

NORTHUMBERLAND COUNTY COUNCIL
LICENSING AND REGULATORY COMMITTEE

At a meeting of the **Licensing and Regulatory Committee** held at Committee Room on 25 October 2017 at 1:30 pm

PRESENT

Councillor J I Hutchinson
(Chairman, in the Chair)

COUNCILLORS

T Cessford
J A Lang
K Parry
W Pattison
M E Richards

G Roughead
C Seymour
A Sharp
T S Wilson

OFFICERS IN ATTENDANCE

H Bowers
T Hardy
N Masson
D Sayer

Democratic Services Officer
Licensing Manager
Principal Solicitor
Business Compliance & Public Safety Manager

ALSO IN ATTENDANCE

Mr G Richardson

Berwick Taxi Association

01. MEMBERSHIP AND TERMS OF REFERENCE

RESOLVED that the Membership and Terms of Reference be noted with the following changes:-

- (a) Paragraph 1: *'either expressly to the Head of Public Protection, or alternatively'* should be deleted and the paragraph should read *'Except where the matter is delegated to officers in accordance with the Public Protection Internal Scheme of Management, the Licensing and Regulatory Committee has the following delegated powers'*

- (b) The following items should be removed from the table in the report as they were all covered by the Gambling Act which is overseen by the Licensing Committee:-
- (i) amusements with prizes
 - (iii) betting tracks
 - (ix) lotteries
 - (xiv) prize bingo

RESOLVED That the Terms of Reference and amendments be noted.

02. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Crosby, Gibson, Nisbet, Purvis and Stow. Apologies for lateness were received from Councillor Seymour.

03. MINUTES

RESOLVED that the minutes of the meeting of the Licensing and Regulatory Committee held on Wednesday 26 April, 2017 as circulated, be confirmed as a true record and signed by the Chairman.

04. SUB-COMMITTEE MINUTES

RESOLVED that the minutes of the sub-committees held on the following dates be received for information:-

- (a) 29 June 2017
- (b) 3 August 2017
- (c) 8 September 2017

05. REPORTS OF THE CHIEF FIRE OFFICER

05.1 Testing of Berwick Area Based Private Hire Vehicles and Hackney Carriages

Members were informed of representations received from taxi drivers in the Berwick area who had objected to travelling to Alnwick to have their vehicles tested.

Members were asked to decide whether the Hackney Carriage and Private Hire Licensing Policy should be amended to permit testing of vehicles at premises other than NCC MoT Testing Centres.

The current policy required vehicles to be examined and tested at NCC depots.

The Council had the responsibility to ensure that Private Hire and Hackney Carriage vehicles were licensed. Before granting or renewing a licence, the Council must be satisfied that the vehicle was mechanically safe, maintained to manufacturer's maintenance and suitable in size and passenger comfort in the line with the Council's policy.

In addition to the initial test, the Council had the power to require a discretionary testing of vehicles up to three times a year and the Council's policy required that vehicles over five years underwent a further annual mid year test with an additional routine test for vehicles over eight years old.

Prior to Local Government Organisation there were a variety of taxi regimes within Northumberland and arrangements were put in place to authorise private garages to conduct vehicle testing, which resulted in 43 garages being authorised across Northumberland.

A review of the Council's Hackney Carriage and Private Hire Licensing Policy was conducted in 2015 and a number of changes to the policy were proposed.

Consultation ran from 30 October to December 2015. Letters were sent out to all licence holders, Parish and Town Councils and other organisations. There had been a very poor response to the consultation events.

The first event at Newbiggin had been attended by one licence holder and one garage owner. The second event at Hexham had been attended by eight licence holders. A third event in Alnwick was cancelled as there had been no interest and a fourth event in Berwick had been cancelled as only one person was booked in to attend. The licence holder was contacted and met by the Acting Licensing Manager to discuss the policy. The Acting Licensing Manager also attended the venue on the morning of the proposed event where one garage owner had attended and the implications for his business had been discussed.

All of the enquiries to the consultation were followed up and the Licensing and Regulatory Committee considered a report proposing changes to the policy in December 2015. The Licensing and Regulatory Committee subsequently approved the policy.

The new arrangements came into immediate effect for the Stakeford and Hexham garages and the tests for Alnwick and Berwick were carried out by the new garage at Alnwick however, because of delays to the opening of the garage the arrangement had only recently been implemented.

Following the introduction of the new arrangements at Stakeford, there had been a number of failures and the failure rate for the Northern zones had been

worrying as was the mileage accrued by some vehicles between the failure of the test and retesting.

Private garages had not been notifying the licensing section of those vehicles which had failed the MoT or compliance tests. There was also evidence of advisory items not being addressed year on year and vehicles being submitted for the test with significant defects.

Data produced by the Alnwick testing station were shown in the report.

Common failures for tests related to items being checked as part of the taxi criteria rather than the MoT, such as fire extinguishers and first aid kits.

The MoT facility at Alnwick was open 6 days per week, Monday to Saturday from 6:00 am to 6:30 pm with four trained staff as authorised MoT testers.

The recommended DVSA time for testing was 1.5 hours plus 0.5 hours for additional checks. It was therefore estimated that Berwick operators based in Berwick would have to allow 3.5 hours to include the journey time of 40 minutes each way and a further 10 minutes to arrive before the appointment.

Members were informed that Hackney carriages were often required to complete lengthy journeys and were required to be maintained at all times with suitable outlets within Alnwick that could deal with any minor fault which could arise during the journey from Alnwick to Berwick.

The matter was discussed at a meeting with the trade and the following concerns had been raised:-

- It was a 60 mile round trip which could take half a day to travel to the depot, have the vehicle tested and return to Berwick;
- Taxis should be tested in the town at VOSA approved and regulated centres;
- Vehicles tested at Alnwick could not be repaired there;
- There was an inconsistency between garages ;
- Drivers took their cars to the testing station expecting it to pass and then told it had not. This was especially a problem if there were regular contracts, eg school runs; if the contract was not fulfilled, it would be lost;
- An increased carbon footprint created by the extra journeys.

Responses to some of the issues from Local Services were:-

- The vehicle could be driven back to base for repairs to be carried out depending on the seriousness of the failure;
- When the MoT was carried out, a new result would be posted on the DVSA system;

- MoT reminders were sent out 6 weeks in advance by Licensing. The owners then had 6 weeks to have the vehicle checked/repared ready for an MoT.

George Richardson was in attendance on behalf of Berwick Taxi Association and raised the following concerns:-

- With regards to the consultation, a large number of operators in Berwick said they had never received the letter;
- He had tried to make the appointment to attend the consultation and had been told it had been cancelled. As secretary, he had told the rest of the drivers not to attend, so no-one attended the consultation event;
- He acknowledged that the mileage between repairs and retest was excessive and stated that if a vehicle was tested at Alnwick and then had to return to Berwick and then back to Alnwick for repairs, considerable mileage would be added;
- It should be made clear to garages that the Council must be informed if any vehicles were not roadworthy;
- Fire extinguishers had a 3 year life expiry but was a common failure of the MoT making it more expensive to have tested than to buy;
- Licence costs were spiralling as cars were required to be tested in Alnwick;
- The added cost of losing work to get a vehicle tested;
- It would take 10 minutes to get to a testing station in Berwick;
- Sometimes vehicles could not be repaired straight away and would have to wait for parts;
- He requested that the Council nominated one garage in Berwick and suggested Ramparts Testing Station which specialised in MoTs;
- The accumulation of time and mileage on vehicles being tested in Alnwick.

Members then raised the following questions/comments:-

- The excessive mileage between MoT failure and retesting was worrying;
- What would be the implications/costs of an additional garage ?
- NCC staff could be sent to a certain garage, a charge would be incurred for the use of the premises which would have to be passed on to taxi drivers;
- A failure notification to the Council should be made a pre-requisite;
- A Member requested vehicle numbers in Berwick;
- How many licences were in Berwick?
- Trained mechanics at Berwick depot could be trained to carry out MoT tests;
- It was suggested that tenders be put out to private garages with stipulation for more stringent testing;
- How many licences were there in other areas of the county?

Tasmin Hardy, Licensing Manager explained that the previous system allowed for various garages to carry out work on the Council's behalf however, they

could charge whatever they wanted. If a garage was to be nominated there would have to be some kind of tendering process but that would not be best practice. The review of the Licensing Policy permitted authorised testers to prohibit unsafe vehicles from further use and in addition had the power to suspend licences and restrict use.

In response to the suggestion of the failure notification, the Licensing Manager advised that any changes would be a policy matter. David Sayer, Business Compliance and Public Safety Manager advised that they could not be made obligatory on a private garage.

In response to the lack of communication element, the Licensing Manager explained that was a valid point, however, there was a public safety and compliance element and when vehicle testing was done in house, officers were more aware and in control of what was happening.

A suggestion was made that licences were automatically suspended if the licensing section were not informed of a test result. Tasmin Hardy, Licensing Manager stated this would greatly increase the burden on the licence holder and licensing section.

The Business Compliance and Public Safety Manager explained that the reason the testing was brought in house was to empower authorised testers to prohibit unsafe vehicles from further use. He referred to recent test results which would be circulated to Members via email.

In response to the suggestion regarding the tender, the Licensing Manager advised that it would be a matter for Members and Council to consider a policy purely for Berwick or for Northumberland as a whole.

Councillor Sharp stated that that the Committee needed to be careful about setting a precedent. He understood that Berwick had a large population and the request for a separate MoT testing station in Berwick. Northumberland was a huge geographical area and more research and a more detailed report was needed in order to consider the matter further. This was seconded by Councillor Cessford. Upon being put to the vote 9 voted in favour with 1 abstention.

Matters to be taken into consideration were:

- The number of taxi drivers in other areas of Northumberland;
- The costs to have more stations situated in Northumberland;
- How many taxis were licensed in Berwick;
- A nominated garage in Berwick for NCC staff and the knock on effect for taxi drivers;
- The difference between MoT failures and compliance failures;
- Tests for taxis adapted for the disabled;
- How stringent are taxi MoTs as against a normal MoT test;

The Chair sympathised with the Berwick taxi drivers and understood their concerns.

RESOLVED that the matter be deferred for further information

06.2 Age UK Complaint

Members were informed of a complaint from Age UK regarding issues they felt were discriminatory in the current NCC Hackney Carriage and Private Hire Licensing Policy and sought approval for an amendment that would remove the non-compliance.

The issue related to the fact that the Policy did not permit a driver aged over 65 year of age to obtain a three year licence as a younger driver could. A three year licence was cheaper in the long run and reduce the need to apply and produce information to the Licensing Team every year.

David Sayer, Business Compliance and Public Safety Unit Manager explained that the policy had been in force since December 2015. The section on the Medical Assessment stated that at 45 years of age, applicants wishing to renew a Hackney Carriage and/or Private Hire vehicle driver's licence were required to produce medical evidence every 5 years and from 65 years of age, annually.

The issue had arisen as Private Hire vehicles and Hackney Carriage vehicles were controlled by two different pieces of legislation. Hackney Carriages were covered by the Town Police Clauses Act 1847 and Private Hire vehicles by the Local Government (Miscellaneous Provisions) Act 1976. Conditions could be placed on a licence for a PV driver under the 1976 Act, but the 1847 Act did not allow something similar for a HC driver.

Members were advised that North Tyneside Council had introduced a relaxation for Hackney Carriage drivers over the age of 65 and to avoid any discriminating issues, the Authority would amend their policy and hoped that members of the trade would work with Licensing and produce the evidence required. A condition would be placed on the licences for older PV drivers requiring them to produce the medical evidence each year. Failure to do so could lead to the licence being suspended or revoked. HC drivers would be requested to produce the information annually and if they did not, this could be taken into account when they next applied for a licence.

Members were asked to adopt the approach and were informed that if the arrangement did not work, the matter would be brought back to the Committee for further consideration.

Councillor Sharp moved the recommendation which was seconded by Councillor Roughead and unanimously agreed.

RESOLVED:-

1. That the Policy be amended to enable taxi drivers aged over 65 to purchase 3 year licences.
2. That licences for Private Hire vehicle drivers over 65 years of age include a condition that they produce a medical certificate every year on or before the anniversary of the issue of the licence.
3. That the licences for Hackney Carriage drivers over 65 include a request that they produce a medical certificate every year on or before the anniversary of the issue of the licence.

06.3 Taxi & Private Hire Working Group

Members were informed of a new Parliamentary Taxi and Private Hire Working Group.

The Group had been set up to consider guidance concerning any anomalies within the licensing of taxis and Private Hire Vehicles.

RESOLVED that Members note the content of the report.

06.4 Case Law - Oldham Borough Council v. Mr Mohammed Sajjad

Members were informed of a recent case in Rossendale and were asked to note the contents of the report.

RESOLVED that Members note the content of the report.

CHAIRMAN

DATE