

To: General Purposes Licensing Committee

Date: 14 September 2015

Report of: Head of Community Services

Title of Report: Update on Taxi Licensing Activity: April – August 2015

Summary and Recommendations

Purpose of report: To inform Committee of the progress made by the Taxi Licensing Function during the current Council year (April – August 2015).

Report Approved by:
Finance: Paul Swaffield
Legal: Daniel Smith

Policy Framework: Vibrant Sustainable Economy
Policy on the Relevance of Warnings, Offences,
Cautions and Convictions

Recommendation(s): That the General Purposes Licensing Committee resolves to:

- 1. note the contents of the report; and**
- 2. make 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 current Council Year (April – August 2015).**
- 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 April – August 2015
Hackney Carriage Driver	129
Private Hire Driver	294
Hackney Carriage Vehicle	63
Private Hire Vehicle	223
Private Hire Operator	10

Actions Undertaken	Total April – August 2015
Licensing Hearings	10
Enforcement Actions Commenced	210
Prosecution Cases Started	1
Complaints about Drivers / Vehicles / Operators	92

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 421 driver, 286 vehicle, and 10 Operator licenses issued by the Head of Community Services under delegated authority during the reported period. Three 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 current Council year, 10 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	2	0	1		
Existing Driver	0	4	0	0	3

**In some instances where a Councillor Warning was issued this also related to an application for a new licence, or an application to renew a licence (not just cases where the level of Warnings available to Officers had been exceeded), and the requirements of the Councillor Warning were made additional conditions to the grant / renewal of the licence.*

9. Of those issued with a Councillor Warning, attached to the Councillor Warning in some cases were additional conditions applied to the licence, including:
- Requirements made on all drivers receiving a Councillor Warning that any future issues of non-compliance / complaints are to be brought before the Sub-Committee.

Appeals

10. One Sub-Committee decision is due to be appealed at the Magistrates' Court relating to the period covered by this report.
11. This appeal concerns the Sub-Committee decisions to revoke a Private Hire Driver Licence following the drivers being convicted for Plying for Hire and driving without insurance.
12. One Sub-Committee decision is due to be appealed at the Magistrates Court relating to the period covered by the previous Activity Update report.
13. In relation to both of the above cases, the result of these appeals will be reported to the Committee at its next meeting.

Enforcement Activity

14. Whilst engaged on Enforcement Operations throughout the current Council year, the Licensing Team has carried out 210 enforcement interventions, issuing the following sanctions (in accordance with the

Policy on the Relevance of Warnings, Offences, Cautions and Convictions). Such matters were witnessed by the Officers, or by other Authorised Personnel of other agencies:

- 15 Cases still pending (awaiting further intelligence reports)
 - 22 No further action taken due to credible driver explanations / immediate rectification of minor infringement
 - 24 Failures to submit DBS or Medical Disclosure
 - 1 Licences refused
 - 18 Written Advice Letters
 - 37 Advisory Warnings
 - 23 First Level Warnings
 - 9 Second Level Warnings
 - 11 Final Warnings
 - 11 Permits issued to vehicles with minor damage to remain in service for a maximum period of 28 days
 - 8 Notifications of referral to the Sub-Committee
 - 2 Suspension Notices (driver)
 - 5 Inspections of Operator Premises
 - 2 Notifications of non-payment letters
 - 4 Incidents referred to other Authorities
 - 17 Requests for PNC Checks following delays with issue of Enhanced DBS Disclosure
 - 1 PACE interviews following Test Purchase Operations
15. 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.
16. Verbal Advice (supported by a letter of Written 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.
17. 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.
18. As well as the disciplinary measures taken during the enforcement operations, 92 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:

- 13 Cases currently still active (at the time of compiling this report)
- 4 Cases of explaining the legislation to the public / MP
- 19 Cases where no further action was or could be taken*
- 1 Vehicle sent to Cowley Marsh Depot to be fully tested
- 12 Written Advice Letters
- 4 Advisory Warnings
- 6 First Level Warnings
- 7 Second Level Warnings
- 10 Final Warnings
- 2 Requests made to Operators to refund customers for poor service
- 1 Notification of referral to the Sub-Committee
- 13 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 asked to provide further information regarding the original allegation, no response has been received by the Licensing Officers.*

19. The Weekend Night-time Operation implemented by the Environmental Protection 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.
20. 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

21. During the current Council year, 3 Test Purchase Operations were carried out resulting in 1 driver failing the Test Purchase. Resulting from the Operations 1 interview (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).
22. 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

23. During the current Council year, 4 cases of plying for hire and driving without the correct insurance were due to be 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).
24. Three cases were heard at the Magistrates Court (the other is yet to be heard), and in all of these cases, the licence holders either pleaded or 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.
27. In such cases 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

Operation Bullfinch: Serious Case Review Findings

28. Working closely with officers from the Community Safety Team, the safeguarding approach to taxi regulation has been tightened. Vetting and Sub-Committee procedures remain stringent but information on safeguarding has been made more widely available to drivers and operators.

29. Whilst our current approach to Safeguarding is widely acclaimed as one of setting high standards, the findings of the Serious Case Review into Operation Bullfinch make the following recommendations. We are fully committed to implementing these recommendations in partnership with our neighbouring Oxfordshire Authorities and Oxfordshire County Council to ensure consistency countywide:
- **A single high quality standard of vetting applicants;**
 - **Information Sharing Protocol between Districts and County Councils; and**
 - **Safeguarding Awareness and Training for all licensed drivers**
30. The Committee will be pleased to note that our current robust application process for new applicants and those seeking to renew their licences meets with the Serious Case Review findings. However, we are working with other Authorities to place the information sharing arrangements on a more formal footing.
31. The Committee is asked to note that the requirements of the Deregulation Act 2015 as detailed later in this report may significantly impact on the vetting process, and the Committee are asked to provide Officers with direction in relation to such matters.
32. The Licensing Manager is in the process of formalizing current Information Sharing arrangements between the District and County Councils. It is imperative that information that may have a bearing on the safeguarding of children and vulnerable adults is shared countywide in order that we uphold our responsibilities in relation to protecting the public.
33. The Environmental Protection Service Manager is currently in discussion with his counterparts at both District and County Council level in relation to the provision of Safeguarding Awareness and Training to be rolled out simultaneously across Oxfordshire.
34. The Committee will note that the Serious Case Review recommends that applicants should have obtained Safeguarding Awareness and Training as part of the licensing application process and a licence not granted until the training has been undertaken.

Deregulation Act 2015

35. On 1 October 2015 the Deregulation Act comes into force. This Act requires the Licensing Authority to issue driver licences for a maximum period of three years, and Private Hire Operator licences for a maximum period of 5 years. Shorter time period may be permitted on a case by case basis.
36. This requirement to change from our current practices of all driver and

operator licences being renewed annually presents a great challenge and potential risks to the Authority. A report detailing the potential impact of the 2015 Act is provided to the Committee at this meeting.

Drivers and Vehicles Licensed by other Authorities but predominately carrying out their work in Oxford

37. 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.
38. 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.
39. A report offering this Committee various solutions as to how to combat / reverse the loss of control over these drivers and vehicles and the associated implications on our revenue caused by the current situation, is also put to Members at this meeting.

Legal Implications

40. There are no legal implications contained within this report, however a further report is provided to this Committee as to the requirements and potential impacts of the Deregulation Act 2015.

Financial Implications

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

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Version 1.0