

**BARNSELY METROPOLITAN BOROUGH COUNCIL**

**GENERAL LICENSING REGULATORY BOARD**

**1<sup>st</sup> October, 2014**

11. **Present:** Councillor C. C. Wraith MBE (Chairman), the Mayor (Councillor Shepherd) and Councillors P Birkinshaw, Brook, Burgess, Tracey Cheetham, Duerden, Dures, Ennis, S Green, Johnson, Lamb, Richardson, Saunders, M Sheard, T Sheard, Tattersall and Worton.

12. **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.

13. **Minutes**

The minutes of the meeting held on 23rd July, 2014 were taken as read and signed by the Chairman as a correct record.

14. **Animal Health and Welfare Legislation – Licence Conditions**

The Executive Director Development, Environment and Culture submitted a report seeking approval for the formal adoption of conditions currently used when assessing businesses for Animal Licences.

**RESOLVED:**

- (i) that the Guidance listed within Appendix 1 to the report now submitted by formally adopted as the conditions to be applied when assessing premises for animal related licensing;
- (ii) that in relation to licenced activities where there are no nationally accepted standards, approval be granted to:
  - (a) the adoption of the standard conditions for the assessment of Dog Day Care Establishments and Home Boarders in residential premises as detailed within Appendix 2 to the report; and
  - (b) the adoption of the standard conditions for Commercial Dog Care Establishments (as now amended) as detailed within Appendix 3

## **15. Hackney Carriage and Private Hire Licence Fees**

It was reported that Councillors S Green and Johnson had joined Licensing Enforcement Officers and Vehicle Examiners/Engineers on a scheduled enforcement operation undertaken within Barnsley Town Centre on the 18<sup>th</sup> September, 2014. With the approval of the Chair, Councillor C Wraith MBE, Councillor Green and Johnson circulated a briefing paper on the outcome of their findings from the enforcement exercise.

Ten Private Hire Vehicles and six Hackney Carriages were inspected by one Enforcement Officer which resulted in 5 Private Hire Vehicles being suspended for a variety of reasons with three written warnings being issued for minor infringements. One Hackney Carriage Vehicle was suspended for an illegal tyre but was reinstated later when re-presented with the defect rectified.

Another Enforcement Officer inspected 12 Private Hire Vehicles and 5 Hackney Carriages resulting in 1 suspension of a Private Hire Vehicle for having a broken wing mirror and the issuing of 2 written warnings for minor infringements.

One surprising issue was the lack of Hackney Carriage Vehicles on the Midland Street Rank at a potentially busy period and Councillors Green and Johnson could only speculate on the reason for this.

The exercise then moved to the officers of one of the larger Private Hire Companies within Barnsley where vehicles were randomly called in for inspection. The overall standard of vehicles and drivers was impressively high and the co-operation of the Company concerned (and the staff thereof) could not be commended highly enough. The commitment and support this Company gave to the Licensing Team was welcome as any driver reported or suspended by the Service was automatically suspended from the Company radio network for a period of 24 hours. This enforced the Company policy of ensuring that all drivers adhered to licensing and legal obligations.

One issue of concern was raised, however, in relation to communication where on numerous occasions drivers protested that they did not understand what was being asked of them or did not understand what was required of them in relation to paperwork. This suggested that some mechanism should be introduced into the driver application process to limit or remove the opportunity for drivers to use this excuse when called upon to justify their actions.

In conclusion, both Councillors Green and Johnson asked to place on record their thanks for being allowed to observe the exercise and for the professional manner in which officers undertook their duties.

The Assistant Director Regulatory Services then submitted a report providing the Board with an overview of the work of Licensing Enforcement Officers undertaken since the last update in May 2014.

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

- (a) 25<sup>th</sup> June, 2014 - a daytime exercise involving Licensing Enforcement Officers together with Vehicle Examiners from the Smithies Lane Depot focusing on a small select number of licensed operators whose vehicles persistently failed MOT tests.
- In total, 7 Private Hire Vehicles had been inspected
    - 5 vehicles were found to be fully compliant
    - 2 vehicles were issued with suspension notices for a variety of reasons including defective tyres and lights
    - 2 drivers were issued with a written warning for failing to complete daily check sheets
- (b) 26<sup>th</sup> June, 2014 - a second daytime exercise involving Licensing Enforcement Officers and Vehicle Examiners from the Smithies Lane Depot focusing again on a small select number of Licensed Operators:
- In total, 6 Private Hire Vehicles had been inspected
    - 4 vehicles were found to be fully compliant
    - 2 vehicles were issued with suspension notices for a variety of reasons including defective tyres and lights. Both drivers were issued with a written warning
    - 2 drivers were issued with written warnings for failing to complete daily check sheets
- (c) 31<sup>st</sup> July, 2014 – a third daytime/night time exercise involving Licensing Enforcement Officers and Vehicle Examiners from the Smithies Lane Depot focusing on a number of Licensed Operators:
- In total, 18 Vehicles (9 Hackney Carriage and 9 Private Hire) were inspected
    - Hackney Carriage Vehicles
      - 7 vehicles were found to be fully compliant
      - 2 vehicles were issued with suspension notices for a variety of reasons including inoperative brake and side lights and cleanliness of vehicles
      - No written warnings were issued
    - Private Hire Vehicles
      - 8 vehicles were found to be fully compliant
      - 1 vehicle was issued with a suspension notice for defects including inoperative head and side lights and for failing to display door signage

- No written warnings were issued

(d) 7<sup>th</sup> August, 2014 – a two day joint working enforcement operation involving Licensing Enforcement Officers and Vehicle Examiners from the Smithies Lane Depot:

- In total 49 Vehicles (8 Hackney Carriage and 41 Private Hire) were inspected
  - Hackney Carriage Vehicles
    - 3 Vehicles were found to be fully compliant
    - 5 Vehicles were issued with suspension notices for a variety of defects including inoperative head and brake lights and cleanliness of vehicles.
    - 1 driver was issued with a written warning for falsifying the completion of the daily check sheets
  - Private Hire Vehicles
    - 30 vehicles found to be fully compliant
    - 11 vehicles issued with suspension notices for a variety of defects including defective tyres, no door signage, inoperative lights and cleanliness of vehicles
    - 10 drivers were issued with written warnings for failing to complete or falsifying the completion of the daily check sheets

Vehicle non-compliance continued to be an issue and was at the forefront of every enforcement operation and with every Vehicle Examiner whilst undertaking MOT tests. It was pleasing to note, however, that since the last update, failure rates at the Smithies Lane Depot had reduced by a further 1%. Whilst this was slightly encouraging, a failure rate of 46% was still unacceptable and 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 2% and currently stood at 44%. 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. In an attempt to remedy a particular prominent failing, from 1<sup>st</sup> October, 2014 the Licensing Service would be issuing free tyre gauges to the trade, enabling officers to educate drivers, vehicle proprietors and operators alike on how to confidently measure the depth of a tyre tread ensuring it was being used within the scope of the law.

Concerns were particularly expressed in relation to the increasing number of drivers who were claiming that they did not understand what was being asked of them and there was a discussion as to how this issue could be addressed. Several Members concurred with the view

that such an approach could be used as an excuse to justify their actions of not complying fully with licensing conditions. As a way of addressing this, it was suggested that drivers with English as an Additional Language who were claiming to have such issues could be referred to the Adult and Community Learning Service in the first instance rather than having their licence suspended or revoked. Arising out of this discussion reference was made to the following:

- The arrangements in place to 'vet' drivers and ensure that their English was of an appropriate standard to undertake the role of taxi driver prior to the issuing of licences was explained
- Arising out of the above, reference was made to the written/theory tests currently undertaken and to the requirement for enhanced DBS checks
- There was a discussion of the initiatives that could be introduced to reduce the number of drivers breaching licensing conditions. Whilst it was pleasing to note that there was a downward trend, the failure and non-compliance rates were, nevertheless too high.
- It was noted that the majority of written warnings could have been avoided had drivers/proprietors concerned complied fully with licensing conditions.
- a review of the Licensing conditions was currently being undertaken and could include the possible future use of 'sanctions' including the use of suspension as a punitive measure. Consideration could be given to the inclusion of the use of the Adult and Community Learning Service as part of that review. In addition, it was reported that a 'traffic light' system was being considered whereby the number of 'infringements' could be recorded with a 'threshold' at which a referral would be made to the General Licensing Regulatory Board. It was noted that any changes to the policy would require a report to this Board prior to the submission for approval by Cabinet/Council
- the support given by some Operators to the Licensing Service was particularly welcomed
- the role of the Taxi Liaison Group was explained. It was reported that the 'failure rates' were now being reported to this Group and that the 'message' about the need for compliance with licensing conditions appeared to be 'hitting home'
- Reference was made to the differing powers of the Police and Licensing Enforcement Officers particularly in relation to the issuing of penalty points
- The Principal Licensing Officer commented on the way in which enforcement exercises ensured that all Operators were visited on a random but rotational basis
- Enforcement exercises were undertaken on a regular basis and any Member wishing to accompany Enforcement Officers should contact the Licensing Service, however, it was noted that a further exercise would be undertaken shortly and an invitation

would be sent out to all Members by the Director of Legal and Governance

- In response to a suggestion that a 'star rating' be developed for taxi companies (similar to the Trip Advisor system) it was pointed out that such a system should not be required as the aim of enforcement exercises was to try to ensure that all taxis were fully compliant with licensing conditions at all times.

## **RESOLVED**

- (i) that the reports be received and the Principal Licensing Officer and Councillors S Green and Johnson be thanked for most informative presentations;
- (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.

## **16. Exclusion of the Public and Press**

**RESOLVED** that the public and press be excluded from this meeting during the consideration of the following item because of the likely disclosure of exempt information as defined by Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended.

## **17 Licensing Issues – Update - Appeal to Magistrates Court**

The Board was informed of the outcome of an appeal to Barnsley Magistrates Court by a driver whose licence had been revoked following a hearing in front of a General Licensing Regulatory Board Panel.

It was pleasing to note that the appeal had been dismissed by the Court which in effect vindicated the decision of the Panel.

**RESOLVED** that the report be received.

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Chairman