

BARNSELY METROPOLITAN BOROUGH COUNCIL

GENERAL LICENSING REGULATORY BOARD

18th June, 2014

1. **Present:** Councillor C. C. Wraith MBE (Chairman), the Mayor (Councillor Shepherd) and Councillors P Birkinshaw, J Carr, Cherryholme, Duerden, Ennis, S Green, Johnson, Saunders, M Sheard, T Sheard, Tattersall and Worton.

2. **Declarations of Pecuniary and Non-Pecuniary Interest**

There were no declarations of pecuniary and non-pecuniary interest from Members in respect of items on the agenda.

3. **Minutes**

The minutes of the meeting held on 30th April, 2014 were taken as read and signed by the Chairman as a correct record.

4. **Licensing Enforcement - Update**

The Assistant Director Regulatory Services submitted a report providing the Board with an overview of the work of Licensing Enforcement Officers since the last meeting.

Since the last meeting, Licensing Enforcement Officers had proactively embarked on a further two taxi licensing enforcement operations. These were categorised by licence type as follows:

- (a) 2nd May, 2014 - a daytime/night time exercise involving Licensing Enforcement Officers together with Vehicle Examiners from the Smithies Lane Depot focussing on a series of Licensed Operators:
- Hackney Carriage Vehicles – 19 vehicles inspected
 - 15 vehicles found to be fully compliant
 - 4 vehicles (21% of those inspected) issued with suspension notices for a variety of reasons including defective tyres and lights
 - 1 driver issued with a written warning for failing to complete daily check sheets
 - Private Hire Vehicles – 35 vehicles inspected
 - 20 vehicles found to be fully compliant

- 15 vehicles (23% of those inspected) issued with suspension notices for a variety of reasons including defective tyres and lights and inoperative brake
- 8 drivers (23%) issued with written warnings for either falsifying daily check sheets or failing to complete them⁴ vehicles

(b) 22nd May, 2014 - a second daytime/night time exercise involving Licensing Enforcement Officers and Vehicle Examiners from the Smithies Lane Depot focussing again on a series of Licensed Operators:

- Hackney Carriage Vehicles – 13 vehicles inspected
 - 10 vehicles found to be fully compliant
 - 3 vehicles (23% of those inspected) issues with suspension notices for a variety of reasons including defective tyres and lights and no windscreen wash
 - 2 drivers (15%) issued with written warnings for failing to complete daily check sheets
- Private Hire Vehicles – 27 vehicles inspected
 - 18 vehicles found to be compliant
 - 9 vehicles (33% of those inspected) issued with a suspension notice for a variety of reasons for a variety of reasons including defective tyres and lights and failure to display door signage
 - 7 drivers (26%) issued with written warnings for failing to complete daily check sheets

The Principal Licensing officer commented that vehicle non-compliance continued to be a concern not only during enforcement operations but also at the Smithies Lane Depot when MOT's were undertaken. It was pleasing to note, however, that vehicle failure rates at the Depot had reduced by 3% which was encouraging and welcomed. A continued failure rate of 47% was still, nevertheless, unacceptable and one which could not be ignored. Defective tyres were not acceptable and the failure to complete a basic vehicle check sheet, something that representatives of the Trade had requested, was also not acceptable.

Proactive enforcement operations would continue to be undertaken on a quarterly basis. It was also pleasing to note that current first time vehicle MOT failures had reduced by a further 1% and currently stood at 46%. The Licensing Service would continue to cascade a strong message to all operators, vehicle proprietors and drivers who needed to accept responsibility for their failures and make a change. Failure to address these issues could continue to put the safety of the public at risk. Passenger and public safety was paramount, however, it should be borne in mind that there were many operators and drivers within Barnsley about which the Licensing Service had no concerns.

In accordance with the request made at the last meeting an exercise had been undertaken with Doncaster Metropolitan Borough Council to ascertain the number of vehicles and 'failure' rates compared to Barnsley. It was reported that currently, Doncaster had 187 Hackney Carriage Vehicles and 509 Private Hire Vehicles. First time failure rates had been previously reported as being 12%, however, following further investigation it had become apparent that a different inspection regime was in operation within that area. Doncaster vehicle examiners allowed up to five faults (including inoperative bulbs, an MOT failure) before suspending a vehicle. Taking this information into account, it was important to note that in 2013/14, 21% of all vehicle failures within Barnsley were attributable to bulbs. If this figure was to be deducted from the statistical information, the failure rate for Barnsley would have been 26% (rather than 47%) which would have placed the Authority in the second place in a recent benchmarking operation.

In the ensuing discussion, the following matters were amongst those raised:

- it was noted that the majority of written warnings could have been avoided had the drivers/proprietors concerned complied fully with licensing conditions.
- Questions were raised which engendered a discussion about the possibility of introducing punitive measures for those drivers/operators failing to adhere to licensing conditions. It was noted that the current policies in relation to vehicles and operators was being reviewed in order to make them more robust and discussions were continuing with Legal Services on this. Consideration was also being given, as a matter of urgency, to the introduction and use of suspension as a punitive measure which it was hoped would bring about an improvement in compliance. Details of this proposed policy change would be reported to this Board in due course prior to the submission for approval by Cabinet/Council.
- The proposal to include Proprietors/Operators within the Convictions Policy provisions was welcomed
- The comparisons to the inspection regime in Doncaster was welcomed, as was the fact that a comparator would mean that Barnsley was second place in the benchmarking exercise. However, the failure rate of 26% was still unacceptable
- In relation to the concerns about defective tyres, the Principal Licensing Officer informed the Board that the Authority had obtained a large number of tyre gauges which were to be issued to all drivers as this would mean that there was no excuse to use a vehicle with tyres that were below the legal limit
- It was noted that a number of drivers were applying for licences who lived out of the district. The Principal Licensing Officer stated that the Authority could only withhold a licence if the prospective licence holder did not meet the licensing criteria. A licence could not be withheld based on residence

- The differing powers of the Police and Licensing Enforcement Officers in relation to the 'penalties' which could be issued was outlined.
- A review of Vehicle Licence conditions was being undertaken and one of the matters under consideration was the possible requirement to carry a spare set of bulbs

RESOLVED

- (i) that the report be received and the Principal Licensing Officer and be thanked for most informative presentation;
- (ii) that the Board place on record their thanks and appreciation to staff within the Licensing Service and Smithies Lane Depot for all their hard work in undertaking Enforcement activities and ensuring the continuing safety of the travelling public; and
- (iii) that the proposals for enhancing enforcement as now detailed be supported and the Board looks forward to receiving a further report in due course following an assessment of all options available.

5. Deregulation Bill Report

The Assistant Director (Regulatory Services) submitted a report providing the Board with an update regarding the Government's proposed amendment to the Local Government (Miscellaneous Provisions) Act 1976 as set out in the Deregulation Bill.

The aim of the Bill was part of the Governments drive to reduce the overall burden of regulation on businesses and individuals and to cut 'red tape'. It contained three measures which the Government considered would generate significant benefits for the taxi and private hire trades.

The three clauses were as follows:

Clause 8 – Private Hire Vehicles – the rationale for this was to seek a balance between professional and reasonable personal usage of a car by private hire drivers and their families. The clause as it currently stood permitted anyone to driver the licensed vehicle. In these circumstances, therefore, the concern was, amongst other things, that it would be impossible to be assured that the driver was in fact the person who had been through the required vetting process to become a licensed driver. In addition, it may not be possible to remove the markings from a vehicle that distinguished between the time when a vehicle was actively available for hire and when it was not. In such circumstances a member of the public may enter a marked vehicle in the belief that the driver had been through the appropriate vetting procedure when, in fact, they had not.

Clause 9 – Taxi and Private Hire Vehicles – Duration of Licences – there was concern that the move to a three year licence may mean that drivers not signing up to the new voluntary requirements of the Disclosure and Barring Service may not inform Councils of convictions recorded against them within the three year licence period. This was particularly concerning.

Clause 10 – Private Hire Vehicles: sub contracting between Operators – this clause meant that a passenger may have little or no knowledge of the quality or, in some cases, the name of the company arriving to deliver the service to them. This matter was a serious concern to many licensing authorities particularly in relation to enforcement and in relation to the failure to specify a limit on the number of ‘sub contracting’ arrangements that could take place which would lead to an impossible task in trying to trace a vehicle/driver if something went wrong. It was understood that the Law Commission proposals for reform (which was the subject of the next report) may address this issue enabling this clause to be brought forward again as part of any wider necessary reform.

It was suggested that the enactment of the proposals be awaited and, where necessary, that concerns be raised with local MP’s in order to ensure that each clause would equip the licensing trade and members of the public alike with a service industry that was fair, economical and one that held passenger safety at the forefront of the Government’s agenda.

The report engendered a full and frank discussion during which particular concern was expressed at the proposal and at the potential reduction in the safety of the fare paying public. The Board then discussed how best to progress and express their concerns including the possible promotion of a motion of concern at the Council meeting.

RESOLVED

- (i) that the report be received;
- (ii) that the Licensing Service consider appropriate measures to raise Members concerns with the appropriate bodies/organisations.

6. Law Commission Review Report

The Assistant Directory (Regulatory Services) submitted a report providing an overview of the recent Law Commission Review undertaken to address the law governing how the taxi and private hire trade industry operates.

In a report on the draft bill published on 23rd May, 2014, the Law Commission recommended a number of reforms designed to update the law and make it clearer for those working in the industry and for

passengers alike. It recognised the value of the two tier system of taxis (Hackney and Private Hire) and recommended it's retention as well as reinforcing the distinction between the two. The new regime would see the introduction of a number of new standards for both sectors with powers given to local authorities to set additional standards for taxi services only.

The proposal would, it was suggested, make it easier for cross border working and would equip licensing officers with new powers to deal with vehicles and drivers from different areas as well as tougher penalties on touting including the powers to impound a licensed vehicle. It was also suggested by many stakeholders that novelty vehicles and limousines etc be brought within the scope of the licensing regime, however, the Law Commission had decided to retain the current exemption.

It was noted that responses to the consultation had been overwhelming in favour of retaining quality controls in respect of taxis and was recommending that licensing authorities should retain the limit the number of taxis working in their area. Within Barnsley there was currently a limit on the number of Hackney Carriages permitted which was currently 67 which had been determined following a review unmet demand for such vehicles. The next review was due in 2015 and it was noted that the 'value' of a hackney plate was currently around £20,000 - £25,000. The Law Commission report, however, stated that in areas where quantity restrictions were introduced for the first time, licences should not be tradable.

One of the key recommendations was the introduction of mandatory disability awareness training for all drivers. This was very much welcomed. In addition, it was recommended that licensing authorities should be required to review its accessibility needs every three years and to take accessibility issues into account when installing taxi ranks (Barnsley already did this). The Commission also recommended that the Secretary of State should be given powers to require large operators to meet certain quotas of accessible vehicles which must be available to them.

In conclusion, the report indicated that the reforms should clarify the legal distinction between taxis and private hire vehicles whilst retaining the unique and valuable qualities of both. Operators, drivers and their vehicles would then meet the demands of a modern passenger-service trade whilst keeping passenger safety and accessibility at the forefront of provision.

In response to questioning, the following matters were highlighted:

- the proposals were very much welcomed by Members of the Board
- Barnsley currently had 33% wheelchair accessible vehicles which was a higher percentage than would be required by the new proposals

- There was a discussion of the potential for discrimination of disabled passengers – failing to pick passengers up or levying increased charges - and Members were encouraged to inform the Licensing Service if such issues became known

RESOLVED that the report be noted and the proposals contained therein for a review of the taxi trade be welcomed in principle.

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Chairman