

LICENSING COMMITTEE
7 NOVEMBER 2013

Minutes of the meeting of the Licensing Committee of Flintshire County Council held at Delyn Committee Room, County Hall, Mold CH7 6NA on Thursday, 7 November 2013

PRESENT: Councillor Tony Sharps (Chairman)

Councillors David Cox, Ian Dunbar, Jim Falshaw, Brian Lloyd and Mike Reece

APOLOGIES: Councillors Glyn Banks, Alan Diskin, Rosetta Dolphin, Brian Dunn and Hilary McGuill.

IN ATTENDANCE:

Democracy and Governance Manager, Team Leader, Licensing and Team Manager, Committee Services

1. MINUTES

The minutes of the meeting held on 9 May 2013 had been circulated with the agenda.

RESOLVED:

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

2. APPOINTMENT OF VICE-CHAIR

Councillor Mike Reece proposed Councillor David Cox as Vice-Chair which was duly seconded by Councillor Ian Dunbar.

RESOLVED:

That Councillor David Cox be appointed as Vice Chair.

3. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

No declarations of interest were made.

4. PERSONAL ALCOHOL LICENCE

The Team Leader, Licensing introduced the report which provided information on a Home Office consultation in relation to Personal Alcohol Licences under the Licensing Act 2003.

RESOLVED:

That the Home Office proposals on Personal Licences be noted.

5. **SCRAP METAL DEALERS ACT 2013**

The Team Leader, Licensing introduced the report which provided details of the Scrap Metal Dealers Act 2013 and informed Members of the role of the Licensing Committee in determining whether applicants were suitable persons.

The new Act required scrap metal dealers to be assessed for suitability before licenses were granted or renewed. It also gave local authorities the power to impose conditions on licenses, to revoke licenses, and to close down unauthorised sites.

The Act created two different types of scrap metal licence – either a Site Licence or a Collectors Licence. Mobile collectors must be separately licensed in each Local Authority area in which they operated.

RESOLVED:

That the new Scrap Metal Dealers legislation and the role of the Licensing Committee in determining certain applications be noted.

6. **REVIEW OF THE CURRENT ARRANGEMENTS FOR NOMINATING GARAGES FOR THE TESTING OF PRIVATE HIRE AND HACKNEY CARRIAGE VEHICLES**

The Team Leader, Licensing, introduced the report which proposed changes to the current regime for nominating garages to test Private Hire and Hackney Carriage Vehicles on behalf of Flintshire County Council.

It was agreed at Executive in June 2009 that the Licensing Committee would periodically oversee the effective operation of the scheme, including consideration of future changes. The scheme had been effective for four years and there were 17 nominated testing stations.

At a recent Private Hire Operator Forum, the subject of vehicle testing was raised. Some operators raised concerns that some operators of Private Hire Vehicles were able to test their vehicles at nominated testing stations which were run by family members, partners or acquaintances. It was felt that it may be a conflict of interest, in particular in relation to payment.

Nothing in the scheme addressed this and it was considered by the Licensing Section that it may be beneficial to include a policy position to safeguard against such potential conflicts of interest.

Two affected businesses were contacted by letter to explain that it was the intention to bring the matter before the Licensing Committee and a response letter referring to both businesses was attached as Appendix C to the report.

The Chair had given prior approval for each of the two relevant businesses to address the Committee for a maximum of five minutes per person.

The Chair invited Ms Wendy Smith of Holywell Cars, Mr David Davies of Lodge Farm Workshops and MOT and their legal representative, Mr Tim Culpin

of Aaron & Partners LLLP Solicitors to the table. Mr Culpin explained that he would address the Committee on behalf of Ms Smith and Mr Davies.

Ms Smith and Mr Davies, who co-habited, felt that the adoption of the recommendation would have a significant and serious adverse affect on both of their businesses.

Mr Davies had been an authorised taxi and private hire tester for Flintshire County Council since 2009 and carried out testing for a number of other local operators and taxi/private hire owner/drivers. It was believed that he offered a unique service to all of his customers in that he would carry out his services at a time to suit them, not just during normal working hours. This provided a distinct advantage to all the businesses who used his services, not just Ms Smith's business.

Since Ms Smith had acquired Holywell Cars, Mr Davies had carried out 18 six monthly MOT tests on her vehicles and had failed Holywell Cars on 3 occasions. Mr Culpin referred the Committee to the paperwork he had distributed which provided details of those tests. Those records also showed that all of the tests had been paid for.

Both businesses were subject to statutory regulation. Vehicle and Operator Services Agency (VOSA's) regulation was strict and the consequences of improper activity were severe. Similarly, Flintshire County Council had inspectors to ensure that taxi/private hire operators were complying with the requirements of their licences and operators would risk losing those licences if any improper conduct was found. VOSA had no issues with arrangements such as those that were being carried out and were quite content with testers carrying out tests on their own vehicles.

Mr Culpin suggested that a voluntary requirement for disclosure of interests and connections could be sufficient so that appropriate checks could be carried out.

The Team Leader, Licensing read out a file note taken by the Community Protection Manager which said that during a telephone conversation with Ms Smith, he had advised her that nothing prevented such an arrangement but there was a clear conflict of interest and the procedure would be looked into in the future.

In response to a question, the Team Leader, Licensing, explained that the testing station owned by Mr Davies was not the only one in Flintshire that operated an out of hours service. Also, there were other garages in North Flintshire that were able to carry out MOT tests for Private Hire and Hackney Carriage vehicles.

The Chair thanked Mr Culpin for addressing the Committee and adjourned the meeting. Mr Culpin, Ms Smith, Mr Davies and the Team Leader, Licensing left the room.

Mr Culpin, Ms Smith, Mr Davies and the Team Leader, Licensing were invited back into the room and the meeting was re-convened.

RESOLVED:

- (a) That voluntary declarations of interests be made to Flintshire County Council by operators of Private Hire Vehicles who had their vehicles tested by testing stations which were run by family members, partners or acquaintances with appropriate checks being carried out by Flintshire County Council;
- (b) That any potential new applicant to the scheme is only considered for inclusion on the scheme at one period of the year (February);
- (c) That the Team Leader, Licensing, (in consultation with the Community Protection Manager) may change the Service Level Agreement from time to time as appropriate; and
- (d) That the continuation of approving only those Testing Stations who have been established for a minimum of three years and who meet the remaining criteria is appropriate.

7. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were three members of the public present.

(The meeting started at 10.00 am and ended at 11.30 am)

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Chairman