

To: General Purposes Licensing Committee

Date: 21 May 2013 **Item No:**

Report of: Head of Environmental Development

**Title of Report: Update on Taxi Licensing Activity
January 2013 – March 2013**

Summary and Recommendations

Purpose of report: To inform Committee of the progress made by the Taxi Licensing Function between January 2013 and March 2013.

Report Approved by:

Finance: Paul Swaffield

Legal: Daniel Smith

Policy Framework: Vibrant Sustainable Economy

Recommendation(s):

The Committee is recommended to:

- (i) note the contents of the report; and**
- (ii) 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 between January 2013 and March 2013.
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 for January 2013 and March 2013.

Licences Issued	Total Jan 2013 – March 2013	Total for 2012/13 Year
Hackney Carriage Driver	69	324
Private Hire Driver	129	613
Hackney Carriage Vehicle	33	143
Private Hire Vehicle	165	684
Private Hire Operator	7	24

Actions Undertaken	Total Jan 2013 – March 2013	Total for 2012/13 Year
Licensing Hearings	6	34
Enforcement Actions Commenced	148	398
Number of Prosecution Cases Started	2	17
Complaints about Drivers / Vehicles	45	223

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 198 driver, 198 vehicle, and 7 Operator licenses issued by the Head of Environmental Development under delegated authority during the period January 2013 – March 2013.

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 driver 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 January 2013 and March 2013, 6 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	1	0	0		
Existing Driver	0	2	0	0	3

Appeals

9. The Licensing Authority received 2 applications for appeal during the period covered in this report. One of the appeals related to the revocation of a licence following a successful plying for hire prosecution. The other related to the revocation of a licence following a history of Warnings and Suspensions being issued to the licence holder.
10. On both occasions the Magistrate's Court whilst acknowledging that the Sub-Committee had adhered to the Council's Policy on the Relevance of Warnings, Offences, Cautions and Convictions, upheld the appeals, apparently finding that the drivers livelihoods would be severely undermined if the revocations were upheld, despite our contention that such a consideration was not a relevant factor.

Enforcement Activity

11. Between January 2013 and March 2013, the Licensing Team has carried out 149 enforcement interventions, issuing the following sanctions (in accordance with the Policy on the Relevance of Warnings, Offences, Cautions and Convictions):
- 1 Case still pending (awaiting outcome of Police investigation)
 - 23 Verbal Advice given at scene of an incident
 - 61 Advisory Warnings
 - 27 First Level Warnings
 - 6 Second Level Warnings
 - 15 Final Warnings
 - 5 Requests to vehicles to undergo an additional COC (MOT) Test
 - 3 Notifications of referral to Sub-Committee
 - 0 Suspension Notices (driver)
 - 0 Suspension Notice (vehicle)
 - 4 Notifications of non-payment letters
 - 3 PACE interviews (2 conducted, 1 to be conducted)

12. 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.
13. 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.
14. The majority of Advisory Warnings were issued due to minor breaches of driver / vehicle licence conditions i.e. failure to display Operator stickers, failure to have badge on display, minor cosmetic defects to vehicles, illegal parking, failing to inform the Authority of vehicle damage, etc.
15. Other issues found that resulted in higher levels of warnings were non-declaration of convictions on applications, excessive penalty points on DVLA driving licences, aggressive behaviour, poor driving standards, failures to comply with reasonable requests from the Licensing Officers, failures to adequately maintain a licensed vehicle (despite having been issued with a previous Warning).
16. As well as the disciplinary measures taken during the enforcement operations, 45 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:
 - 11 cases are still active (at the time of writing this report)
 - 20 No further action taken*
 - 6 Advisory Warnings
 - 4 First Level Warnings
 - 4 Second Level Warnings

** 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.*

Test Purchase Operations

17. Between January 2013 and March 2013, 3 Test Purchase Operations were carried out resulting in 2 drivers failing the Test Purchase. Resulting from the Operations 1 interview (under the Police & Criminal Evidence Act) was carried out by the Licensing Officers when 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). The other driver was invited to a PACE interview but refused to attend each invitation.

18. Resulting from the above PACE interview and the failure of the other driver to attend a PACE interview both cases were forwarded to Law & Governance for consideration to prosecute drivers for the offence of plying for hire and driving without the correct insurance, and in the case of the driver who failed to attend the Licensing Officer has also sought to prosecute the driver for the offences of Obstructing an Authorised Officer and Attempting to Pervert the Course of Justice .

Prosecutions

19. During the period January 2013 and March 2013, 2 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).
20. In each case the licence holder was 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.
21. All of these convictions will be referred to the Hackney Carriage and Private Hire Licensing Sub-Committee in due course in order to determine what action should be taken in accordance with our Policy on the Relevance of Warnings, Offences, Cautions and Convictions in relation to the licence issued by the Authority.

NightSafe Partnership

22. The NightSafe initiative contributes to the taxi licensing objectives. This includes intelligence sharing and has led to the Taxi Licensing Enforcement Officers being able to view late night taxi activity in a number of locations by arrangement with the CCTV Manager.
23. This benefits the regulation of licensed drivers and vehicles as it can reveal unprofessional conduct by the licensed trade in the City at night, and can act as a check or deterrent.

Future Work

24. Consultation commenced on 1st May 2013 (and ends on 12th June 2013) in relation to the decision of this Committee on 17th October 2012 regarding the proposals for vehicle age limits. The result of this consultation will be reported back to the Committee on 5th September 2013 for its recommendation to Council.
25. The Taxi Marshalling Scheme has commenced its second year of operation following a very successful debut during 2012/13. The Service Level Agreement (SLA) for this Scheme was forwarded to the Institute of Licensing who has published it as a model for all other Authorities to use should they implement similar Schemes. Our SLA has also been

recommended to the Law Commission for use as a National Standard for Taxi Marshalling.

26. The Law Commission has published an “interim response” following the consultation held in 2012 in relation to the proposals to reform Taxi and Private Hire Services. A copy of the “interim response” is attached as **Appendix One**. Members will note that the Law Commission appear to have abandoned plans to deregulate Hackney Carriage Vehicle Licence numbers, whilst all other proposals look to be moving forward as previously proposed. A full response is expected in due course.

Legal Implications

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

Financial Implications

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

Recommendations

29. 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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Background Papers

Appendix One: “Interim Response” from Law Commission

Version 1.0