

Public Document Pack

MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 25 October 2017
TIME:	2.00 pm
VENUE:	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 6th September, 2017.

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, including the outcome of recent taxi licensing enforcement operations.

4 Taxi Licensing Update (*Pages 13 - 18*)

The Executive Director Place will submit a report informing the Board of the programme of taxi licensing activity progressed within Regulatory Services particularly in relation to safeguarding children, improving on existing standards with a key priority of ensuring the safety of the paying public.

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

Councillors C. Wraith MBE (Chair), J. Carr, Cherryholme, Clarke, Dures, M. Dyson, Frost, S. Green, Daniel Griffin, Hampson, W. Johnson, Lamb, Markham, Millner, Phillips, Pourali, Richardson, Saunders, Sheard, 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 01226 773451 or email governance@barnsley.gov.uk

Tuesday, 17 October 2017

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MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 6 September 2017
TIME:	2.00 pm
VENUE:	Reception Room, Barnsley Town Hall

MINUTES

Present

Councillors C. Wraith MBE (Chair), Clarke, Dures, S. Green, Daniel Griffin, Hampson, W. Johnson, Millner, Pourali, Richardson, Saunders, Sheard, Shepherd, Spence, Tattersall, Williams and Wilson

At the invitation of the Chair, The Mayor, Councillor Ennis.

14 Declaration of Interests

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

15 Minutes

The minutes of the meeting held on the 26th April, 2017 were taken as read and signed by the Chair as a correct record.

16 Taxi Legislation - Proposed Changes

The Service Director Culture, Housing and Regulation submitted a report advising Members of a range of taxi legislation recommendations proposed by the All Party Parliamentary Group (APPG) for taxis.

It was reported that recent and significant changes to the taxi and private hire markets combined with the introduction of new technologies had led many drivers and representative bodies across the industry to believe that the existing regulation was no longer fit for purpose and that associated reform had not kept pace with the changing market.

Taxi regulations were not set nationally and this had resulted in some Private Hire Operators taking advantage of less robust licensing systems to avoid areas where stronger requirements existed. An example of this was 'cross border hiring'. The introduction of the Deregulation Act 2015 had allowed Private Hire Operators to subcontract a booking to another operator licensed within a different licensing district. This had the effect of limiting the enforcement action that Authorities could undertake against a driver who operated in another area despite not meeting the local licensing regulations.

In addition, the APPG had identified one local authority that did not require an applicant to undertake a DBS check to receive a licence which was felt to be imperative in order to ensure that all applicants were subject to rigorous criminal conviction screening before being granted a licence to carry passengers. It was also noted that the absence of a national database of licenced drivers and applicants who had been refused a licence or whose licences had been revoked meant that there

was a greater risk of applicants/drivers applying to a different licensing authority and being granted a licence.

The APPG had, therefore, proposed that the Government consult on the creation of statutory guidance for taxi and Private Hire Vehicle Licensing which would set out minimum standards that all licensing authorities should impose. It was also proposed that Local Authorities would retain the ability to impose further standards above this should they feel it necessary and proportionate to local needs.

The APPG also proposed that:

- In order to address issues in relation to 'cross border hiring' there should be a statutory definition which would define that a journey should begin or end in the licensing authority area
- There should be a national database of registered drivers and operators in conjunction with the DVLA and the Police

In order to address the types of issues identified locally, Licensing Officers within South Yorkshire had met with representatives of the Local Government Association and the National Anti-Fraud Network to secure the development of a national register of all licenced driver refusals and/revocations. It was acknowledged that whilst this would not solve all the challenges, it was an important sector-led initiative aimed at tackling the problem of individuals making applications in different areas following a refusal or revocation elsewhere.

The report also indicated that, following the recent events in Rotherham, that Local Authority had implemented a number of stringent licensing requirements including:

- (a) Enhanced DBS Checks
- (b) Certificate of Good Conduct – for those residing outside the UK
- (c) Improved theory test
- (d) BTEC Level 2 Certificate - Professional Taxi and Private Hire Driver
- (e) Sign code of conduct for vulnerable passengers
- (f) Dress code
- (g) Taxi cameras recording audio and video – with video recording on at all times and audio when transporting a child under 18 or a vulnerable adult

The Board noted that with the exception of (d) and (g), all the remaining measures were imposed by this Council. It was also noted that currently the Licensing Service was undertaking a review of the application criteria and policy requirements in order to ensure a more rigorous approach was applied when meeting its duty to protect the public.

The report engendered a full and frank discussion during which the following matters were raised:

- Members very much supported the introduction of CCTV cameras in vehicles for both the protection of the public but also for the driver. It was noted that the trade organisations were broadly supportive of such a proposal but that prior to the inclusion within the licensing criteria, there would be a full consultation with all drivers and operators. Arising out of the discussion, it was noted that:

- Whilst the costs of CCTV recording equipment had significantly reduced over recent years, the costs of the purchase and installation would have to be borne by the driver/operator/proprietor as appropriate
 - The reasons for not requiring audio to be recorded all the time were outlined – it was noted that Information Commissioner required there to be a demonstrated evidential need
- There was support for a standardised approach to taxi licensing including the adoption of minimum standards for all licensing authorities to impose. Discussions with both Sheffield and Doncaster had indicated that their licensing conditions were not too dissimilar to Barnsley's. Arising out of the above, there was a discussion as to how this Board could lend support to the APPG proposals possibly by requesting the local MP's to support the proposals when discussed in Parliament. It was noted that a Private Members Bill (from the APPG) had been timetabled for discussion in February 2018
- The introduction of a BTEC qualification was welcomed in principal although it was noted that this would have to be financed by the Driver and not the Authority. Details of the course and it's appropriateness for Barnsley would be investigated. It was also noted that some authorities had introduced a communication/speaking test and this could be considered as part of the review of conditions
- There was a discussion of the requirements in relation to the transportation of disabled passengers.
 - It was noted that the Law Commission recommendation was that 33% of the fleet should be wheelchair accessible but in Barnsley this was currently around 11%. Whilst drivers were encouraged to purchase such vehicles their decisions were largely commercially driven.
 - Additional charges to carry disabled passengers was not permitted and if any Member became aware of instances where this occurred they should inform the Licensing Service
 - There was a need to consult disability groups to ensure that the needs of such users were being met. The Service had regular meetings with the Diversity and Equalities Officer who also attended the Trade Liaison Group meetings
- In response to specific questioning, it was noted that Uber Drivers had to comply with the same conditions of licence as any other driver. It was noted, however, that no such applications had been made to Barnsley

RESOLVED

- (i) that the report be noted and the proposals supported; and
- (ii) that the report be sent to the four MP's for Barnsley who be requested to support the APPG proposals when discussed within Parliament.

Chair

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Item 3

Report of the Service Director to the General Licensing Regulatory Board to be held on the 25 October 2017

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 embark on a number of taxi licensing enforcement operations. A summary of enforcement operations undertaken are detailed below.

3. Current Position – Taxi Licensing

On 5 July 2017, Licensing Enforcement Officers alongside Vehicle Examiners from the Smithies Lane Depot, took part in a day time operation focusing their attention at Springwell School. During the day a sizable percentage of vehicles and drivers were inspected. In total 38 licensed vehicles were inspected, the results of which are detailed as follows:

38 vehicles found to be compliant and 5 vehicles were issued with immediate suspension notices for:

- Rear tyre misshapen
- inoperative side lights
- inoperative and damaged brake lights
- Inoperative number plate lights
- Tyre below limit

Other vehicles received advice in relation to:

- Cleanliness
- Dim side light
- Bulb positioned the wrong way
- Plates ineffectively adhered to vehicles
- Tyres close to legal limit

During the same inspection and in addition to the above, 1 driver also received a written warning:

- for falsifying the required daily check sheet

On 15 September 2017, Licensing Enforcement Officers alongside Vehicle Examiners from the Smithies Lane Depot, took part in a morning operation focusing their attention again on our smaller licensed Operators. Again, it is important sufficient time is taken to inspect each and every business to ensure compliancy. During the morning only a small proportion of vehicles were available for inspection. In total 8 licensed vehicles were inspected, the results of which are detailed as follows:

4 vehicles were found to be compliant and 4 vehicles were issued with immediate suspension notices for defects including:

- Inoperative number plate lights
- Inoperative side lights
- Inoperative brake lights
- Tyres being under the limit (2mm)
- Inoperative wing mirror repeater

In addition to the above advice was also given in relation to:

- Trip Hazards

During the operation 1 driver was also issued with a written warning for failing to complete their daily vehicle inspection book.

Taking the above into account, Members will note that 50% of vehicles inspected during this operation were found to be non-compliant and as a result, suspended with immediate effect.

Vehicle non-compliance is an issue that Officers are concerned with during the undertaking of each and every enforcement operation. Defective vehicles are not acceptable and cannot be excused, coupled with failing to complete basic vehicle inspection sheets, an inspection sheet that not only the Trade requested to complete, but a tool that ensures the very safety of a licensed vehicle, is not acceptable.

4. Proposal

Proactive enforcement operations like these will continue to take place on a quarterly basis and Officers are in the process of arranging enforcement operations with the Driver and Vehicle Standards Agency, South Yorkshire Police and Customs and Excise. Whilst vehicle failure rates remain at an unacceptable level this continues to harbour great concerns amongst those driven to combat such ill failings and convey the message that operators, vehicle proprietors and drivers must begin to accept responsibility for their failures and make a change.

Failure to do so, will only continue to put the safety of the public at risk when using a hackney carriage or private hire vehicle in Barnsley.

After all, the principal consideration here must be one of public safety.

- 5.** In addition to actively checking for driver and vehicle compliance as part of roadside checks, Enforcement Officers also carry out investigations into allegations of illegal drivers operating in the borough.

6. Current Position – Licensing Act 2003

ARGUS Training

In light of recent tragic events through the country Licensing Officers sourced counter terrorism training for all licensed premises in the town centre.

34 town centre licensees all successfully completed the ARGUS training at Barnsley Town Hall. The training was delivered by Counter Terrorism Security Advisers who used multimedia simulation and posed questions and dilemmas to participants to raise the awareness of the threat of terrorism and provided practical advice on preventing, handling and recovering from an attack.

7. Reduce The Strength Initiative

Officers are currently working with licensed premises in the town centre to reduce the availability of high strength cans of beer and lager. A verbal update of the results of this work will be presented at the General Licensing Board as Officers have insufficient time to provide the relevant statistics for circulation prior to the meeting.

8. Best Bar None

Best Bar None is an Accreditation Scheme with National Awards supported by the Home Office and the drinks industry which is aimed primarily at promoting responsible management and operation of alcohol licensed premises.

The scheme is being launched in Barnsley on the 14th November and will conclude in June 2018 with an award ceremony for all involved.

Officers have been trained and passed exams to become qualified assessors under the Best Bar None Scheme.

9. Immigration checks in licensed premises

On the 12th October Licensing Officers accompanied by Immigration Enforcement Officers inspected 3 licensed premises in the town centre to ensure compliance under the Licensing Act 2003. A verbal update of the results of this operation will be presented at the General Licensing Board as

Officers have insufficient time to provide the relevant statistics for circulation prior to the meeting.

10. Background Papers

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

11. Officer Contact

Debbie Bailey

X 5696

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Item 4

BARNSELY 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 the Executive
Director, Place Directorate**

TAXI LICENSING UPDATE

1. Purpose of Report

- 1.1 To inform Members of the programme of taxi licensing activity progressed within Regulatory Services, particularly in relation to safeguarding children, improving on existing standards and with the key priority of ensuring the safety of the paying public.

2. Recommendations

- 2.1 To consider the report and progress made so far.
- 2.2 That approval be given for the Licensing Team to put a business case together to introduce taxi cameras in all licensed vehicles.

3. Introduction

- 3.1 Following the publication of the Dame Louise Casey review and more recent Rotherham Update Paper, Barnsley MBC's Licensing Service was able to confirm that a number of measures introduced by Rotherham MBC were already firmly in place in Barnsley. Whilst this is reassuring, it is important to ensure that the existing robust processes and policies are regularly reviewed to ensure public safety.
- 3.2 The Licensing Service has considered a number of improvements implemented by Rotherham MBC that are not already in place in Barnsley, and assessed the merits of introducing them here.
- 3.3 Standard Convictions Policy
 - 3.3.1 Initial assessment of convictions policies across South Yorkshire shows that there is a good degree of consistency. Where appropriate, policies are tailored to specific issues within individual authorities, such as the Child Sexual Exploitation (CSE) situation in Rotherham.
 - 3.3.2 The current convictions policy in Barnsley bears many similarities to that of Rotherham, particularly in relation to the convictions to be considered and the time period that must have elapsed since conviction before an individual can be considered "fit and proper" to be a licensed driver. It is felt that the current policy is robust enough to deal with any matters of

concern that arise in relation to drivers, but it will be regularly reviewed to ensure that this remains the case.

3.3.3 Having said this, the Licensing Service in Barnsley, along with other local authorities, is firmly of the view that national minimum standards should be introduced by the Government to ensure that any existing anomalies between policies are not perpetuated and that local authorities can be confident that all taxis in their area are operating to consistent and acceptable standards, whether licensed by them or not. The Service will take every opportunity to lobby government to this end.

3.4 Retrospective Application of the Convictions Policy to all Existing Drivers

3.4.1 Rotherham MBC, due to the extent of the problems identified in relation to CSE in particular, has applied its convictions policy to all current drivers and assessed them against it. This has resulted in 6% of its 1,200 drivers having their licences revoked.

3.4.2 Officers have considered taking a similar line in Barnsley, but advice from Legal Services is firmly that extreme caution should be exercised here, that there may not be sufficient evidence in place at this time to show a similar CSE problem in Barnsley as that which has existed in Rotherham.

3.4.3 Officers are of the view that there is not enough evidence relating to the taxi trade in Barnsley to justify retrospective application of the convictions policy. If such a move were to be made here, the Council would run the risk of legal challenge, possibly via judicial review, and that the current good working relationship with the taxi trade in Barnsley would be compromised.

3.4.4 The Council continues to robustly apply its convictions policy to current drivers when any new information or intelligence comes to light. This has resulted in eight drivers having their licences revoked recently due to matters of concern being reported. All drivers continue to have extensive criminal records check carried out when any application for, or renewal of, a licence is made.

3.5 Shared Database

3.5.1 Information sharing between local authorities and partner organisations is critical to the effective enforcement of taxi licensing. To this end, officers from Barnsley and neighbouring authorities got together to develop a shared database whereby any driver licence revocations or refusals could be entered onto the database and shared between colleagues. This would go some considerable way to preventing a driver from having their licence revoked in one area, only to carry on working in another area, or to have a licence granted in another area.

3.5.2 The work started in South Yorkshire has now been picked up nationally, and the Institute of Licensing and the National Anti-Fraud Network have been commissioned to deliver a national database of taxi driver licence refusals and revocations.

3.5.3 While a national database will not in itself solve all the challenges faced by Licensing Services in relation to taxi drivers and operators, it is an important sector-led step in preventing drivers having licences refused or revoked in one area and then working in another.

3.5.4 The Licensing Service will continue to support and participate in the development of the national database wherever possible.

3.6 Taxi Cameras

3.6.1 Rotherham has also mandated that all taxis licensed in its area should have taxi cameras fitted.

3.6.2 It is felt that introducing a similar requirement in Barnsley would be appropriate.

3.6.3 Introducing taxi cameras in Barnsley would involve a lengthy and difficult process, including the gathering of suitable evidence to justify such a move and close collaboration with the Information Commissioner's Office to establish the rules and constraints within which any such scheme would have to operate.

4. **Proposal and Justification**

4.1 It is proposed that Members give the go-ahead for officers to commence the process of establishing a business case to justify the introduction of cameras in all licensed vehicles in Barnsley, including making contact with the Information Commissioner's Office to agree the framework within which any such scheme would have to operate.

4.2 Whist not complacent in anyway, there is not the evidence that Barnsley has a CSE problem on the same scale as Rotherham. Having said that, it is felt that installing cameras in taxis would provide reassurance to both drivers and passengers, and would help to ensure their safety.

5. **Consideration of Alternative Approaches**

5.1 A decision not to approve the mandatory installation of taxi cameras in all licensed vehicles does not support the prevailing need to ensure the well-being and safety of both drivers and passenger.

6. **Implications for Local People and Service Users**

6.1 The programme of activity to be undertaken will ensure those licensed to drive licensed vehicles and members of the paying public benefit from improved licensing standards, thus ensuring the safety of those who live, work and visit the borough.

7. Financial Implications

- 7.1 Consultations on the financial implications have taken place with representatives of the Service Director – Finance (S151).
- 7.2 The purchase/installation cost of taxi cameras will be borne by the licensed driver and/or vehicle proprietor. There are no other financial implications emerging from this report.

8. Employee Implications

- 8.1 There will be some additional duties placed on officers within the Licensing team in that the Service will have some data management responsibilities for recordings taken from cameras in taxis, but it is intended that this is contained within existing resources.

9. Communications Implications

- 9.1 There are no immediate communications considerations arising from this report. However, throughout the period of policy and process review, there have been a number of public media campaigns in respect of the use of licensed taxis. It will also be necessary to communicate clearly with the taxi trade and the general public as and when cameras are installed in vehicles.

10. Consultations

- 10.1 The Council's SMT has been consulted on the content of this report.

11. The Corporate Plan and the Council's Performance Management Framework

- 11.1 The protection of vulnerable children and adults remains a key Council priority, thus enabling people achieve their potential.

12. Promoting Equality, Diversity, and Social Inclusion

- 12.1 There are no implications resulting from this report.

13. Tackling the Impact of Poverty

- 13.1 There are no implications emerging from this report

14. Tackling Health Inequalities

- 14.1 This programme of work promotes the health and safety of vulnerable children and adults transported in licensed vehicles across the borough.

15. Reduction of Crime and Disorder

- 15.1 The mandatory introduction of taxi cameras and the over-arching review of licensing policies and processes, along with the establishment of a national database, will assist the Council in reducing crime and disorder across the

borough. Ensuring those licensed to drive are, in accordance with the LG(MP)A76, both professional and aware of the safety of passengers and vehicles at all times is a key aspect off all the changes made, and proposed, to the licensing regime in Barnsley

16. Risk Management Issues

- 16.1 Delivery of licensing services, including issues relating to CSE, is already referenced in the Regulatory Services risk register. It is anticipated that the measures already in place, plus the introduction of cameras in taxis, will serve to mitigate any risk to the Council.

17. Health, Safety & Emergency Resilience Issues

- 17.1 There are no implications emerging from this report.

18. Compatibility with the European Convention on Human Rights

- 18.1 The Council wide approach to ensuring Council Services with a stake in safeguarding the general public continue to learn from the Casey Report, in accordance with the right for both vulnerable children and adults to be protected from harm and exploitation.

19. Conservation of biodiversity

- 19.1 There are no implications resulting from this report

20. Glossary

- 20.1 CSE Child Sexual Exploitation
NAFN National anti-Fraud Network
LG(MP)A76 Local Government (Miscellaneous) Provisions Act 1976

21. List of Appendices

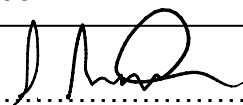
- 2.1.1 There are no appendices to the report

22. Background Papers

Background papers used in the compilation of this report are available to view by contacting the Licensing Service, Barnsley MBC, PO Box 634, Barnsley, S70 9GG.

Officer Contact: Kate Liddall (Senior Licensing Officer – Regulatory Services)
Telephone No: 01226 774258
Email: kateliddall@barnsley.gov.uk
Date: 07/09/17

Financial Implications /
Consultation



(To be signed by senior Financial Services officer where no financial implications)

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