

Contact Officer: Alaina McGlade

KIRKLEES COUNCIL

LICENSING AND SAFETY COMMITTEE

Tuesday 13th December 2016

- Present:**
- Councillor Cathy Scott (Chair)
 - Councillor Mahmood Akhtar
 - Councillor James Homewood
 - Councillor Christine Iredale
 - Councillor Robert Light
 - Councillor Mohan Sokhal
 - Councillor Sheikh Ullah
 - Councillor Bill Armer
 - Councillor Donna Bellamy
 - Councillor Bernard McGuin
- Apologies:**
- Councillor Amanda Pinnock
 - Councillor Karen Allison
 - Councillor Gulfam Asif
 - Councillor Richard Eastwood
- In attendance:**
- A McGlade, Governance & Democratic Engagement Officer
 - Samantha Lawton, Senior Legal Officer
 - Victoria Thomson, Senior Licensing Officer
 - Russell Williams, Senior Licensing Officer
- Observers:**
- Councillor Nigel Patrick, Conservative - Group Business Manager
 - Councillor Donald Firth
 - Suhail Rashid, Hackney Carriage Trade Association
 - Sajjid Hussain, Hackney Carriage Trade Association

1 Membership of the Committee

Councillor Armer substituted for Councillor Grainger-Mead
Councillor Ullah substituted for Councillor Kaushik
Councillor Bellamy substituted for Councillor K Taylor
Councillor McGuin substituted for Councillor Watson

Apologies for absence were received on behalf of Councillors Allison, Asif, Eastwood and Amanda Pinnock.

2 Minutes of Previous Meeting

That the Minutes of the meeting of the committee held on 24 March 2016 be approved as a correct record.

3 Interests

Councillor Ullah declared an other interest in relation to Item 10, Revised Private Hire Operator Policy & Conditions due to the fact that he had family members that were licensed to drive taxis in Kirklees.

4 Admission of the Public

The committee considered the question of the admission of the public and determined that all items that would be held in public session.

5 Deputations/Petitions

A petition was received from representatives of the Hackney Carriage Trade Association in support of the Hackney Carriage ranks remaining on Victoria Street (in relation to Agenda item 7).

6 Public Question Time

No questions were received.

7 Provision of Taxi Ranks in Holmfirth

Russell Williams, Senior Licensing Officer outlined the key points of the report, advising that the Council may appoint taxi ranks on the public highway or private land and the stands can be either continual or part-time use. If the stand is to be on a public highway, the consent of Kirklees Council (as the highways authority) is required. Before a new stand is created or the maximum number of vehicles that can use the stand is varied, notice must be given to West Yorkshire Police. A public notice must also be provided in one local newspaper. Any objections that are received must be considered before a rank is appointed or varied. The relevant statutory Notices were published in the Huddersfield Examiner on 11th February 2013 for ranks to be implemented at the locations shown below.

Victoria Square, Holmfirth

A taxi stand for 2 hackney carriage vehicles in the first lay-by adjacent to 15 – 17 Victoria Square, Holmfirth. It is proposed this stand shall only operate 20.00 hours to 02.00 hours the next day.

Victoria Street, Holmfirth

A taxi stand for 4 hackney carriage vehicles adjacent to 24 – 30 Victoria Street, Holmfirth. It is proposed this stand shall only operate between the hours of 20.00 hours to 02.00 hours the next day.

At that time, consultation was carried out and observations were made by ward and parish councillors as well as the trade.

As a result of the observations the matter was determined at a meeting of the Licensing and Safety Committee on 26th March 2013. After hearing from Cllr Patrick and trade representatives the Committee made the following determination (decision in full was attached at Appendix 1 to the agenda):

(2) That approval be given for Temporary Hackney Carriage Taxi Ranks at Victoria Street (4 vehicles) and Victoria Square (2 vehicles), Holmfirth between 20:00 hours to 02:00 hours the next day.

(3) That discussions take place between the relevant parties and the Local Ward Councillors for the provision of appropriate Hackney Carriage Taxi Rank provision as part of the proposed new scheme for the Bus Station in Holmfirth.

The ranks were duly implemented and have operated until the present time. Discussions did take place between the licensing department and highways colleagues and space for a rank was identified within the bus station area. Ward councillors were pressing for the move to take place and trade representatives were opposed to the move taking place. The matter had therefore been brought back to the Committee for reconsideration of the matter.

Russell read out a submission received by Cllr Patrick that detailed a submission received from the police advising that they would support the move of the ranks to the bus station.

Cllr Patrick then addressed the Committee and advised that the position of the temporary ranks had caused issues to residents and that he had received numerous complaints regarding "over ranking". He advised that the two ranks had only ever been approved on a temporary basis until the refurbishment of the bus station had been completed. Nigel advised that the refurbishment had been completed some time ago and that this area was a central area for taxis to queue and that it ceased to be used by buses after 11.30pm.

Cllr Patrick also read out objections from a number of residents who were unable to be in attendance, highlighting their view that the taxi ranks caused a nuisance to that area and mentioned complaints that had previously been raised regarding parking over driveways etc. He circulated a copy of a photo taken and emailed into the Council in 2013, showing a taxi parked outside of the ranks.

Cllr Patrick advised that there was currently no structure in place at the Victoria Street and Square ranks and that the organisation of the layout of the bus station was required. He referred to the response from Mark Trueman, Neighbourhood Policing Inspector that advised that the police fully supported the move to the bus station and also explained all three ward councillors were in agreement that the move to the bus station would be the best option.

Cllr Donald Firth explained that he fully agreed with the comments of Cllr Patrick and explained that he had received complaints from residents. He also advised that he had personally witnessed the chaos caused by additional taxis waiting to move into the ranks and had been at the site alongside police and officers attempting to move the taxis along.

Suhail Rashid advised that during the time of the ranks being active in Holmfirth, the taxi drivers had provided a good and safe service to customers and that it was the taxi services that escorted revelers away from the area in the early hours, resulting in a reduced number of confrontational situations being able to occur. He explained that at the time of the taxi ranks being in use, the area was not as busy as the day time and that the noise in the area was not as a result of the taxis, but from the revelers leaving the pubs and the concert venue. Mr Rashid advised that if the ranks were moved to the bus station, a number of problems would be encountered including arguments between customers not moving down to the front of the queue. He also advised that he felt the photo evidence submitted by Cllr Patrick was outdated, given that it was taken in 2013.

The committee requested officers to outline the enforcement history for the area and it was advised that one of the main issues in the area was private cars parking in the ranks, displacing the Hackney Carriages.

Russell also provided the committee with the response from Environmental Health, advising that they had no objections to the ranks remaining at Victoria Street and Victoria Square as they had not received any complaints in relation to the ranks.

Cllr Scott questioned whether barriers could be erected to help with the backwards queue issue that would be faced by customers at the bus station venue but Russell advised that this could not be done due to the area being used by buses for the majority of the time.

RESOLVED - That the Committee approved the retention of the Hackney Carriage stands in both Victoria Square and Victoria Street.

8 Code of Conduct for Buskers and Street Entertainers

The Committee received a report informing them of a proposed Code of Conduct for Buskers and Street Entertainers. The report advised that there is currently, outside of London, no specific legislation which governs buskers or the licensing of them. It was explained that, historically the Council has operated a voluntary registration scheme for buskers who wish to perform in Kirklees, with Buskers being actively encouraged to apply for an identity card which would last for one year and was only granted after audition. The report advised that the process is time consuming and an erroneous bureaucratic burden on both buskers and council staff. It was also explained that, as there is no enabling legislation, no fee could be levied for this service.

The report advised that in order to ease the bureaucracy, it was proposed to stop imposing a “licensing regime” on buskers and street entertainers and instead ask them to abide by a new Code of Conduct. A draft Code of Conduct was attached at Appendix A. The few complaints associated with buskers in Kirklees would also be addressed within existing legislation or by-laws.

The Licensing Service advised that they would continue to investigate any complaints received about the activities of buskers and street performers and where non-compliance with the code was occurring or an individual or group were causing a noise nuisance or obstruction to the highway, enforcement action would be taken.

The Committee questioned what would define the ‘same location’ as quoted in paragraph five of the code of conduct. They felt that a measurable distance being specified would avoid any uncertainty when interpreting the code.

RESOLVED - That the Committee approved the Busking and Street Entertainment Code of Conduct as based on the consultation undertaken throughout the development of the code, subject to the inclusion of an appropriate distance being specified in bullet point five of the code.

9 Unmet Demand Survey

Victoria Thomson, Senior Licensing Officer presented a report advising Committee members of the Council’s policy to review quantity control every three years where the Council potentially intend to continue to limit the number of available hackney carriage vehicle licences it issues. The report advised that the last survey was carried out in 2013 and these should be undertaken every three years to establish if there is any level of latent or patent demand if the number of Hackney Carriages is limited.

Section 16 of the Transport Act 1985 gives local authorities the power to limit the number of Hackney Carriage licences provided that the local authority is satisfied that there is no significant demand for Hackney Carriages which is unmet. The current number of Hackney Carriage licences is limited to 247 in Kirklees. The report explained that the last survey and review held in 2013 identified that there were enough Hackney Carriage licences in Kirklees to meet demand at that time and that there was no need for any additional Hackney Carriage licensed vehicles. This view satisfied the Committee and no additional Hackney Carriage licences were granted.

RESOLVED - That

- (1) the Committee noted the Licensing Manager’s intention to undertake a scoping exercise, to identify and appoint an appropriate consultant to undertake an unmet demand survey, in accordance with the Council’s Contract Procedure Rules;
- (2) the results of the survey be considered by a future meeting of the Licensing and Safety Committee.
- (3)

10 Revised Private Hire Operator Policy & Conditions

A report was presented to the Committee requesting approval of the revision of the Policy in relation to Private Hire Operator Licences and Conditions.

The report explained that following the Jay & Casey reports at Rotherham, which estimated that more than 1,400 children were abused in Rotherham from 1997-2013, this document considers the measures that Kirklees Council have in place to ensure that Operators perform to the high standard expected from them in the interests of public safety and that they acknowledge their responsibilities when using drivers of hackney carriages licensed outside of Kirklees. This issue is of particular importance because the Casey & Jay Reports both stated that taxi drivers played a "prominent role" in the abuse which had "significant impact" on public confidence in the towns' drivers.

The report highlighted that Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 ('the Act') creates a regime for the licensing of private hire operators. The Act recognises the position of trust held by a Private Hire Operator and dictates a local licensing authority shall not grant a private hire operator's licence unless they are satisfied the applicant is a 'fit and proper' person to hold such a licence. If a licence is granted, the Act permits a local licensing authority to attach, to that licence such conditions as it considers reasonably necessary.

The report explained that it is vitally important that the provision of a professional and respected hackney carriage and private hire trade is maintained and that this can only be achieved by continued partnership working with the trade and also by monitoring and implementing improvements of the required standards of service. It is under this banner that the current private hire operator conditions, which came into force in November 2008, was reviewed.

The review highlighted where improvements were needed and a revised policy, including revised conditions, was developed and consulted on. A copy of the revised Policy was attached at Appendix 1. Details of the consultation were included within Section 4 of the report.

The Committee questioned whether the amendments to the policy aligned Kirklees' policy to those of the other authorities in West Yorkshire. The Licensing Service explained that this work was currently being undertaken but that Kirklees felt some amendments were required to be made immediately in order for Kirklees to be confident that their public safety duties were being met.

The Committee also noted that there was no reference to informing the police under the complaints system in paragraph eight of the policy and highlighted that they felt this should be included.

RESOLVED - That the Committee noted and approved the implementation of the revised Private Hire Operator conditions, subject to the inclusion of notification to the relevant enforcement authorities under paragraph eight.

11 Individual Vehicle Approval ('IVA')

The Committee received a To review the existing practice in respect of Individual Vehicle Approval ('IVA') and the options available, for existing private hire / hackney carriage vehicle licence holders, as an alternative to obtaining an IVA.

The report explained that members of the public undertaking journeys within licensed vehicles have no opportunity to assess the fitness or safety of a vehicle prior to entering those vehicles. As such, they are reliant on the Licensing Authority to have carried out all the relevant checks on a vehicle before a licence is granted or renewed.

Currently the Council require all vehicles to pass a compliance test, conducted by the Council's own testing stations, before a vehicle licence is granted or renewed. This 'compliance test' is a more stringent version of a normal 'M.o.T' but does not test the design and construction of the vehicle.

The report explained that the safety of the design and construction of a vehicle is tested when it is 'type approved'. As a result of working with partnering agencies on road side checks of licensed vehicles, in particular officers from VOSA, the safety of certain types of licensed vehicle is being called into question. The types of vehicles affected are, vehicles converted into mini-buses, vehicles that have had seating configuration changed and vehicles converted to carry wheelchairs; and it is the quality of the workmanship on these conversions that is being called into question. We recognised at this stage that whilst the vehicles were being tested for compliance this test did not check the safety of the conversion work.

The report advised that the Council currently licence 66 vehicles that have had some form of conversion carried out on them, whether that be a conversion from a van into a mini-bus or a mini-bus converted to carry wheelchairs. As a result of these concerns a practice was introduced that stipulated all vehicles subjected to some form of conversion, must obtain an IVA from VOSA. This practice applied to all 'New' vehicles being brought onto the fleet, and existing licensed vehicles.

It was advised that the policy works well, when applied to 'New' vehicles, however, the practice, when applied to existing licensed vehicles, was creating difficulties for the trade.

The report considered the issues experienced by the trade, and outlined the known alternatives to obtaining an IVA, that would still satisfy the Council's requirement that the vehicles it licenses are safe and suitable to carry the fare paying public.

Mr Rashid advised that the trade's preferred option would be the in house council testing. Mr Hussain questioned whether a grandfather's rights policy could be introduced to protect those vehicles that had already been tested but whose licences were due to expire over the next few years.

Russell advised that the cut off time for existing drivers would be a decision outlined by the Committee.

The Committee noted the detail presented under each of the options but did not feel that they had enough information regarding each of the viable options to make an informed decision.

RESOLVED - That consideration of the report be deferred to a future meeting of the Committee, to allow further research to be undertaken and further information to be provided, in relation to each of the proposals outlined.

12 CCTV in Licensed Vehicles

Russell Williams introduced a report informing the Committee of a decision by the West Yorkshire Combined Authority to consult on a 'unified policy' for all West Yorkshire Councils in relation to CCTV in licensed private hire and hackney carriage vehicles.

It was advised that, following a recent meeting of the West Yorkshire Combined Authority Licensing Chairs Group, a decision was taken to consult on a unified policy on the introduction of a policy that makes it mandatory that all private hire and hackney carriage vehicles be fitted with CCTV; currently none of the Combined Authorities have such a condition.

The Committee was advised that there were two main reasons for implementing such a policy:

(a) public safety

(b) Driver safety / protection

The report advised that consideration had been given to the type of CCTV system that would be acceptable and while the recording of images alone would assist in any investigations while offering some protection for drivers, it is the general consensus that any CCTV system installed should also record audio. This will ensure the full extremities of any incident are recorded and can be used in evidence both for and against the driver.

Officers advised that they had looked at the specification of systems that have been introduced by other local authorities and felt that the correct balance between the safety of drivers and passengers, against privacy concerns, could be met by a specification that records video footage while the vehicle is being used for private hire / hackney carriage purposes, and not when in use as a private vehicle; and would only record audio when activated by the driver or passenger. Any footage and audio would be encrypted, and can only be downloaded in specific circumstances by authorised officers.

A copy of the proposed specification which will be the same across the Combined Authority was attached at Appendix 1.

Mr Rashid advised that the trade's view was that they supported the introduction of CCTV but did not feel it should be a mandatory requirement. Mr Hussain advised that the costs associated with the systems would be a huge implication for some drivers. They advised that over one hundred drivers had taken up CCTV within their vehicles as part of the voluntary scheme that was introduced a few years ago and the costs already incurred by these drivers would be required to be taking into consideration.

Russell explained that they would be investigating options for upgrading these systems already in place in order to keep costs down for these drivers.

RESOLVED - That the Committee noted and approved the decision by the West Yorkshire Combined Authority to consult on a 'unified policy' for all West Yorkshire Councils in relation to CCTV in licensed private hire and hackney carriage vehicles and that the findings be considered by a future meeting of the Committee.

13 Out of Area Applicants - Geographical Knowledge Test

The Committee considered a report advising that the licensing authority has recently been experiencing a large demand for appointments for new drivers who live outside the Kirklees area. It was advised that conversations with applicants have highlighted that they are being directed to Kirklees to obtain a licence and being told that they can then work in other controlled districts outside of Kirklees once a licence from Kirklees is granted.

The report advised that it was believed they are being directed to Kirklees because they believe our process is perceived as relatively straightforward and cheap compared to other districts such as Sheffield which already has a geographical knowledge test.

The influx of applications from out of area applicants is causing problems for existing licence holders getting appointments and the service recently introduced an extra 24 hours of appointments but despite this, the trade were finding it difficult to get appointments in a timely manner due to the amount of new driver applications being received, mainly from people out of area. It was advised that this can result in existing drivers/vehicles being unlicensed for a period meaning they cannot work until they are able to get an appointment to renew their licence.

The report explained that to address the issue of people applying from outside the area, the licensing service would like to introduce a geographical knowledge test for out of area applicants to undertake and pass prior to applying to be a licensed driver with us. This would free up more appointment times for the existing licensed drivers and also make it more difficult for the operators who exploit the cross border sub-contracting regulations.

The report requested the Committee to approve a consultation to take place with the trade and other interested parties in Kirklees for a period of 8 weeks. This would include seeking the views of the trade and their representatives, customers, the public, West Yorkshire Police, school contract and others. It was advised that once the consultation with interested parties had taken place, a more detailed report will

be produced, incorporating the responses and findings and presented to Members for them to consider and make a decision.

Mr Rashid advised that the trade supported the introduction of the test but questioned whether current drivers would also be required to sit the test.

Victoria Thomson, Senior Licensing Officer clarified that only new applicants would be required to undertake the test but that the test may be used as a sanction by the Licensing Service for existing drivers whose behaviour or abilities were being reviewed.

RESOLVED - That

- (1) the Committee delegated responsibility to the Licensing Service to develop a policy in relation to out of area applicants undertaking a geographical knowledge test
- (2) consultation with stakeholders and the trade be undertaken on the introduction of this policy
- (3) the results of the consultation be incorporated within the newly developed policy and brought back to Committee for a decision to be taken on implementation.

14 Licensed Drivers Driving Assessments

The Licensing and Safety Committee received a report requesting them to note the change in service provider to carry out an equivalent test to the Driver, Vehicle and Standards Agency (DVSA) Taxi Driver Assessment course which is to be ended by the DVSA on the 31 December 2016.

The Council's policy requirement that all new applicants for hackney carriage/private hire drivers licences in the Kirklees District must pass a DVSA Taxi Drivers Assessment was affirmed by Members of the Licensing and Safety Committee at their meeting on the 26th October 2009.

The report advised that the requirement for all new applicants for hackney carriage/private hire driver's licences to pass the DVSA Taxi Drivers Assessment before being granted a driver's licence was part of a number of prerequisites for the grant of such a licence in Kirklees. It was explained that all of the requirements, including the DVSA Taxi Drivers Assessment, were introduced by the Licensing and Safety Committee in consultation with the local taxi and private hire trades in order to maintain and improve the standards of driver and passenger safety in Kirklees. The Committee was advised that the DVSA Taxi Driver Assessment course is to end by 31 December 2016, however, all slots available to that date have been fully booked for weeks and the knock on effect is that new applicants can no longer get a test with the DVSA and are being delayed in their applications for a badge. It was explained that most other councils in the country have the same requirement and find themselves in the same position as Kirklees.

The report advised that Kirklees are more fortunate than most in that it has an in-house driver training unit which delivers the Speed Awareness Course on behalf of West Yorkshire police. It was explained that, as such, they are members of the Association of National Driver Improvement Course Providers (ANDISP). The Unit

Licensing and Safety Committee - 13 December 2016

has previously put in place a hackney carriage/private hire driving test for existing drivers who had accumulated 9 penalty points on their driving licence.

The Committee was advised that the Licensing Manager has been working with the Unit regarding extension of their current arrangements to new applicants also. It was explained that this would be the quickest, safest and most reasonable option for the Council when considering how to replace the DVSA test.

RESOLVED - That the Committee noted the change in service provider for the new hackney carriage/ private hire drivers assessment.