

MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 19 December 2018
TIME:	2.00 pm
VENUE:	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 24th 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) 9th 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) 30th 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) 13th 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) 14th 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.

Chair