

Public Document Pack



MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 19 December 2018
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 - 8*)

To accept as a correct record the minutes of the meeting held on the 24th October, 2018.

3 Criminal Convictions Policy Update (*Pages 9 - 12*)

The Service Director Legal Services will submit a report seeking approval to recommend to Council an amendment to Section 6 of the Council's Convictions Policy which specifically addresses re-applications for Private Hire and Hackney Carriage Driver Licences following refusal or revocation.

4 Enforcement Update (*Pages 13 - 16*)

The Service Director Legal Services will submit a report providing an overview of the work Licensing Enforcement Officers have undertaken to date.

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

Councillors C. Wraith MBE (Chair), P. Birkinshaw, Burgess, Cave, Clarke, M. Dyson, Ennis OBE, Frost, Daniel Griffin, C. Johnson, W. Johnson, Kitching, Lamb, Lofts, Markham, Millner, Murray, Newing, Richardson, Saunders, Shepherd, Sixsmith MBE, Sumner, Tattersall, Williams and Wilson

Andrew Frosdick, Executive Director Core Services
Matt Gladstone, Executive Director Place
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

Tuesday, 11 December 2018

This page is intentionally left blank

MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 24 October 2018
TIME:	2.00 pm
VENUE:	Reception Room, Barnsley Town Hall

MINUTES

Present

Councillors C. Wraith MBE (Chair), P. Birkinshaw, Frost, Daniel Griffin, C. Johnson, Lamb, Lofts, Markham, Millner, Murray, Newing, Richardson, Saunders, Sixsmith MBE, Sumner, Tattersall, Williams and Wilson

33 Declaration of Interests

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

34 Minutes

The minutes of the meeting held on the 25th April, 2018 were taken as read and signed by the Chair as a correct record.

The Chair apologised for the delay since the previous meeting which was largely due to the restructure that had taken place within the Licensing Service which was now located within the Core Services Directorate.

The Chair also commented on the receipt, by all Members of the Council, of an email received from a member of the Licensing Trade which had expressed some concerns about the operation of the Licensing Service and about the delay in making a decision regarding the installation of CCTV in licensed vehicles.

The Chair felt that the concerns were totally unfounded. With regard to the introduction of CCTV in taxis, the Council's position was to await further information from the Government before a decision was made as to whether or not this should be a mandatory requirement. The individual raising these issues should also have been aware of this as he was a member of the trade association which held regular liaison meeting with the Council on various aspects of taxi licensing.

It was also reported that the Service Director Legal Services had provided a response to the correspondent outlining the Council's position with regard to CCTV and rebutting all the accusations made against the Licensing Service. This response had also been copied to all Elected Members.

35 Enforcement Update

The Service Director Legal Services 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) 18th September, 2018 – a day time operation involving Licensing Enforcement Officers and Vehicle Examiners from the Smithies Lane Depot. The operation focused on Springwood School and the drivers and vehicles that were contracted to transport children to and from the school on a daily basis.
 - Of the 31 vehicles, 26 were found to be compliant. Five vehicles were issued with immediate suspension notices for a variety of defects including faulty lights and tyres below the legal limit
 - In addition, 2 drivers had been issued with Written Warnings for failing to complete their daily vehicle checks
- (b) 10th October, 2018 – a day time multi agency operation involving Licensing Enforcement Officers, Vehicle Examiners, HMRC, South Yorkshire Police and Barnsley Safer Neighbourhood Team focusing on Private and Hackney Carriage vehicles and drivers in the Town Centre.
 - Of the 14 vehicles stopped and inspected 11 were found to be compliant
 - 2 vehicles were issued with immediate suspension notices for defects including inoperative lights, for having a dirty vehicle and for having the private hire plate being incorrectly displayed in the rear window
 - On unlicensed vehicle had been stopped and inspected and Officers removed a Rotherham Private Hire Sign. Details of this had been referred to Rotherham Council for action
 - In addition, one driver had been issued with a Written Warning for failing to complete the daily vehicle checks

Vehicle compliance continued to be an issue at the forefront of every enforcement operation and with every Vehicle Examiner whilst undertaking vehicle inspections. Defective vehicles were not acceptable and could not be excused and this, coupled with failing to complete basic vehicle inspection sheets was a continuing concern as not only had the Trade requested this , but it was a valuable tool that ensured the safety of the licensed vehicle.

Further proactive enforcement operations would continue to be undertaken to ensure that drivers, operators and vehicle proprietors took responsibility for their failures and made appropriate changes as this was key to ensuring the safety of the travelling public.

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

- It was reported that, whilst enforcement action could not be taken against any vehicles/drivers licenced by other authorities, details of any failures identified would be referred to those authorities for appropriate action
- It was noted that vehicles found to have defects were suspended until such time as those defects were rectified and the vehicle resubmitted for inspection. The loss of earnings was also regarded as a penalty. Written Warnings were not generally issued for bulb failures largely because they could occur at any

time irrespective of whether or not lights had been checked prior to commencing work

- Arising out of the above, the Chair reminded the Board that drivers had been advised to carry spare bulbs so that failures could be immediately rectified at the roadside
- There was a discussion as to whether or not the Authority had 'strict' enough standards for licenced vehicles. The Licensing Officer outlined the current requirements and indicated that vehicles had to be legally compliant in a similar manner to all other vehicles on the road.
- Reference was made to the requirement in some other local authority areas for tyres on licensed vehicles to be a minimum of 2mm whereas Barnsley's minimum was 1.6mm. Some Members were surprised that some neighbouring authorities had higher requirements than applied in Barnsley. Arising out of this it was suggested that stricter standards should apply and that sanctions/punishments for contravening licensing requirements should be harsher
- Arising out of the above, reference was made to the decision made several years previously to outsource vehicle inspections and to the rationale for this decision. It was suggested that further consideration be given to whether or not this decision should be reviewed in the light of the current failure rates many of which related to the same types of issues (lights and tyres). The Licensing Officer reported that following the Service's move to the Core Services Directorate, all policies and procedures were being reviewed and consultation would take place with this Board on any proposals for change. Members particularly stressed the urgency of completing this review
- In response to specific questioning, the Licensing Officer reported that a Written Warning remained on a driver's record for 12 months and all drivers receiving three Written Warnings within a 12 month period required a driver to appear before a General Licensing Regulatory Board Panel
- Concern was expressed at an unlicensed vehicle being found with a Rotherham MBC plate. The Licensing Officer stated that this was the first time in over 20 years that this had been observed and such issues were not, therefore, considered to be a major issue. A discussion ensued in relation to the Barnsley requirements in relation to the return of 'defunct' plates. It was noted that if an owner/driver chose not to renew their vehicle licence there was no requirement to hand those plates back to the Licensing Service. This was not thought to be an issue as the licences no longer remained 'live' and, therefore, had no value. Licence plates were required to be returned in the event that a vehicle licence was suspended or revoked. Some Members were, however, concerned that plates not returned could then be used illegally. In response, the Licensing Officer reported that this was not an issue within Barnsley. The Licensing Trade was generally 'self-policing' and any illegal drivers identified would be reported to the Licensing Service for appropriate action
- In relation to the failure to complete the daily check sheets, it was suggested that a technological solution might be the a way forward, however, it was noted that such systems would be difficult to enforce given that some drivers frequently moved from one operator to another and also, the completion of an electronic record still did not mean that the necessary checks would have been undertaken. It was disappointing that some drivers were still failing to

complete their daily check sheets as this was something that the Trade had requested be introduced

- Arising out of the above, it was suggested that the review currently being undertaken could introduce more stringent penalties so that in the event of a daily check sheet not being completed a driver could be suspended for one day

RESOLVED:

- (i) that the Board place on record their thanks and appreciation to the staff within the Licensing Service, Smithies Lane Depot and Barnsley Safer Neighbourhood Team and within other services 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 the proposals for a review licensing conditions be supported and Officers be requested to bring back consultation proposals to this Board as a matter of urgency.

36 Taxi Demand Survey - Update

The Service Director Core Services submitted a report providing an update on progress in relation to issues raised by the taxi demand survey undertaken and reported to Board in December 2017.

The Board was reminded of both the positive and negative findings of the survey which, amongst other things identified:

- there was a highly significant unmet demand mainly in the early hours of the morning at weekends
- There was a shortage of private hire vehicles at peak times which was increasing the pressure on other private hire and hackney carriage vehicles
- The trade saw the requirements for new drivers as being too onerous (although the Licensing Service considered that these were necessary in order to maintain the standard of suitably qualified and trained drivers)
- There appeared to be a lack of vehicles working unsociable hours but any increase in the number of vehicles would not guarantee additional vehicles being available at peak times

Since the survey results had been issued the Council had been working closely with the Trade to try to resolve the issues identified. Regular meetings of the Taxi Liaison Group had been held when discussions had focused on the need to encourage drivers to work during unsociable hours and on the recruitment of new drivers who might be willing to work at such times.

In relation to the entry requirements, Licensing Officers had made available a theory test guidance document to help educate and support new applicants into the Trade.

It was noted that a further survey was to be undertaken within 12 months of the original survey so that an assessment could be made of the changes that had occurred and to confirm if issues identified had been addressed. Based on the findings of that review, a decision would then have to be made as to whether the limit

on the number of Hackney Carriage Vehicles should remain, increased or removed entirely.

In the ensuing discussion, the following matters were highlighted:

- There was a general understanding of why drivers may not want to work unsociable hours but concern that the standard of those drivers should be maintained and improved. In response to this, the Licensing Officer
 - outlined the way in which the Theory Test Guidance Document had been developed and used. Multiple test papers were available at the time of the test and from December 2018 it was hoped that all tests would be undertaken electronically so that each applicant undertaking the test would get an individualised test paper.
 - explained the importance of addressing the unsociable hours unmet demand issue, of ensuring that public safety was maintained and that 'customers' were taken home from the town centre in an appropriate and timely manner
- It was acknowledged that there were some relatively new Members on the Board and it was important that they received a copy of the original Unmet Demand Survey report

Arising out of the discussion the following issues were raised:

- Members were encouraged, wherever possible, to attend enforcement events so that they could see, at first hand, the work of officers in the very important aspect of their work; and
- Members had previously requested, and the Board noted the importance of, training on all aspects of licensing. The asked if an appropriate training course could, therefore, be provided as a matter of urgency.

RESOLVED:

- (i) that the report be received; and
- (ii) That a copy of the December 2017 Unmet Demand Survey report be circulated to all Members of the Board; and
- (iii) That further training be provided for members of the Board , and particularly for the 'newer' Members, on all aspects of Licensing.

Chair

This page is intentionally left blank

Item 3

Report of the Service Director to the
General Licensing Regulatory Board
to be held on the 19 December 2018

Criminal Convictions Policy Update

1. Purpose of Report

The purpose of this report, is to inform Members and seek approval to amend section 6 of the Council Convictions policy which specifically addresses re-applications for a Private Hire and Hackney Carriage drivers licence following refusal or revocation.

2. Background

In February 2013, Council approved revised guidelines to help Members to consider Private Hire and Hackney Carriage driver applications where criminal convictions are involved.

3. Current Position

Section 6 of the current policy states that:

6 Re-application following refusal or revocation

Where a Licence has been refused or revoked by the Council (or another Local Authority) a further application will normally be refused if received within one year from the date of the refusal/revocation, as it will be deemed that the persons circumstances will not have changed significantly within that period to make them 'fit and proper'.

The process of issuing an immediate revocation to a Private Hire or Hackney Carriage driver is only exercised in the most extreme circumstances.

Where there is deemed to be an immediate danger to the public, Officers must act immediately in the interests of public safety.

The current required time stipulated before re-application does not support the severity and seriousness of a revocation and the work of Officers and Elected Members when dealing with such serious cases.

The current convictions policy recommends that one year should have elapsed before a re-application can be made following a revocation.

In line with the current policy it has become apparent that a period of one year is not a significant amount of time for someone who was subject to a revocation to have changed their personal circumstances to such an extent that Officers can be satisfied they are fit and proper to hold a licence. Applicants need to be able to confidently prove that they have changed significantly and show adequate evidence that they are fit and proper in order to comply with the policy and a time scale of one year does not allow for such provision.

4. Proposal

To immediately revoke is defined as:

To take back something for an indefinite period of time

Our convictions policy needs to reflect the severity of an immediate revocation and support the work of Licensing Officers and Elected Members.

The policy also needs to allow sufficient time for re-applicants to change their circumstances and actively prove to Officers that they are fit and proper.

As such Members are asked to approve the amendment to section 6 of the Council guideline policy to read:

6 Re-application following refusal or revocation

Where a Licence has been refused or revoked by the Council (or another Local Authority) a further application will be refused if received within

five years from the date of the refusal/revocation, as it will be deemed that the persons circumstances will not have changed significantly within that period to make them 'fit and proper'.

5. Recommendation

The Members approve the amendment to section 6 of the Councils Convictions Policy.

6. Officer Contact

Debbie Bailey

X 5696

This page is intentionally left blank

Item 4

Report of the Service Director to the General Licensing Regulatory Board to be held on the 19 December 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 embark on a number of licensing enforcement operations. A summary of enforcement operations undertaken are detailed below.

3. Current Position

On the 9 November 2018 Licensing Enforcement Officers alongside Vehicle Examiners from the Smithies Lane Depot, took part in a day time operation focusing their attention on the Hackney Carriage ranks in the town centre and the drivers and vehicles who operate those ranks.

In total 27 licensed vehicles were inspected, the results of which are detailed as follows:

- 21 vehicles found to be compliant

6 vehicles were issued with immediate suspension notices for defects including:

- Off side front side light inoperative
- Highlight inoperative
- Fuel cap insecure
- Off side front bumper protruding from the vehicle with sharp edges
- Rear number plate light inoperative
- Off side stop light inoperative
- Near side indicator/repeater inoperative

- Front near side side light inoperative
- Blue tinted headlights
- Rear brake pads worn excessively
- Rear reflector missing

Three vehicles also received advise in relation to:

- Oil leak
- Tyres on the legal limit
- Dull sidelights

On the 30 November 2018 Licensing Enforcement Officers alongside Vehicle Examiners from the Smithies Lane Depot took part in a day time operation focusing their attention on Private Hire Companies in the Borough.

In total 20 licensed vehicles were stopped and inspected, the results of which are detailed as follows:

- 18 vehicles found to be compliant

2 vehicles were issued with immediate suspension notices for defects including

- Rear number plate light inoperative
- Near side Headlight inoperative and horn in operative

In addition 1 driver received 3 written warnings for:

- Falsifying his daily vehicle checks
- Failing to wear his Hackney Carriage and Private hire dual drivers badge
- Leaving a vehicle unattended on a Hackney Carriage Rank

One driver also received advise in relation to the cleanliness of his vehicle.

4. Proposal

Vehicle non-compliance is not just an issue Officers are concerned with during the undertaking of each and every enforcement operation; it is one that continues to be at the forefront of every Vehicle Examiners mind. 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.

Licensing Officers along with vehicle examiners will continue to carry out proactive enforcement operations throughout the year to ensure both vehicle and driver compliance 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. Background Papers

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

6. Officer Contact

Debbie Bailey

X 5696

This page is intentionally left blank