vehicle in such a position that it shall be clearly visible from the rear of the vehicle and shall not be wilfully or negligently concealed from public view while the vehicle is being used for hire.

Display of the plate other than in the manner prescribed above is not permitted.

5. Front Windscreen Sticker:

The windscreen sticker issued by the Council and bearing the number of the licence granted in respect of the vehicle shall be securely affixed on the passenger side of the front windscreen, so as to be clearly visible from the outside, but without obstructing the vehicle driver's view, and whilst complying with all relevant statutory requirements, including those contained in the Motor Vehicles (Construction & Use) Regulations.

The rear plate and windscreen sticker remain the property of the Council and must be returned on expiry of the licence or if the vehicle is sold out of the trade.

If either of the above are lost or stolen, then this must immediately be reported to the Police and to the Council.

6. Signs on Vehicles:

The vehicle Operator's name and telephone number shall be displayed at all times on the two front doors of each vehicle.

It is also permissible to display the vehicle Operator's name and/or telephone number on the front and rear screens of the vehicle.

The vehicle driver, when attending to pick up a fare, is permitted to display the name of the passenger, to facilitate recognition by the passenger.

With the aforementioned exceptions, no signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle except as may be required by any statutory provision of these conditions, or with prior written authorisation of the Council.

7. Insurance:

The proprietor of the vehicle shall produce a current valid certificate of insurance or cover note(s) to provide proof of continuing insurance cover.

8. Vehicle Damage:

A proprietor of the vehicle is required to report to the Council (for these purposes to the Officers of the Council responsible for Licensing) as soon as reasonably practicable and in any case within 72 hours of the occurrence thereof, any accident to the vehicle, which has caused damage which materially affects the safety, performance or appearance of the vehicle or the comfort or convenience of passengers carried therein.

9. Sale of the Vehicle:

A licensed private hire vehicle may not be sold, changed or the owner/proprietor changed without first notifying the Council in writing (for these purposes to the Officers of the Council responsible for Licensing), and completing the necessary forms.

N.B. On surrender of the rear licence plate and windscreen sticker, or expiry of the vehicle licence, the vehicle ceases to be a licensed private hire vehicle.

10. Change of Address:

The proprietor of the vehicle shall notify the Council in writing of any change of his/her address during the period of the licence seven days prior to such change taking place.

11. Convictions:

The proprietor of the vehicle shall within 7 days of any convictions (motoring or otherwise) disclose to the Council in writing details of such convictions imposed on him/her (or if the proprietor is a company or partnership, in any of the directors or partners) during the period of this licence.

12. Deposit of Driver's Licences:

- (a) If the proprietor is not the Licensed Operator of the vehicle but permits or employs any other person to drive the private hire vehicle, he/she shall before that person commences to drive the vehicle, cause the driver to deliver to him a copy of his/her private hire driver's licence for retention until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his/her.
- (b) If the proprietor is also the Licensed Operator of the vehicle and permits or employs any other person to drive the private hire vehicle, he shall before that person commences to drive cause the driver to deliver to him/her, his/her private hire driver's licence for retention until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his/her.

13. Cheques:

A licence in respect of which the application fee has been paid by a cheque which subsequently is not honoured, shall be deemed not to have taken effect.

14. Safety Equipment:

A suitable first aid kit shall be provided, such equipment to be carried in such a position in the vehicle as to be readily available for immediate use in an emergency.

All vehicles be required to carry out a dry powder variety fire extinguisher a minimum weight of two kilos which shall be tested and maintained in accordance with the manufacturer's instructions to ensure that it is serviceable at all times. The extinguisher must be readily available for immediate use in an emergency.

15. Right of Appeal:

If you are aggrieved by any of the aforementioned Conditions attached to this Licence you may appeal to a Magistrates' Court within 21 days of the service of this licence on you.

Any requirements of legislation which effect the operations being carried out under the terms of this licence shall be regarded as if they are conditions of this licence.

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