

# Public Document Pack



<b>MEETING:</b>	General Licensing Regulatory Board
<b>DATE:</b>	Wednesday, 19 February 2020
<b>TIME:</b>	2.00 pm
<b>VENUE:</b>	Reception Room, Barnsley Town Hall

## AGENDA

### 1 Declaration of Interests

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

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

To accept as a correct record the minutes of the meeting held on 23<sup>rd</sup> October, 2019

### 3 Criminal Convictions Policy Update (*Pages 7 - 10*)

The Service Director Legal Services will submit a report to seek approval to amend Section 5 of the Council Convictions Policy which specifically addresses Compliance with Conditions and Requirements of the Licensing Authority.

### 4 Digitalisation of the Licensing Function (*Pages 11 - 14*)

The Service Director Legal Services will submit a report informing Members of the ongoing project work to digitalise the way the Licensing Service operates.

### 5 Enforcement Update (*Pages 15 - 18*)

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

### 6 Driver Appeal - Update (*Pages 19 - 22*)

The Service Director Legal Services will submit a report regarding the outcome of an appeal made to the Crown Court by a Private Hire and Hackney Carriage Driver following a decision made by the General Licensing Regulatory Board Panel.

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, McCarthy, Murray, Noble, 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, Senior Licensing Officer

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

Tuesday, 11 February 2020

<b>MEETING:</b>	General Licensing Regulatory Board
<b>DATE:</b>	Wednesday, 23 October 2019
<b>TIME:</b>	2.00 pm
<b>VENUE:</b>	Reception Room, Barnsley Town Hall

## MINUTES

### Present

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

### 10 Declaration of Interests

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

### 11 Minutes

The minutes of the meeting held on the 4<sup>th</sup> September, 2019 were taken as read and signed by the Chair as a correct record.

### 12 Digitalisation of the Licensing Function

The Service Director Legal Services submitted a report informing the Committee of the ongoing project work being undertaken in order to digitalise the way that the Licensing Service operated.

It was noted that following an analysis of the licensing function it had been shown that processes and procedures within the service were predominantly paper based and labour intensive and a summary of the type of work undertaken was provided. Such activities required the Service to operate a 'front office' with a member of the licensing team occupying a meeting room in Westgate every afternoon. In addition, the team also managed a high volume of telephone calls from applicants, licensees, agents and representatives on a daily basis.

Within the context of the Future Council and Digital First agenda the current approach could no longer be justified and, therefore, the digitalisation project would aim to convert all existing manual operations (so far as was practicably feasible) into digital operations with the intention of the first phase being completed by March 2020.

The digitalisation would be undertaken in phases with phase one being to convert the existing local knowledge test booking system to an on-line self-service facility. The Council's Digital Team would undertake the process mapping, design and implementation of the new on-line booking system. The overall project ultimately intended to convert existing licensing processes into on-line, self-service procedures and thereby provide a more efficient customer interface. This would save time and resources and, more importantly, provide a 24/7 facility so that customers could access services at a time that suited them best.

In the ensuing discussion, the following matters were highlighted:

- Representatives of the Trade had been invited to a meeting yesterday so that they could talk to the Digital Team about their fears and concerns as well as any problems they were likely to experience. The Trade representatives were more than happy with the digitalisation proposals as it would benefit them greatly and save them valuable time when making a license application
- Training and support would be offered to all users. Drivers would also be invited to attend a workshop session where they could come in and 'test run' the system before the process became 'live'. Training of the new system would be rolled out to library staff so that drivers and applicants could access the system with appropriate support available in libraries
- It was intended that the process for applications and renewals would be extremely simple and that access could be gained from multiple devices. As a general rule, new applicants to the trade expected there to be an online application process and, therefore, the only issues likely to be encountered were with a small number of existing drivers. It was important to realise however, that many well used systems, such as the DVSA, had online portals, therefore, current drivers should be already familiar with other on-line services
- It was noted that in relation to applications made under the Licensing Act 2003, the government gateway would have to be used rather than the Council's own online system
- It was noted that the face to face contact arrangements currently in operation would be withdrawn following the implementation of the online system
- Arising out of the questioning, reference was also made to the ways in which appropriate verifications and authentications would be undertaken in relation to applicant and driver identification, medical and criminal history checks

**RESOLVED** that the work being undertaken by the Licensing Service, supported by the Licensing Trade, in relation to the digitalisation of the Licensing Function be noted and supported.

### **13 Driver Appeal - Update**

The Service Director Legal Services submitted a report providing an overview of the outcome of an appeal made to the Magistrates Court by a Hackney Carriage and Private Hire Driver following a decision made by a General Licensing Regulatory Board Panel to revoke his driver licence.

The General Licensing Regulatory Board Panel had made its decision to revoke the licence on the 30<sup>th</sup> April, 2019 and the case had been presented to the Barnsley Magistrates Court by way of appeal on the 27<sup>th</sup> September, 2019.

In dismissing the appeal the Magistrates had stated they were satisfied that the Council had followed the correct procedures and that the decision of the Board was not wrong. The appeal had, therefore, been dismissed and the driver had been ordered to pay a contribution of costs of £300.

It was noted that this was the fourth time this year that cases presented by way of driver appeal to the Magistrates Court had been dismissed. This was testament to the excellent work undertaken by Panel Members and Officers.

**RESOLVED:**

- (i) that the report be noted; and
- (ii) that the Board place on record their thanks and appreciation to all involved for their continued hard work in supporting the Licensing Function and in ensuring the safety of the travelling public.

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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 19 February 2020

## Criminal Convictions Policy Update

### 1. Purpose of Report

The purpose of this report, is to inform Members and seek approval to amend section 5 of the Council Convictions policy which specifically addresses Compliance with Conditions and Requirements of the Licensing Authority.

### 2. Background

In February 2013, revised in February 2019, 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 5 of the current policy states:

#### 5 Compliance with Conditions and requirements of Licensing Authority

*The Licensing Board may take into account a persons history whilst holding a licence, from this or any other authority. The Licensing Board may take into account, in deciding whether a person is a fit and proper person to hold (or to continue to hold) a licence, such matters as the record of complaints about them, also their compliance with licence conditions and their willingness to co-operate with the reasonable requests of Licensing Officers.*

***Where a person receives three formal warnings for breach of licence conditions in a 12 month period, the licence will be suspended and the person asked to attend a hearing of the licensing board. Where these breaches could affect public safety, for items such as; failure to complete daily vehicle checks, defective tyres, incorrect signage, the Licensing Board will normally revoke the persons licence.***

The process of issuing written warnings to a Private Hire or Hackney Carriage driver is exercised as a result of a breach of driver or vehicle licence conditions. They are also issued to drivers when Licensing Officers become aware that an offence has been committed.

The current convictions policy requirement stipulates that where a person receives three formal warnings for breach of licence condition in a 12 month period, the licence will be suspended and the person asked to attend a hearing of the Licensing Board. The policy does not take into account the issue of written warnings following an offence. The policy therefore does not recognise the seriousness of a written warning following an offence and does not support the work of Officers when dealing with cases.

The current convictions policy also states that the licence will be suspended pending an appearance before the Licensing Board. This is not current practise as in all cases it is for the General Licensing Regulatory Board to determine the course of action taken in each individual case presented before the panel. Members will then consider if a suspension of the licence or an alternative sanction in each case is appropriate.

In line with the current policy it has become apparent that section 5 does not recognise offences committed by drivers and the options available to the General Licensing Regulatory Board.

#### **4. Proposal**

Our convictions policy needs to recognise and support the work of Officers and the issuing of written warnings following the committing of offences.



The policy also needs to be clear that all cases will be determined by the General Licensing Regulatory Board and that suspension as a holding measure is not current practise.

As such Members are asked to approve the amendment to section 5 of the Council guideline policy to read:

**5 Compliance with Conditions and requirements of Licensing Authority**

***The Licensing Board may take into account a persons history whilst holding a licence, from this or any other authority. The Licensing Board may take into account, in deciding whether a person is a fit and proper person to hold (or to continue to hold) a licence, such matters as the record of complaints about them, also their compliance with licence conditions and their willingness to co-operate with the reasonable requests of Licensing Officers.***

***Where a person receives three formal warnings for an offence or breach of licence conditions in a 12 month period, the person will be asked to attend a hearing of the licensing board. Where these breaches could affect public safety, for items such as; failure to complete daily vehicle checks, defective tyres, incorrect signage, the Licensing Board will normally revoke the persons licence.***

**5. Recommendation**

The Members approve the amendment to section 5 of the Councils Convictions Policy.

**6. Officer Contact**

Debbie Bailey

X 5696



# Item 4

## **Report of the Service Director to the General Licensing Regulatory Board to be held on the 19 February 2020**

### **Digitalisation of the Licensing Function - Update**

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

The purpose of this report is to inform Members of the ongoing project work to digitalise the way the Licensing service operates.

#### **2. Background**

Members will remember the report presented in October last year which explained the need to digitalise the Licensing function due to current processes and procedures being predominantly paper based and labour intensive.

Principally the Licensing Team process a number of applications and issue and manage licences for hackney carriage and private hire vehicles, hackney carriage and private hire drivers, private hire operators, premises licences (alcohol and entertainment), personal licences, scrap metal dealers and many other statutory licences and permits.

The application forms, documents and tests are nearly all completed on paper. In addition all documentary evidence from applicants is currently also submitted on paper. The team also manage a high volume of telephone calls from applicants and licensees and their agents and representatives on a daily basis.

In the context of Future Council and Digital First the current method utilised in providing the licensing service is no longer acceptable and so the Digitalisation project will convert existing manual operations so far as feasible into digital operations .

### **3. Current Position**

The Private Hire and Hackney Carriage Trade representatives have attended a meeting in which they shared their views, opinions and concerns in relation to the proposed on line system.

IT support working closely with Licensing Officers have carried out process mapping and taking into consideration the comments shared by the licensed trade have now designed online forms and procedures which incorporate receipt of payments, the booking system for the local knowledge test and the receipt and issue of documentation and licences.

### **4. Proposal**

The digitalisation project will go live on the 2<sup>nd</sup> April 2020.

This will allow our customers to book their own knowledge tests. It will also allow applicants for driver licences to complete their applications on line and renew existing driver licences. Vehicle licences can also be obtained and renewed on line.

The ultimate aim for Licensing is to provide a fully self-service facility for all its customers and to provide a more efficient customer interface, saving both time and resource.

### **5. Recommendation**

Members are asked to support the Licensing Team and the Licensed Trades with the digitalisation project as a culture shift will be required to ensure the success of this project.

### **6. Officer Contact**

Debbie Bailey

X 5696

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# Item 5

## Report of the Assistant Director to the General Licensing Regulatory Board to be held on the 19 February 2020

### **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**

On the 21 November 2019 Licensing Enforcement Officers alongside Vehicle Examiners from the Smithies Lane Depot, took part in a day time operation focusing their attention at Springwell School and the drivers and vehicles that are contracted to transport children to the school on a daily basis.

In total 29 licensed vehicles were inspected on the day, the results of which are detailed as follows:

- 23 vehicles found to be compliant
- 6 vehicles were issued with immediate suspension notices for defects including:
  - Vehicle suspended – nearside indicator inoperative
  - Vehicle suspended for its dirty condition, inoperative near side screen washer and no reserve travel on the handbrake

- Vehicle suspended for two tyres below the legal limit and a number plate light inoperative
- Vehicle suspended for number plate light inoperative
- Vehicle suspended as his ABS warning light was illuminated on the vehicles dashboard
- Vehicle suspended for an electrical fault which affected all the lights on the vehicle

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 whilst undertaking an MOT test. Defective vehicles are not acceptable and cannot be excused.

#### **4. Proposal**

Proactive enforcement operations will continue to take place. 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. Background Papers**

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

#### **6. Officer Contact**

Debbie Bailey



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# Item 6

## Report of the Assistant Director to the General Licensing Regulatory Board to be held on the 19 February 2020

### **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 Crown Court following the appeal by a Private Hire and Hackney Carriage Driver to the decision of the General Licensing Regulatory Board.

#### **2. Background**

The following driver appeared before the General Licensing Regulatory Board and had his private hire and hackney carriage drivers licence revoked following a report by Officers that raised concerns as to his suitability to hold a Private Hire and Hackney Carriage Drivers Licence.

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

**Mr K** appeared at Barnsley Magistrates on the 11<sup>th</sup> 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 8<sup>th</sup> 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.

Mr K then lodged a further appeal at Sheffield Crown Court which was heard on the 6<sup>th</sup> December 2019. The Court also dismissed the appeal as they heard nothing that caused them to believe that the earlier decision by the Magistrates Court was wrong.

Mr K was ordered to pay a further sum of £622.50 towards the local authority's costs.

#### **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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