

3. DID ROTHERHAM TAKE AND CONTINUE TO TAKE SUFFICIENT STEPS TO ENSURE ONLY FIT AND PROPER PERSONS ARE PERMITTED TO HOLD A TAXI LICENCE?

Inspectors were directed to consider whether RMBC took and continues to take sufficient steps to ensure only 'fit and proper persons' are permitted to hold a taxi licence.

Background

Licensing, regulation and enforcement functions exist to protect the general public from harm across areas ranging from food safety to houses in multiple occupation, to licensed premises for entertainment. Safety is one of the principles of licensing which informs legislation. The safety of the public should be the uppermost concern of any licensing and enforcement regime: when determining policy, setting standards and deciding how they will be enforced.

This is nowhere more important than in taxi licensing where sometimes vulnerable people are unaccompanied in a car with a stranger. For this reason, taxi driving is a 'notifiable' occupation, so if a taxi driver is arrested, charged or convicted, or is the subject of a police investigation, the Licensing Authority must be informed.

Judgement

Inspectors have found that Rotherham has not taken, and does not take, sufficient steps to ensure only fit and proper persons are permitted to hold a taxi licence. As a result, it cannot provide assurances that the public, including vulnerable people, are safe. The inspection uncovered serious weaknesses and concerns.

Licensing at RMBC

The Licensing Authority for Rotherham is the Council. It processes applications and renewals for taxi licences, operator licences and vehicle licences. As such, it needs to:

- ensure that taxi drivers are 'fit and proper' to drive the public
- investigate any complaints about the conduct of drivers/operators and
- consider complaints when licences come up for renewal – or more urgently if need be
- ensure compliance with operator and driver licence conditions and vehicle conditions.

The licensing service in Rotherham reports to the Director of Housing and Neighbourhood Services in the Neighbourhood and Adult Services directorate

(NAS). Home to school transport has also been contracted out to taxi operators but is managed by a separate team.

There is a Member level Licensing Board which reports to full Council, and has delegated authority to determine policy and applications, suspensions and revocations of licence. The Board has recently been reduced from 25 to 5 Members. There is further delegation to the Director to undertake suspensions of licences. There is a right of appeal for decisions that are made by the Council to the Magistrates Court.

As at September 2014 there were 86 private hire operators, 840 vehicles, 52 Hackney carriages and 1158 licensed drivers in Rotherham.

In the past 5 years, the service has dealt with a total of 1100 complaints about taxi drivers. The annual level of complaints has been steady for the past three years at around 180. In the past five years the service has suspended 33 licences and revoked 26, with a further 29 revoked due to non-production of appropriate documentation.

A divided service

The licensing service portfolio covers eight other licensing areas including gambling, alcohol and licensed takeaways. The taxi service is divided into two branches:

- the Policy team deals with policy, applications, renewals, suspensions and revocations
- The Enforcement team deals with complaints and investigations

The split of these functions is not common in other licensing authorities. Inspectors found evidence of conflict between the two branches, notably on what kind of evidence could be presented when the Licensing Board meets to consider whether to revoke or suspend a licence.

The two branches of licensing use different databases which do not interface, so information is not easily shared between Policy and Enforcement teams. This means that driver or operator records cannot be viewed in a single place, requires officers to request information from each other and has sometimes resulted in a licence being renewed without question when in fact the driver is being investigated following a complaint.

Inspectors found that enforcement staff do not always record complaints or information gathered on these data systems. This inconsistent recording of information on complaints has the consequence that because data on driver performance and conduct is not collected, trends are not identified and track record

data (for example identifying a series of complaints) may not be available at the point of licence renewal.

Meetings are rarely held across the entire service and some officers said that the visibility of senior leaders was poor. One officer stated that they had seen them for the first time at a briefing meeting shortly before Inspectors arrived.

Lack of policy

A number of officers had worked in other Licensing Authorities and commented to Inspectors that RMBC was behind the times as the licensing service appeared to have few written policies and attempts to draw those up would be stymied. Inspectors found that the Council's bye-laws and conditions relating to vehicle, taxi driver and operator licences seemed not to have changed since 1976, bearing out this contention.

And although there is clear documentation around procedure, there is no indication of what 'serious concerns around the activities of a licensed driver' should prompt for example an immediate suspension of an individual driver. Managers refused to be drawn on this matter, insisting that each case was different and stating that they would act on evidence from police.

Trade influence and the role of Members

Inspectors were often told that the private hire trade in Rotherham is vocal and demanding and some officers expressed the view that the licensing service seemed more geared towards facilitating the trade than protecting the public.

Members added to this pressure to support the trade. Some who had previously held taxi licences or 'badges' sat on the Licensing Board. At one point, the Board had been reluctant to hear any cases not related to matters showing up on DBS checks. That means where there were no actual convictions they would not suspend or revoke licences.

Licensing officers reported to Inspectors that they had received phone calls from Members over perceived delays in the processing of individual applications. Officers would be urged to 'stop wasting time'.

"The taxi driver is the customer and no thought is given to the passenger." An officer

There are instances of Members making representations on behalf of the trade or individual drivers. For example, one Councillor wrote to the Crown Court offering a reference on behalf of a driver who had his licence revoked. As noted earlier

Inspectors were also told that 'no notice' vehicle spot checks were changed to '10-day notice' checks after representations from the trade and a Member intervention.

Complaints and Investigations

There are major concerns over the licensing service's ability to undertake thorough investigations giving rise to a perception of undue weight being given to the need to protect drivers' livelihoods over and above the safety of the public.

The inspection undertook an audit of 22 complaints and found 86 per cent to be inadequate. There is inadequate investigation of some complaints and lack of tenacity resulting in cases being closed before they are satisfactorily resolved. There seems to be a propensity for informal resolution of complaints, giving the trade the benefit of the doubt and not following up all lines of enquiry including the evidence of complainants. This included a number of cases in which drivers had refused to carry passengers with guide dogs.

There has been inadequate follow through and information exchange with Children's Services and with the police on individual cases. This is despite clear efforts by some individual officers to establish good working links with related services, such as home to school transport service. Inspectors noted frustrations expressed by officers concerning feedback from police on cases which had been referred on to them to pursue. Inspectors also noted – and share – concerns expressed by officers that the service is not routinely informed by police of potential CSE concerns including abduction notices.

Officers seemed to lack curiosity over whether there are particular operators where a large number of vehicles may have fallen below standard, or a large number of drivers may have attracted complaints. As a result there is no record of the service exercising its right to place any conditions on individual operator licences where recurrent issues have been identified.

The service has set too high a threshold of evidence before considering suspension and revocation of a licence. Officers are entitled to apply a 'balance of probabilities' test to alleged offences by drivers, but instead appear to apply a test of 'whether it would get past the CPS'. There are examples where the service appears to have closed cases because it believes the CPS thresholds for prosecution will not be met. There is an associated concern here that information which the service does not regard as 'evidence' may not be provided to other parties.

In addition, Members of the Licensing Board have not been given sufficient bespoke training on dealing with taxi hearings moreover after Member complaints the number and nature of documents being provided to Members in advance of

suspension/revocation hearings have been reduced which may diminish the quality of the judgements made and could lead to outcomes which place the public at risk.

'Home to School' transport scheme

RMBC operates a ' Home to School' transport scheme enabling qualifying, potentially vulnerable, children and young people to travel to and from home to schools and colleges, often unaccompanied.

The use of taxis within this scheme relies on the Council's Licensing service to ensure that drivers, vehicles and operators are properly licensed and that a driver passes the 'fit and proper' person test.

Under one of these contracts, a 21 year old taxi driver was transporting a child with physical health difficulties to and from his place of learning. The boy wrote to the Council setting out some 20 complaints about this driver including that he was:

- Swearing and shouting abuse at other drivers
- Laughing at him and mocking his disability
- Showing him sexually explicit videos on his mobile phone
- Driving dangerously and at excessive speed
- Urinating in full view of him
- Telling the young man that he was involved in illegal drugs

On receipt of this complaint a multi-agency strategy meeting was held. It concluded that this alleged behaviour could have upset the passenger and he was offered appropriate support. The driver's contract was subsequently terminated and it was recommended that the licensing service investigate whether the driver was a 'fit and proper' person to hold a private hire driver licence.

Police investigated the complaint (after a period of time whilst the driver was abroad). They found no images on the driver's mobile phone. After an interview with him, they concluded that he was not a risk, that the complaint had been prompted by a relationship breakdown and aspects of the complaint were about 'laddish' behaviour. In relation to the other allegations there was insufficient evidence to bring any criminal charges.

The driver was also formally interviewed by the Council's licensing enforcement officer who prepared a file to be submitted to the Licensing Board. It was decided that the boy's allegations relating to graphic sexual images should not form part of case papers being presented. Only the following complaints were put before the Licensing Board:

- Insulting words towards a passenger
- Urinating in view of the passenger
- Conduct of driver
- Driving with an under inflated tyre

The case was presented to the Licensing Board hearing six months after the complaint was made. The driver was represented at the hearing and he was cross examined by Members in what can be best described as a light touch fashion.

The Board agreed that the driver was not a fit and proper person but only suspended his licence for three months leaving him free to operate as a private hire driver after that time had lapsed.

"...it was strange to have a licence removed for three months. You're either a fit and proper person or you're not – you don't just become fit again after three months." An officer

The details of this case were offered to the inspection as an example of improvement in licensing practice.

Pressure on staff

Long term sickness has depleted the Principal Officer grade on the enforcement side for some time. An unresolved contractual issue over late working has meant there is no enforcement of licensing matters around the night time economy. Enforcement officer caseloads were unevenly spread and officers clearly felt understaffed, with one officer commenting that it was sometimes impossible to log off from a telephone which rang incessantly.

Licensing – a new policy?

The Licensing Board in October 2014 agreed a draft revised policy for consultation. The policy brings together various existing policies into one document and introduces some changes including requirements for drivers to achieve BTEC level 2 certificate; extending to five years the requirement for holding a UK driving licence; tougher knowledge tests; more rigorous standards for the consideration of criminality including sexual offences concerning children and vulnerable people.

This new policy is to be welcomed. However it falls short in a number of respects:

1. The Council's general enforcement policy which underpins the proposed Licensing policy does not, in our view, give sufficient prominence to the need to protect the public.
2. The guidance suggests that the authority will not normally grant a licence if an applicant has more than one conviction for indecency or is on the sex offenders register. Inspectors find this unacceptable. One conviction should be more than enough to prevent a licence being granted.

In addition, there is no reference to how the service will deal with complaints/service requests where the complainant does not want to report the incident to the police or the police decide not to investigate or prosecute because of the criminal burden of proof. Our audit of complaints demonstrate that allegations relating to inappropriate behaviour including sexual harassment were not properly investigated. In our view, the reliance on convictions alone will not provide a strong message to the trade on acceptable standards or reassure parents and the public that drivers are safe to transport their children.

The timetable for implementation seems unnecessarily elongated with implementation not expected until April 2015 with no retrospection of standards. This will mean that full application of these measures to all drivers will take nearly three years. Given the high profile of public concerns and real evidence that children have not been properly protected when using taxis in Rotherham, this seems far too long.

Service Improvement Plan

We understand that as a result of our inspection, the Licensing Service has sought to address some of issues we have highlighted by implementing a service improvement and performance management plan. The plans were not part of the inspection and we are therefore unable to comment on whether the actions identified are sufficient to address the findings of our inspection.