

MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 25 April 2018
TIME:	2.00 pm
VENUE:	Reception Room, Barnsley Town Hall

MINUTES

Present

Councillors C. Wraith MBE (Chair), P. Birkinshaw, J. Carr, Cherryholme, Clarke, Frost, S. Green, Hampson, W. Johnson, Markham, Pournali, Richardson, Saunders, Shepherd, Sumner, Tattersall and Wilson

28 Declaration of Interests

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

29 Minutes

The minutes of the meeting held on the 21st February, 2018 were taken as read and signed by the Chair as a correct record.

30 Enforcement Update

The Service Director Culture, Housing and Regulation submitted a report providing an overview of the work of Licensing Enforcement Officers undertaken recently.

Licensing Enforcement Officers had continued to proactively embark on a number of licensing enforcement operations and the report gave a summary of the type of work in which they were currently involved.

(a) Driver Theory Test:

- Officers were reviewing the way the Private Hire and Hackney Carriage Theory Test was delivered and how officers could support new applicant through the process. Applicants were currently provided with a copy of the driver and vehicle conditions and advised of the topics they would be tested on following which they were required to attend safeguarding training which would include a presentation regarding driver and vehicle conditions and relevant legislation. The theory test would then be taken
- To assist new drivers, and in accordance with requests by representatives of the Trade, it was proposed that a more extensive learning package be provided which should educate applicants to a higher standard and prepare them for the test and their future career as a driver

(b) Signage on Private Hire Vehicles - As a result of signage on some vehicles being difficult to read, it was proposed that the Condition relating to vehicle signage be amended to include

- 'Private Hire Vehicle Advanced Booking Only' on the front doors of a vehicle. Such signs to be in contrasting colour to the vehicle and be at least 19" x 6" displayed in a prominent position on the front door
- The vehicle operators trade/business name and telephone number only being displayed on the rear doors

- All drivers to be given a period of time to make the changes before enforcement action was taken by officers for non-compliance

(c) Vehicle Testing Criteria:

- Members were reminded that currently all Private Hire and Hackney Carriage Vehicles were required to be MOT's twice a year irrespective of the age of the vehicle.
- It was proposed that vehicles which successfully passed both tests first time would have this test requirement reduced to one test per calendar year and that this remain at that level unless a vehicle failed a subsequent test at which point it would revert to two tests per year.
- In addition, and in response to requests from the Trade, it was proposed that drivers with a history of first time MOT passes be allowed to keep this status when replacing and improving their vehicles

(d) Final Written Warnings

- it was proposed that in future, a review date should be attached to Final Written Warnings so that ongoing consideration could be given as to its relativity at the time.

(e) Shared Databases

- Members were reminded of the information sharing between local authorities which was crucial to the effective enforcement of licensing. Work had commenced in South Yorkshire to create a shared database of applicants who had been refused a licence and this had been picked up by the Local Government Association and the national Anti-Fraud Network who had started work on a national database.
- The national database had been due to 'go live' from the end of April 2018 but had since been delayed and further details would be provided as to its status in the near future.

(f) CCTV in taxis and Private Hire Vehicles:

- Following approval by Cabinet in 2017, work had commenced on the production of a business case for the mandatory introduction of CCTV in all licenced vehicles. In the course of undertaking this work it had been discovered that the Local Government Association was working on the production of guidance on CCTV use for all authorities and, therefore, it had been decided to delay the production of the business case until the national guidance was available
- The production of the national guidance had been delayed whilst the Local Government Association received crucial information from the Information Commissioners Office regarding General Data Protection Regulation issues. The guidance was anticipated to be available in May/June but which also coincided with the proposed date for consultation by the DoT on statutory/best practice guidance on taxi licensing which was also expected to include CCTV in taxis.
- The provision of national guidance would aid the implementation of CCTV in taxis in Barnsley and it was proposed, therefore, that following the issuing of this guidance the mandatory requirement for the installation and use of CCTV be progressed as quickly as possible

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

- Driver Theory Test
 - An assurance was given that the new learning package whilst making it easier to pass (in that applicants would be given details of the items upon which they would be tested such as 'places of interest') it would not lead to a diminution of standards
 - The learning pack would be provided free of charge to applicants. An analysis of the costs involved would be undertaken and, if necessary, fees adjusted to cater for any increased costs
 - It was hoped that the new arrangements would address the current unmet demand for drivers by encouraging new applicants into the trade
- Signage
 - The cost of changing the door signage was not anticipated to be excessive
 - The new signage, if approved, would make Private Hire Vehicles more 'visible' and should assist passengers in recognising vehicles that were properly and lawfully licensed
 - It was suggested that the signage should specify the 'font and point' size as this would encourage uniformity
 - The signage only needed to be displayed when the vehicle was being used as a Private Hire Vehicle (although the vehicle remained licensed at all times) and, therefore, many drivers chose to use magnetic door signs. Discussions were, however, continuing within the Trade as to whether or not these should be permanent
- Vehicle testing
 - In response to specific questioning, information was provided about the legislative and licensing requirement in relation to MOT tests for licensed vehicles and particularly in relation to newly licensed vehicles
 - Arising out of the above, reference was made to the contract requirements and arrangements in place for the outsourced vehicle inspections
 - On Member suggested that the current arrangements should be retained given the high mileage undertaken by some of these vehicles. It was felt that this would ensure that the safety of the public was maintained
 - If a vehicle was found to be defective following a 'spot check' inspection, (event if the vehicle had a valid MOT), the vehicle licence would be suspended until such time as the defects were corrected
- Final Written Warnings
 - In response to questioning, the rationale for the introduction of Final Written Warning reviews was explained. It was suggested that this approach may assist Members when drivers appeared before a Panel particularly if that driver had not reached the review date
 - The date of the review would be determined by Members and would be dependent upon the severity of the contravention of licensing conditions. Provided that the decision of the Panel was reasonable and proportionate, the Council should be free from challenge

- Any drivers found to be contravening licensing conditions who had a Final Written Warning could not have their licence automatically revoked or suspended without the right of appeal/reference to a General Licensing Regulatory Board
- The Final Written Warning would be removed from a Driver's file at the end of the review period
- Shared Database
 - In response to questioning, the Service Director Legal reported on the reasons for the delay to the introduction of the Shared Database and he made specific reference to the General Data Protection Regulations in relation to the storage and use of an individual's information
 - The proposed introduction of this Database was very much welcomed
- CCTV
 - The Authority had welcomed the introduction of CCTV but previously it had been prohibitively expensive but this was no longer the case. It was pleasing to note that some drivers had already got such systems installed

RESOLVED:

- (i) that the Board place on record their thanks and appreciation to the staff within the Licensing Service for their hard work in undertaking enforcement activities and ensuring the continued safety of the travelling public;
- (ii) that the proposals for the introduction of the theory test guidance pack be approved;
- (iii) that the proposals for the changes to the Private Hire Vehicle Licence Conditions in relation to door signage be approved and that such signs in the future be in a uniform font and point size ;
- (iv) that the proposed changes to the Vehicle Testing Criteria be approved;
- (v) that the inclusion of a review date being included on any Final Written Warning be approved and that such dates be determined in the light of the severity of the transgression from Licensing Conditions;
- (vi) that the current position with regard to the Shared Database be noted; and
- (vii) that the current position with regard to the introduction of CCTV in taxis and Private Hire Vehicles be noted and that this be a mandatory requirement to be installed in all vehicles at the earliest opportunity.

31 Structural Changes in Regulatory Services

The Executive Director Place submitted a report informing the Board of proposed structural changes to Regulatory Services to be determined in accordance with delegated functions.

The Regulatory Services function would be split and the responsibility for Food Hygiene, Health and Safety, Trading Standards and Pollution Control would transfer from the Place Directorate to Public Health whilst the responsibility for the Licensing function would transfer to Legal Services within the Core Directorate.

The arrangements were proposed in order to ensure the safe and effective delivery of the three year improvement plan, growth and sustainability strategy and would make the Services more efficient and effective either by improving the synergy of those services or to achieve further efficiencies by economies of scale.

It was noted that the transfer would require a straight 'lift and shift' into the new Business Units and that there would be no changes to the terms and conditions of staff. In addition there were no compulsory redundancies arising from the proposals.

RESOLVED that the report be noted

32 Animal Licensing Activities - Legislative Changes and Implications for the Model Licensing Conditions

The Executive Director Place submitted a report on the introduction from 1st October, 2018 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and on the implications for the Model Licensing Conditions for animal licensing approved by the Board in December, 2017.

The report gave details of the types and number of licences issued by the Service, the licensing period involved together with the cost of each individual licence and also provided information about the way in which the service operated and the number of staff involved.

It was noted that any licence issued prior to the introduction of the new legislation would be issued under the current arrangements until the following renewal date.

The Model Licence Conditions were guidance which the Council had adopted as the standard to be achieved and insistence on complying with them, some elements of which may differ from the new draft Regulations, would place an unnecessary burden on local businesses and may cause some of them to close. In view of this, it was proposed to allow businesses to continue to operate in their current format until such time as the new Regulations came into force. It would also support the Council priority of a Thriving and Vibrant Economy by supporting local businesses by applying a pragmatic approach to the interim period between now and the introduction of the Regulations.

In the ensuing discussion particular reference was made to the following:

- It was noted that the Model Licensing Conditions specified sizing requirements however, the new regulations specified that sizing requirements only applied to kennels that were built after the date on which the new regulations came into force. This was an area of particular concern and had been highlighted as such at the meeting held in December, 2017. Arising out of this discussion Members of the Board were informed of the minimum size requirements and of the fact that the dimension of kennels would be appropriate to the size of the animal

- It was not clear whether or not there would be a lead in time to allow businesses to meet the requirements of the new Regulations
- The Service had written to all licensed businesses to inform them of the proposed changes and would ensure that they achieved compliance by the appropriate date

RESOLVED that in the light of the Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018 due to come into force on the 1st October, 2018, in circumstances where Animal Health Officers have confirmed that there are no animal welfare concerns, businesses be allowed to continue to operate as they currently do until such time as they are licensed under the new Regulations.

Chair