

MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 4 September 2019
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 - 4*)

To accept as a correct record the minutes of the meeting held on 26th June, 2019.

3 Hackney Carriage Tariff Increase - Objection (*Pages 5 - 16*)

Further to Minute 5 of the meeting held on the 26th June, 2019 the Service Director Legal Services will submit a report requesting Members to determine the objection received to the proposed increase in the current Hackney Carriage Tariff.

4 Driver Appeals Update (*Pages 17 - 20*)

The Service Director Legal Services will submit a report providing an overview of the results given by the Magistrates Court following the appeal by Private Hire and Hackney Carriage Drivers against decisions made by meetings of General Licensing Regulatory Board Panels held recently.

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

Councillors Wraith MBE (Chair), D. Birkinshaw, P. Birkinshaw, A. Cave, Cherryholme, Clarke, Danforth, Dyson, Eastwood, Franklin, Gillis, Green, Greenhough, Daniel Griffin, C. Johnson, W. Johnson, Kitching, Murray, Saunders, Shepherd, Sumner, Tattersall, Williams and Wilson

Andrew Frosdick, Executive Director Core Services
Matt Gladstone, Executive Director Place
Kevin Glover, Strategic Manager - Transport
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, 27 August 2019

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MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 26 June 2019
TIME:	2.00 pm
VENUE:	Reception Room, Barnsley Town Hall

MINUTES

Present Councillors Wraith MBE (Chair), Cherryholme, Green, Daniel Griffin, Shepherd, Sumner, Tattersall and Wilson

1 Declaration of Interests

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

2 Minutes

The minutes of the meeting held on the 24th April, 2019 were taken as read and signed by the Chair as a correct record.

3 Enforcement Update

The Service Director, Legal Services submitted a report providing an overview of the work of Licensing Enforcement Officers undertaken recently.

On 16th May officers, alongside vehicle examiners from Smithies Lane Depot took part in a day time operation focusing on town centre Hackney Carriage ranks and Private Hire operators throughout the borough. Of the 13 vehicles inspected 11 were found to be compliant and 2 were issued with immediate suspension notices for having inoperative side lights.

The Chair commended that it was pleasing that standards were improving. It was also acknowledged that the taxi operators were fully supportive of officers and assisted enforcement operations.

RESOLVED:-

- (i) That the report be noted: and
- (ii) That the Board place on record their appreciation to the staff within the Licensing Service and Smithies Lane Depot for all their hard work in undertaking enforcement activities, ensuring the continued safety of the travelling public.

4 Driver Appeals - Update

The Service Director Legal Services submitted a report providing an overview of the results given by the Magistrates Court following the appeal by Private Hire and Hackney Carriage Drivers of the recent decisions of the General Licensing Regulatory Board.

Those present heard how the appellant in the second case had not only challenged the decision of the General Licensing Regulatory Board Panel, but had also challenged the recent changes in policy in regard to criminal convictions. Members acknowledged that this had been changed to avoid any ambiguity for those wishing to reapply, with any reapplications within a period of 5 years to be refused.

Members noted that on both occasions the Magistrates found in favour of the Local Authority.

RESOLVED

- (i) That the report be noted and ;
- (ii) That thanks be given to the Solicitors of the Council for their continued hard work in supporting the licensing function.

5 Hackney Carriage Tariff Increase

The Service Director Legal Services submitted a report on a request received from the Barnsley Hackney Carriage Association to increase the current Hackney Carriage Tariff.

Members were reminded of the findings of the Hackney Carriage Demand Survey, which was presented to the Board on 20th December, 2017. This highlighted the need to encourage the availability of carriages at times where demand currently exceeded supply, specifically between the hours of 3.00am - 7.00am on Sunday mornings.

The request received, if approved by the Board, would be advertised in the local press. If there were no objections received, this would be duly implemented. However, if any objections were received then this would be reconsidered by the Board.

Members discussed the proposed increases and the impact on hackney carriage users at times other than early on Sunday morning, including over the Christmas period. Whilst the proposed increases at these times were not as a result of the demand survey, it was recognised that the Hackney Carriage Tariff had not increased since February, 2017 and costs in providing the service would have increased.

Those present discussed the impact on Private Hire providers, but it was acknowledged that fares were set by the providers themselves, rather than the local authority.

RESOLVED that the proposal by Barnsley Hackney Carriage Association to increase the Hackney Carriage fares as detailed in Appendix 1 be advertised in accordance with the Local Government Miscellaneous Provisions Act 1976, and subject to no objections being received, be approved for implementation from 00.01 on Saturday 13th July, 2019.

Chair

Item 3

**Report of the Service Director to the
General Licensing Regulatory Board
to be held on the 4 September 2019**

Objection Hackney Carriage Tariff increase

1. Purpose of Report

The purpose of this report, is to place before Members an objection to the proposed increase to the current Hackney Carriage Tariff.

2. Background

Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 gives the Council the authority to fix fares for Hackney Carriages.

When the Council makes or varies the fares for Hackney Carriages it must publish in at least one local newspaper a notice setting out the new table of fares and specifying the period of not less than 14 days within which any objections to the proposal can be made.

A copy of the proposed tariff must also be available at Council Offices for the public to inspect at all reasonable hours.

If no objections are received the new table of fares will come into effect on the expiration date of the period specified in the published notice. If objections are received then the Council must consider these and then make the decision to approve, amend or reject the tariff increase accordingly.

3. Current Position

The request from the Hackney Carriage Association to increase the fares charged was submitted on the following basis:

“In the Hackney Carriage Demand Survey prepared by Ian Millership of LVSA that was presented to the General Licensing Regulatory Board on the 20 December 2017, the Board accepted that action had to be taken to encourage more drivers to work at times when demand for taxis exceeded supply. Unsurprisingly few drivers opt to work the antisocial hours between 3am and 7am on a Sunday morning to take home night-time revellers.

Barnsley Hackney Carriage Association hopes that by increasing the charges for those few hours, which are unlikely to affect anyone other than night time revellers, it will encourage more drivers to stay out for longer. This will represent an increase of £1.10 from the current Table of Fares (but only an additional 40p over and above the increase requested for the standard night time tariff) and each subsequent 110 yards or part thereof will be charged at 15p instead of 10p for saloon cars as well as wheelchair accessible and larger capacity vehicles that would already apply Tariff 4 when carrying 5 or more passengers.

A copy of the request is attached to this report as Appendix 1 and is accompanied by the proposed table of fares to illustrate the request.

A copy of the current table of fares is attached as Appendix 2.

At the General Licensing Board meeting on the 26 June 2019 Members agreed to the proposed increase to the Hackney Carriage Tariff, subject to the completion of the statutory consultation.

The statutory notice appeared in the Barnsley Chronicle on the 28 June 2019 and made provision for objections to be made in accordance with the legislation until the 12 July 2019.

On the 10 July 2019 an objection to the proposed tariff was received in the form of a petition from Hackney Carriage licence holders. A copy of the petition is attached as appendix 3.

The Hackney Carriage Association and representatives for the objectors have been invited to attend the meeting to answer any questions that Members may have in respect of the proposed amendments to the tariff.

4. Options

Under the Provisions of the Local Government (Miscellaneous Provisions) Act 1976, if the objection has not been withdrawn, Members may:

- i) Approve the variation to the tariff as requested
- ii) Make a variation to the proposed tariff as the Members see fit
- iii) Reject the request to increase the tariff

5. Recommendation

That Members consider both the request and the objection accordingly.

6. Officer Contact

Debbie Bailey

X 5696



3 Biddick Hall Cottages, Lambton Park, Chester-le-Street DH3 4PH
Tel: 0191 2449638 / 0191 3857313 / 07794 776383
Fax: 0191 2475855

Specialist licensing advice, assistance and representation ■ taxis ■ alcohol and entertainment ■ wedding venues ■ gambling

Mrs Deborah Bailey
Licensing Officer
Legal Services
Core Services
Barnsley Metropolitan Borough Council
Westgate Plaza
1 West Street
Barnsley
S70 2DR

Our Ref: DBW / BHCA
Your Ref:
Date: 15 April 2019
Please ask for: David Wilson

Sent by email only to:
debbiebailey@barnsley.gov.uk

Dear Mrs Bailey,

Request by Barnsley Hackney Carriage Association for changes to be made to the existing hackney carriage table of fares

As you are aware, I act for Barnsley Hackney Carriage Association ("BHCA") and on its behalf I formally request that the Council considering adopting a new hackney carriage table of fares.

For the avoidance of doubt, even though there are similarities between this request and the one I made on behalf of BHCA dated 26 February 2019, BHCA hereby formally withdraws its previous request and asks the Council to consider introducing the table of fares set out herein.

The current table of fares came into force two years ago on 27 February 2017, but only made small changes to the fares that had applied since 5 November 2010.

When BHCA last requested an increase in fares it was anxious to avoid unnecessarily increasing fares for the shortest journeys on only Tariff 1 (standard day time tariff) and Tariff 2 (standard night time tariff), but on this occasion cannot avoid requesting this be increased as the current fares have now been in place for more than eight years. However, to mitigate the effect of the increase, BHCA also asks that the distance for the initial fare (flag fall) be increased from 1100 yards to 1760 yards for all tariffs.

The requested changes to Tariff 1 and Tariff 2 will add 70p to the maximum fare that could be charged for every journey by increasing the initial charge to £3.80 and £4.60 respectively.

Website:
www.a2zlicensing.co.uk
Email:
david.wilson@a2zlicensing.co.uk

Proprietor:
David B Wilson Cert HELL, MLoL, MBill.tp
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By way of example, on Tariff 1 the proposed fare would be £3.80 for the first 1760 yards whereas under the current table of fares this would be £3.70 (£3.10 for the first 1100 yards plus 6 x 10p for each additional 110 yards).

BHCA asks that ancillary changes be made to Tariff 3 (Christmas and New Year tariff) so that, as is the usual convention, this is double Tariff 1. To achieve this, it is only necessary to change the initial fare (flag fall) to £7.60 as it is not proposed to change any of the other Tariff 1 charges and the other Tariff 3 charges are already double the other Tariff 1 charges.

For the avoidance of doubt, I confirm that BHCA does not ask for any changes to be made in relation to any of the incremental charges, which shall remain as they are at 110 yards and that there shall be no changes in respect of the charges for waiting time or any of the 'extras'.

The only other change BHCA asks to be made is that the operation of Tariff 4 be extended to apply to the carriage of all passengers also between 3am and 7am on a Sunday morning. At present, this higher tariff applies only to the carriage of 5 or more passengers at all times, except for those provided for by Tariff 3 (Christmas and New Year).

In the Hackney Carriage Demand Survey prepared by Ian Millership of LVSA that was presented to the General Licensing Regulatory Board ("GLRB" or "the Board") on 20 December 2017, the Board accepted that action had to be taken to encourage more drivers to work at times when demand for taxis exceeded supply. Unsurprisingly few drivers opt to work the antisocial hours between 3am and 7am on a Sunday morning to take home night-time revellers.

BHCA hopes that by increasing the charges for those few hours, which are unlikely to affect anyone other than night-time revellers, it will encourage more drivers to stay out for longer. This will represent an increase of £1.10 from the current table of fares (but only an additional 40p over and above the increase requested for the standard night time tariff) and each subsequent 110 yards or part thereof will be charged at 15p instead of 10p for saloon cars as well as wheelchair accessible and larger capacity vehicles that would already apply Tariff 4 when carrying 5 or more passengers.

For your convenience I attach a proposed table of fares to illustrate the request.

On behalf of BHCA, I respectfully request that you present this request to the GLRB at its earliest convenience.

When the current and previous table of fares were set in 2010 and 2017, I was allowed by the Chairman to address the GLRB in response to the objections made during the statutory consultation process. Whilst I would hope that facility might be afforded to me again, if the GLRB is minded to implement a change to the current table of fares and objections are made, I would also be very grateful to the Chairman if he might also allow me to address the GLRB on these proposals when the GLRB consider them.

If you could advise of the likely process and timetable for the consideration of this matter by the GLRB, I would be most grateful to you.

Thank you in anticipation of your usual prompt and kind attention to this matter.

Yours sincerely,

David B. Wilson

David B Wilson

Licensing Consultant, Mediator and Trainer
Consulting Editor, Paterson's Licensing Acts 2015-19
Contributing Author, LexisPSL

Email: david.wilson@a2zlicensing.co.uk
Mobile: 07794 776383

<p align="center">BHCA REQUEST</p> <p align="center">Hackney Carriage Tariff</p> <p align="center">Charges effective from XX Xxxxxx 2019</p>	<p>Tariff 1 (for up to 4 passengers) Standard fares (except for such periods as fall within Tariff 2 or Tariff 3)</p> <p>£3.80 First 1760 yards or part 10p Each subsequent 110 yards or part 10p Waiting / stationary – for each period of 30 seconds or part</p>	<p>Tariff 2 (for up to 4 passengers) Fares starting between 11pm and 7am and statutory Bank Holidays (except for such periods as fall within Tariff 3)</p> <p>£4.60 First 1760 yards or part 10p Each subsequent 110 yards or part 10p Waiting / stationary – for each period of 30 seconds or part</p>	<p>Tariff 3 (for 1 to 8 passengers) Fares between 8pm 24 December and 7am 27 December and 8pm 31 December to 7am 2 January</p> <p>£7.60 First 1760yards or part 20p Each subsequent 110 yards or part 20p Waiting / stationary – for each period of 30 seconds or part</p>
<p>All fares shall:</p> <ul style="list-style-type: none"> • be calculated from when the hire commences • not exceed the rates stated except when a journey starts or ends outside the Borough and another fare or rate of fares is agreed before the hire commences. 	<p>Tariff 4 (for 5 or more passengers and Sunday between 3am and 7am for 1 to 8 passengers) Standard fares for 5 or more passengers (except for such periods as fall within Tariff 3)</p> <p>£5 First 1760 yards or part 15p Each subsequent 110 yards or part 20p Waiting / stationary – for each period of 30 seconds or part</p> <p>Extras (charges marked # are not shown on the meter)</p> <p>50p Dogs and other un-caged animals (except guide and other assistance dogs) 20p Luggage stored in boot or designated area (excluding the first two items, wheelchairs or any other apparatus used to assist persons with a disability) £80 # For soiling or otherwise damaging the vehicle</p>		

<p>Proposal 1</p> <p>Hackney Carriage Tariff</p> <p>Charges effective from XX XXXXX 2017</p>	<p>Tariff 1 (for up to 4 passengers)</p> <p>Standard fares (except for such periods as fall within Tariff 2 or Tariff 3)</p> <p>£3.10 First 1100 yards or part 10p Each subsequent 110 yards or part</p> <p>10p Waiting / stationary – for each period of 30 seconds or part</p>	<p>Tariff 2 (for up to 4 passengers)</p> <p>Fares starting between 11pm and 7am and statutory Bank Holidays (except for such periods as fall within Tariff 3)</p> <p>£3.90 First 1100 yards or part 10p Each subsequent 110 yards or part</p> <p>10p Waiting / stationary – for each period of 30 seconds or part</p>	<p>Tariff 3 (for 1 to 8 passengers)</p> <p>Fares between 8pm 24 December and 7am 27 December and 8pm 31 December to 7am 2 January</p> <p>£6.20 First 1100 yards or part 20p Each subsequent 110 yards or part</p> <p>20p Waiting / stationary – for each period of 30 seconds or part</p>	
	<p>Tariff 4 (for 5 or more passengers)</p> <p>Standard fares for 5 or more passengers (except for such periods as fall within Tariff 3)</p> <p>£5 First 1100 yards or part 15p Each subsequent 110 yards or part</p> <p>20p Waiting / stationary – for each period of 30 seconds or part</p>	<p>Extras (charges marked # are not shown on the meter)</p> <p>50p Dogs and other un-caged animals (except guide and other assistance dogs)</p> <p>20p Luggage stored in boot or designated area (excluding the first two items, wheelchairs or any other apparatus used to assist persons with a disability)</p> <p>£80 # For soiling or otherwise damaging the vehicle</p>		
	<p>All fares shall:</p> <ul style="list-style-type: none"> • be calculated from when the hire commences • not exceed the rates stated except when a journey starts or ends outside the Borough and another fare or rate of fares is agreed before the hire commences. 			

<p>Proposal 2</p> <p>Hackney Carriage Tariff</p> <p>Charges effective from XX XXXXX 2017</p>	<p>Tariff 1 (for up to 4 passengers)</p> <p>Standard fares (except for such periods as fall within Tariff 2 or Tariff 3)</p> <p>£3.50 First mile or part 10p Each subsequent 110 yards or part</p> <p>10p Waiting / stationary – for each period of 30 seconds or part</p>	<p>Tariff 2 (for up to 4 passengers)</p> <p>Fares starting between 11pm and 7am and statutory Bank Holidays (except for such periods as fall within Tariff 3)</p> <p>£4.30 First mile or part 10p Each subsequent 110 yards or part</p> <p>10p Waiting / stationary – for each period of 30 seconds or part</p>	<p>Tariff 3 (for 1 to 8 passengers)</p> <p>Fares between 8pm 24 December and 7am 27 December and 8pm 31 December to 7am 2 January</p> <p>£7.00 First mile or part 20p Each subsequent 110 yards or part</p> <p>20p Waiting / stationary – for each period of 30 seconds or part</p>	
	<p>Tariff 4 (for 5 or more passengers)</p> <p>Standard fares for 5 or more passengers (except for such periods as fall within Tariff 3)</p> <p>£5.60 First mile or part 15p Each subsequent 110 yards or part</p> <p>20p Waiting / stationary – for each period of 30 seconds or part</p>	<p>Extras (charges marked # are not shown on the meter)</p> <p>50p Dogs and other un-caged animals (except guide and other assistance dogs)</p> <p>20p Luggage stored in boot or designated area (excluding the first two items, wheelchairs or any other apparatus used to assist persons with a disability)</p> <p>£80 # For soiling or otherwise damaging the vehicle</p>		
	<p>All fares shall:</p> <ul style="list-style-type: none"> • be calculated from when the hire commences • not exceed the rates stated except when a journey starts or ends outside the Borough and another fare or rate of fares is agreed before the hire commences. 			

FORMAL OBJECTION TO THE PROPOSED TAXI FARE INCREASE

We, the undersigned,

object to the current fare increase proposal.

As Hackney Carriage License Holders, we feel we have not been formley consulted on this decision, neither have we been allowed to vote on this decision that will effect every one of the Hackney Carriage Taxi drivers .

We object in light of the fact that the Jumble Lane Rail crossing is about to close at the end of the taxi rank causing a raise in taxi fares because of the inconvenience of having to go around town instead.

We would also like to point out that The Hackney Carriage Association does not represent every Hackney Carriage License holder.

SIGNED: D. Hudson Plate 35 D ROBERTS Plate 71
W.R. Boden Plate 21
J.S. STANLEY Plate 2
L. Hunter Plate 8
A. Hamer Plate 30
T. Helle Plate 48
M.V. Pope Plate 116
K. Pleens ~ 49, 37, 22
R. Ford - 05 ~~05~~
E. Ramsden - P. 14
L. Haldane P 59
S. Williams P 59
J. Blake P 47
A. Allen P 56
Tom Ford P 06
Mandy Ford P 24

Signed: R Ford 6
 M Ford 24
 T Ford 05
 J Clarke 47
 D Hudson 35
 J B. J. 54
 J. B. J. 48
 K Plesner 22
 S Cullen 32
 S Malpass 18
 S. H. S. 06
 M. Docks 21
 A. Pilkington 10
 R. Ramsden P14
 J. H. J.
 J. M. J. 03
 C. J. P19
 J. B. J. 50-57
 J. H. J. P30
 J. H. J. P31
 J. H. J. P56

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Item 4

**Report of the Assistant Director to the
General Licensing Regulatory Board
to be held on the 4 September 2019**

DRIVER APPEAL'S UPDATE

1. Purpose of Report

The purpose of this report, is to provide Members with an overview of the results given by the Magistrates Court following the appeal by Private Hire and Hackney Carriage Drivers to the decision of the General Licensing Regulatory Board.

2. Background

The following drivers appeared before the General Licensing Regulatory Board and had their applications refused following a report by Officers that raised concerns as to their suitability to hold a Private Hire and Hackney Carriage Drivers Licence.

3. Current Position

Mr H appeared at Barnsley Magistrates on the 11 July 2019 to appeal against the Council's decision to immediately revoke his Private Hire and Hackney Carriage Drivers Licence on the 7 March 2019.

The Magistrates heard from Mr H, and our legal representative, Mrs Khalifa. Mrs Khalifa summed up, justifying the Councils decision, and ultimately submitting why the appeal must fail as the Council were not 'wrong' to have revoked Mr H's driver licence.

The Magistrates dismissed the appeal and in their reasoning they stated the following:

- Mr H was granted licences by Barnsley MBC in 2017. There was concerned raised by the Council at the time due to his criminal record and acts of dishonesty, which meant his licences were granted subject to extra conditions. Mr H fully complied with the conditions.

- Then came the incident in March 2019. Mr H transported 2 boys to school and allegedly used explicitly offensive and inappropriate language of a sexual nature when speaking to the boys. Mr H was a new driver for the boys.
- 3 educational professionals gave evidence in court. They mentioned the children and stated they are not prone to lying to the point of being brutally honest.
- The Magistrates determined that the Council were correct and Mr H is 'not fit and proper'.
- The Appeal is refused and costs of £445 were awarded.

In addition

The deputy Head teacher at the school was notified of the outcome of the hearing. She was really pleased and further offered to provide any training/assistance to drivers who undertake home to school transport.

Mr K appeared at Barnsley Magistrates on the 11th July 2019 to appeal against the Council's decision to revoke his Private Hire and Hackney Carriage Drivers Licence at the General Licensing Regulatory Board following an incident where Mr K refused to transport four visually impaired passengers and their guide dog.

The Magistrates considered the appeal and heard from Mr K and our legal representative, Mr Impey.

Mr K appealed to Magistrates Court against the decision made by Barnsley MBC Licensing on the 8th January 2019.

The Magistrates refused the appeal and stated the following:-

We have heard 4 people booked a taxi. Mr K's vehicle arrived equipped to carry those passengers. The passengers had a reasonable expectation they would be taken to their destination.

Mr K panics, seeing the dog and telephones the Operator. The Operator agrees to send another vehicle for the customers.

Mr K's by his own admission had not told the Operator of his fear.

Mr K failed to articulate to customers why he wouldn't take them and they were subsequently left vulnerable.

Being a licensed driver is a respected profession Mr K dealt with the situation in an unprofessional manner and so we find him not fit and proper.

In addition he did not comply with his license conditions in respect of his speeding offence

The Magistrates found that the Council acted appropriately in revoking the drivers licence and so refused the appeal.

In addition they ordered Mr K to pay costs of £900 to Barnsley MBC.

4. Proposal

Applicants who fail to meet the Council convictions policy will continue to be presented before GLRB for determination as the principal consideration is 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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