

To: General Purposes Licensing Committee

Date: 10 June 2014

Report of: Head of Environmental Development

Title of Report: Update on Taxi Licensing Activity:
2013/14 Council Year

Summary and Recommendations

Purpose of report: To inform Committee of the progress made by the Taxi Licensing Function during the 2013/14 Council year.

Report Approved by:

Finance: Paul Swaffield

Legal: Daniel Smith

Policy Framework: Vibrant Sustainable Economy

Recommendations: That the Committee:

(i) Notes the contents of the report; and

(ii) Makes any comments and recommendations regarding the future work of the Taxi Licensing Function.

Introduction

1. This report informs Committee of progress made by the Taxi Licensing Function under the duties of the Town & Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 during the 2013/14 Council Year.
2. The report covers data on service volumes; details of Taxi Licensing hearing decisions; decisions made under delegated powers; information on volumes of drivers and vehicles and enforcement activity.
3. The tables below provide data on licence applications received and processed during the period that this report covers.

Licences Issued	Total 2013/14 Council Year
Hackney Carriage Driver	330
Private Hire Driver	692
Hackney Carriage Vehicle	132
Private Hire Vehicle	743
Private Hire Operator	27

Actions Undertaken	Total 2013/14 Council Year
Licensing Hearings	21
Enforcement Actions Commenced	385
Prosecution Cases Started	8
Complaints about Drivers / Vehicles / Operators	250

Applications Granted by the Licensing Authority

4. A hearing is not required where an application has been lawfully made and no adverse information pertaining to the “fitness” of a person or vehicle to be licensed by this Authority has been found. There have been 1008 driver, 875 vehicle, and 27 Operator licenses issued by the Head of Environmental Development under delegated authority during the reported period. Fourteen applications to grant or renew driver licences were determined by the Hackney Carriage and Private Hire Licensing Sub-Committee.

Hackney Carriage & Private Hire Licensing Sub-Committee Hearings

5. When adverse information pertaining to the “fitness” of a person or vehicle to be licensed or to continue to be licensed by this Authority has been found then the matter is determined at a Sub-Committee Hearing.
6. Such adverse information may be derived from information relating to an application such as health concerns, relevant cautions or convictions, or from the enforcement records held by the Licensing Authority in relation to serious incidents, or repetitive failures to adhere to standard drivers and vehicle conditions will call in to question a licence holders suitability to meet with this Authority’s description of a Fit and Proper person.
7. Whilst there is no legal definition the criteria the Authority consider relevant are set out in the Policy on the Relevance of Warnings, Offences, Cautions and Convictions states:

Fit and Proper Person: *A person who poses no threat to the general public, has a good knowledge of the City, is healthy, and is of a good character (including driving record) will be deemed fit and able to hold a licence.*

8. During the 2013/14 Council year, 21 Hearings were held to determine the fitness of new applicants and existing licence holders. The results of the Hearings are shown in the table below:

	Granted	Councillor Warning	Refused	Suspended	Revoked
New Driver	5	0	2		
Existing Driver	2	0	5	1	6

Appeals

9. Six Sub-Committee decisions were appealed to the Magistrates' Court during the period covered by this report (note: not all of the six appeals relate to those decisions shown in the above table, but also to matters determined in the 2012/13 Council year).
10. These appeals concerned the Sub-Committee decisions to revoke Private Hire Driver Licences following 3 drivers being convicted for Plying for Hire and driving without insurance, 2 drivers exceeding the levels of Warnings able to be issued by the Licensing Officers, and 1 driver having been issued with a Police Caution for an offence of violence.
11. The Court dismissed the 3 appeals relating to the revocations for Plying for Hire and driving without insurance and the 2 appeals relating to the accumulation of Warnings; but upheld the appeal relating to the driver who had been issued with a Police Caution. The Court gave its reasons for upholding the appeal as:
- I. The Council's own policy stated cautions should not be treated as seriously as convictions.*
 - II. The Sub Committee had not had all the information at the hearing, there was evidence of provocation before the assault.*
 - III. No members of the public were present at the time of the incident.*
12. Following discussions between the Chair of this Committee, the Council Lawyer and the Licensing Team Leader and consideration of the reasons given by the Magistrates' for overturning the decision of the Sub-Committee, it was decided that there were insufficient grounds on this occasion for the Council to pursue a further appeal against the decision of the Court.

Enforcement Activity

13. Whilst engaged on Enforcement Operations throughout the 2013/14 Council year, the Licensing Team has carried out 385 enforcement interventions, issuing the following sanctions (in accordance with the Policy on the Relevance of Warnings, Offences, Cautions and Convictions):
- 6 Cases still pending (awaiting further intelligence reports)
 - 32 No further action taken due to credible driver explanations
 - 17 Failures to submit DBS or Medical Disclosure
 - 2 Licences surrendered
 - 1 Recommendation to undertake English Language course
 - 7 Responses to queries relating to Enforcement Procedures
 - 35 Verbal Advice given at scene of an incident
 - 74 Advisory Warnings
 - 66 First Level Warnings
 - 34 Second Level Warnings
 - 32 Final Warnings
 - 15 Permits issued to vehicles with minor damage to remain in service for a maximum period of 28 days
 - 24 Notifications of referral to the Sub-Committee
 - 6 Suspension Notices (driver)
 - 6 Suspension Notice (vehicle)
 - 20 Notifications of non-payment letters
 - 8 PACE interviews following Test Purchase Operations
14. The purpose of the “Warning” system is to educate licence holders as to their responsibilities and the need to uphold the Taxi Licensing objectives. Verbal advice and the four levels of “Warnings” may be issued by the Licensing Officers, and the level of “Warning” issued is dependent upon the nature of the incident, the severity of the matter, whether there have been any previous incidents of non-compliance, and how the matter sits in relation to the Taxi Licensing objectives.
15. Verbal advice was given at the scene of a number of incidents relating to drivers committing basic Road Traffic Act offences whilst the Licensing Officers were carrying out their night time enforcement duties.
16. Typically Warnings issued by the Licensing Officers related to failures and / or accumulated failures by licence holders to declare relevant motoring convictions, failures to adhere to the conditions attached to their driver / vehicle licence, failures to provide satisfactory documents in relation to the licence renewal process, and in some cases Suspensions were issued due to concerns relating to the licence holder upholding the objectives of public safety following relevant information from Thames Valley Police.
17. As well as the disciplinary measures taken during the enforcement operations, 250 complaints were received from members of the public during this reporting period relating to poor customer service, rudeness,

road traffic offences and plying for hire, and a breakdown of the actions taken by the Licensing Officers is detailed below:

- 5 Cases currently still active (at the time of compiling this report)
- 140 Cases where no further action was or could be taken*
- 26 Verbal Advice given
- 29 Advisory Warnings
- 16 First Level Warnings
- 16 Second Level Warnings
- 6 Final Warnings
- 2 Meetings held with drivers regarding accumulation of Warnings
- 5 Notifications of referral to the Sub-Committee
- 5 Referred to other Local Authorities to investigate

** due to the version of events stated by the complainant and the driver being too dissimilar and no independent witness to verify either account, a record is kept on the driver file should similar issues be reported. It should also be noted that some complaints have been maliciously made about drivers and when the complaint has been challenged by the Licensing Officers, the complainant has not responded.*

18. The Weekend Night-time Operation implemented by the Environmental Development Service operates between 11.00 p.m. and 4.00 a.m. on both Friday and Saturday nights and proactively checks for non-compliance by both the Hackney Carriage and Private Hire trades.
19. This further increases our robust enforcement presence throughout the city at weekends and the two Council Officers carrying out the Operation report any findings back to the Licensing Authority in order that the appropriate actions are undertaken.

Test Purchase Operations

20. During the 2013/14 Council year, 12 Test Purchase Operations were carried out resulting in 8 drivers failing the Test Purchase. Resulting from the Operations 7 interviews (under the Police & Criminal Evidence Act) have been carried out by the Licensing Officers investigating suspected offences of plying for hire and driving without the correct insurance (a Private Hire Vehicle is not insured for public hire, whereas a Hackney Carriage Vehicle is).

Note: *We were unable to proceed with one prosecution owing to the driver having left the country for four months, resulting that the time permitted in law to (Limitation of Proceedings) meant that it would not be possible to comply with the necessary timescales.*

21. Resulting from the above PACE interviews all of the cases were forwarded to Law & Governance for consideration to prosecute drivers for the offences of plying for hire and driving without the correct insurance.

Prosecutions

22. During the 2013/14 Council year, 3 cases of plying for hire and driving without the correct insurance were heard in the Magistrates Court (relating to Test Purchase Operations and PACE interviews carried out prior to this reporting period and during this reporting period), the 4 other cases are due to be heard shortly. In recent months the Court period of time between submitting the prosecution file and the date of the Court hearing appears to have lengthened caused by factors beyond the control of the Council.
23. A further case of plying for hire and driving without the correct insurance were heard in the Magistrates Court, following one particular driver found twice during standard enforcement operations to be offering his services without the knowledge of his Private Hire Operator. He was found guilty on both counts.
24. In all of the above cases, the licence holders were found guilty of both offences, and issued with 6 penalty points to be endorsed on their DVLA Licence and a fine and ordered to pay costs.
25. The sentences handed out by the Court immediately gave rise to the licence holders having been found guilty of committing a “relevant offence” in relation to his or her status as a “fit and proper” person to continue to hold a licence, and all cases were / have been referred on to the Hackney Carriage and Private Hire Licensing Sub-Committee for determination in accordance with our Policy on the Relevance of Warnings, Offences, Cautions and Convictions, which states:

The Licensing Authority regularly carries out what are known as “Test Purchase” Operations, where attempts are made to ascertain whether individual licence holders and Private Hire Operators knowingly ply for hire. If any licence holder is found to be non-compliant with regard to this matter during such an operation, they should expect the matter to result in a prosecution against them in the Courts. If convicted by the Court of a single offence of plying for hire, the licence holder will be required to appear before the Hackney Carriage and Private Hire Licensing Sub-Committee, where the licence holder should expect to receive a revocation of their licence.

26. Should any such driver reapply for a licence with this Authority, then they will be referred to the Hackney Carriage and Private Hire Licensing Sub-Committee in order to determine the application. The Sub-Committee will be (unless there are valid reason to depart from it) be directed by our Policy on the Relevance of Warnings, Offences, Cautions and Convictions, which states:

If a licence is revoked a period of twenty-four months should have elapsed before any application is considered.

Future Work

27. The Licensing Authority has been working in partnership with the Community Safety Team in order to assess and implement ways of helping the Trade be aware of Child Sex Exploitation, and it has been agreed to place an “information page” regarding this subject within the current Hackney Carriage and Private Hire Driver Application Pack, and to introduce some related questions into the existing Local Knowledge Test undertaken by all new applicants.
28. The enforcement programme will continue in its current guise, namely daytime inspections of vehicle at taxi ranks, inspections of Private Hire Operator records and facilities, late night enforcement operations throughout the city, and late night Test Purchase operations and if there is financial scope the number of Test Purchase operations will be increased.
29. The Licensing Team has met with its counterparts at our neighbouring Authorities in an attempt to discuss the rise of out of district Hackney Carriages being used predominately in Oxford to carry out Private Hire work on behalf of some Oxford licensed Private Hire Operators.
30. Whilst the law does not make this practice illegal, it causes great concern to the Licensing Authority as the high standards and rigorous criteria imposed by ourselves is not applicable to those licensed by our neighbours, and in some cases leads to the public being serviced by drivers and vehicles that do not meet with the Council objective of Oxford being a world-class city.
31. Unfortunately, whilst some of our neighbours have developed a close working relationship with us to address this matter, and undertake suitable levels of enforcement, others do not carry out such enforcement nor seek to make enquiries as to the purpose for individual vehicle owners seeking a Hackney Carriage Driver and Vehicle licence with them, despite there not being any demand for such a service in that district, leading to potential new applicants and some existing Oxford licensed Private Hire Drivers and Vehicles to seek a licence from a cheaper and less proactive Authority.

Legal Implications

32. There are no legal implications contained within this report.

Financial Implications

33. Any financial implications contained within this report will be met within existing budgets.

Recommendations

34. The Committee is recommended to:
 - (i) note the content of the report; and

- (ii) make any comments and recommendations regarding the future work of the Taxi Licensing function.

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