

LICENSING COMMITTEE

6 July 2015

PRESENT: Councillor Mrs Brandis (Chairman); Councillors Cooper, Hawkett, Huxley, Mills, Powell, Mrs Renshell, Mrs Russel and Sir Beville Stanier.

APOLOGIES: Councillors Lambert and Mrs Ward

1. MINUTES

RESOLVED -

That the Minutes of 2 March and 27 May 2015 be approved as correct records.

2. REVIEW OF COUNCIL'S POLICY ON TAXIS AND PRIVATE HIRE

The Local Government (Miscellaneous Provisions) Act 1976 prohibited the district council from licensing a person as a private hire or hackney carriage driver unless they were satisfied that the applicant was a fit and proper person to hold a driver's licence. The phrase 'fit and proper' had never been judicially defined and could cause local authorities some difficulties.

At AVDC new drivers were required to pass a medical and the Driving Standards Agency (DSA) taxi driving test. However an assessment of 'fit and proper' extended beyond mere skills and medical clearance. A judgement of character had to be made and in particular whether someone had a propensity towards dishonesty or even crime.

All applications for a taxi and private hire driver licence, whether new or on renewal required the applicant to provide an enhanced criminal disclosure from the Disclosure and Barring Service (formally known as the Criminal Record Bureau). Both taxi and private hire drivers were exempt from the provisions of the Rehabilitation of Offenders Act 1974, meaning that there were no 'spent convictions' and all criminal convictions could be taken into account. The enhanced criminal disclosure revealed not just convictions but other court disposals such as cautions, reprimands and warnings and, on occasion intelligence/suspicious.

In an attempt to provide a consistent, transparent and proportionate assessment of the information provided, the Council currently had a policy on relevance of criminal conduct and complaints against licence holders and applicants. Based on this policy not a single decision to refuse or revoke a licence had been overturned on appeal. However since its original publication there had been changes in case law and the Council's licensing

service had acquired considerable practical experience in decision making and assessment. A draft new policy on criminal conduct and unacceptable behaviour had been attached as an appendix to the report. The Council's existing policy had also been attached as an appendix for comparison.

The draft policy had been updated to reflect the practical experience of officers and was largely based on the policy adopted by Kirklees Borough Council who was generally held in high esteem in respect to their regulatory services. A Consultation with the trade and other interested parties would be undertaken on the draft policy. Based on feedback from the consultation a final policy would be brought back to the Licensing Committee for discussion and recommendation for Cabinet Member approval.

However, the committee noted that the trade did have problems with the DSA taxi test and medical approval and these had limited impact on improving standards. At present all new applicants and existing drivers on renewal needed a Group II medical examination from a doctor at their own surgery. Depending on the surgery the cost for this varied between £65 and £125 with differing waiting times for appointments. Likewise the waiting times for a DSA test could take several months.

It was proposed that the licensing service should identify alternative schemes to assist the trade whilst achieving the same assurances. It was also proposed that officers would look at alternatives to the DSA taxi test and discuss the proposals with the trade before bringing back to the committee for further discussion.

The Members discussed the draft new policy on criminal conduct and unacceptable behaviour and suggested a number of amendments to be made before the policy went out for consultation. Members had concerns about some drivers not being able to understand or speak English adequately or have adequate knowledge of the Vale. It was also acknowledged that "legal highs" were becoming an increasing problem in the UK and thought should be given as to how these would be addressed in the policy. Another concern related to previous convictions whilst living abroad. At present only convictions in the UK would show up on the enhanced disclosure as mentioned previously.

The Licensing Committee noted that the penalty points system for taxi enforcement had been introduced in 2014. The system had been targeted at low level non-compliance and was proving to be very successful. Standards had noticeably improved with, for example, drivers readily wearing their badges and maintaining first aid kits and fire extinguishers.

RESOLVED –

- (1) Members noted the proposed revised policy in respect to the unacceptable behaviour and criminal conduct of taxi drivers and new applicants and the fit and proper test; and
- (2) That the Licensing Manager embark on a consultation of its contents and bring a further report back to Licensing Committee to approve a final and acceptable policy; and

- (3) That the Licensing Manager seek alternative schemes to ensure that drivers are medically fit and suitably qualified to drive safely.