

MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Licensing and Regulatory Committee held
at Council Chamber - Council Chamber on Tuesday, 12th June, 2018 at 10.00 am**

PRESENT: County Councillor B. Strong (Chairman)
County Councillor J. Higginson (Vice Chairman)

County Councillors: A. Easson, M.Lane, J.Pratt, R.Roden,
J.Treharne, R. Edwards, D. Evans, L. Guppy, F. Taylor and A. Webb

OFFICERS IN ATTENDANCE:

Leigh Beach	Licensing Officer
David Jones	Head of Public Protection
Kellie Beirne	Deputy Chief Executive
Linda O'Gorman	Principal Licensing Officer
Ioan Gealy	Solicitor
Paula Harris	Democratic Officer

1. To elect a Chair

County Councillor B. Strong was elected as Chair of the committee.

2. To appoint a Vice Chair

County Councillor J. Higginson was elected as Vice Chair of the committee.

3. Apologies for absence

County Councillor Frances Taylor.

4. Declarations of interest

None received.

5. To confirm and sign the minutes of the previous meeting

The minutes of the previous meeting were agreed by the committee and signed by the Chair.

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6. Draft Statement of Gambling Policy and Proposals for Casinos

Context

To consider the approach to be adopted by Monmouthshire County Council with regard to casino premises applications within the County prior to submission to Full Council.

To consider the proposed 'Draft Statement of Gambling Policy 2019' prior to submission to Full Council.

Key Issues

Each Local Authority, under the provisions of Section 154 of the Gambling Act 2005, must issue a policy which will determine how they will discharge their functions. The current policy held by this Authority under the Gambling Act was approved at Full Council on 19th November 2015. There is a duty to review the policy every three years.

The new policy will be required to commence on 31st January 2019, in accordance with the Act. This report sets out the procedure and proposed policy statement, in particular the principle regarding casinos, prior to consideration at Full Council.

The Council will need to consider firstly if they wish to continue with the resolution not to have a casino within the County. The decision on this will then be inserted into the revised Gambling Policy that will be published on 31st January 2019.

140 casinos were permitted across the UK, to continue to operate under grandfather rights when the Gambling Act came into force on 1st September 2007. Central Government upon the advice of the Casino Advisory Panel permitted a further 8 large and 8 small casinos, which have all been duly issued. There is currently no further provision for more casinos to be allocated. However, the Council still need to consider the course of action they wish to take with casinos and place this within the Gambling Policy should one of the 8 large or 8 small casinos become available or if Government changes their stance on casinos and increase the permitted numbers.

Before any licence for a Casino is granted the Casino Advisory Panel will advise Central Government that the area is in need of regeneration and Monmouthshire would have to satisfy them that this is the case along with the type of area, social impact, community benefits and unique characteristics. However, before a decision is made to go against the current stance not to have casinos within the County, Members should be aware of the 'Chief Medical Officer for Wales Annual Report 2016-2017 – Gambling with our health' <http://gov.wales/topics/health/professionals/cmo/reports/?lang=en> and their concerns relating to Gambling which is referred to in the Future Generation report.

With regards to the Policy and how the Council will discharge their functions. The Policy must contain objectives regarding the following;

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- Ensuring that gambling is conducted in a fair and open way, and

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- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Council will also need to have regard to any relevant code of practice issued by the Secretary of State, guidance issued by the Gambling Commission, how they exercise their functions consistent with the objectives and in accordance with the policy itself.

The Policy must be approved by Full Council and can last for a period of three years, in accordance with Section 154(2) of the Gambling Act 2005. It further states within Section 349 that prior to approval consultation must take place with;

- The Police
- The Fire Authority
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area, and
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

The revised policy must be published and in place for commencement on 31st January 2019. The Gwent Licensing Forum, which consists of Council Licensing Officers, Gambling Commission and Public Health covering the areas of Monmouthshire, Torfaen, Caerphilly, Blaenau Gwent and Newport, has worked on formulating a policy to incorporate any legal changes and best practice. The proposed Policy has been endorsed by the Gwent Licensing Forum with the aim of all five Authorities adopting this Policy, subject to changes pertinent to each Authorities area and character.

The timetable of events planned for the transition of the Statement of Gambling Policy are as follows:-

12th June 2018 First Draft of Policy to the Licensing and Regulatory Committee

18th June 2018 – 31st August 2018 Consultation on Gambling Policy – Send out letters and put on the website.

18th Sept 2018 Final Draft, results of consultation to the Licensing and Regulatory Committee

25th Oct 2018 Gambling Policy report to Full Council

Members Comments

Members appreciated that all slots were taken at present but asked if the authority had ever been approached by a Casino.

The Government's change in reducing the stake in gambling machines was applauded as the negative impact gambling can have on society was highlighted.

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Members asked if there is a limit on the number of gambling machines in a premises and if this was monitored.

A Member asked if we have information or can signpost people with a gambling problem to help.

A Member asked if it would be possible to shadow MCC licensing officers when they visit a gambling establishment.

Recommendations agreed unanimously by the committee

- Members consider whether to retain the current resolution not to issue casino licences within the County of Monmouthshire prior to it being considered at Full Council.
- Members consider the proposed updated policy statement and comment accordingly (changes highlighted in red), which is attached as Appendix A.

7. Proposed Changes to the Taxi and Private Hire Policy and Conditions

Context

To approve new MCC Taxi and Private Hire Policy 2018 and consider new safety measures for licensed vehicles.

Key Issues

The following proposals to amend the existing Taxi and Private Hire Policy and Conditions 2016, following either information received or as a result of legal changes.

Section 6 - Principles when considering applications and reviews of existing licences

The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney carriage and Private Hire services. A person must satisfy the authority that they are a fit and proper person to hold a licence and each case will always be considered on its own merit. It is the final part of the process of an application when the decision is made, whether by the Licensing and Regulatory Committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgement as to their fitness and propriety.

It was recognised that there was disparity between Authorities on how they assess licences. As such the Institute of Licensing produced the Guidance on determining the suitability of applicants and licensees in the hackney and private trades, this was

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published in April 2018, with a recommendation for Authorities to adopt. The guidance was carried out working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

It is recommended that this Authority adopts this guidance within its revised proposed Taxi and Private Hire Policy and Conditions 2018 as attached as Appendix 1.

The main changes are the timescales for dealing with information received, it contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.

Appendix A and N - Right to work requirements

The Immigration Act 2016 amended existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle and hackney carriage sector, with effect from 1 December 2016. The provisions in the 2016 Act prohibit all licensing authorities across the UK from issuing to anyone who is disqualified by reason of their immigration status and they discharge this duty by conducting immigration checks. As such the policy, will be required to change in Appendix A and N, in order to accommodate this legislation. The changes required are highlighted in red in the revised proposed Taxi and Private Hire Policy and Conditions 2018 as attached as Appendix 1.

Appendix G - Passenger access/egress conditions

Section 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 permits an authority to attach a condition they consider reasonably necessary for hackney carriages and private hire vehicles, whereby type, size, design, safety and its comfort can be a factor before a vehicle is issued with a licence.

July 2002 - The Royal Society for the Prevention of Accidents (ROSPA) suggested passengers should have safe egress in the event of an emergency. In the interest of passenger safety a report was submitted to the Licensing and Regulatory Committee, where Members approved conditions relating to the carrying of 7-8 passengers.

15th March 2010 – The Licensing and Regulatory Committee approved the updated condition referred to in 3.8 above, to include vehicles carrying more than 4 passengers and was not restricted to 7-8 passengers.

17th June 2014 – Members considered within the Licensing and Regulatory Committee, following a request from the trade to remove the condition that requires access and egress without the need to move another seat. At this hearing Members rejected the

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request of the trade and in the interest of public safety retained this condition. This was further upheld and continued to remain in force when the taxi and private hire policy was revised on 1st April 2016 and 13th September 2016, following consultation with the trade.

1st April 2016 and 13th September 2016 the Licensing and Regulatory Committee adopted the Taxi and Private Hire Policy and Conditions 2016. The policy adopted on the 13th September 2016 is currently in place and is subject to revision within this report and is referred to within the recommendations in Section 2. It must be noted that on both Committee hearings to amend the policy, access and egress without the need to move another seat was retained within the policy.

26th September 2017 – The Licensing and Regulatory Committee reconsidered the policy following a request from a member of the taxi trade to remove the condition that requires access and egress without the need to move another seat.

At this hearing the proprietor supplied the EuroNCap attached as Appendix 2 this is the safety test manufacturers provide for every vehicle before the vehicle is sold to the public.

Also within this hearing consideration was given to the Powys County Council report that was submitted to their Licensing Committee on 6th March 2014 regarding their policy on passenger safety, attached as Appendix 3. Powys County Council decided at this hearing to remove the condition regarding folding seats. The Powys County

Council report attached as Appendix 3 referred to a Magistrates Court hearing, recommendations made by the Department of Transport (Dft) and ROSPA before they came to their decision. Licensing Officers at that time consulted with Licensing Expert Panel of Wales, for Authorities in Wales to give their policy on this matter. The Authorities that responded are referred to in Appendix 4. Two other Authorities stated they required clear access to a door with similar restrictions to Monmouthshire Members of the Licensing and Regulatory Committee viewed a variety of makes and models and also photos were submitted of such vehicles these photographs are attached as Appendix 5 and 6. After hearing all the evidence put before them Monmouthshire County Council's, Licensing and Regulatory Committee retained the condition referred to above.

15th March 2018 - Monmouthshire held a Talk Transport Event, whereby numerous proprietors informed us they are struggling to purchase reasonably priced vehicles that comply with the current 5-8 passenger conditions requiring clear access/egress for passengers without moving/tilting a seat. Monmouthshire is currently conducting a Transport Review and has taken into account the feedback of the Transport day.

The Transport Review has highlighted inconsistency with Monmouthshire Passenger Transport Unit (PTU) encouraging external companies to bid for Monmouthshire contracts, using vehicles with 8 passenger seats (including vehicles with folding seats) when the same vehicles would not be licensed by Monmouthshire County Council. Therefore, preventing those holding a licence with this Council partaking in such contracts. In light of this fact, the PTU have provided figures on the potential cost to Monmouthshire should our Policy not change.

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“There are currently 49 home to school transport contracts where an 8 seat vehicle is specified for use. If we were unable to specific the use of an 8 seat vehicle given the limited number of licensed vehicles available we would have to increase vehicle capacity to 12 seat PSV vehicles. Through cost analysis of current contracts the difference between an 8 seat and 12 seat vehicle can vary substantially dependent on area and whether the contract is ALN. It is difficult to quantify the financial impact of retendering all 8 seat contracts as 12 seats, but a conservative estimate of £20 per vehicle would result in increased costs of £186k per annum. We would also have significant concerns over vehicle and driver availability to fulfil the additional PSV 12 seat contracts.

The Transport Review also highlighted concerns that individual licensing officers are currently required to assess if a vehicle has clear access with a suitable gap for passengers to enter/egress the vehicle without a set width of a specific distance.

Therefore one officer may deem a gap adequate and another officer may not. Whilst licensing officers are trained on basic vehicle checks officers are not qualified to comment on vehicle standards or safety.

25th May 2018 – Following the information received the Licensing Section consulted with the taxi trade for their views if the condition regarding folding seats and the restrictions that may affect the trade as a whole.

The responses are attached as Appendix 7. Proprietors have also reported they are retaining older vehicles, reluctant to replace with newer models in fear of Monmouthshire requesting a seat be removed. To demonstrate the scope and age of our vehicles currently licensed for 5-8 passengers please see the current vehicle fleet attached as Appendix 8.

Amongst the responses from the taxi trade a proprietor mentioned the modern vehicles having extra safety for children with isofix seats. Isofix points within vehicles enable child car seats to be plugged into the corresponding fitting points in the car, removing the need to use the car’s seat belts to secure the seat. An additional top tether or supporting leg is used to prevent the child seat tilting or rotating in an impact. From November 2012 isofix is mandatory within every car with more than two seats. Licensed vehicles use children’s car seats when transporting children up to the age or 12 or height of 135cm tall (whichever comes first) as required by legislation.

31st May 2018 – Although cost implication are an important factor for the Transport Review and the taxi trade, this is not a matter that would be considered for Licensing purposes, where safety is paramount, not only the trade themselves but for the public that use such vehicles. As such, Licensing sought the views of ROSPA and if they had any recommendations should the condition to not have a folding seat be removed. On 31st May 2018 ROSPA provided the following response;

RoSPA understands that licensing conditions imposed by local authorities with regard to Multi-Purpose Vehicles (MPVs) still vary across Wales and beyond.

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“RoSPA’s views are unchanged from our 2014 response and the safe egress of all occupants in the event of an emergency should remain the priority. We note the alternative seating policy now Basildon District Council, which in essence allows seats that have to be moved in order for passengers to enter or exit the vehicle, provided the vehicle has:

- at least three doors to the passenger compartment*
- clear signs on how to lift the seats in the second row*
- operating levers to lift the seats that are coloured yellow or orange*
- windows on the near and offside of the rear row of seats that can be used as exits in an emergency, with window exit signs*
- a quick release device on the rear door for use in an emergency if one of the side passenger doors is inaccessible in an accident*

This type of policy seems a reasonable way of mitigating the risk of passengers in the rearmost row struggling to exit the vehicle quickly in an emergency because they have to climb over or move another seat. However, it still leaves some risk that egress could be impeded; on the current level of data and knowledge available it does not seem possible to be certain whether this option is best.”

It is following this response from ROSPA, that the recommendation to remove the condition, subject to further provisions highlighted in red in Appendix G of the proposed Appendix 1 of the proposed Taxi and Private Hire Policy and Conditions 2018 as stated in 2.3(a). The further provisions proposed are as follows, not taking into consideration Basildon District Councils view of having the quick release device on the rear door as most models do not have this facility;

- All vehicles must have at least 3 doors for passenger access/egress.
- Clear signs indicate how to tilt the seat from the rear row pointing to the handle/lever/or other mechanism.
- All handles/ leavers or other mechanisms used to fold or tilt a seat are painted illuminous yellow or orange.
- In a row of seats without clear access to a door there must be windows on both sides of the vehicle and the proprietor must not laminate the glass with any extra window tinting over and above the design of the manufacturer.

- The committee were joined by Deputy CEO Kellie Beirne who spoke in favour of varying the seating arrangements in vehicles.
- Richard Horler, owner of Abergavenny Taxis spoke of his disappointment of not being able to currently bid for due to the school contracts due to the limits set in regarding to the seating arrangements in his vehicles
- Paul Watkins, a local taxi business owner addressed the committee regarding issues he has previously faced in regard to vehicle sizes.

Member comments

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A Member spoke of the decision made in September as being the right one.

The age of the vehicles was raised from a safety and pollution perspective.

A concern was raised in regard to the conversion of 12 seater vehicles into 8 seater vehicles, especially older vehicles which could cause more pollution.

A Member asked that the committee were updated in twelve months on the impact of the changes.

Recommendations agreed unanimously by the committee

- To consider the amendments to the existing Taxi and Private Policy and Conditions adopted 13th September 2016 as follows;
- 1 To amend the policy in Section 6 and replace it with the recommendations from the Institute of Licensing 'Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades – published in April 2018'. Changes highlighted in red in the proposed Taxi and Private Hire Policy and Conditions 2018.
- 2 To amend the policy in Appendix A and N to accommodate the legal requirements by Immigration to check licence holders right to work in the United Kingdom. Changes highlighted in red in the proposed Taxi and Private Hire Policy and Conditions 2018.
- 3 To consider one of the following options to adopt in the proposed new policy:
 - To amend the policy allowing vehicles to be licensed for the full capacity of passengers as manufactured with new safety measures adopted (see below 3.15), which has the approval of the Royal Society of Preventions of Accidents (ROSPA).
 - If adopted the proposed changes are highlighted in red in Appendix G of the proposed Taxi and Private Hire Policy and Conditions 2018.
 - 1.
 - To retain the current 5-8 passenger seat conditions referred to in the current Taxi and Private Policy and Conditions 2016, adopted 13th September 2016. The restriction being (i) No seat should be required to be moved to allow any passenger to enter or egress the vehicle. (ii) There must be a clear passageway to each row of seats if only one door is normally used this must be on the nearside (similar to buses).

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- 8. To note the date and time of the next meeting as Tuesday 17th July 2018 at 10am**

The meeting ended at 11.19 am