

**LICENSING BOARD
27th October, 2014**

Present:- Councillor Dalton (in the Chair); The Mayor (Councillor Foden); Councillors Andrews, Beck, Buckley, Cutts, Ellis, J. Hamilton, N. Hamilton, Havenhand, McNeely, Parker, Reeder, Reynolds, Roddison, Sangster, Sharman, Sims and Swift.

Apologies for absence were received from Councillors Doyle and Robinson.

P14. DECLARATIONS OF INTEREST

There were no declarations of interest made at this meeting.

**P15. MINUTES OF THE PREVIOUS MEETING HELD ON 15TH
SEPTEMBER, 2014**

The minutes of the previous meeting of the Licensing Board held on 15th September, 2014, were considered.

Resolved:- (1) That the minutes of the previous meeting be approved as a correct record for signature by the Chairman.

(2) That, with regard to Minute No.P10(4) (Borough-wide Designated Public Place Order) the Licensing Board notes that the South Yorkshire Police (Rotherham District) intends to implement immediately a suitable process to facilitate the capture of enforcement data relating to the Designated Public Place Order.

(3) That, with regard to Minute No.P13 (Review of the Council's Licensing Processes in relation to Taxis and Hackney Carriages), the Licensing Board notes that, as part of the current review of licensing legislation, the coalition Government has withdrawn the 'deregulation' proposal which may have allowed hackney carriages and private hire vehicles to be driven by persons who are not licensed taxi drivers, at times when such vehicles are not being used for their licensed purposes.

**P16. MINUTES OF THE MEETINGS OF THE SUB-COMMITTEE OF THE
LICENSING BOARD**

Resolved:- That the contents of the minutes of the meetings of the Sub-Committee of the Licensing Board held on (a) 28th August, 2014, (b) 17th September, 2014 and (c) 8th October, 2014, as now submitted, be noted.

P17. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

Further to Minute No. P13 of the meeting of the Licensing Board held on 15th September, 2014, consideration was given to a report, presented by the Business Regulation Manager, outlining the way in which this Council aims to improve and strengthen its regulation of the taxi and private hire

industry to ensure that the standards applied in Rotherham are amongst the most stringent operating anywhere in the country. The report stated that this approach is intended to ensure that using taxis in Rotherham is a safe, reliable and pleasant experience, providing reassurance for local people and as a result the Rotherham Borough area will have a high quality, sustainable taxi trade.

This report contained the new policy as set out in the various appended documents. The policy will encompass a range of matters relating to the taxi and private hire trade which are currently dealt with as individual policy or guidance documents. The main elements of this licensing policy will relate to driver, vehicle and operators' standards, as well as limousines and special purpose vehicles.

Currently, local authorities are able to determine their own approach to regulation based on a wide range of Acts of Parliament and guidance documents. Consequently wide variation exists in the standards that apply to the trade, from one area to another.

The Licensing Board noted that the Law Commission has undertaken a review of taxi licensing and had published its report and a draft Bill on 23rd May 2014. If the draft Bill passed into law as it currently stands, this would herald the introduction of national standards for all taxis (i.e hackney carriages) and private hire vehicles, set by the Secretary of State for Communities and Local Government, with the power for local licensing authorities to set additional standards for taxi services only. Local authorities would, however, remain responsible for issuing licences and enforcement in relation to both taxis and private hire vehicles.

Discussion took place on the proposed licensing policy, as contained in the report and the various supplementary documents submitted. The Members' debate highlighted the following salient issues:-

(A) Public Consultation (November and December 2014)

(i) There will be extensive public consultation about the new licensing policy for hackney carriages and private hire vehicles, their operators and drivers. The period of consultation will begin on Monday 3rd November, 2014 and last for eight weeks until the weekend of 27th and 28th December, 2014. Members agreed that the consultation should involve all of the spoken and written media, locally, as well as community and voluntary sector organisations to be contacted via Voluntary Action Rotherham. Every endeavour will be made to obtain the views of children and young people, via schools, local colleges, the Rotherham Youth Cabinet and, wherever possible, licensed outlets popular with young people and from where young people may travel by taxi.

(ii) The intention is to undertake a random sample of 500 members of the general public resident in the Rotherham Borough area, who will be contacted by telephone and invited to answer specific questions

contained within a questionnaire. Members discussed whether this sample of people should be anonymous, or whether the survey should ensure balance in terms of gender, ethnicity and different age groups of people. Contributions to the consultation process will be welcome by letter and by online communication, via the Council's Internet web site.

(iii) There will be specific consultation with the various associations representing the operators and drivers of hackney carriages and private hire vehicles. Views will also be sought from the South Yorkshire Police, the Rotherham Magistrates' Court and from the Rotherham Safeguarding Children Board. There are other people and organisations listed within the submitted report, who will all be invited to comment during the consultation period.

(B) Application of the Licensing Policy

(i) The policy shall apply to matters concerning both hackney carriage and private hire licensing. Members noted that limousines which have more than eight seats are subject to the regulatory framework of the Driver and Vehicle Standards Agency (neither the vehicle nor the driver are subject to licensing control by a local authority). However, any such vehicles whose use includes the sale of alcohol are subject to the provisions of the Licensing Act 2003, as administered by local authorities. There are two such operators within the Rotherham Borough area, operating a total of nine limousines (of which seven are currently kept off-road, awaiting repairs). Questions are being asked about the licensing of the other two vehicles, which are currently being actively operated. To that end, John Healey MP has written to the Minister of State for Transport, seeking advice.

(ii) The Licensing Board suggested that, in addition to the proposed review of the licensing policy at intervals of three years, there should be an initial review of the policy after its first twelve months' of operation.

(iii) Members noted that any alteration to the byelaws relating to hackney carriage and private hire vehicle licensing would require the prior consent of the Secretary of State for Communities and Local Government.

(C) Hackney Carriage and Private Hire Drivers – a 'Fit and Proper Person'

(i) The Licensing Board noted that the law does not provide a specific definition of a 'fit and proper person' to be licensed to drive hackney carriages and private hire vehicles.

(ii) With regard to the medical assessment of drivers and applicants for a driver's licence, a question was asked about the assessment of any mental health issues. The Licensing Board was informed that the Licensing regime requires the national Group 2 Standards of Medical Fitness, (as applied by the Driver and Vehicle Licensing Agency (DVLA) to the licensing of heavy goods vehicle and public service bus drivers), as

the appropriate standard for licensed hackney carriage and private hire vehicle drivers. Applicants must provide a completed medical examination form, supplied by the Council and completed by the applicant's own General Practitioner on first application and every three years thereafter, until the age of 65 years, after which age medical examinations are required annually.

(iii) The Licensing Board discussed in detail their concerns about the absence of a precise legal definition of the meaning of a 'fit and proper person' to become a licensed hackney carriage and private hire vehicle driver. An issue of particular concern was being able to establish the honesty and reliability of an individual applicant. Members made reference to a number of previous examples where it had been shown that applicants had been dishonest or had deliberately attempted to mislead the Licensing Authority by the premeditated use of false statements or misrepresentation during the application process. It was acknowledged that the judgement of a 'fit and proper person' may remain, in part, a subjective process to be exercised by Elected Members during the meetings of the Licensing Board Sub-Committee, when interviewing applicants and reviewing existing licences. One suggestion was that it would perhaps be helpful to devise a series of 'bullet point' characteristics or behaviour patterns, for the guidance of Elected Members when considering the details of individual cases. This issue will continue to be the subject of consideration by the Chair and Vice-Chair of the Licensing Board, during briefing meetings, together with other invited Members of the Licensing Board.

(iv) The Licensing Board agreed that the conditions of the drivers' licence ought to be strengthened by, for example, the rewording of paragraph 4.8 of Appendix C (Convictions Policy), so that applicants are directly informed that they must not make a false statement or a false declaration during any part of the licence application process.

(v) In addition, applicants for drivers' licences will be required to attend for interview by the Licensing Board Sub-Committee if they have more than six penalty points on their ordinary driver's licence. There will be the same requirement to attend for interview by the Sub-Committee for currently licensed hackney carriage and private hire vehicle drivers who accumulate more than six penalty points on their ordinary driving licence.

(D) Sexual Offences and Indecency

(i) The Licensing Board expressed extremely serious views about this issue, as the Members agreed unanimously that persons who have been convicted of sexual offences and indecency are, probably in the vast majority of cases, unlikely to pass a stringent test of being a 'fit and proper person' to be granted a licence to drive a hackney carriage and a private hire vehicle. However, Members understood the legal requirement to treat each and every application for a driver's licence on its individual merits and to consider the detailed contents of each application.

(ii) Members noted that the draft licensing policy states that persons convicted of more than one of this type of offence (including persons subsequently placed on the Sex Offenders Register) will not normally be granted a licence. However, Members instructed that this section of the draft policy be revised and re-worded, as now discussed and that a distinction be drawn between sexual offences against another person and other offences involving indecency.

(iii) Suspension of Drivers' Licences – whenever a licensed driver is absent from the United Kingdom for a continuous period exceeding one month, the driver's licence of that individual will be suspended. The suspension of the driver's licence will be lifted only after the individual has satisfied the Licence Authority that s/he has returned and is resident in the United Kingdom.

(iv) The Licensing Board instructed Officers to undertake a further investigation in respect of the recording and monitoring of the working hours of licensed hackney carriage and private hire vehicle drivers.

(v) It was agreed that, when carrying passengers who are vulnerable persons, including persons with a disability, licensed drivers should be required to ask such persons if they require assistance.

(vi) There shall be a general condition of licence that all licensed drivers of both hackney carriages and private hire vehicles must display, at all times whether carrying passengers or not, their driver identification badge clearly showing the name of the driver, the licence number and a photograph which is a true likeness of the driver. This identification badge shall be so positioned inside the vehicle as to be clearly visible by all passengers in the vehicle. Drivers are also required to wear an identification badge affixed to their clothing.

(E) Hackney Carriage and Private Hire Vehicle Licensing

(i) The examination, inspection and testing of licensed vehicles is undertaken by the Borough Council, by means of a contract awarded to the Kier Company. Licensed vehicles are issued with a Certificate of Compliance (instead of the MOT Certificate) and whenever a vehicle ceases to be licensed for 'taxi' purposes, the usual MOT requirements will apply. The appropriate European Union regulations, relating to vehicles, are included within this vehicle licensing regime.

(ii) The Licensing Board noted that hackney carriages licensed by the Borough Council are required to be predominantly white, with black bonnets and boots. Private hire vehicles, by contrast, shall be any colour other than white. Members are aware of neighbouring authorities, whose licensed private hire vehicles are white and, whenever such vehicles are travelling within the Rotherham Borough area, may cause some confusion

to the travelling public. The difficulty of enforcing this colour-scheme issue on a region-wide basis was acknowledged.

(iii) Private Hire Vehicles – Fare Meters

Members noted that fare meters are required to be fitted within hackney carriages, enabling the Local Authority to regulate the cost and tariff of fares. Discussion took place on whether there should be a similar requirement for meters to be installed in private hire vehicles. It was clarified that customers/passengers are able to negotiate the amount of the fare for a specific journey (eg: home to airport and return) with the private hire operator and/or driver. Members considered that the use of meters would be beneficial to the travelling public when making shorter, everyday journeys, such as from a supermarket to home, or being driven home late at night after a social evening at a pub or restaurant. There was a body of anecdotal evidence that some private hire operators and drivers may be charging quite wide-ranging and varying prices for this latter type of short journey. It was agreed that the licensing policy shall require the installation and use of fare meters in all private hire vehicles. There will be a parallel requirement for the costs and rates of fares to be displayed within private hire vehicles. The use of the meter would not be required, however, for any journey (again, for example, to and from an airport) for which the amount of the fare has been agreed by the customer and operator/driver at the time of making the booking. It was acknowledged that the Local Authority is unable to exercise control over the private hire vehicle fares, as it does for hackney carriage fares. Some Members expressed concern that tighter controls may disadvantage the smaller business operators of private hire vehicles.

(iv) Licensing Officers were asked to clarify the conditions relating to the display of advertising signs on hackney carriages and private hire vehicles. Similarly, the requirements for the display of licensed vehicle identification signs are to be reviewed.

(v) It was noted that before 31st March, 2015 the Council will be consulting on the introduction of a Cabsafe Scheme (incorporating gold, silver and bronze rating standards) for all licensed vehicles operating within the Borough area. This consultation will also consider the mandatory introduction of a "how well am I driving" / "safe driver" scheme. The intention of the scheme is to place the onus on the vehicle operator to ensure that drivers and vehicles achieve and maintain high standards.

(vi) With regard to the carrying of passengers in hackney carriages and private hire vehicles, it was agreed that all children, regardless of their age, shall count as one individual person. All persons travelling in such licensed vehicles must wear seat belts.

(vii) With regard to property found in a hackney carriage or a private hire vehicle, there shall be a condition requiring the operator and/or driver immediately to place such property in the possession of the Police.

(F) Licensed Vehicles - Tyres

The Board Members undertook a detailed discussion about the quality of tyres fitted to hackney carriages and private hire vehicles, in acknowledgement of the absolute requirement for the care and maintenance of tyres to ensure the safety of the vehicle, the driver and the passengers. Members were aware of different and varying standards in respect of the tyres fitted to vehicles : these standards varied across public service vehicles, heavy goods vehicles, Police vehicles and there were often stricter regulations in other countries, notably some situated within the European Union. The quality of tyres was regulated by the British Standards (BSI). The Board ultimately decided that the licensing policy and conditions of the vehicle licence should require all hackney carriages and private hire vehicles to have a minimum tyre tread depth of 2mm. As soon as that minimum depth has been reached, a brand new tyre must be fitted to the vehicle. The Licensing Authority will require written evidence of the purchase and fitting of new tyres, as part of the routine inspection of licensed vehicles. The use of part-worn or re-moulded tyres will not be permitted. Separately, the Trading Standards authorities will be asked to investigate the sales of part-worn and re-moulded tyres, in view of Members' concerns, now expressed, about the inconsistent quality of such used tyres.

(G) Licensed Vehicles – Closed Circuit Television (CCTV) Systems

(i) The Board Members undertook a detailed discussion about the proposed requirement for all licensed hackney carriages and private hire vehicles to have CCTV systems fitted to the vehicle interior, for the protection and safety of all occupants of the vehicle and to enable the sound and visual recordings to be used subsequently in the investigation of any complaints and/or legal proceedings.

(ii) The Licensing Board agreed that all licensed hackney carriages and private hire vehicles shall have CCTV systems fitted to the vehicle interior, to be operational at all times when there are passengers in the vehicle and the operator and the driver shall be responsible for the maintenance of the resulting sound and visual recordings. This condition shall apply immediately to all new and newly-licensed vehicles. Existing licensed vehicles will be afforded a period of twelve months' grace, after which time the CCTV system must be immediately installed. The CCTV systems to be installed shall be of a type and quality to be approved by the Council as Licensing Authority and the equipment shall be sealed so as to prevent any accusation of tampering.

(H) Conclusion

The Licensing Board concluded by emphasising that the various items included in their deliberations, as shown above, have the safety of passengers of hackney carriages and private hire vehicles as a firm

priority. The Members' comments will be used to inform the forthcoming public consultation process and will be considered further at future meetings of the Licensing Board, after completion of the public consultation.

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

(2) That the draft Hackney Carriage and Private Hire Licensing Policy, as now submitted and amended, be accepted and shall be the subject of public consultation during November and December 2014.

(3) That an appropriate press release be issued in advance of the start of the public consultation process referred to at (2) above.

(4) That the Director of Housing and Neighbourhood Services shall submit a further report, detailing the outcome of the public consultation process, to the meeting of the Licensing Board scheduled to take place on Wednesday, 11th February 2015.

(5) That the Director of Housing and Neighbourhood Services shall submit a further report, containing the final draft of the proposed Licensing Policy, as revised in the light of the public consultation process, to the meeting of the Licensing Board scheduled to take place on Wednesday, 11th February 2015, prior to eventual consideration of the Policy by the Cabinet and by the Council.