

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, Robin Guest, Brian Lloyd,
Hilary McGuill and Mike Reece

1 November 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, 7TH NOVEMBER, 2013** at **10.00 AM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

AGENDA

- 1 **APOLOGIES**
- 2 **MINUTES** (Pages 1 - 6)
To confirm as a correct record the minutes of the last meeting
- 3 **APPOINTMENT OF VICE-CHAIR**
- 4 **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

5 **PERSONAL ALCOHOL LICENCE** (Pages 7 - 10)

To inform Members of the Home Office consultation in relation to Personal Licence Holders

6 **SCRAP METAL DEALERS ACT 2013** (Pages 11 - 14)

To provide details of the Scrap Metal Dealers Act 2013 and to inform Members of the role of the Licensing Committee in determining whether applicants are suitable persons.

7 **REVIEW OF THE CURRENT ARRANGEMENTS FOR NOMINATING GARAGES FOR THE TESTING OF PRIVATE HIRE AND HACKNEY CARRIAGE VEHICLES** (Pages 15 - 28)

For Members to consider making changes to the current regime for nominating garages to test Private Hire and Hackney Carriage Vehicles on behalf of Flintshire County Council.

LICENSING COMMITTEE
9 MAY 2013

Minutes of the meeting of the Licensing Committee of Flintshire County Council held at County Hall, Mold on Thursday 9 May 2013.

PRESENT: Councillor L.A. Sharps (Chairman)

Councillors: G. Banks, R. Dolphin, I. Dunbar, B. Dunn, M.A. Reece, H.G. Roberts.

APOLOGIES:

Councillor H.McGuill.

IN ATTENDANCE:

Solicitor (Litigation), Interim Public Protection Manager, Community Protection Manager, Community Protection Team Leader (Licensing), Committee Officer

17. MINUTES

The minutes of the meeting held on 29 November 2012 had been circulated with the agenda.

Matters arising

Councillor I. Dunbar thanked the Community Protection Manager for forwarding him information requested in paragraph 5 of page 2 of the minutes and paragraph 6 of page 3.

RESOLVED:

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

18. DECLARATIONS OF INTEREST

No declarations of interest were made.

19. LAW COMMISSION REVIEW OF TAXI LEGISLATION

The Community Protection Manager presented a report about the Interim Statement by the Law Commission concerning the review of taxi legislation.

The Law Commission had issued a brief interim statement about the contents of a proposed draft Bill due at the end of 2013. The Community Protection Manager highlighted the following points in the statement:

Point 5: A two tier system distinguishing taxis and Private Hire vehicles would remain.

Point 6: Quality Controls – local authorities should be able to limit the number of taxis licensed in their area on the basis of economic theory. The Community Protection Manager stated that this was not relevant to Flintshire.

Point 10: Standard Setting – national safety standards are proposed which the Community Protection Manager felt were positive.

Point 13: Cross border. Private Hire services would no longer be restricted 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.

Councillor I. Dunbar referred to paragraph 3 of the report and asked if there had been wider discussion around the proposals and if the process would be completed during the remaining term of the current government. The Community Protection Manager advised that the draft bill would be available at the end of 2013 and that Flintshire County Council officers had responded to proposals via an All Wales Officers' Group. Councillor I. Dunbar welcomed Point 15 and 16 which referred to Equality and accessibility and said that he was aware locally of disabled people who have alleged that private hire services had been unable or unwilling to accept them as passengers. The Community Protection Manager said that complaints of this nature would be dealt with on a local basis by Flintshire County Council.

The Community Protection Team Leader advised members that the public should put their concerns in writing so that her team could investigate any alleged incidents of discrimination.

The Chair asked for cross border clarification. The Community Protection Manager said that provided the vehicle, driver and operator were licensed by the same local authority, it could be booked to work out of county without having to apply for a second plate from another authority.

RESOLVED:

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

20. TAXI LICENSING PROCEDURE – ANGER MANAGEMENT

The Community Protection Team Leader introduced a report to inform members about the different options when using attendance at anger management courses as a sanction following licensing Sub Committee.

A private hire driver, in 2012 had accrued 15 penalty points on his DVLA licence, but had been allowed to keep his driving licence under the grounds of financial hardship. When the driver applied to renew his taxi licence, he was asked to appear before Licensing Sub Committee as the members were concerned about the applicant becoming involved in "road rage" 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.

Licensing had now researched the market for anger management courses and have found that Mind Aberconwy could offer two courses, one which was 2 hours per week for 6 weeks and one that was 2 hours per week for 4 weeks. As an alternative, sessions could be booked with a British Association for Counselling and Psychotherapy registered practitioner.

The Community Protection Team Leader asked Members to consider the most appropriate way to fulfil an anger management resolution.

Councillor R. Dolphin asked who would foot the bill for the counselling course. The Community Protection Team Leader, in response said that the cost would be borne by the driver.

Councillor I.A. Dunbar said that he agreed with the report and that each case should be judged on its own merits. Drivers should have to attend every session of a course and provide written evidence of completion of the course in order to maintain their private hire/taxi licence.

The Solicitor (Litigation) read out an email from Councillor H. McGuill in which she said that she would prefer that drivers undertook specific courses rather than pick their own counsellors.

RESOLVED:

(a) That when using an anger management sanction following a Licensing Sub-Committee, Members specify which type of course and the duration of the course which is appropriate for the individual circumstance. This information should be included in the wording of the decision.

(b) That in the absence of a specific anger management course, that a time bound session with an accredited counsellor would be an acceptable alternative.

21. PROPOSALS TO DEREGULATE SOME ASPECTS OF THE LICENSING ACT 2003

The Community Protection Manager introduced a report to inform members of the forthcoming changes to the Licensing Act 2003.

It is proposed that licensing requirements be removed for low level events between 8am and 11 pm for indoor sports activities for audiences of 1000 or less, plays and dances of 500 or less and live and recorded music in alcohol licensed premises for audiences of 500 or less. The measures would also exempt plays, dance and indoor sports events that took place in community venues, schools, hospitals and local authority premises from the need to license.

The Key Provision of the Live Music Act 2012 would 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) would be suspended between 8am – 11pm in on licensed premises such as bars and clubs.

Councillor R. Dolphin said that this was a sensible approach. Councillor H.G. Roberts concurred with Councillor Dolphin and said that he welcomed the proposals which would greatly assist community events held outdoors.

Councillor I. Dunbar welcomed the change in legislation and said that the move would be welcomed by schools.

RESOLVED:

That Members note the forthcoming changes to the Licensing Act 2003.

22. LICENSING COLLABORATION PROPOSALS WITH WREXHAM

The Community Protection Manager introduced a report about the proposed collaborative working arrangements with Wrexham County Borough Council in respect of licensing.

The Interim Public Protection Manager said that the proposals built on the collaborative work that had taken place in Public Protection with Wrexham over the past 12-18 months and that they were considering possible joint action on enforcement. This would save both time and financial resources.

RESOLVED:

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

23. SCRAP METAL DEALERS ACT 2013

The Community Protection Manager introduced a report about new legislation covering scrap metal dealers and the role of the Licensing Committee.

The new Act would repeal the existing Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime) Act 2001 (relating to motor salvage operators). The Act would maintain the Local Authority as the principal regulator of the industries. The new Act would be more robust and require the use of non cash payment systems such as cheque or card. This would provide an audit trail of payments and would apply to mobile scrap metal collectors.

Councillor I. Dunbar asked how the public could identify legitimate traders. The Community Protection Manager said that there would be a licence displayed in the window of the vehicle.

Councillor G. Banks said that he did not think the legislation was as far reaching as it could have been. He said that dealers could circumvent regulation by claiming that customers “donated” items to them without payment being involved. He said that the emphasis should be placed on the scrap dealer and that they should only buy items such as large quantities of copper wiring or man hole covers from local authority officials or their sale be banned completely. He added that bank accounts of relatives could be used by unscrupulous sellers to receive payments, effectively laundering the profits of the sale of stolen goods.

The Chair observed that it would be hard for Local Authorities to enforce the Act.

Councillor R. Dolphin asked if it was the responsibility of the seller to check that procedures were carried out correctly. The Litigation Solicitor said it was the sellers responsibility to ensure that dealers held a license and that items would be disposed of appropriately. The Community Protection Team Leader said that the issuing of badges for itinerant dealers would give home owners the reassurance that they were registered with the Local Authority.

The Solicitor (Litigation) read out an email from Councillor H McGuill who raised a point about paragraph 3.04 and the need to ask for two forms of photographic identification such as passport and driving licence in addition to a valid bank statement, utility bill showing the address. The Community Protection Manager advised that Regulations were to be published which will specify the acceptable forms of identification.

RESOLVED:

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

DURATION OF MEETING

The meeting commenced at 10.00 a.m. and ended at 10.47 a.m.

23. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There was one member of the press present.

.....
Chairman

This page is intentionally left blank

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **LICENSING COMMITTEE**
DATE: **THURSDAY, 7 NOVEMBER 2013**
REPORT BY: **DIRECTOR OF ENVIRONMENT**
SUBJECT: **PERSONAL ALCOHOL LICENCES**

1.00 PURPOSE OF REPORT

1.01 To inform Members of a Home Office consultation in relation to Personal Alcohol Licenses under the Licensing Act 2003.

2.00 BACKGROUND

2.01 The current system of Personal Licences requires that all alcohol sales shall be made or authorised by a Personal Licence Holder. At the same time, any Designated Premises Supervisor (DPS) in relation to licensed premises must hold a personal licence.

2.02 When an individual makes an application for a Personal Licence, they must apply in the Local Authority area where they reside at that time. The licence lasts for ten years.

2.03 Personal Licence Holders are required to pay £10.50 to change their address with the licence holding Authority each time they move, however, this does not always happen.

2.04 Flintshire County Council has 1,437 Personal Licence holders, many of whom would be due to renew in 2015.

2.05 The Home Office feel that (based on previous consultation) there are weaknesses with the system. They are becoming concerned that it may not be effective in ensuring responsible sales and tackling crime and disorder.

2.06 The current system is not targeted. It's a national requirement and all premises must comply with the requirement to have a Personal Licence Holder, and incur significant costs in training, application fees and criminal record checks.

3.00 CONSIDERATIONS

3.01 The consultation suggests using Premises Licence conditions as an alternative to the Personal Licence, as long as they are precise,

enforceable and appropriate to promote the Licensing Objectives. It is felt that conditions could be a better and more targeted way of applying safeguards.

3.02 Conditions could include strict training requirements for those selling alcohol over and above the requirements already in place through the Personal Licence regime.

3.03 In order to implement the above, it is suggested that the current benchmark for training the existing legislation could be strengthened in several areas:

i: Require all alcohol sales to be made or authorised by the DPS rather than a Personal Licence Holder.

ii: Allow the police to object to a new DPS based on the crime prevention objective in general.

iii: Allow Licensing Authorities to require a criminal records declaration to be provided with any new application to vary a DPS.

iv: Allow those who are either named as the DPS in relation to a premises licence or have accredited training to give up to 50 Temporary Event Notices a year. Those without would be limited to five.

3.04 The Licensing Section agree with these proposals in principle, as removal of the requirement for a Personal Licence would reduce the burden on the section significantly in 2015 when the licenses would be ready for renewal.

4.00 RECOMMENDATIONS

4.01 That Members note the Home Office proposals on Personal Licences.

5.00 FINANCIAL IMPLICATIONS

5.01 A Personal Licence costs the applicant £37 plus the cost of attending an accredited course plus the cost of a criminal record disclosure.

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 None.

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

Licensing Act 2003.

Home Office Consultation 'Personal Alcohol Licenses: Enabling Targeted, Local Alternatives.

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, 7 NOVEMBER 2013**
REPORT BY: **DIRECTOR OF ENVIRONMENT**
SUBJECT: **SCRAP METAL DEALERS ACT 2013**

1.00 PURPOSE OF REPORT

1.01 To provide details of the Scrap Metal Dealers Act 2013 and to inform Members of the role of the Licensing Committee in determining whether applicants are suitable persons.

2.00 BACKGROUND

2.01 The Scrap Metal Dealers Act 2013 came into force on 1st October 2013 and provides a new licensing regime to replace the registration scheme of the old 1964 Act.

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

2.03 The Act creates two different types of scrap metal licence - either a Site Licence or a Collectors Licence. The mobile collectors must be separately licensed in every Local Authority area in which they operate.

2.04 There is also a requirement for a public register to be maintained by the Natural Resources Body for Wales. In England the register will be maintained by the Environment Agency.

2.05 Other powers contained in the Act provide for:

- Licenses to be displayed
- Dealers to carry out identity checks on scrap metal providers
- Dealers to keep records of any scrap received or disposed of
- Prohibition of cash payments. Payment can only be made by non-transferable cheque or transfer of funds
- Local Authorities and Police to enter and inspect licensed premises
- Closure of sites through Closure Orders from a magistrates court

- 2.06 The licensing regime commenced on 1st October 2013. In order to provide time to process applications without existing businesses being in a position where they could not operate the Home Office implemented a transition process. Provided any dealer already registered with the Authority made their application for a licence on or before 15th October 2013, their deemed licence could continue until the Council either issues a licence or gives notice of the decision to refuse the licence.
- 2.07 Any scrap metal dealers not previously registered were able to apply for a licence from 1 October 2013 but have to wait until a licence is granted before they can legally trade.
- 2.08 Officers of the Licensing Team made contact with all the registered dealers to ensure that they submitted their applications before the deadline in mid October. There are expected to be 20 site licences and around 25 collectors' licences in place by the end of the transitional period on 1st December 2013.

3.00 CONSIDERATIONS

- 3.01 As the Scrap Metal Dealers Act 2013 does not specify whether implementation is a County Council or an Executive function it automatically becomes an Executive function. Accordingly a report was submitted to Cabinet on 17th September 2013. It was agreed that enforcement powers would sit with the Licensing Team in Public Protection, that fee setting arrangements would be delegated to the Director of Environment and that the Licensing Committee would make decisions on whether applicants are 'suitable persons' to hold a licence.
- 3.02 Applicants are assessed for suitability against criteria set out in the Act and supporting regulations. They have to submit a criminal records disclosure document as part of the application process. If they have no relevant convictions in place (or pending) then the licence will be issued by officers. If there are relevant convictions and the Council is minded to refuse an application then the individual has a right to submit written representations or present their views orally.
- 3.03 In this case a Licensing Sub-committee will be convened to hear the representations and determine the application. This process is similar to that which already operates in respect of taxi drivers and those holding personal licences for the sale of alcohol.
- 3.04 To date there has not been any need to consider the suitability of any of the applicants; however this information will be updated on the day of the Committee.

4.00 RECOMMENDATIONS

4.01 That Members note the new Scrap Metal Dealers legislation and the role of the Licensing Committee in determining certain applications.

5.00 FINANCIAL IMPLICATIONS

5.01 A fee regime has been adopted which covers the costs of processing the applications and monitoring that the necessary requirements are met in terms of complying with the licence.

5.02 There are rights of appeal to the magistrates' court in respect of the decisions of the local authority. These may involve the Council being liable for costs

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 Attached

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

Scrap Metal Dealers Act 2013

LGA Guide to the Scrap Metal Dealers Act 2013

Contact Officer: Gemma Potter

Telephone: 01352 703371

Email: gemma.m.potter@flintshire.gov.uk

This page is intentionally left blank

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **LICENSING COMMITTEE**

DATE: **THURSDAY, 7 NOVEMBER 2013**

REPORT BY: **DIRECTOR OF ENVIRONMENT**

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

1.00 PURPOSE OF REPORT

1.01 For Members to consider making changes to the current regime for nominating garages to test Private Hire and Hackney Carriage Vehicles on behalf of Flintshire County Council.

2.00 BACKGROUND

2.01 In June 2009, the Executive took a decision to approve a proposed scheme to select suitable testing stations for the purpose of testing Private Hire and Hackney Carriage Vehicles. The report is attached as Appendix A.

2.02 The legislation requires that such vehicles are properly maintained and they therefore have to undergo a combined MOT/Council Requirements inspection twice a year. This helps ensure the safety of the travelling public.

2.03 It was recommended by the Executive that the Licensing Committee periodically oversee the effective operation of the scheme, including consideration of future changes. Please see the minutes of this meeting which are shown at Appendix B

2.04 The scheme has now been effective for 4 years, and currently there are 17 nominated testing stations. Each testing station must pay £100 per year which contributes to the cost of operating the scheme.

2.05 Members of the Private Hire and Taxi trade find the scheme much more efficient than the previous one, which allowed only six garages to test such vehicles on behalf of Flintshire.

3.00 CONSIDERATIONS

3.01 At a recent Private Hire Operator Forum, the subject of vehicle testing was raised. Operators expressed concerns that some Operators of

Private Hire Vehicles were able to test their vehicles at nominated testing stations which are run by family members, partners or acquaintances. It was felt that this may be a conflict of interest, in particular in relation to payment. The Council requires that any nominated testing station must charge the current VOSA approved rate for an MOT and Taxi Test.

- 3.02 Nothing in the current scheme addresses this and it was considered by the Licensing Section that it may be beneficial to include a policy position to safeguard against potential conflicts of interest such as this. It is important to note that it is not being suggested that the Licensing Section feel that the businesses concerned are getting favourable service, but the perception that they might.
- 3.03 The two affected businesses were contracted by letter to explain that it was the intention of the Licensing Section to bring this matter before a Licensing Committee. A response was received referring to both businesses and is shown at Appendix C.
- 3.04 This response states that the Community Protection Manager stated he had no problem with this arrangement, when in fact it was made clear to the Private Hire Operator that there was no procedure in place to prevent it at that time, but the matter would be looked at in the future.
- 3.05 The Chair has agreed to a request from each of the two relevant businesses giving each the opportunity to address the Committee on this issue for a maximum of 5 minutes per person.
- 3.06 The administration of this scheme takes a considerable amount of officer time. Paragraph 3.01 of the previous report (Appendix A) states that new applicants to the scheme will be considered for inclusion on the scheme at any point during the year.
- 3.07 All the testing stations in the scheme sign up to a service level agreement that runs for one year at a time. It would be beneficial only to accept new applicants on to the scheme at one period of the year, that is, when the service level agreements expire at the end of February each year. The Licensing Section writes to all the garages on the scheme near the end of the annual agreement period in order to invite their continued inclusion in the scheme. At the same time the Department also advertises on Flintshire's website that nominations can be made to join the scheme for the first time.
- 3.08 Any Nominated Testing Station must be able to comply with the Service Level Agreement between themselves and the Licensing Authority. Occasionally, Licensing may need to change the agreement to reflect changes in legislation, or changes in provision of service. For example, the current agreement suggests that all pass sheets should be faxed to the Licensing Section. Email is often a much more simple

way of transferring the information.

3.09 It is felt that it would be beneficial to change the Service Level Agreement from time to time as appropriate.

3.10 The regime currently only allows the Licensing Section to consider a Testing Station if they have been established for at least three years. This is of benefit to the Council, as it allows the premises to gain a reputation and for the business to establish its standards. Queries have been made by garages that do not meet this criterion, who feels that this is onerous, and have requested that the Committee consider whether this is an appropriate timescale.

4.00 RECOMMENDATIONS

4.01 That Members approve the following changes to the current scheme:

4.02 That relatives (or anyone with a close association) to any member of staff at a Nominated Testing Station ensure that vehicles licensed by this Authority are tested at an alternative facility. Flintshire Council defines 'relatives (or anyone with a close association)' as 'a family member related by birth or by marriage, or by any other legal union (i.e. civil partnership / adoption) or a close personal relationship (i.e. co-habiting)'

4.03 That any potential new applicant to the scheme is only considered for inclusion on the scheme at one period of the year (February).

4.04 That the Licensing Team Leader (in consultation with the Community Protection Manager) may change the Service Level Agreement from time to time as appropriate.

4.05 That Members consider whether it is appropriate to continue approving only those Testing Stations who have been established for a minimum of three years and who meet the remaining criteria.

5.00 FINANCIAL IMPLICATIONS

5.01 There may be an effect on the number of vehicles which are tested at a particular testing station.

6.00 ANTI POVERTY IMPACT

6.01 None.

7.00 ENVIRONMENTAL IMPACT

7.01 The twice a year tests on Private Hire and Hackney Carriage vehicles include engine emissions analysis including particulates, carbon monoxide and carbon dioxide.

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 One Nominated Testing Station and one Private Hire Operator were contacted in relation to conflict of interest and a response is included in this report.

12.00 APPENDICES

12.01 Appendix 1 – Original report submitted to Executive in 2009 on the testing of Private Hire Vehicles

Appendix 2 – Executive Record of Decision

Appendix 3 - Letter

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

Operational documentation relating to the operation of the nominated garages scheme

Contact Officer: Gemma Potter, Team Leader Licensing

Telephone: 01352 703371

Email: gemma.potter@flintshire.gov.uk

Original report submitted to Executive in 2009 on the testing of Private Hire vehicles.

1.00 Purpose of Report

- 1.01 To report the findings of a review of the current arrangements for the testing of Private Hire and Hackney Carriage vehicles and to make recommendations for improving the current Scheme based on the findings of the review.

2.00 Background

- 2.01 In March 2002 the Executive took a decision to approve a Scheme for the testing of Private Hire and Hackney Carriage vehicles licensed by the Council. A number of options were considered at the time but the Executive felt that the most appropriate Scheme involved private sector operators, primarily existing VOSA approved MOT Test Stations in Flintshire, being invited to make representations to become an approved tester.
- 2.02 When the Scheme was first launched in 2002, it was agreed that a minimum of 3 and a maximum of 4 private sector garages would provide sufficient coverage in Flintshire given the geographical size of the county, the number of vehicles to be tested and the need for twice yearly testing. A key aspect of the Scheme was to have sufficient geographical spread so that taxi operators had access to a convenient approved tester.
- 2.03 A selection process began where garages were invited to express an interest in becoming an approved tester subject to meeting detailed quality criteria which was based upon the garages ability to meet minimum standards. An objective evaluation was made prior to a decision to grant approval, with initial approval being granted for a period of 3 years.
- 2.04 Four garages were successful in being included on the approved list in 2002 They were Ewloe Service Station, Flint Services, PCM Vehicle Repairs, Buckley and Gallaghers, Afonwen. When the approval came up for renewal in 2005, the existing garages were given a further 3 years approval based on their satisfactory performance between 2002 and 2005.
- 2.05 Between 2005 and 2008, when the approved list again came up for renewal, a number of other garages expressed interest in becoming an approved tester. However, it became clear from customer feedback that there was a need to have a higher number of approved testers across a wider geographical area.

2.06 Therefore, in 2008 the existing approved garages and those which had expressed an interest were assessed against the quality criteria with a view to increasing the number of approved garages from 4 to 6. The existing 4 garages were retained on the list as they had continued to demonstrate satisfactory performance against the quality criteria and 2 additional garages in Deeside Industrial Estate and Llanfynydd were added to widen coverage across the county.

2.07 Given that the Scheme has operated in its current format since its introduction in 2002 a review of the Scheme has been undertaken.

Review Findings

2.08 Although the Scheme has been operating successfully for the past 7 years, unsuccessful applicants have expressed some concern about the transparency of the Scheme, particularly the process for evaluating applicants against the quality criteria and the lack of any appeal procedure. Additionally, there was some confusion over the importance of geography in the overall assessment of applicants. This raises a key question: is it right to limit the number of garages serving one locality, thereby giving taxi operators more choice and convenience and introducing an element of competition to improve customer service and price?

2.09 Another important issue concerns the continued approval of the garages which were first approved in 2002 and had been largely retained on the basis of satisfactory performance in the intervening period. Whilst, this is clearly a very important consideration it does have the affect of creating a 'closed shop' where new applicants who meet the quality criteria can never be considered for inclusion on the approved list as the Scheme currently stands. Equally important, however, is the need to be fair to garages who, having performed well in the past, would be equally dismayed if they were simply removed from the list despite many years of satisfactory performance.

2.10 The key, therefore, is to produce a Scheme that is fair, transparent and which increases customer choice, promotes fair competition and delivers improved levels of customer service. Another vital factor, from the Council's perspective, is to have a Scheme which is easy to administer and maintain and is not, therefore, overly bureaucratic. The following proposal outlines a number of suggested improvements to the Scheme which should address many of the concerns that have been identified as part of this review.

3.00 Considerations

- 3.01 Approved List of Testers** – the Council will maintain an approved list of garages across the County. This will ensure that taxi operators have a choice about who they use whilst encouraging the approved testers to provide improved standards of customer service and responsiveness. This proposal will also ensure that both new applicants and existing approved testers will be assessed using the same quality criteria and at the same time rather than existing garages remaining on the list in perpetuity, subject only to a test of satisfactory performance. The intention is to remove the maximum limit on the number of approved testers, provided the administration of the Scheme does not become too burdensome. To cover administration costs, particularly if the number of approved garages were to increase substantially, the service is proposing to levy an charge of £100 to all applicants to the revised Scheme. This fee will be renewable on an annual basis for garages who wish to remain, subject to satisfactory performance, members of the Scheme . Additionally, new applicants to the Scheme will be considered for inclusion on the Scheme at any point during the year.
- 3.02 Annual Performance Review** – the proposal is to undertake a formal performance review the Approved List of Testers on an annual basis against more stringent and transparent quality criteria. This will allow greater flexibility in the operation of the Scheme and ensure that existing operators do not become complacent over time.
- 3.03 Transparency** - the operation of the Scheme and the quality criteria against which garages will be assessed will be published in a variety of forms to ensure all potential applicants are fully aware of the their obligations and responsibilities under the Scheme. When the process for considering new and existing applications, from suitably qualified garages, comes up for renewal every year, a formal notice will be placed on the Council’s website. This will signpost potential new applicants to the Scheme and make them aware of the process and timetable if they wish to be considered for inclusion on the Scheme.
- 3.04 Quality Criteria and Evaluation** – the quality criteria will be strengthened and will specify the absolute minimum standards that garages will need to meet in order to be considered for inclusion on the Council’s approved list. For example, evidence of satisfactory performance measured from an evaluation of customer feedback or complaints will form a new important feature of the Scheme. An objective evaluation will be made based on the applicant’s submission of objective evidence which demonstrates that it meets, or preferably exceeds, the quality criteria. The quality criteria will also include a list of the mandatory equipment that approved garages will need to maintain in order to provide a comprehensive service to operators. Additionally, we will ensure that the

specification details the minimum requirements with regard to equipment to ensure the same standards apply in all approved garages.

3.05 **Appeals Procedures** – as there is no current appeal process for a garage whose application has been unsuccessful a formal appeals process will be introduced. This will be based on the existing process for considering appeals in relation to Taxi Licensing by reference to a Licensing Subcommittee of the Licensing Committee. This will allow for an independent review of the evaluation and evidence by Members.

3.06 **Immediate Actions** - It is proposed to write to existing and potential Testers outlining the changes to the Scheme. The details of the proposed changes will be posted on the Council's website. It is proposed to review the existing approved garages against the revised quality criteria and to ask any prospective garages who wish to be considered to complete the application process. On completion of the evaluation process a revised Approved List of Testers will be published. This work is planned for completion by the end of September 2009.

4.00 Recommendations

4.01 That Members approve the proposal for introducing a revised Scheme for approved testers and to periodically review the effectiveness of the Scheme in meeting its objectives and to ensure it remains fit for purpose.

4.02 That the Licensing Committee oversee the effective operation of the Scheme including consideration of future changes to fees, approve the quality criteria and evaluation processes and ensure the Appeals Procedures are followed.

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 All eligible premises will be contacted

11.00 Consultation Undertaken

11.01 See 10.1 above

12.00 Appendices

12.01 None

This page is intentionally left blank

RECORD NO. 2063

FLINTSHIRE COUNTY COUNCIL

EXECUTIVE RECORD OF DECISION

DATE OF MEETING: 02 JUNE 2009 AGENDA ITEM NO. 14

REPORT OF: DIRECTOR OF ENVIRONMENT

SUBJECT: TESTING SCHEME FOR PRIVATE HIRE AND
HACKNEY CARRIAGE VEHICLES

RECOMMENDATIONS OF REPORT: (a) that Members approve the proposal for introducing a revised Scheme for approved testers and to periodically review the effectiveness of the Scheme in meeting its objectives and to ensure it remains fit for purpose.

(b) that the Licensing Committee oversee the effective operation of the Scheme including consideration of future changes to fees, approve the quality criteria and evaluation processes and ensure the Appeals Procedures are followed.

DECISION: That the recommendations be agreed.

REASON FOR DECISION: The reasons were set out in the report.

CONSULTATION REQUIRED: All eligible premises will be contacted

CONSULTATION UNDERTAKEN: See above

FINANCIAL IMPLICATIONS: None

DECLARATIONS OF INTEREST: Councillor Dennis Hutchinson declared a personal and prejudicial interest and left the meeting during consideration of this item.

DISPENSATIONS: None.

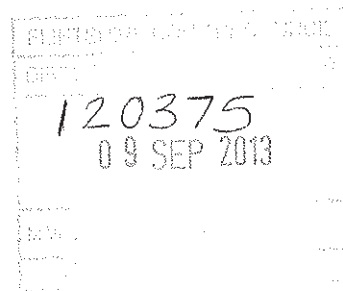
DATE PUBLISHED: 4th June 2009

SIGNED: _____ (Proper Officer)

This page is intentionally left blank

Holywell Cars

FAO: Gemma Potter
Head of Licencing
County Hall
Mold



05th September 2013.

Dear Gemma,

Reference to 'complaint' of conflict of interest.

With regard to the above, I write in response to your letter of 9/8/13

Having sought legal advice, I have been assured that there can be no conflict of interest with regard to my private-hire vehicles being "MOT'd" by the business that is owned by my partner. It has been explained to me, thus:

My partner's business has 'green' MOT status, as awarded by VOSA. This is a traffic-light system used by VOSA, to denote quality of service/supply. Green appraises the highest standards, Amber is almost there and Red is of concern.

As VOSA rigorously enforce their high standards and also regulate the MOT sector, it would be foolish of my partner to favour my vehicles' MOTs against those of other

MOTs. You may be aware that VOSA will remove a person's (or organisation's) MOT practising-permit, if standards are found wanting.

Also, Flintshire County Council (Licensing section) are within their rights to inspect ad-hoc, any licensed vehicle that has been MOTd, to see if standards have been upheld or not. Obviously, any vehicle failing and ad-hoc inspection would be a genuine cause for concern. We have no desire to endanger the public with the use of poorly maintained vehicles.

Mr Lovette (Public Protection) has stated that he has no concerns (in principal) with our arrangement for MOTs. It is my intention to continue to maintain my private-hire vehicles to the highest standards, both at MOT and all other times.

I hope you find this response satisfactory and sufficient to close this matter. I would be grateful if you would write to me by return, disclosing your views to the points I have raised and to advise whether this matter is now closed.

Yours faithfully,



Wendy Smith

Holywell Cars.