

LICENSING COMMITTEE
16th NOVEMBER 2009

Minutes of the meeting of the Licensing Committee of Flintshire County Council held at County Hall, Mold on Monday, 16th November, 2009.

PRESENT: Councillor J.B. Attridge (Chairman)

Councillors L.A. Aldridge, S.R. Baker, E. Cooke, A.G. Diskin, B. Dunn, J.E. Falshaw, T. G. James, E. Owen, G. Roberts.

APOLOGIES

Councillor M. Reece and L. A. Sharps.

IN ATTENDANCE

Chief Public Protection Officer, Health, Safety and Licensing Manager, Solicitor (Corporate) and Democratic Services Manager.

1. CHIEF PUBLIC PROTECTION OFFICER

The Chairman welcomed Dr Paul McCreary to his first meeting of the Licensing Committee. He advised that Dr McCreary had been in post for some time but that this was his first meeting of the Licensing Committee and asked Members to introduce themselves, which they did.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES

RESOLVED

That the minutes of the meeting held on 3rd November 2008 be confirmed as a correct record.

4. THE GAMBLING ACT 2005 – THREE YEAR LICENSING POLICY 2010-2013

The Committee considered the report of the Director of Environment, the purpose of which was to request that Members consider and approve the proposed Gambling Act 2005 Three Year Licensing Policy that would cover the years 2010 to 2013. The report was presented by the Health, Safety and Licensing Manager. The Committee was informed that it was a requirement of Section 349 of the Gambling Act 2005 that a Licensing Authority should, before each successive period of three years, prepare a statement of the principles that they proposed to apply in exercising their functions under the Act and publish that statement. It was noted that Flintshire's existing policy which fulfilled this function came into force on 31st January 2007 and lasted for three years. In presenting the report, the Health, Safety, and Licensing

Manager indicated that the Council had been administering and enforcing the requirements of the Act since it became operational almost three years previously. In the light of the experience it was recommended that the Council be not minded to depart significantly from the existing policy document apart from updating any factual information that had changed. The legislation required a consultation process to be done and this had been undertaken and ended on 5th November 2009. It was noted that a schedule of those consulted was shown as Appendix A, the responses received as Appendix B, together with the view of the Licensing Authority. The proposed statement of Licensing Policy was shown as Appendix C. He also reported that the County Council would have to ratify the decision of the Committee.

Councillor L. A. Aldridge referred to notices on gambling machines where they identified the percentage payouts from that particular machine. He enquired if this was monitored as part of the Council's function. It was reported that this was the responsibility of the Gambling Commission to ensure such notices were displayed in a correct manner. Councillor Aldridge, supported by other Members, suggested that information was sought from the Gambling Commission to ascertain if checks were made and the regularity of those checks within the Flintshire area. The Health, Safety and Licensing Manager confirmed that he would do this.

RESOLVED

That the County Council be recommended to approve the Flintshire County Gambling Act 2005 – Statement of Licensing Policy to cover the period 2010 – 2013.

5. HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE APPLICATION

POLICY GUIDANCE AND THE TREATMENT OF CONVICTIONS, CAUTIONS, CRIMINAL CHARGES OR OTHER RECORDED SANCTIONS

The Committee considered the report of the Director of Environment, the purpose of which was to request Members to consider and approve proposed amendments to Flintshire's current Policy Guidelines relating to applicants who may have been convicted of offences. The report was presented by the Health and Safety Manager. The Committee was informed that the Local Government (Miscellaneous Provisions) Act 1976 stated that the Council should not grant a Hackney Carriage or Private Hire Driver's Licence unless it was satisfied that the applicant was a fit and proper person to hold such a licence. The same legislation permitted the Council to suspend, revoke or refuse to renew a Driver's Licence if, since the grant of that licence, the driver had been convicted of an offence involving dishonesty, indecency or violence, or had been convicted of an offence under or failed to comply with certain Licensing Statutory Provisions or for any other reasonable cause.

The Council last revised its Guidelines to reflect the assessment of ex-offenders as being fit and proper persons to hold a licence to drive hackney

carriages or private hire vehicles in 2003 and it was felt it was now an opportune time to review the Guidelines.

There were a number of key considerations in considering such applications and these were fully detailed in the report.

Councillor E.G. Cooke referred to the possibility of the driver being convicted of four minor traffic offences and receiving three points penalty for each one who could then go to the Magistrates' Court and seek leniency over the imposition of a driving ban. However, if the Magistrates so decided, that person could continue to drive but could still fall foul of the Council's regulations. Councillor L. A. Aldridge supported the point of Councillor Cooke and felt that there should be some discretion in this area, particularly in relation to the level of speeding, for example; if a driver was only just over the speeding limit, it would not be as serious for someone who had exceeded it substantially. The Chief of Public Protection Officer indicated that the overriding duty related to public protection from the viewpoint of a member of the public who should be assured of being able to be driven safely in a taxi, the issue for the Council was the care for the members of the public. He emphasised the seriousness of repeat offending. The Solicitor referred to page 44 of the report and significantly paragraphs 4.7, 4.8 and 4.9 which she felt gave the Council a degree of discretion referred to by the Members. Councillor S. R. Baker supported the views of the Officers whereby the public expected a high standard from taxi drivers and that the Licensing Committee had a responsibility in this area. He also enquired if the policy was accepted if a copy would go to all private hire and hackney carriage drivers and it was confirmed that this was the case.

Councillor E. Owen felt that it was important for the drivers' identification badges to be clearly shown within the car and it was confirmed that this was part of the licence conditions and when inspections were undertaken this was one of the things that was examined. Councillor L. A. Aldridge accepted the explanation from the Solicitor in relation to the degree of discretion referred to in paragraphs 4.7, 4.8 and 4.9 of the report. The Solicitor concurred with the Chief Public Protection Officer's comments about the seriousness of repeat offending and the duty of the Local Authority to consider the public's protection and safety.

RESOLVED

That the proposed Policy Guidance relating to the treatment of convictions, cautions, criminal charges or other recorded sanctions in respect of applications for Hackney Carriage and Private Hire driver's licences and existing drivers who may commit offences, be approved.

6. DURATION OF MEETING

The meeting commenced at 10.00pm and ended at 10.30pm.

7. **MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE**

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

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Chairman