



Committee: LICENSING REGULATORY COMMITTEE

Date: THURSDAY, 4 SEPTEMBER 2014

Venue: LANCASTER TOWN HALL

Time: 1.00 P.M.

A G E N D A

1. **Apologies for Absence**

2. **Minutes**

Minutes of the meeting held on 17 July 2014 (previously circulated).

3. **Items of Urgent Business authorised by the Chairman**

4. **Declarations of Interest**

To receive declarations by Members of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting.)

Whilst not a legal requirement, in accordance with Council Procedure Rule 10 and in the interests of clarity and transparency, Members should declare any disclosable pecuniary interests which they have already declared in the Register at this point in the meeting.

In accordance with Part B, Section 2, of the Code of Conduct, Members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

5. **Review of Recent Court Cases** (Pages 1 - 2)

Report of Licensing Manager

6. **Multi Agency Vehicle Inspection Operation** (Pages 3 - 4)

Report of Licensing Manager

7. **Amendment to the Rules Regulations and Procedures for Hackney Carriage and Private Hire Licensing** (Pages 5 - 7)

Report of Licensing Manager

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Margaret Pattison (Chairman), Mike Greenall (Vice-Chairman), Roger Dennison, Jonathan Dixon, Tim Hamilton-Cox, John Harrison, Tony Johnson, Roger Mace and Robert Redfern

(ii) Substitute Membership

Councillors Tony Anderson, June Ashworth, Chris Coates, Joan Jackson, Terrie Metcalfe and Susan Sykes

(iii) Queries regarding this Agenda

Please contact Jane Glenton, Democratic Services - telephone (01524) 582068, or email jglenton@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone (01524) 582170, or email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Tuesday, 26 August 2014.

LICENSING REGULATORY COMMITTEE**Review of Recent Court Cases
4th September 2014****Report of Licensing Manager****PURPOSE OF REPORT**

To inform Members of the outcomes of recent court cases in relation to hackney carriage and private hire drivers.

The report is public

RECOMMENDATIONS

The Committee is requested to note the report.

1.0 Introduction

1.1 Members have requested to be kept informed of licensing court cases, and it is intended to provide a quarterly report. Unfortunately when the last report was due in June, it was mistakenly thought that there were no cases to report since March. This report therefore includes all cases which have been determined in Lancaster Magistrates' court in relation to licensing matters since March.

1.2 10th April 2014

Keith Raby of Nether Kellet was convicted for plying for hire on a street which was not a designated rank contrary to Byelaws adopted by Lancaster City Council. He was fined £150 and ordered to pay £150 costs and a £20 victim surcharge.

1.3 26th June 2014

Laurence Dent of Lancaster appealed the decisions of the Licensing Regulatory Committee to suspend his hackney carriage and private hire driver's licence for a period of 2 months in February 2014 and a subsequent period of 4 months in June 2014. The second suspension being with immediate effect.

The Appeal was heard before District Judge Hatter at the Magistrates' Court. Evidence was given by the Licensing Manager and by the respective complainants in relation to the two incidents that led to the Committee's decisions to suspend the licence. Members will recall that in respect of the first incident the complainant was the owner of a hair salon, and in the second, another taxi driver.

In respect of the first incident, the Judge found, as a matter of fact, that the evidence of the complainant was clear, cogent and credible and he was satisfied that the incident did take place as alleged and that Mr Dent's actions were not those of a fit

and proper person. The appeal was therefore dismissed and the Committee's decision to suspend the licence for two months upheld.

In relation to the second incident, the Judge found the evidence from the complainant to be vague, elusive and inconsistent and preferred Mr Dent's versions of events and therefore allowed the appeal.

As Mr Dent had already served two months' suspension following the Committee's decision in April the Judge was satisfied that Mr Dent had in effect already served the two month suspension given by Committee in February, and upheld on appeal, and his licence was therefore reinstated following the hearing.

The Judge was clear that no criticism was to be made of the Council and this was reflected in the fact that no costs were awarded.

2.0 Conclusion

2.1 Members are asked to note the report.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Enforcement of licensing matters helps to assure the public that the Council does consider the issue of the safety of the public.

FINANCIAL IMPLICATIONS

Most prosecutions are conducted by the Council's internal solicitors, so that the costs are met from within existing staff budgets. However, on occasions, Legal Services instruct Counsel to represent the Council, for example where the other party is known to have instructed Counsel or a specialist lawyer, or where the case is particularly complex. In the case of the appeals referred to in the report, Counsel was instructed at a cost of £3,000 and this was met from the Council's Legal and Court Costs budget. Any costs awarded to the Council by the court are collected by the court and paid to the Council.

LEGAL IMPLICATIONS

The Council are under a duty to ensure that the legislation in relation to hackney carriage and private hire licensing is enforced.

BACKGROUND PAPERS

None

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LICENSING REGULATORY COMMITTEE

**Multi Agency Vehicle Inspection Operation
4th September 2014**

Report of Licensing Manager

PURPOSE OF REPORT

To inform Members of the outcomes of recent multi agency vehicle inspection operation.
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The report is public

RECOMMENDATIONS

The Committee is requested to note the report.

1.0 Introduction

- 1.1 Members may be aware that on the 12th and 13th August licensing officers carried out a multi-agency vehicle inspection operation with officers from the Lancashire Constabulary, Officers from the Vehicle and Operator Services Agency (VOSA) and Officers from HMRC.
- 1.2 The inspections took place within a unit at the Middlegate Industrial Estate in Morecambe which was loaned to the Lancashire Constabulary at no cost to the Council. All hackney carriage and private hire vehicles were requested to attend in accordance with s68 of the Local Government (Miscellaneous Provisions) Act 1976 which prescribes that:-
- Any authorised officer of the council in question or any constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any hackney carriage or private hire vehicle licensed by a district council.
- 1.3 Members may be aware that the recent High Court case of R v Lancaster City Council ex parte Wilcock determined that fitness of a vehicle for the purpose of s68 has a very broad meaning and incorporates such things as signage and cleanliness. It does not confine itself to mechanical fitness as was challenged during that case.
- 1.4 Also present were officers of the Lancashire Constabulary Road Policing Unit who carried out inspections on private vehicles whilst licensing officers inspected licensed vehicles. An officer from VOSA assisted both the police and licensing offices when required. HMRC officers were present and they carried out fuel checks.
- 1.5 During the 2 days, 265 licensed vehicles were inspected. The inspections were carried out with the minimum of waiting for drivers due to the hard work of officers present on the day.
- 1.6 Of the 265 licensed vehicles inspected, only 1 vehicle was suspended with immediate effect. This was a private hire which was not displaying a front plate. However 108 vehicles had minor issues and were either given advice or given defect

notices. The issues ranged from missing signage e.g. smoking signage, to bulbs being defective and tatty body work. Most people went away and corrected the issue immediately and came back and had the matter cleared. Some matters involving bodywork will obviously take longer to correct and defect notices were issued accordingly.

- 1.7 HMRC carried out checks on the 12th August on the fuel in 54 licensed vehicle tanks and found that all were legal. Officers from HMRC commented on the high standards of our vehicles and on the level of amicability and cooperation of most of the drivers. Unfortunately, HMRC were unable to attend on the 13th August as they were called away to Heysham Port.
- 1.8 In officers' opinion the exercise was very successful and advice was received well by those attending. Some of the attendees were new proprietors who said they were unsure of what was required of them before attending and were grateful for the clarification. Vehicle inspections were carried out promptly usually taking approximately 5 minutes per vehicle and most proprietors appeared to be happy with that.
- 1.9 Those proprietors who contacted the office prior to the inspections to say that they could not attend on the required dates for various reasons were told that alternative arrangements would be made to inspect their vehicles.

2.0 Conclusion

- 2.1 It is the responsibility of the licensing authority to ensure that all vehicles licensed by us are safe and comfortable. Inspections such as this are carried out throughout the country by all licensing authorities and help to give confidence to members of the public in relation to the safety of the taxis they travel in. Those proprietors who maintain their vehicles to a high standard usually welcome exercises such as this, and the figures set out in the report in relation to faults and defects would indicate that the exercise was a resounding success.
- 2.2 Members are recommended to note the report and in doing so the licensing manager would request that Members acknowledge the hard work of the enforcement officers throughout the 2 days.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Inspecting vehicles to ensure that high standards are maintained is in the interests of public safety.

FINANCIAL IMPLICATIONS

There are no financial implications, as the inspections were carried out by officers in the course of their normal duties.

LEGAL IMPLICATIONS

The Council are under a duty to ensure that the legislation in relation to hackney carriage and private hire licensing is enforced.

BACKGROUND PAPERS

None

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LICENSING REGULATORY COMMITTEE**Amendment to the Rules, Regulations and Procedures for
Hackney Carriage and Private Hire Licensing
4th September 2014****Report of Licensing Manager****PURPOSE OF REPORT**

To request that Members approve an amendment to the conditions in relation to hackney carriage and private hire vehicle licences which will allow proprietors to display a sticker which has been provided by the Lancashire Constabulary endorsing the request of pre-payment of fares.

This report is public.

RECOMMENDATIONS

Members are requested to approve the proposed amendment to the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing –

1. To allow proprietors to display a sticker in their vehicles which has been provided by Lancashire Constabulary as part of their Safeguarding Taxi Drivers Campaign and endorses any request from the driver to the passenger for a pre-payment of the fare.

1.0 Report

1.1 Lancashire Constabulary have been doing some work in relation to civil disputes. One outcome of that work was that taxi related incidents have been identified as a key demand. Incidents have been taking up a lot of police time Lancashire wide and the police are trying to look at ways of dealing with that issue so that their resources can be better utilised.

1.2 One of the recommendations from their work is that the Police should provide a consistent message to taxi drivers and encourage pre-payment of fares in order to prevent not only making off without payment offences but also associated crimes which may be initiated by payment disputes, such as assaults, theft, damage etc.

1.3 The police are therefore recommending that a sticker be placed in all licensed vehicles. This would allow the driver to refer to it when asking for pre-payment and the endorsement from the police would add credibility to the request. This request was due to be discussed at the Taxi Forum on the 28th August.

1.4 Members may be aware that there is a facility on the hackney carriage table of fares which allows hackney carriage drivers to ask for payment in advance. However in officers' opinion a sticker which is endorsed by the police would assist drivers when making that request. A copy of the sticker is attached at appendix 1 to this report

1.5 Members may also be aware that conditions have been attached to all licensed vehicles in relation to signage. In order to facilitate the display of this signage the conditions would have to be amended accordingly.

1.6 Members may wish to determine whether the display of the sticker should be compulsory or whether the conditions should be amended to permit the display of the signage at the proprietor's discretion. Officers would recommend that the displaying of the signage should be optional as some proprietors may consider it to be perceived to be antagonistic or not appropriate for the type of work they undertake.

2.0 Conclusion

2.1 Members are requested to approve the proposed change to the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing as set out in the recommendation above.

CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)
The Rules, Regulations and Procedures are in place to protect the public.

The proposed changes do not have the potential to cause negative impact or discriminate against different groups in the community based on age, disability, gender, race/ethnicity, religion or religious belief (faith), sexual orientation, or rural isolation.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

LEGAL IMPLICATIONS

There are no direct legal implications arising from this report.

BACKGROUND PAPERS None.	Contact Officer: Wendy Peck Telephone: 01524 582317 E-mail: wpeck@lancaster.gov.uk Ref: WP
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Lancashire Constabulary

police and communities together

Following advice from Lancashire Police:-

- You may be asked to pay up front for your journey
- If you don't pay you may be refused travel
- A receipt can be provided if requested

