

BARNSELY METROPOLITAN BOROUGH COUNCIL**GENERAL LICENSING REGULATORY BOARD**

26th November, 2014

18. **Present:** Councillors C. C. Wraith MBE (Chairman), Burgess, Tracey Cheetham, Duerden, K Dyson, Frost, S Green, Griffin, Johnson, Lamb, Richardson, M Sheard, T Sheard, Tattersall and Wilson.

19. **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.

20. **Minutes**

The minutes of the meeting held on the 1st October, 2014 were taken as read and signed by the Chairman as a correct record.

21. **Licensing Enforcement Hackney Carriage and Private Hire Licence Fees**

The Assistant Director Regulatory Services submitted a report providing the Board with an overview of the work of Licensing Enforcement Officers undertaken since the last update in October 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) 18th September, 2014 - a day/night time exercise involving Licensing Enforcement Officers together with Vehicle Examiners from the Smithies Lane Depot (accompanied by two Members of the General Licensing Regulatory Board) focusing on a number of licensed operators and centrally located hackney carriage ranks.

- 11 Hackney Carriage Vehicles had been inspected
 - 10 vehicles found to be compliant
 - 1 vehicle issued with a suspension notice for a defective tyre

It was pleasing to note that the majority of vehicles had been found to be compliant. It was an encouraging result and welcomed by all.

- 22 Private Hire had been inspected

- 16 vehicles found to be compliant
- 6 vehicles issued with a suspension notice for a variety of reasons including defective tyres, lights, shattered wing mirror and failure to display door signage
- 5 written warnings issued for failing to complete daily check sheets and produce driver licence I.D Badge in contravention of driver licence conditions

(b) 3rd October, 2014 – a joint multi-agency night time operation involving Licensing Enforcement Officers, VOSA and South Yorkshire Police (accompanied by one Member of the General licensing Regulatory Board) focusing on the Midland Street Hackney Carriage Rank followed by an intensive operation at the request of one of Barnsley's largest licensed operators.

- 5 Hackney Carriage Vehicles inspected all of which were found to be compliant which was extremely encouraging
- 40 Private Hire Vehicles inspected all of which were found to be compliant
 - Five written warnings issued for failing to complete daily check sheets

It was felt that this was a testament to the hard work of officers in ensuring that drivers and vehicle proprietors alike were complying with minimum standards as this operation had largely been around ensuring compliance with and ensuring vehicles licensed operated in a safe and road worthy condition.

(c) 4th October, 2014 – a second multi-agency night time operation involving Licensing Enforcement Officers, VOSA and the South Yorkshire Police (accompanied by another Member of the General Licensing Regulatory Board). The operation involved a collaborative inspection of a high volume of licensed vehicles.

- 20 Hackney Carriages Inspected all of which were found to be compliant. This continued the encouraging trend
- 37 Private Hire Vehicles had been inspected
 - 36 vehicles found to be compliant
 - 1 suspension notice had been issued for failure to display the front and nearside door signage and refusal to display rear signage. In addition, a written warning was issued to this driver for his poor attitude
 - 4 written warnings had been issued for failing to complete the daily check sheets

(d) 15th October, 2014 – a day time operation involving Licensing Enforcement Officers and Vehicle Examiners from the Smithies Lane Depot focusing on a small select number of licensed operators

- 1 Hackney Carriage Vehicle inspected and issued with a suspension notice for inoperative windscreen washers and defective tyre – the defect was rectified and the suspension notice lifted with immediate effect
- 9 Private Hire Vehicles inspected
 - 3 Vehicles issued with suspension notices for inoperative and differing coloured headlights, loose passenger window and sharp edges located near the rear passenger seat
 - 1 verbal caution issued for windscreen wipers failing to park properly

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 to 39% a 7% reduction overall which was really encouraging and on to be acknowledged by all concerned. The Licensing Service would continue to cascade a strong message to all operators, vehicle proprietors and drivers who had clearly begun to accept responsibility for their failures and started to make a change.

As reported at the last meeting, a number of tyre gauges had been issued to drivers, vehicle proprietors and operators and these had been very much welcomed by the trade as they allowed them to confidently measure the depth of a tyre tread and thus ensure that it was being used within the scope of the law.

In the ensuing discussion and in response to questioning, particular reference was made to the following:

- The action taken in relation to the driver who had been issued with a written warning because of his conduct was outlined
- The proactive work of the service over the Christmas Period was outlined. It was noted that on the 12th December, 2014 the service was to issue a press release outlining how members of the public could ensure they got home safely at Christmas and the New Year
- It was suggested, and agreed, that the Service needed to publicise more widely the success in reducing the number of failure rates and non compliant vehicles. Members hoped that this was a continuing downward trend

- The good relationship the Service had with Operators was outlined. Arising out of this discussion, it was noted that vehicle inspections could be undertaken at an Operator's home
- The Principal Licensing Officer reported that Licensing Enforcement operation were undertaken at least every quarter and commented briefly on forthcoming operations planned for the festive season

RESOLVED

- (i) that the report be received; and
- (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 for the outstanding results currently being achieved.

22. Penalty Points Scheme – Consultation Report

The Assistant Director (Culture and Regulation) submitted a report on the proposed introduction of a policy for issuing Penalty Points to licence holders for breaching licensing conditions.

The draft policy had been submitted for consultation purposes prior to consideration by Cabinet and Council for final approval.

The purpose of the policy, if approved, would be to work in conjunction with the other enforcement options available and assist in providing a formalised stepped enforcement plan. It would enable misdemeanours to be recorded and act as a record of a driver's behaviour/conduct and, in doing so, ascertain whether or not they remained to be a fit and proper person to hold such a licence. It was noted that the policy would not prejudice the Council's ability to take other actions.

The report went on to outlined the main features of the scheme, the legislation covered and the number of penalty points issued for each 'offence'. It was also noted that, amongst other things, any licence holder accumulating 12 points (30 points for an operator) or where there were three repeat identical contraventions within a 12 month (rolling) period would be required to appear before a Panel of the General Licensing Regulatory Board. Any licence holder wishing to appeal the penalty points 'awarded' could submit an appeal to the Group Leader (Pollution and Licensing) within 10 working days of receiving the penalty points. It was noted, however, that the Group Leader would have the authority to either increase or decrease the number of points issued. The sanctions available to the Panel of the General Licensing Regulatory Board in relation to a licence holder brought before it were outlined.

It was also noted that this policy would work alongside the Council's Guideline Policy on Criminal Convictions which was currently also being reviewed and which would also be submitted for formal approval.

In the ensuing discussion, the following matters were raised:

- reference was made to how the Service could investigate and prove the overcharging of a metered fare or instances of where journeys were unnecessarily prolonged
- it was suggested that the draft policy be amended to include:
 - reference to the fact that points would still be issued irrespective of whether or not a vehicle defect was rectified on the same day as a suspension notice issued
 - a greater number of points for failing to carry out and record daily check sheets (or for fraudulently completing the check sheet) as this would act as a deterrent. It was suggested that this should be increased to 6 penalty points which could be justified on the basis that there was a 'local' problem. (it was noted that the intention was to issue penalty points for the failure to complete/fraudulent completion rather than for each day of non completion/fraudulent completion)
 - the requirement that penalty points be issued for failure to carry the daily check sheet in the car (which was a requirement of Licensing Conditions)
 - a requirement that a report on the issuing of Penalty Points be submitted to meetings of the General Licensing Regulatory Board
- it was noted that following a revocation of a license, drivers often waited the full 21 days before submitting appeals to the Magistrates Court as this allowed them to continue driving of a longer period (in the event that the Magistrates concurred with the view of the General Licensing Regulatory Board Panel)
- the suggested sanctions had been benchmarked with other neighboring authorities
- questions were raised as to whether or not the new policy would prove to be more bureaucratic, however, on balance it was felt that this could potentially reduce the number of hearings brought before the General Licensing Regulatory Board Panel as this should hopefully act as a deterrent and encourage greater compliance with licensing conditions. This matter could be kept under review
- there was a discussion as to whether or not the appeal to the Group Leader (Pollution and Licensing) should be increased to 14 days. In response, the rationale for opting for a 10 working day option was outlined. This matter could, however, be investigated further
- the importance of Enforcement Officers applying the Penalty Points scheme consistently was emphasised

RESOLVED:

- (i) that the report be received; and

- (ii) that insofar as this Board is concerned and subject to the comments now made, the Penalty Points Policy/Scheme be approved and referred to Cabinet/Council for formal approval.

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Chairman