

To: General Purposes Licensing Committee

Date: 21 January 2014 **Item No:**

Report of: Head of Environmental Development

Title of Report: Update on Taxi Licensing Activity
August 2013 – December 2013

Summary and Recommendations

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

| Licences Issued | Total August 2013 – December 2013 |
|--------------------------|--|
| Hackney Carriage Driver | 170 |
| Private Hire Driver | 286 |
| Hackney Carriage Vehicle | 49 |
| Private Hire Vehicle | 322 |
| Private Hire Operator | 7 |

| Actions Undertaken | Total August 2013 – December 2013 |
|--|--|
| Licensing Hearings | 10 |
| Enforcement Actions Commenced | 173 |
| Prosecution Cases Started | 5 |
| Complaints about Drivers / Vehicles / Operators | 98 |

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 455 driver, 371 vehicle, and 7 Operator licenses issued by the Head of Environmental Development under delegated authority during the reported period. One driver licence was granted following the application being 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 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. From August 2013 to December 2013, 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 | 1 | 0 | 1 | | |
| Existing Driver | 0 | 0 | 3 | 1 | 4 |

Appeals

9. Four Sub-Committee decisions were appealed to the Magistrates' Court during the period covered by this report. These appeals concerned the Sub-Committee decision to revoke Private Hire Driver Licences following 2 drivers being convicted for Plying for Hire and driving without insurance, 1 driver 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.
10. Three of the above four appeals that were lodged were heard at the Magistrates' Court during the reporting period. The Court dismissed the two appeals relating to the revocations for Plying for Hire and driving without insurance; 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.*
11. 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

12. Between August 2013 and December 2013, the Licensing Team has carried out 174 enforcement interventions, issuing the following sanctions (in accordance with the Policy on the Relevance of Warnings, Offences, Cautions and Convictions):

- 20 Cases still pending (awaiting further intelligence reports)
 - 17 No further action taken due to credible driver explanations
 - 11 Failures to submit DBS or Medical Disclosure
 - 22 Verbal Advice given at scene of an incident
 - 28 Advisory Warnings
 - 20 First Level Warnings
 - 13 Second Level Warnings
 - 12 Final Warnings
 - 4 Permits issued to vehicles with minor damage to remain in service for a maximum period of 28 days
 - 1 Request for a vehicle to undergo an additional COC Test
 - 11 Notifications of referral to Sub-Committee
 - 3 Suspension Notices (driver)
 - 1 Suspension Notice (vehicle)
 - 9 Notifications of non-payment letters
 - 2 PACE interviews (3 others pending)
13. 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.
14. 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.
15. 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.
16. As well as the disciplinary measures taken during the enforcement operations, 98 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:
- 20 Cases are still active (at the time of writing this report)
 - 2 Referrals to neighbouring authorities
 - 48 No further action taken*
 - 15 Advisory Warnings
 - 4 First Level Warnings
 - 4 Second Level Warnings

- 2 Final Warnings
- 3 Referred to other District Councils

** 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.*

17. The Weekend Night-time Operation recently 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.
18. 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

19. Between August 2013 and December 2013, 5 Test Purchase Operations were carried out resulting in 3 drivers failing the Test Purchase. Resulting from the Operations 3 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).
20. Resulting from the above PACE interviews both 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

21. During the period August 2013 to December 2013, 3 cases of plying for hire and driving without the correct insurance (2 cases related to one driver) were heard in the Magistrates Court (relating to Test Purchase Operations and PACE interviews carried out prior to this reporting period).
22. In the case of the licence holder who had committed 2 offences, he was found of both offences, the other licence holder pleaded guilty to the offence. Both were issued with 6 penalty points to be endorsed on their DVLA Licence and a fine and ordered to pay costs.
23. In both cases the Private Hire Driver licences have lapsed. Should the drivers seek to apply for a licence, then 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.

Future Work

24. The Licensing Authority is 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 is hoped that following the completion of this piece of work that requirements will be put in place for all drivers to have met in relation to this sensitive and concerning public interest.

Legal Implications

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

Financial Implications

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

Recommendations

27. 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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