

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.

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Chairman