

# Public Document Pack

<b>MEETING:</b>	General Licensing Regulatory Board
<b>DATE:</b>	Wednesday, 20 February 2019
<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 - 8*)

To accept as a correct record the minutes of the meeting held on the 19<sup>th</sup> December, 2019.

### 3 Enforcement Update (*Pages 9 - 12*)

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

### 4 CCTV in Licensed Vehicles (*Pages 13 - 16*)

The Service Director Legal Services will submit a report providing an update of the work of Licensing Officers in appraising the case for the mandatory implementation of CCTV in Licensed Vehicles.

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](mailto:governance@barnsley.gov.uk)

Tuesday, 12 February 2019

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<b>MEETING:</b>	General Licensing Regulatory Board
<b>DATE:</b>	Wednesday, 19 December 2018
<b>TIME:</b>	2.00 pm
<b>VENUE:</b>	Reception Room, Barnsley Town Hall

## MINUTES

### Present

Councillors C. Wraith MBE (Chair), P. Birkinshaw, Cave, Clarke, Frost, Daniel Griffin, W. Johnson, Kitching, Lamb, Markham, Millner, Richardson, Saunders, Tattersall, Williams and Wilson

### 37 Declaration of Interests

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

### 38 Minutes

The minutes of the meeting held on the 24<sup>th</sup> October, 2018 were taken as read and signed by the Chair as a correct record.

Further to Minute 35 of the previous meeting 'Enforcement Update' and in response to questioning, it was reported that the review of Licensing Conditions was still under consideration. The review was being undertaken by Legal Services in conjunction with Licensing and was timely given that the previous review had been undertaken some time ago and also because of the move of the Service from the Place to the Core Services Directorate. Recommendations emanating from that review would be submitted to this Board for consultation and comment prior to a recommendation being submitted to the Council for approval.

Further to Minute 36 'Taxi Demand Survey', there was a discussion of the training requirements of Members of the Board and of the benefits of using Reserve Members on Panel meetings as training opportunities.

It was reported that further training on all licensing matters was being considered for early in the New Year. It was proposed that this be delivered by an external provider, James Button, a leading UK specialist provider of expert licensing training and legal advice. It was also proposed that all Members of the Council be invited to this session so that they could be made aware of licensing issues facing the Authority and of the powers and remedies available in the event of breach of licensing conditions. It was also hoped that should there be any changes in membership of the Board following the Annual Council meeting in May, any newly appointed members would then have prior knowledge of the appropriate responsibilities and powers of the Board.

### 39 Criminal Convictions Policy Update

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

Currently, when a licence application was refused or revoked by the Council (or by another Local Authority), further applications were normally refused if received within one year from the date of the refusal/revocation as it was deemed that the personal circumstances would not have changes significantly within that period to make them 'fit and proper' to hold a licence. In line with current policy, however, it had become apparent that a period of one year was not a significant enough period of time for someone to demonstrate that their personal circumstances had changed to such an extent that they were then deemed to be fit and proper. It was felt that applicants needed to be able to confidently prove that they had changed significantly and to show adequate evidence that they were fit and proper in order to comply with the policy and a timescale of one year did not allow for this.

It was suggested, therefore, that the convictions policy be amended to reflect the severity of an immediate revocation/revocation and/or refusal and that Section 6 of the Policy be amended to require a time of five years to have elapsed following an immediate revocation/revocation and/or refusal before it was deemed that a person's circumstances had changed significantly to make them 'fit and proper'.

In the ensuing discussion, the following matters were raised:

- The proposal was generally welcomed as a means of giving further protection to the travelling public and was similar to the conditions imposed by neighbouring authorities and was also in line with recently published national guidance
- The amendment to the conditions would not be deemed as a breach of the Human Rights Act by denying an applicant/driver to work. It was noted that applicants/drivers still had a right to appeal the decision within the Magistrates Court
- There would be a full consultation undertaken on the review of the Convictions Policy currently under review, this proposal, however, was suggested as an interim measure to address an identified weakness in the current policy
- In relation to the application process, it was noted that whilst there was currently no national database of driver applications/convictions etc., applicants were asked to indicate on the application form whether or not they had applied for a licence within another Local Authority area and to detail whether or not they had any convictions. They were also asked to sign a disclaimer indicating that what they had declared was correct
- Arising out of the above, reference was made to and details were given of the application process. A copy of the requirements would be sent to Members upon request
- The Chair explained the procedures in place for immediately revoking licences, which included consultation with himself. In such circumstances he was barred from taking part in the Panel meeting called in the event of a driver appealing to Members
- In response to questioning, it was reported that applicants/drivers had to consider affordability prior to taking cases to Magistrates Court and indeed if they lost their case, the Council always asked for costs to be awarded

**RECOMMENDED TO COUNCIL** that Section 6 of the Guideline Policy for Criminal Convictions be amended to read as follows:

*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 have not changed significantly within that period to make them 'fit and proper'.*

## **40 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) 9<sup>th</sup> November, 2018 – a day time operation involving Licensing Enforcement Officers and Vehicle Examiners from the Smithies Lane Depot. The operation focused on Hackney Carriage Ranks in the Barnsley Town Centre and the drivers and vehicles who operated those ranks.
  - Of the 27 vehicles inspected, 21 were found to be compliant. Six vehicles were issued with immediate suspension notices for a variety of defects including faulty lights, fuel cap being insecure, bumpers protruding with sharp edges, blue tinted headlights, worn brake pads and missing rear reflector
  - In addition, three vehicles had also received advice in relation to an oil leak, tyres on the legal limit and dull headlights
- (b) 30<sup>th</sup> November, 2018 – a day time operation involving Licensing Enforcement Officers and Vehicle Examiners from the Smithies Lane Depot. The operation had focussed on Private Hire Companies within the Borough.
  - Of the 20 vehicles stopped 18 were found to be compliant
  - 2 vehicles were issued with immediate suspension notices for defects including inoperative rear number plate lights and nearside headlight and horn being inoperative
  - In addition one driver had received three written warnings for falsifying the daily vehicle check, failing to wear his Hackney Carriage and private Hire dual driver badge and leaving a vehicle unattended on a Hackney Carriage Rank
  - One driver had also received advice in relation to the cleanliness of his vehicle.
- (c) 13<sup>th</sup> December, 2018 – a daytime operation involving Licensing Officers and Vehicle Examiners from the Smithies Lane Depot.
  - Of the 53 vehicles and drivers stopped, 45 vehicles had been found to be compliant.
  - 8 vehicles were issued with immediate suspension notices for defects predominately relating to lights and one with a tyre pressure warning light illuminated on the dashboard which was an MOT failure.
  - In addition, Written Warnings had been issued for failing to complete the daily check book and for the windscreen washer bottle being empty

- (d) 14<sup>th</sup> December, 2018 – an exercise had been undertaken involving Licensing Enforcement Officers and the Immigration Service following intelligence received about illegal workers being employed by fast food takeaways. Three arrests had been made and follow up work had been undertaken. Further details would be reported to the next Statutory Licensing Regulatory Board as this operation fell within the remit of that Board under the Licensing Act 2003.

Vehicle compliance continued to be an issue and 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 pleasing to note that the number of 'serious' defects appeared to be reducing, concern was, however, expressed again at the number of vehicles found to have lighting defects. It was noted that if drivers carried spare bulb kits, most could have had their vehicle suspension notice lifted almost immediately. If, however, a vehicle was rectified in front of the 'inspecting' officer, a suspension notice would still be issued as this was a means of keeping records of vehicle conditions and compliance with licensing conditions
- In response to specific questioning, Members of the Board were informed of the way in which the daily check book had been produced and of the consultation that had taken place with the trade in this respect. It was suggested that the review of Licensing Conditions currently being undertaken, should give consideration to there being a requirement for drivers to carry spare bulbs.
- In relation to the cleanliness and the suspension of the vehicle, it was noted that this was very much a 'judgement call' of the inspecting officer, however, the general rule of thumb was that a passenger should not have their clothing dirtied by using a taxi
- Taxi usage over the Christmas and New Year period increased greatly and, therefore, officers would be on duty undertaking any appropriate inspections together with representatives of the Police
- Reference had been made to the use of 'Facebook' taxis and questions were asked as to whether or not this was continuing to be a problem. The Licensing Officer responded by stating that a great deal of work had been undertaken with the Police on this matter. Any individual identified as offering such services was contacted and informed that this was an illegal act. In addition, some had been invited to interviews with the Police and appropriate action taken. It appeared that such initiatives had succeeded as no complaints were being received from licensed drivers

**RESOLVED** that the report be noted and the Board place on record its 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.

The Chair closed the meeting by wishing all Members and Officers a Happy Christmas and a prosperous New Year.

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Chair

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# Item 3

## Report of the Service Director to the General Licensing Regulatory Board to be held on the 20 February 2019

### **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 31 January 2019 Licensing Enforcement Officers alongside Vehicle Examiners from the Smithies Lane Depot, took part in Operation Duxford as part of a Police led operation accompanied by the DVSA and Customs and Excise they carried out checks on licensed drivers and vehicles in Barnsley town centre. The Chair of the Regulatory Board Councillor C Wraith MBE was also in attendance.

In total 9 licensed private hire vehicles were inspected, the results of which are detailed as follows:

- 8 vehicles found to be compliant

1 vehicle was not displaying the correct door signs as required by condition 5 of his private hire vehicle licence which 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.**

The driver of this vehicle received a written warning.

In addition 3 drivers also received written warnings for:

- Failing to complete their daily check books

#### **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 Examiner's 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



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# Item 4

## **Report of the Service Director to the General Licensing Regulatory Board to be held on the 20 February 2019**

### **CCTV IN LICENSED VEHICLES**

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

The purpose of this report, is to provide Members with an update of the work Licensing Officers have undertaken to appraise the case for the mandatory implementation of CCTV 's in licensed vehicles.

#### **2. Background**

Cabinet has resolved (Cab.15.11.2017/9) that approval be given for the Licensing Team to put a business case together to introduce taxi cameras in all licensed vehicles. The business case was subsequently delayed when the Local Government Association announced they were developing a guidance document to bring together some of the questions that local authorities should consider when introducing a mandatory CCTV policy for licensed vehicles in their area.

#### **3. Current Position**

The LGA guidance was released in January 2019 and reflects on approaches taken by local authorities which already mandate CCTV and on the importance of striking a balance between passenger safety and privacy, reflecting the position of the Information Commissioner and Surveillance Camera Commissioner as the regulators. It is intended to be used as a starting point for exploring some of the key issues and how these might apply at a local level.

Currently only 12 Local authorities across the country have a mandatory requirement for CCTV

Having considered the LGA guidance, it is clear that there are a number of matters that must be evidenced when considering implementing the mandatory use of CCTV :-

- We need to demonstrate regard to the Surveillance Camera Code of Practice which sets out guiding principles, the first of which is that the ***use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.***
- There must be a strong evidence-based justification for policy which imposes the mandatory use of CCTV systems in taxis .
- Officers and Members have to consider what is an appropriate and proportionate approach to CCTV, having regard to evidence of any need based on issues identified in their local area. The impacts on the driver privacy must be weighed in the balance when assessing proportionality.
- Officers have to be clear about the problems that need addressing and must be able to justify why these can only be effectively resolved by CCTV, as opposed to some less intrusive alternative solution. The assessment of proportionality and the justification for CCTV needs to be relevant to local circumstances in which the policy will apply and so a local evidence base will need to be developed to support any proposal.
- Is there a pressing and social need and do we have evidence that this need must be addressed?
- Audio recording is considered more intrusive of privacy than cameras and so requires stronger justification
- Have the alternative options been reviewed and is there evidence to show that the only way to address the issue is through the use of audio recording?

#### **4. Proposal**

Having considered the LGA guidance Officers have concluded that we will not be able to put forward a strong evidence base to justify a mandatory requirement for CCTV in taxis and private hire vehicles at this time.

Whilst Licensing Officers have received a small number of complaints over a period of time where CCTV would have been useful to help Officers to resolve the complaint, this is not in itself considered to be a strong enough justification

The cost implications of introducing a mandatory requirement for CCTV must also be considered. Without identified assistance, funding this cost, which could be in the region of several hundred pounds per vehicle, would fall to the licensed trade. There will also be installation and maintenance costs to consider.

Going forward it is proposed that Licensing Officers actively monitor and record all requests for service where CCTV in a licensed vehicle would have been beneficial. This will be done over a twelve month period. The evidence will then be reviewed and presented to members accordingly.

Officers recognise the positive impact that CCTV would have as an additional safeguarding tool which would provide confidence, added protection and reassurance to both drivers and the public, however, a strong evidence base for justification is required before this can be progressed.

The principal consideration must be one of public safety. Collating evidence in the required format will ensure that we have the strongest possible case for any mandatory implementation in the future.

Public protection is paramount, yet it should be recognised and celebrated that we do not have an identified and pressing need for mandatory CCTV in Barnsley and that introducing a mandatory requirement could be seen as excessively disproportionate at this time.

## **5. Recommendation**

The Members approve the active monitoring of complaints and investigations by Licensing Officers with a view to assessing the need for the mandatory requirement for CCTV in all licensed vehicles.

## **5. Background Papers**

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

**6. Officer Contact**

Debbie Bailey

X 5696