

# Public Document Pack



<b>MEETING:</b>	General Licensing Regulatory Board
<b>DATE:</b>	Wednesday, 25 April 2018
<b>TIME:</b>	2.00 pm
<b>VENUE:</b>	Reception Room, Barnsley Town Hall

## AGENDA

### 1 Declaration of Interests

To receive any declarations of pecuniary and non-pecuniary interest from Members in respect of items on the agenda.

### 2 Minutes (*Pages 3 - 6*)

To accept as a correct record the minutes of the meeting held on the 21<sup>st</sup> February, 2018.

### 3 Enforcement Update (*Pages 7 - 12*)

The Service Director Culture, Housing and Regulation will submit a report providing an overview of the work Licensing Enforcement Officers have undertaken to date.

### 4 Structural Changes in Regulatory Services (*Pages 13 - 14*)

The Executive Director Place will submit a report informing the Board of proposed structural changes to Regulatory Services to be determined in accordance with delegated functions.

### 5 Animal Licensing Activities - Legislative Changes and Implications for the Model Licensing Conditions (*Pages 15 - 18*)

The Executive Director Place will submit a report on the introduction from 1<sup>st</sup> October, 2018 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and on the implications for the Model Licensing Conditions for animal licensing approved by the Board in December 2017.

To: Chair and Members of General Licensing Regulatory Board:-

Councillors C. Wraith MBE (Chair), P. Birkinshaw, J. Carr, Cherryholme, Clarke, M. Dyson, Frost, S. Green, Daniel Griffin, Hampson, W. Johnson, Lamb, Markham, Millner, Murray, Phillips, Pourali, Richardson, Saunders, Shepherd, Sixsmith MBE, Spence, Tattersall, Williams and Wilson

Andrew Frosdick, Executive Director Core Services  
Matt Gladstone, Executive Director Place  
Phillip Spurr, Service Director Culture, Housing and Regulation  
Kevin Glover, Strategic Manager - Transport  
Kate Liddall, Senior Licensing Officer  
Garry Kirk, Service Director Legal Services

Sajeda Khalifa, Solicitor  
Debbie Bailey, Regulatory Services Field Officer

Please contact William Ward on email [governance@barnsley.gov.uk](mailto:governance@barnsley.gov.uk)

Monday 16<sup>th</sup> April, 2018

<b>MEETING:</b>	General Licensing Regulatory Board
<b>DATE:</b>	Wednesday, 21 February 2018
<b>TIME:</b>	2.00 pm
<b>VENUE:</b>	Reception Room, Barnsley Town Hall

## MINUTES

### Present

Councillors C. Wraith MBE (Chair), J. Carr, Clarke, M. Dyson, S. Green, Daniel Griffin, Hampson, W. Johnson, Millner, Pourali, Richardson, Shepherd, Spence, Sumner, Tattersall and Wilson

### 25 Declaration of Interests

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

### 26 Minutes

The minutes of the meeting held on the 20<sup>th</sup> December, 2017 were taken as read and signed by the Chair as a correct record.

### 27 Enforcement Update

The Service Director Culture, Housing and Regulation submitted a report providing an overview of the work of Licensing Enforcement Officers undertaken recently.

Licensing Enforcement Officers had proactively embarked on a number of taxi licensing enforcement operations as follows:

- (a) 20<sup>th</sup> December, 2017 – a day time operation involving Licensing Enforcement Officers, Vehicle Examiners from the Smithies Lane Depot and representatives from the South Yorkshire Police. The operation focused on all licensed vehicles in the vicinity of the Summer Lane roundabout.
  - Of the 22 vehicles inspected, 18 were found to be compliant and 4 were issued with immediate suspension notices for a variety of defects including warning lights on the dashboard, tyres being below the legal limit, headlights being incorrectly aligned and number plate lights being inoperative
  - In addition, three drivers were issued with Written Warnings for failing to complete or falsifying their daily inspection books
- (b) 18<sup>th</sup> January, 2018 – a day time operation involving Licensing Enforcement Officers and Vehicle Examiners from the Smithies Lane Depot focusing on Springwell School where drivers and vehicles were contracted to transport children to school on a daily basis. The Chair of the Regulatory Board (Councillor C Wraith MBE) was also in attendance.
  - Of the 29 vehicles inspected 22 were found to be compliant and 7 were issued with immediate suspension notices for a variety of defects including inoperative lights and indicators

Vehicle compliance continued to be an issue at the forefront of every enforcement operation and with every Vehicle Examiner whilst undertaking vehicle inspections. It was pleasing to note, however, that vehicle compliance was continuing to improve and was a testament to the hard work of the staff involved with enforcement. Vehicle failure rates were still at an unacceptable level and it was important that operators, vehicle proprietors and drivers accepted responsibility for their failures and made a change as to not do so could potentially put the safety of the travelling public at risk. In addition, the failure to complete basic vehicle inspection sheets, which the Trade had requested be introduced as a tool to ensure the safety of a licensed vehicle was also not acceptable.

It was reported that following an investigation by Barnsley Licensing Officers, a Taxi Driver who was licenced in Sheffield and who had picked up a fare in Barnsley Town Centre in contravention of Licensing Conditions had been given a £150 fine at Barnsley Magistrates Court. He had also been ordered to pay costs of £500 and a victim surcharge of £30.

Further proactive enforcement operations would continue to be undertaken on a quarterly basis

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

- There was particular concern at the continued problems associated with vehicle lights. It was suggested that in order to prevent this occurring as often, consideration should be given to an amendment to Licensing Conditions requiring drivers to carry a spare bulb kit for their vehicles. In this way, any problems found could be rectified immediately and any driver found not to be in possession of a bulb kit could then be given a Written Warning. It was noted, however, that certain types of vehicles had bulbs which could not be replaced at the roadside
- Arising out of the above, reference was made to the actions that could be taken in relation to vehicles with dangerous defects and there was a discussion about the possibility of requiring the drivers/operators of such vehicles to appear before a General Licensing Regulatory Board in the first instance rather than being given a Written Warning. It was suggested that this would require a change of Licensing Policy
- It was noted that where vehicles were inspected and were not licensed by this Authority, information about such checks and failures would be reported to the Licensing Authority concerned
- In response to specific questioning, the Board noted that only the Police could issue fixed penalty notices and that these could not be issued retrospectively or following referrals from Licensing Officers. Reference was made in this respect to the varying roles and responsibilities of officers of the Authority and the various agencies involved in Enforcement exercises
- The Chair, Councillor C Wraith MBE, commented on the excellent work of Licensing Enforcement Officers who often had to deal with difficult situations. Particular reference was made in this respect to the work of Mrs D Bailey.
- Arising out of the above, reference was made to, and there was a discussion of, the need to ensure that the Health and Safety of staff was maintained. It was noted that staff were unlikely to face any physical attacks as any driver

doing so would lose their licence and subsequently their livelihood. In addition, staff rarely undertook enforcement action on their own

- Reference was made to the actions of one driver who had been using foul and abusive language. This had resulted in a note being recorded on his personal record. It was noted that the driver had been made aware that any further occurrences of this nature could require him to appear before a Panel of the General Licensing Regulatory Board
- The Licensing Enforcement Officer gave an update of Operation Duxford that had been undertaken on the 15<sup>th</sup> February, 2018. This had been a multi-agency operation involving Licensing Enforcement Officers, Vehicle Examiners from the Smithies Lane Depot, representatives of the South Yorkshire Police, Vosa and Customs and Excise, in addition, the Chair had also been in attendance. The full day exercise had included roadside checks and of the 21 vehicles inspected 6 had been suspended, one for tyres and five for faulty lights. Four Written Warnings had been issued for failing to complete daily check books
- Members of the Board noted that a couple of years ago all drivers had been issued with a free tyre gauge and that the dangers associated with faulty tyres was a regular feature in the theory test for drivers. The Chair commented that whilst improvements were still required, the progress made over the last 2-3 years had been tremendous. It was felt that the consistency with which drivers were treated, the follow up by the General Licensing Regulatory Board Panel and the involvement of multi agencies was having a positive impact on improving compliance with licensing conditions. Drivers now knew the potential consequences of their actions, that they could be required to appear before a Panel of Members and that they would not be treated lightly.
- Members noted that further enforcement exercises targeting Operators was to be undertaken shortly
- The success of the 'Whose taking you home' campaign were noted

#### **RESOLVED:**

- (i) that the Board place on record their thanks and appreciation to the staff within the Licensing Service and Smithies Lane Depot for all their hard work in undertaking enforcement activities and ensuring the continued safety of the travelling public and for the outstanding results currently being achieved; and
- (ii) That consideration be given to the feasibility of amending Licensing Conditions to require:
  - all drivers to carry spare bulb kits (where appropriate given the vehicle type) and that failure to do so result in the issuing of a Written Warning
  - the drivers/operators of vehicles found to have dangerous defects to appear before a General Licensing Regulatory Board Panel as a mandatory requirement.

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Chair

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# Item 3

**Report of the Service Director Culture,  
Housing and Regulation to the  
General Licensing Regulatory Board  
to be held on the 25 April 2018**

## **ENFORCEMENT UPDATE**

### **1. Purpose of Report**

The purpose of this report is to provide Members with an overview of the work Licensing Enforcement Officers have undertaken to date.

### **2. Background**

Members are minded to note, that since the last enforcement update, Licensing Enforcement Officers have continued to proactively enforce the legislation and conditions of licence attached to all driver, vehicles and operator licences.

### **3. Current Position**

#### **Driver Theory Test**

Officers are currently reviewing the way the private hire and hackney carriage driver theory test is delivered and how officers can support new applicants through the process. Currently applicants are given a copy of driver and vehicle conditions and advised of the topics they will be tested on:-

- Conditions of licence
- Places of Interest
- Disability Customer Care
- Numeracy and Literacy
- Highway Code

Applicants then attend the safeguarding training, they receive a presentation regarding driver and vehicle conditions and relevant legislation and they then sit the theory test.

To assist new applicants it is proposed that Officers are to provide a more extensive learning package. This will assist drivers to improve their knowledge in relation to private hire and hackney carriage requirements and legislation. The aim being to educate applicants to a higher standard and prepare them for the test and for their future career as a private hire or hackney carriage driver. Officers would request that members support the introduction of the theory test guidance pack.

#### Signage on Private Hire Vehicles

Officers have recently witnessed several private hire vehicles displaying signage that is difficult to read due the font size, colour and position of the lettering on the vehicle doors.

The current private hire vehicle condition states:

**The vehicle when working must display on its front doors the words “Private Hire Vehicle Advanced Booking Only” and must display on the rear offside and near side doors/panel of the vehicle the operator’s trade or business name and telephone number. No other signs or words whatsoever shall be displayed.**

It is proposed that Officers amend this condition to state:

**The vehicle when working must display on its front doors the words “Private Hire Vehicle Advanced Booking Only”, this must be in a contrasting colour to the vehicle, be at least 19” x 6” in area and be in a prominent position in the centre of the door panel. The vehicle must display on the rear offside and near side doors/panel of the vehicle the operator’s trade or business name and telephone number. No other signs or words whatsoever shall be displayed.**

All drivers will be given a period of time in which to make changes to their current signage before enforcement action will be taken by officers for non-compliance.



Officers would like to request that members support the changed to the private hire vehicle conditions.

### Vehicle Testing Criteria

Members will be aware that licensed vehicles may now be tested at any one of the VOSA registered garages on the Councils approved list.

The current position states that all private hire and hackney carriage vehicles regardless of age, will be MOT tested twice per year. Vehicles which successfully pass both tests first time will have their test requirement reduced to one test per calendar year and remain at this level unless the vehicle fails its next MOT test, at which point it will return to being tested twice per year.

In addition, if a driver replaces his current vehicle with a newer vehicle the vehicle is automatically required to have an MOT test twice a year.

Private Hire and Hackney carriage drivers have asked that this be reconsidered as it is discouraging vehicle owners from replacing and upgrading their vehicles and so discouraging an improvement in the private hire trade and hackney carriages provided in the borough.

Officers propose that the wording be altered to allow drivers with a history of first time MOT pass rates to be allowed to keep this status when replacing and improving their vehicle.

Officer would like to request that members support the changes to the Vehicle Testing Criteria.

### Final Written Warnings

When dealing with drivers that have been referred before the General Licensing Board there are several option available to members, including the issue of a final written warning as their future conduct.

Officers recommend that in future a review date should be placed with the final written warning so that ongoing consideration can be given as to its relativity at the time.

### Shared Database

Information sharing between local authorities is critical to the effective enforcement of taxi licensing. Work began in the South Yorkshire authorities to create a shared database of applicants who had been refused a licence, and drivers whose licences had been revoked. This work was then picked up nationally, in a joint initiative between the Local Government Association and the National Anti Fraud Network.

This project has now progressed to the point where data is now being collected from Local Authorities and collated into a National database. BMBC are currently collating our data for submission. It is intended that the database be operational from the end of April 2018.

The new database will allow councils to record details of where a licence has been refused, revoked or suspended as well as to check new applicants against the database. This will help prevent individuals deemed to be not fit and proper in one area from going to another area and securing a licence by not disclosing their previous refusal or revocation – something that undermines public safety and confidence in the licensing regime and the authorities that administer it.

### CCTV in Taxis and Private Hire Vehicles

A Cabinet decision was made last autumn to approve the Licensing team to put together a business case for the mandatory introduction of CCTV in all licensed vehicles. Officers carried out initial research into the subject, and became aware that the Local Government Association were working on the production of guidance on this issue for local authorities. Therefore, the decision was made to delay work in this area until the national guidance had been published (originally due by December 2017) so that implementation could be in line with the guidance. This was particularly important with regards to information governance issues, and the requirements of the Information Commissioners.

Officers contacted the LGA directly to be kept informed of progress on the guidance. Unfortunately the guidance has been delayed while the LGA has received crucial information from the Information Commissioners Office

regarding information governance/data handling issues and detail on the required specification of the cameras. The guidance is due out in May/June this year. This also coincides with the proposed date for consultation by the Department of Transport's statutory/best practice guidance on taxi licensing, which is expected to also cover the subject of CCTV in taxis. The provision of national guidance will aid implementation of CCTV in taxis in Barnsley, and will ensure that we have the strongest possible case for implementation. It is proposed that following the issuing of the guidance, implementation is progressed as quickly as possible, by the end of 2018.

**5. Background Papers**

Enforcement Officer Reports which contain exempt information are not available for public inspection

**6. Officer Contact**

Debbie Bailey

X 5696

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## **BARNSELEY METROPOLITAN BOROUGH COUNCIL**

**This matter is/is not a Key Decision within the council's definition and has not been included in the relevant Forward Plan**

**Report of Matt Gladstone**

### **INFORMATION REPORT TO ADVISE LICENSING BOARD OF THE STRUCTURAL CHANGES IN IN REGULATORY SERVICES**

#### **1. Purpose of report**

- 1.1 To advise Licensing Board of proposed structural changes to Regulatory Services to be determined in accordance with delegated functions.

#### **2. Recommendation**

- 2.1 That members note the contents of this report.

#### **3. Introduction**

- 3.1 The Chief Executive and Senior Management Team have agreed that the Regulatory Services function, which currently sits in BU5 in the Place Directorate, will be split, with the responsibility for Food Hygiene, Health and Safety, Trading Standards and Pollution Control transferring to Public Health (BU10). The responsibility for the Licensing function will transfer from BU5 moving to Legal (BU17) in Core Services.

#### **4. Proposal and Justification**

- 4.1 The Chief Executive and Senior Management Team, decided that in order to ensure the safe and effective delivery of the three year improvement, growth and sustainability strategy, it was necessary to revisit some of the current arrangements to make these more efficient and effective, either by improving the synergy of those services or to achieve further efficiencies by economies of scale.
- 4.2 A number of other changes are to be made in the organisation, which are not detailed in this report.

#### **5. Workforce Implications**

- 5.1 The transfer will be a straight 'lift and shift' into the new Business Units.
- 5.2 There are no changes to terms and conditions being proposed and there are no compulsory redundancies resulting from these changes.
- 5.3 The Council's HR Policies and Procedures will be used to achieve and manage the change process.

- 5.4 Regular meetings are being held with employees to keep them up to date on the process. The date the Services are working to for the move to take place is 1<sup>st</sup> August 2018.

**6. Financial Implications**

- 6.1 Any financial implications arising from these changes will be contained within the service base budgets.

**7. Consultations**

- 7.1 Trade Unions have been consulted.

**8. Background Papers**

There are no background papers

## BARNSLEY METROPOLITAN BOROUGH COUNCIL

**This matter is not a Key Decision within the council's definition and has not been included in the relevant Forward Plan**

**Report of Matt Gladstone**

### **A REPORT TO ADVISE LICENSING BOARD ON THE INTRODUCTION OF NEW LEGISLATION RELATING TO ANIMAL LICENSING ACTIVITIES**

#### **1. Purpose of report**

- 1.1 This report is a follow on from the report seeking approval to deviate from the Model Licensing Conditions (MLCs) for animal licensing in some circumstances, which was brought to the Board in December 2017. Following this report Licensing Board asked for a follow up report on how the new proposals were working.
- 1.2 However, since the December 2017 Report, things have moved on, so this report is to advise Licencing Board on the introduction of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, which are due to come into force on 1<sup>st</sup> October 2018. A draft of these regulations has been published, and some aspects of the new legislation differ from the current Model Licensing Conditions.
- 1.3 This report also informs the board on the number of licensed animal establishments, including catteries and kennels in the Borough.

#### **2. Recommendation**

- 2.1 In light of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, which are due to come into force on 1st October 2018, the board is asked that in circumstances where BMBC Animal Health Officers have confirmed there are no welfare concerns, businesses are allowed to continue to operate as they currently do until they become Licensed under the above Regulations. The reason for this is that elements of the draft of the new Regulations differ from the MLCs, and although the MLCs are adopted by BMBC as the standard to be achieved, they are guidance, and not legislation.

#### **3. Introduction**

- 3.1 Barnsley MBC is required to license certain business activities in relation to animals. Under the current system this is done under a number of different pieces of legislation. In order to rationalise the system and update standards, a new, single piece of legislation is to be introduced to cover all aspects of animal welfare licensing, which are shown in the table in paragraph 3.2 below.

- 3.2 Licences are issued on an annual basis. The following table shows the premises currently licensed, the dates for which the licensing period for that sector runs, the number of licences issued to businesses in that sector and the annual charge.

<b>Licence Type</b>	<b>Licence Period</b>	<b>No. of Licences of this type issued</b>	<b>Licence cost</b>
Kennel	1st September- 31st August	4	£159.00
Cattery	1st September- 31st August	3	£159.00
Kennel & Cattery	1st September- 31st August	9	£159.00
Dog Breeder	1st January-31st December	8	£139.00
Home Boarding	1st June- 31st May	69	£107.00
Day Care- Home	1st June- 31st May	3	£107.00
Day Care- Commercial	1st June- 31st May	2	£139.00
Riding Schools	1st January-31st December	4	£139.00
Pet Shop	1st April- 31st March	16	£130.00

NB. Zoos and Greyhound Racing are also licenced by the Service, but this is not included in the new regulations and will continue to be licensed under current legislation.

- 3.3 The Service currently employs 2 Regulatory Services Field Officers whose duties include the Licensing of Animal Welfare Establishments. Both are fully trained and competent to assess animal health and welfare issues. Part of the Licensing regime involves a visit to the premises, which includes an assessment of the business's paperwork and procedures, as well as a physical inspection of the environment, all which is assessed against required standards. Any complaints which are received about licensed premises are investigated. The level and detail of investigation will be dependent upon the nature of the complaint and previous complaints against the business.
- 3.3 A draft of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 has been published, and the regulations are due to come into force on 1<sup>st</sup> October 2018. Any Licenses issued prior to this date will be issued under the current legislation until the next renewal date. An example of this is the cattery or kennel licence. Licences are due to be issued on 1st September 2018, until 31<sup>st</sup> August 2019, so these will be issued under the current legislation, which is the Animal Boarding Establishments Act 1963. The New Regulations will come into



force on 1<sup>st</sup> October 2018, so licences will be issued under the new legislation for the licensing period 1<sup>st</sup> September 2019 – 31<sup>st</sup> August 2020.

- 3.4 On reading the draft of the new Regulations, it appears there are a number of differences with the current Model Licensing Conditions. An example of this is in relation to kennel sizes. In the current MLCs there are sizing requirements. However, in the draft of the new regulations the specified sizing requirements only apply to kennels which are built after the date on which the new regulations come into force.
- 3.5 At the present time the regulations are in draft format, and there is a possibility they may change, however, if they do not change, to mirror the current MLCs it seems unfair to make a business comply with the MLCs now, for them to then have to make further changes in order to comply with the new legislation.
- 3.6 MLCs are guidance which Barnsley BMC has adopted as the standard to be achieved. However, this is guidance, and not a legal requirement. When the new Regulations come into force they will be the law, and businesses will need to be compliant. At the time of writing the report it is not clear if there will be a lead in time for any businesses which need to make alterations to comply with the new legislation, or if there will be new MLCs to go with the new legislation.
- 3.7 The proposal in this report is to allow businesses to continue to operate as they are currently, until the introduction of the new Regulations. Once the final draft of the new Regulations has been issued, the Service will write to all licensed businesses to advise them of the new regulations and that they will need to comply with the requirements of these regulations.

#### **4. Consideration of alternative approaches**

- 4.1 The Authority could insist on businesses complying with the current MLCs. However, as MLCs are guidance rather than legislation, and as the new draft legislation differs from the MLCs, it would be unfair to businesses to get them to make alterations to comply with guidance, which would then not be compliant with new legislation which is to be introduced in the next few months. Also, the MLCs are guidance, and the authority is likely to be challenged if it took this approach.
- 4.2 The Authority could ask for verification from an independent vet, however, this would have cost implications for businesses.

#### **5. Proposal and justification**

- 5.1 To allow businesses to continue to operate in their current format until the new Regulations come into force. As the Licensing year for catteries and kennels runs from 1<sup>st</sup> September - 31<sup>st</sup> August, they will have 11 months to comply with the new Regulations (subject to any further lead in period allowed when the legislation is introduced), until they are licensed under the new Regulations. It will also support the Council priority of Thriving and Vibrant Economy, by supporting local businesses, by applying a pragmatic approach to the interim period between now and the introduction of the new Regulations.

**6. Implications for local people / service users**

- 6.1 MLCs are guidance which BMBC have adopted as the standard to be achieved. Insistence on complying with the current MLCs, some elements of which differ from the new draft Regulations will place an unnecessary burden on local businesses, and may cause them to close, and result in a number of job losses. The Service has had representations from businesses indicating this will be the case. This approach is also likely to be challenged by businesses. Waiting and applying the requirements of the new legislation would make better sense for the Authority, and for the business.

**7. Financial implications**

- 7.1 If businesses close, as a result of non-compliance, either with the current MLCs or the new Regulations, there would be a reduction in income for the Authority.

**8. Employee implications**

- 8.1 No implications.

**9. Communications implications**

- 9.1 Licensed premises in the Borough have been written to, to advise them of the new draft Regulations. Further correspondence will be sent to all businesses licensed for animal welfare once the new Regulations have been finalised. If these businesses were to close, this would impact on residents on Barnsley who would have a reduced choice in where to board their animals, and may mean they use businesses outside the borough.

**10. Consultations**

BMBC finance/legal services will be consulted on this report.

**11. Tackling Health Inequalities**

- 11.1 No implications.

**12. Background Papers**

- 12.1 Copies of the MLCs and draft Regulations are available on request from the officer below:

Office Contact: Rachel McCormack Telephone No: 772521 Date: 13.4.18
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Financial Implications / Consultation ..... Date: .....
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Consultations have taken place with representatives of the Executive Director, Finance
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