

LICENSING BOARD
Monday, 30th October, 2017

Present:- Councillor Ellis (in the Chair); Councillors Beaumont, Buckley, Elliot, M. S. Elliott, Hague, Jones, McNeely, Napper, Reeder, Senior, Sheppard, Steele, Taylor, Vjestica, Williams and Wyatt.

Also in attendance : Councillor Hoddinott (Cabinet Member for Waste, Roads and Community Safety).

Apologies for absence were received from Councillor Clark.

1. DECLARATIONS OF INTEREST

There were no Declarations of Interest made at this meeting.

2. MINUTES OF THE PREVIOUS MEETING HELD ON 20TH FEBRUARY, 2017

Resolved:- That the minutes of the previous meeting of the Licensing Board, held on 20th February, 2017, be approved as a correct record for signature by the Chairman.

3. TAXI AND PRIVATE HIRE LICENSING - UPDATE

Further to Minute No. 2 of the meeting of the Licensing Board held on 20th February, 2017, consideration was given to a report, presented by the Licensing Manager, providing an update on the implementation of the Council's Hackney Carriage and Private Hire Licensing Policy, including details of the Performance Management Framework relating to the Policy. The report highlighted:-

- The progress with the implementation of the Council's Licensing Policy (Hackney Carriage and Private Hire Licensing);
- demonstrating adherence to the five outcomes required of an effective Licensing Service, as detailed in the report on the governance and operation of the Council (Dame Louise Casey, 2015);
- the Licensing Performance Framework – Second Quarter Results;
- the use of Licensing management information and recording systems (eg: Lalpac);
- Licensing Enforcement; Part 2 of the Legislative and Regulatory Reform Act 2006 requires the Council to have regard to the Principles of Good Regulation when exercising a specified regulatory function;

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- Licensing Service – staffing update;
- statistical report of decisions made by the Licensing Board Sub-Committee (December 2016 to October 2017).

The Licensing Board Members discussed a number of salient issues:-

- the redevelopment of the Council's Driver Knowledge Test;
- verification of the authenticity of BTEC courses and certificates (it was noted that a number of course certificates are not being accepted, temporarily, pending the outcome of an external investigation);
- attendance of licensed drivers at the BTEC (or equivalent) courses and also at the Safeguarding courses and ensuring that drivers complete such courses satisfactorily;
- written reminders sent to those few licensed drivers who have not yet completed a BTEC (or equivalent) course;
- content of the Safeguarding courses;
- illegal / unlawful parking of licensed vehicles in the Rotherham town centre and elsewhere; the extent of enforcement action undertaken by the Council's Parking Services;
- CCTV cameras within licensed vehicles; spot-checks to ensure that cameras are ordered, paid for, remain fitted in the correct position within the vehicle and operate correctly in accordance with the terms of the Licensing Policy;
- cross-border working, ie: hackney carriage and private hire drivers obtaining drivers' licences from other local authorities and working within the Rotherham Borough area; also, sub-contracting by private hire operators (some of whom have registered bases outside the Rotherham Borough area) involving drivers licensed by local authorities other than this Council; Members were informed that one northern local authority no longer issued drivers' licences to applicants who lived beyond the distance of thirty miles from the boundary of that local authority's area;
- the contracts for the transport of pupils between home and school;
- the national database about licensed drivers and applicants for drivers' licences;
- the recording of the number complaints made against individual licensed drivers;

- the offence of smoking in a licensed vehicle and the fixed penalty (monetary fine) that such an offence attracts.

Members of the Licensing Board placed on record their appreciation of the work of the officers of the Licensing Service during the recent period of restructuring of the Service when a number of posts had remained vacant.

Resolved:- (1) That the report be received and its contents noted.

(2) That Members of the Licensing Board be informed of:-

(a) the further progress with the review of Private Hire Operators;

(b) the written reminder issued to licensed drivers (30th October 2017) to attend and complete the BTEC (or equivalent) course;

(c) the quality of the Safeguarding course – details of the refresh of the training course which applicants for Hackney Carriage/Private Hire Drivers' Licences have to attend (including the requirement to attend punctually and complete the whole of the course);

(d) Safeguarding – details of forthcoming courses for licence applicants, which Elected Members of the Licensing Board may also wish to attend;

(e) the operation of the national database about licensed drivers and applicants for drivers' licences; and

(f) the outcome of the external investigation into the authenticity of certain BTEC courses and the certificates of completion of those courses.

(3) That the Licensing Board Sub-Committee undertake a review of the licences of any licensed Hackney Carriage/Private Hire driver who is alleged to have completed a BTEC course for which the authenticity of the course cannot be verified by the current external investigation.

(4) That the Licensing Manager submit a report to the next meeting of the Licensing Board concerning the requirement for applicants for Hackney Carriage/Private Hire Drivers' Licences to complete and pass the Driver Knowledge Test.

4. ADMINISTRATIVE AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

Consideration was given to a report, presented by the Licensing Manager, stating that in order to facilitate the effective application of the Council's Hackney Carriage and Private Hire Licensing Policy, a number of minor administrative amendments are required to be made to the Policy. The amendments were in relation to (i) the acceptance of Disclosure and

Barring Service (DBS) Certificates from other local authorities and (ii) the period after which a medical examination was required. The report detailed the reasons for making these administrative amendments.

Resolved:- (1) That the report be received and its contents noted.

(2) That the following administrative amendments to be made to the Council's Hackney Carriage and Private Hire Licensing Policy be approved insofar as the Licensing Board is concerned, prior to further consideration of these amendments at the Cabinet and Commissioners meeting to be held on 13th November, 2017 and later at a meeting of the full Council:-

(a) Section 5.3 of the Policy be amended to read:-

“The Council will only accept DBS certificates which are applied for through Rotherham Council's Licensing Unit.”

(b) Section 5.6 (and paragraph 8 at Appendix A) of the Policy be amended to read:-

“A medical to Group 2 standards will be required on first application. A new medical will then be required at the next renewal after a driver reaches the age of 45. Thereafter, a medical will be required every six years until the driver reaches the age of 65 when a medical will be required annually.”

5. AMENDMENTS TO CONDITIONS ATTACHED TO RMBC HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES

Further to Minute No. 39 of the meeting of the Licensing Board Sub-Committee held on 16th October, 2017, consideration was given to a report, presented by the Licensing Manager, concerning recommendations that additional conditions should be attached to all Private Hire Operator licences issued by the Council at the point of grant or renewal and also that there be an amendment to a condition attached to the Hackney Carriage / Private Hire Drivers' licences issued by this Council.

The additional conditions to be attached to the Private Hire Operator licences related to the following matters:-

(i) The requirement for operators to notify the Council in relation to complaints and potential offences committed by drivers working under the terms of their operator licence; and

(ii) The requirement that operators must not use software or other technology or any device which is capable of impeding the lawful activities of enforcement agencies or the regulatory activity of the Council as Licensing Authority.

Members noted that, in addition, the Licensing Service was currently developing an “enforcement penalty points” scheme to be used in dealing with less serious matters involving licence holder breaches of condition. The development of this scheme had identified a disparity between the Council’s Licensing Policy and the standard conditions attached to the Hackney Carriage/Private Hire Drivers’ licences and the submitted report recommended an amendment to the Drivers’ licence conditions to bring them into line with the Council’s Licensing Policy requirements.

The amendment to the Hackney Carriage/Private Hire Drivers’ licences related to the requirement for drivers to notify the Council in relation to the receipt of fixed penalty notices.

Resolved:- (1) That the report be received and its contents noted.

(2) That the Licensing Board now approves:-

(a) the amendments to the standard Private Hire Operator Licence Conditions (including the introduction of the new conditions referred to above) as detailed in Appendix 1 to the submitted report; and

(b) the amendments to the standard Hackney Carriage/Private Hire Driver Licence Conditions as detailed in Appendix 2 to the submitted report.

6. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - MISCELLANEOUS AMENDMENTS TO WORKING PRACTICES

Consideration was given to a report, presented by the Licensing Manager, stating that, in order to facilitate the effective administration of Hackney Carriage and Private Hire Licensing processes, a number of amendments are proposed to current working practices within the Licensing Service. The submitted report detailed those proposals and sought the agreement of the Licensing Board to introduce the proposals with immediate effect.

Resolved:- (1) That the report be received and its contents noted.

(2) That the Licensing Board approves the following amendments to current working practices within the Licensing Service in respect of Hackney Carriage and Private Hire Licensing and their implementation with immediate effect:-

(a) Officers shall not refer applications for Hackney Carriage/Private Hire Drivers’ licences (grant and renewal) to the Licensing Board/Licensing Board Sub-Committee unless all elements of the application process have been satisfactorily completed; and

(b) Any application for a Hackney Carriage and/or Private Hire Licence (ie: driver; operator; vehicle) that has been pending for a period of time in excess of twelve consecutive months is declared void and the applicant

shall be issued with a refund of any appropriate fees paid to the Council and their application shall be abandoned.

7. EQUALITY ACT 2010 - LICENSED DRIVER MEDICAL EXEMPTION POLICY

Consideration was given to a report, presented by the Licensing Manager, stating that the operative parts of Sections 165 and 167 of the Equality Act 2010 came into effect on 6th April, 2017. Section 167 of the Act gives Local Authorities the power to publish a list of wheelchair accessible vehicles (known as the Section 167 list). Section 165 places duties on the drivers of those vehicles in relation to the carriage of passengers in wheelchairs.

The report stated that drivers of vehicles which are on the Section 167 list are able to apply for a medical exemption from any of the duties listed under Section 165 of the Act. In order to process an application for a medical exemption, the Council is required to set out a Policy for the exemption of drivers on medical grounds. Members noted that this Policy is to be submitted for consideration by the Cabinet and the Government-appointed Commissioners to be held on Monday, 13th November, 2017.

The Licensing Board was informed that there were currently seven vehicles licensed by this Council which are considered suitable for inclusion in a Section 167 list. All of these vehicles were capable of carrying a passenger seated in a wheelchair. The report also stated that Government Department for Transport guidance recommended that Local Authorities consider publishing a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the vehicle.

Appended to the report was a suggested 'Equality Act 2010 Licensed Driver Medical Exemption Policy'.

The Licensing Board expressed the views that:-

(a) the Council does publish the Section 167 licensed vehicles which are capable of carrying a passenger seated in a wheelchair;

(b) the Council does not publish a list of licensed vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the licensed vehicle; instead the Section 167 list shall confirm the Council's position regarding these vehicles and advise passengers to make Private Hire Operators and Hackney Carriage Drivers aware of their needs when requesting/booking a journey; and

(c) relevant information about the application and implementation of Licensed Driver Medical Exemption Policy shall be routinely included in the reports about the performance of the Licensing Service to be submitted to future meetings of the Licensing Board.

Resolved:- (1) That the report be received and its contents noted.

(2) That the Licensed Driver Medical Exemption Policy, as now submitted, to be made in accordance with the provisions of the Equality Act 2010, be approved insofar as the Licensing Board is concerned, prior to further consideration of the Policy at the Cabinet and Commissioners meeting to be held on 13th November, 2017 and later at a meeting of the full Council.

8. DATE AND TIME OF NEXT MEETING

Resolved:- That the next meeting of the Licensing Board be held on a date to be arranged early in 2018.