

Licensing Committee

Tuesday 12 June 2012 at 10.00 am

**To be held at at the Town Hall,
Pinstone Street, Sheffield, S1 2HH**

The Press and Public are Welcome to Attend

Membership

Councillors John Robson (Chair), Jenny Armstrong, David Barker, Nikki Bond, Jillian Creasy, Neale Gibson, Vickie Priestley, Ian Saunders, Clive Skelton (Deputy Chair), Geoff Smith, Stuart Wattam and Philip Wood

PUBLIC ACCESS TO THE MEETING

The Licensing Committee carries out a statutory licensing role, including licensing for taxis and public entertainment.

As a lot of the work of this Committee deals with individual cases, some meetings may not be open to members of the public.

A copy of the agenda and reports is available on the Council's website at www.sheffield.gov.uk. You can also see the reports to be discussed at the meeting if you call at the First Point Reception, Town Hall, Pinstone Street entrance. The Reception is open between 9.00 am and 5.00 pm, Monday to Thursday and between 9.00 am and 4.45 pm. on Friday, or you can ring on telephone no. 2734552.

You may not be allowed to see some reports because they contain confidential information. These items are usually marked * on the agenda.

If you would like to attend the meeting please report to the First Point Reception desk where you will be directed to the meeting room.

If you require any further information please contact Harry Clarke on 0114 273 6183 or email harry.clarke@sheffield.gov.uk.

FACILITIES

There are public toilets available, with wheelchair access, on the ground floor of the Town Hall. Induction loop facilities are available in meeting rooms.

Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

**LICENSING COMMITTEE AGENDA
12 JUNE 2012**

Order of Business

- 1. Welcome and Housekeeping Arrangements**
- 2. Apologies for Absence**
- 3. Exclusion of Public and Press**
To identify items where resolutions may be moved to exclude the press and public
- 4. Minutes of Previous Meetings**
To approve the minutes of the meetings held on:-

23 April 2012
30 April 2012
- 5. PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING**
Issuing of Dual Licences Review
Report of the Chief Licensing Officer
- 6. Illegal Plying for Hire Policy Review**
Report of the Chief Licensing Officer
- 7. Enforcement Review**
Report of the Chief Licensing Officer

ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

You will have a **personal interest** in a matter if it relates to an interest that you have already registered on the Register of Interests; relates to an interest that should be registered but you have not yet done so; or affects your well-being or financial position or that of members of your family or your close associates, to a greater extent than it would affect the majority of people in the ward affected by the decision.

The definition of family is very wide and includes a partner, step-relations, and in-laws. A "close associate" is someone whom a reasonable member of the public might think you would be prepared to favour or disadvantage.

If you have a personal interest you must: declare the existence and nature of the interest at the beginning of the meeting, before it is discussed or as soon as it becomes apparent to you; but you can remain in the meeting, speak and vote on the matter unless the personal interest is also prejudicial.

However, in certain circumstances you may have an **exemption** which means that you might not have to declare your interest.

- You will have an exemption where your interest arises solely from your membership of or position of control/management in a body to which you have been appointed or nominated by the authority; and/or a body exercising functions of a public nature (e.g. another local authority).

In these exceptional cases, provided that you do not have a **prejudicial interest** you only need to declare your interest if you intend to speak on the matter.

- You will have an exemption if your personal interest is simply having received a gift or hospitality over £25 which you registered more than 3 years ago.

When will a personal interest also be prejudicial?

Your personal interest will also be prejudicial if a member of the public who knows the relevant facts would reasonably think the personal interest is so significant that it is likely to prejudice your judgement of the public interest; and

- either the matter affects your financial position or the financial position of any person or body through whom you have a personal interest. For example, an application for grant funding to a body on your register of interests or a contract between the authority and that body; or
- the matter relates to the determining of any approval, consent, licence, permission or registration that affects you or any relevant person or body with which you have a personal interest. For example, considering a planning or licensing application made by you or a body on your register of interests.

Exemptions: You will not have a prejudicial interest if the matter relates to:

- the Council's housing functions – if you hold a lease or tenancy with the Council, provided that the matter under consideration is not your own lease or tenancy;
- school meals, transport or travel expenses – if you are the parent or guardian of a child of school age, provided that the matter under consideration is not the school the child attends;
- statutory sick pay;
- Members' allowances;
- ceremonial honours for Members; or
- setting the Council Tax.

If you have a prejudicial interest, you must:

- Declare the existence and nature of the interest (in relation to the relevant agenda item) as soon as it becomes apparent to you.
- Leave the room unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If that is the case, you can also attend to make representations, give evidence or answer questions about the matter.

- (c) Once you have finished making representations, answering questions etc., you must leave the room. You cannot stay in the room whilst the matter is being discussed neither can you remain in the public gallery to observe the vote on the matter. In addition, you must not seek to improperly influence a decision about the matter.

FURTHER INFORMATION

If at all possible, you should try to identify any potential interest you may have before the meeting so that you and the person you ask for advice can fully consider all the circumstances before reaching a conclusion on what action you should take.

Advice can be obtained from Lynne Bird, Director of Legal Services on 0114 2734018 or email lynne.bird@sheffield.gov.uk

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MEETING OF THE LICENSING SUB-COMMITTEE

held 23rd April 2012

PRESENT: Councillors Isobel Bowler (Chair), Geoff Smith and Philip Wood

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1. **WELCOME AND HOUSEKEEPING ARRANGEMENTS**

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. **APOLOGIES FOR ABSENCE**

2.1 No apologies for absence were received.

3. **EXCLUSION OF THE PUBLIC AND PRESS**

3.1 **RESOLVED:** That the public and press be excluded from the meeting before discussion takes place on the item of business to be considered on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

4. **HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING**

4.1 The Chief Licensing Officer submitted details in respect of three cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 33/12 attended the hearing and addressed the Sub-Committee.

4.3 The applicant in Case No. 34/12 attended the hearing and addressed the Sub-Committee.

4.4 The applicant in Case No. 35/12 attended the hearing and addressed the Sub-Committee.

4.5 **RESOLVED:** That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
33/12	Application for a renewal of a Hackney Carriage and Private Hire Driver's Licence	Defer the application, in view of the pending court case to be held on 30 th May 2012, to the next appropriate hearing of the Sub-Committee.

- | | | |
|-------|--|---|
| 34/12 | Application for a first Hackney Carriage and Private Hire Driver's Licence | Refuse the application for a licence, on the basis of the offences and convictions now reported and the answers to the questions raised, and accordingly, the Sub-Committee's view that the applicant was not a fit and proper person to hold a licence. |
| 35/12 | Application for a first Hackney Carriage and Private Hire Driver's Licence | Grant a licence for the normal term of nine months and, on the first renewal, authority be given to grant the applicant a 12 month licence and, on any subsequent renewal, an 18 month licence, subject to there being no further offences or convictions reported. |

Signed (Chair)

Date

MEETING OF THE LICENSING SUB-COMMITTEE

held 30th April 2012

PRESENT: Councillors Ian Saunders (Chair), Isobel Bowler
and Philip Wood.

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1. **WELCOME AND HOUSEKEEPING ARRANGEMENTS**

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. **APOLOGIES FOR ABSENCE**

2.1 An apology for absence was received from Councillor Geoff Smith.

3. **EXCLUSION OF THE PUBLIC AND PRESS**

3.1 **RESOLVED:** That the public and press be excluded from the meeting before discussion takes place on the item of business to be considered on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

4. **HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING**

4.1 The Chief Licensing Officer submitted details in respect of two cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 36/12 attended the hearing and addressed the Sub-Committee.

4.3 The applicant in Case No. 37/12 attended the hearing with a representative and they both addressed the Sub-Committee.

4.4 **RESOLVED:** That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
36/12	Application for a Hackney Carriage and Private Hire Driver's Licence	(a) Grant a licence for the normal term of nine months and, on the first renewal, authority be given to grant the applicant a 12 month licence and, on any subsequent renewal, an 18 month licence, subject to (i) there being no

offences or convictions reported and (ii) the applicant attaining the BTEC Level 2 Certificate "The Introduction to the Role of Professional Private Hire and Taxi Driver" and (b) the applicant be given a verbal warning as to his future conduct.

37/12	Application for a Hackney Carriage and Private Hire Driver's Licence	Refuse to grant a licence on the grounds that the Sub-Committee considers that the applicant is not a fit and proper person to hold a licence in view of the offences and convictions now reported and the responses given to the questions raised at the hearing.
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(NOTE: Councillor Philip Wood entered the meeting prior to the commencement of the consideration of the application in Case No. 37/12.)

At this stage in the proceedings, the public and press were re-admitted to the meeting.

5. LICENSING ACT 2003 - COUCH COFFEE SHOP, 412-416 ECCLESALL ROAD, SHEFFIELD, S11 8PJ

5.1 The Chief Licensing Officer submitted a report to consider an application for a Premises Licence made under Section 17 of the Licensing Act 2003, in respect of the premises known as Couch Coffee Shop, 412-416 Ecclesall Road, Sheffield, S11 8PJ.

5.2 Present at the meeting were Michael Hulmes, Hurj Hullait and Nathan Scarlet (Sash Ventures Limited, Applicants), Michelle Hazlewood (John Gaunt and Partners, Solicitors, for the Applicants), Rob Marston and Chris Tyldesley (Objectors), Marie-Claire Frankie (Solicitor to the Sub-Committee), Andy Ruston (Licensing Officer) and John Turner (Democratic Services).

5.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

5.4 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from Environmental Protection Service and local residents, and were attached at Appendices 'B' and 'C' to the report. He added that the representations received from the Environmental Protection Service had been withdrawn prior to the hearing,

subject to additional conditions requested by the Service, details of which were circulated at the hearing.

- 5.5 Rob Marston stated that, in his opinion, there were already too many licensed premises on Ecclesall Road and granting a license for the Couch Coffee Shop would result in a potential for additional noise, both from people sitting and standing outside and leaving the premises and from cars and taxis pulling up outside and leaving the premises. He referred to the fact that there had been 90 complaints of noise nuisance on Ecclesall Road, mainly relating to drunken behaviour, and regarding incidents between the hours of 23:00 and 06:00. He referred specifically to the potential for noise and inappropriate behaviour from customers using the proposed external terrace, particularly in the light of children using the bus stop on the pavement directly outside the premises. He also made reference to the curfew in terms of the use of external areas at other licensed premises on Ecclesall Road, indicating that such curfew was 21:30 hours, and requested that a similar condition be attached to the licence for the Couch.
- 5.6 Chris Tyldesley stated that Ecclesall Road was saturated with licensed premises already and, on the basis that there were a number of vacant units in the area, he believed that there was not enough demand for any more licensed premises. He stated that the residents of South Grove Road had particular concerns regarding potential noise breakout from the rear of the premises.
- 5.7 In response to a query by the Solicitor to the Sub-Committee, Mr Tyldesley pointed out, on the map contained in the report, the location of the properties on South Grove Road who were likely to be affected by any potential noise breakout from the rear of the premises.
- 5.8 Michelle Hazlewood emphasised the fact that the premises would be operating predominantly as a coffee shop and not a bar, and that the food and drink on offer, the internal layout and décor and the opening hours, would reflect this. The hours in terms of the sale of alcohol were from 11:00 hours to 23:00 hours, and it was unlikely that there would be any potential problems in terms of noise breakout from the premises, particularly as other licensed premises within the area would remain open after 23:00 hours. She stated that customers would not be able to use the external terrace after 22:00 hours, which would help to minimise any potential noise problems. The venue would be selling coffee, tea, pastries and sandwiches, together with a small selection of alcoholic drinks, and would mainly be targeting customers who had either been shopping or visiting other licensed establishments on Ecclesall Road. The premises would also be child-friendly. Whilst there would be amplified music played on the premises, and there may be a musician playing live music every now and then, the premises was not intending to operate as a bar or nightclub, but more as a venue for people who wanted to meet and talk, as opposed to partying. It was envisaged that the level of alcohol sales would not generate drunkard behaviour and this view had been shared by the Police who had raised no

objections to the application. It was also envisaged that there would be no significant parking problems within the immediate vicinity of the premises as the majority of customers were expected to have parked elsewhere, within the area, and would walk to the premises.

- 5.9 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Michelle Hazlewood pointed out on the site plan where the external terraced area would be. She also confirmed that the external bin store was situated at the rear of the premises and that access to this area would be up Thompson Road. In terms of potential noise nuisance, she stated that whilst it was difficult to predict what noise levels the premises would generate, as a result of the existing and additional conditions attached to the application, the nature of the operation of the premises, including its targeted clientele, and the closure of the external terrace area after 22:00 hours, it was envisaged that there would not be any serious problems. In the expectation that there would not be a great amount of alcohol sales, thus resulting in a low amount of glass bottle wastage, it was agreed that any empty glass bottles would be stored within the premises after 21:30 hours in an attempt to minimise any potential noise nuisance.
- 5.10 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.11 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.
- 5.12 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 5.13 RESOLVED: That the Sub-Committee agrees to grant a Premises Licence in respect of Couch Coffee Shop, 412-416 Ecclesall Road, Sheffield, S11 8PJ, subject to the amended application, operating schedule, agreed conditions and to the additional conditions agreed at the hearing, as follows:
 - (a) No glass bottles to be stored in the rear external area after 21:30 hours; and
 - (b) No glass bottle bins to be emptied between 21:00 and 09:00 hours.

Signed (Chair)

Date



SHEFFIELD CITY COUNCIL LICENSING COMMITTEE

Report of: Chief Licensing Officer

Date: 12th June 2012

Subject: Private Hire and Hackney Carriage Licensing

Author of Report: Steven Lonnia Chief Licensing Officer,
Business and Strategy, Place Portfolio

Summary: Report – Issuing if Dual Licenses Review

Category of Report: OPEN

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Hackney Carriage and Private Hire Licensing

Private Hire and Hackney Carriage Drivers Licenses

1.0 Purpose

1.1 To review the current policy of issuing joint Hackney Carriage and Private Hire Drivers Licenses.

2.0 Background

2.1 The Licensing Sub Committee have a policy which determines that Officers of the Council issue joint licenses that allow the applicant to drive both types of vehicles which ever is their choice.

2.2 This policy was last reviewed in October 2008.

3.0 The Current Position

3.1 The Council issue a joint Hackney Carriage and Private Hire Drivers Licence. A Hackney Carriage Drivers licence is issued under Section 46 of the Town Police Clauses Act 1847 (as amended by the Local Government (Miscellaneous Provisions) Act 1976). A Private Hire Drivers licence is issued under section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

3.2 The Council currently uses the same tests for licenses issued, BTEC Certificate Knowledge Test, Driving Competency and Medical Fitness.

3.3 A Licensed Driver of either a Hackney Carriage or a Private Hire Vehicle must prove to the satisfaction of the Council that they are 'fit and proper' to drive either vehicle.

4.0 The Legal Position

4.1 Hackney Carriage Drivers Licence.

4.1.1 The Town Police Clauses Act 1847 Section 46 States:-

“No person shall act as a driver of any hackney carriage licensed to ply for hire within the prescribed district without first obtaining a licence from the commissioners (City Council) which licence shall be registered by the clerk of commissioners for the same; and every such licence shall be in force until the same is revoked except during the time that the same may be suspended.”

4.1.2 The above was amended slightly by the Local Government (Miscellaneous Provisions) Act 1976 section 59 (Qualifications for drivers of Hackney Carriages) this states ;

“(1) Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage-

(a) Unless they are satisfied that the applicant is a fit and proper person to hold a drivers licence; or

(b) to any person who has not for at least a period of twelve months been authorised to drive a motor car, or is not at the date of application for a drivers licence so authorised.”

4.4 Private Hire Drivers Licence.

4.4.1 The Local Government (Miscellaneous Provisions) Act 1976 Section 51 states:-

“(1) Subject to the provisions of this part of the Act, a District Council shall on the receipt of an application from any person for the grant of a licence to drive private hire vehicles, grant to that person a drivers licence;

Provided that a district council shall not grant a licence -

(a) Unless they are satisfied that the applicant is a fit and proper person to hold a drivers licence; or

(b) to any person who has not for at least a period of twelve months been authorised to drive a motor car, or is not at the date of application for a drivers licence so authorised.

(2) A District Council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.”

4.6 A Licensing Authority may attach conditions to a Private Hire Drivers Licence. The law in relation to Hackney Carriage Drivers was clarified in 2001. No conditions may be attached to a Hackney Carriage Drivers Licence. Conduct is governed through bye-laws.

4.7 When assessing whether a person is ‘fit and proper’ to hold a licence, members can take into account a variety of factors by reference to the evidence placed before it.

4.8 It can take into account :

4.8.1 Medical fitness; Driving skills; Knowledge of the licensed area; Criminal convictions;

4.8.2 Ability to converse and understand the English language both in oral and written form to a level acceptable for the reasonable performance of the duties associated with being a licensed driver;

4.8.3 Applicants demeanour; Applicants appearance and Applicants behaviour before officers and members and on renewal to customers and generally to customers in the service industry sector.

4.9 There is no judicially approved test of fitness and propriety. Certain tests have been developed over the years that have become acceptable to a court. The Licensing Authority must act in a proportionate and reasonable manner when determining an application :-

‘Would you (as a member of the Licensing Committee or other person charged with the ability to grant a Hackney Carriage Drivers Licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone ?’

4.10 The tests suggested above were alluded to 'Ositer' in the case of Leeds City Council v Hussain 2002. This case dealt with the issue of licence suspension. The Judge said :-

"...the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose, therefore, is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers"

4.11 In dealing with applicants Licensing Authorities should have clear policies and when turning down an application give reasons for its decision as an applicant has the opportunity to appeal a decision when such matters will be tested by the court.

5.0 Trade Differences

5.1 Attached at appendix 1 is a spread sheet of Local Authorities and how they administer their respective licenses.

5.2 The main reason for this is the differences between the two trades. These are principally :-

5.2.1 Hackney Carriage Drivers

Private Hire Drivers

- i) Ability to ply for hire. Any person can stop a Licensed Vehicle and request a journey. There is no opportunity to check the most direct route. The knowledge of the area must therefore be of a high standard.
- ii) Wheelchair accessibility. All Hackney Carriages are designed to permit access by persons restricted to wheelchairs. There is a need for specific driver training.
- iii) Customer choice. Hackney Carriages operate through a ranking system. Very limited customer choice.
- iv) Appeal Provisions. An applicant may appeal against the failure to grant both licences which means two fees rather than just the one.
- v) Customer Contact. Persons arriving in the City for the first time by train usually make use of a Hackney Carriage. There is a need for high ambassadorial standards that are set solely by the Licensing Authority.

Pre booked jobs only. Opportunity to consider most direct route.

Limited wheelchair accessibility

Clear customer of choice of operator who allocates a job to a driver. Poor service means a customer has the opportunity to change operator.

As Hackney Carriage Drivers

Customer contact can be affected contractually by the Operator as well as the Licensing Authority.

6.0 Consultation

- 6.1 This matter has been reported for consultation with the trade associations.
- 6.2 Representatives of the trades associations have received a copy of this report and have been invited to attend this meeting and advised that, subject to the consent of the chair, may address the meeting.
- 6.3 All trades have expressed a desire in the past not to change the current way that licenses are issued. They have also expressed an opinion that they see no benefits to change the current systems. They have jointly agreed that they would see a single licence as a disadvantage, as currently all drivers have a full choice as the type of vehicle they wish to drive.
- 6.4 Any written representations received will be made available at the meeting.

7.0 Financial Implications

- 7.1 There are no financial implications to the Council. The Council may recover its costs through fees. The fee's recover for driver's licenses can only be used for the administration of the licence. The fees cannot be used for any enforcement or ancillary work that may be created in this area.

8.0 Options

- 8.1 The Sub Committee consider the report and any representations.
- 8.2 The Sub Committee make recommendations to alter the current policies.
 - 8.2.1 To issue single joint licences.
 - 8.2.2 Issue separate licences. The Sub Committee would have to set a future implementation date to allow for the adjustments to be made to the software and issuing procedures to accommodate the changes needed. This would be around 3 months.
- 8.3 Consider the impact on current tests of applicants in relation to any changes made to the types of licences granted.
- 8.4 The Sub Committee may want to consider the current Law Commission review and if changes to the law are implemented in 2014, to give powers to the Chief Licensing Officer to changed the policy in line with any new legislation.

9.0 Recommendations

- 9.1 The Sub Committee consider this report and any representations made to it.

Stephen Lonnia
Chief Licensing Officer
12th June 2012

APPENDIX 1

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POLE OF AUTHORITIES DRIVERS LICENCE

AUTHORITY	DUAL	SINGLE	REASONS/COMMENTS
Barnsley		Y	
Rotherham	Y		
Lincon		Y	(limited HCV 31 only)
Ryedale		Y	
NE Lincs		Y	
Middlesboro	Y		Issue 2 separate paper licences on legal advice.
Kirklees	Y		
Harrogate	Y		
Chesterfield	Y		
Scarborough	Y		have done for 6 years no problems
York		Y	
West Lindsay	Y		
Hull		Y	
Leeds		Y	Different tests - for each
Calderdale	Y	Y	Have option of both, £97 single £139 Dual (12 mnth)

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**SHEFFIELD CITY COUNCIL
LICENSING COMMITTEE**

Report of: Chief Licensing Officer

Date: 12th June 2012

Subject: Private Hire and Hackney Carriage Licensing

Author of Report: Steven Lonnia Chief Licensing Officer,
Business and Strategy, Place Portfolio

Summary: Report – Illegal Plying for Hire Policy Review

Category of Report: OPEN

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Hackney Carriage and Private Hire Licensing

Illegal plying for hire

1.0 Purpose

1.1 To review the Councils practice relating to the prosecution of suspected offenders.

2.0 What is illegal plying for hire

2.1 Plying for hire is the making provision of a vehicle, with driver, available for immediate hire. It is also known as public hire. Drivers of hackney carriages (taxis) can legally ply for hire, drivers of other vehicles (including private hire vehicles) cannot.

2.2 Illegal plying for hire occurs when a person driving a vehicle other than a licensed hackney carriage takes a fare that is not pre-booked (there are limited exceptions e.g. a bus on a designated route). It is irrelevant whether the driver has or hasn't a licence to drive a hackney carriage as the offence is plying for hire without a (hackney carriage vehicle proprietors) licence.

2.3 The driver of a hackney carriage can only ply for hire in the area in which they are licensed. It is illegal for them to ply for hire outside the area in which they are licensed i.e. the driver of a hackney carriage licensed by North East Derbyshire District Council would be committing an offence should he ply for hire in Sheffield and vice versa.

2.4 Illegal Plying for hire also throws up the possibility of a prosecution for no insurance. The penalty for illegal plying for hire is a maximum £2500. No insurance offences carry a minimum 6 penalty points on a drivers licence.

2.5 Enforcement observations suggest that it is very likely that a large proportion of illegal plying for hire is committed by a relatively small number of drivers. As these drivers can, and do, charge as much as they wish and they can carry out several illegal journeys each night illegal plying for hire can be very profitable for the offender.

3.0 Why is illegal plying for hire a serious offence

3.1 The greatest danger to the public is from vehicles and drivers that hold no licences at all as they will not have undergone any of the usual tests or checks. The drivers may have criminal convictions and their intentions may be solely to engage in serious criminal activity eg sexual offences, robbery against those that get into his vehicle.

3.2 With respect to private hire vehicle drivers, other than the insurance implications of Illegal plying for hire there are other, and some more serious, actual and potential consequences of this activity. These are set out below.

3.3 No legal contract. A person hiring a hackney carriage enters into a contract with the driver of that vehicle. A person booking a private hire vehicle through a licensed operator (as is the legal requirement) enters into a contract with the operator **not the driver**. It is the operator that determines the fare for the journey and is responsible, in the first instance, for resolving any problems that may arise. The lack of any legal contract deprives the passenger of those legal rights afforded to them by a contract and can have the following effects:-

- There is no control over the fare charged and the driver will demand as much as he sees fit. From complaints that have been received it seems that drivers illegally plying for hire usually charge considerably more than those working legally. This is a regular cause of disputes arising between the passengers and drivers, sometimes ending in the abandonment or assault of the passenger.
- Should a problem arise during the journey (and they often do) then there is no recourse other than a complaint to the Police or to the Council Licensing Section. As the investigation of any complaint in these circumstances will of necessity involve the criminal act of plying for hire without a licence then an aggrieved person will be asked to provide a witness statement and has to be prepared to attend court as a witness should a prosecution ensue. Unless they have suffered serious detriment it is unlikely that a passenger in a vehicle illegally plying for hire will be prepared to register a complaint.

3.4 A private hire operator is required to keep detailed records of job bookings and the vehicles dispatched to take the booking. Should a problem arise during a journey that has been properly booked then the Police and/or Licensing have immediate access to those records and will be able to identify the vehicle and driver involved within minutes. Where there is no job booking then there is no record of the journey or of the vehicle and driver involved. It is therefore often very difficult, or just not possible to correctly identify the vehicle and driver after an incident involving a driver illegally plying for hire has occurred.

There is also a difficulty in instances where the driver is not suspected of other offences as drivers are often witnesses to incidents. A driver that is himself committing an illegal act is less likely to come forward as a witness to an incident.

3.5 Most illegal plying for hire occurs at night and when often it can be difficult for the passengers to provide a useful description of either the vehicle or the driver involved. Drivers that do have criminal intentions know that the chances of them being detected are even further reduced.

Offences committed against passengers by licensed drivers in Sheffield are uncommon but in the large majority of cases the offender has picked up the passenger while illegally plying for hire.

3.6 Lost property. The loss of mobile phones, purses etc. in taxis and private hire vehicles is commonplace. The record of drivers working legally is good in terms of drivers identifying passengers to return lost goods to or handing them in to a police station. Complaints from the public about unreturned goods left in vehicles and drive-offs where a driver has taken goods (jewellery, leather jackets etc.) as surety while the passenger goes to fetch money to pay the fare usually relate to journeys that have started with an illegal ply for hire.

- 3.7 The largest problem in Sheffield in recent years has been the large number of North East Derbyshire and Rotherham licensed private hire vehicle drivers illegally plying for hire. In addition to the usual problems there are also problems with them frequently not knowing where they are going. This is known to have been the cause of disputes arising between the driver and passengers and the abandonment of passengers in areas that they do not know and/or assaults.
- 3.8 The other benefit to drivers is that any fare gained is “tax free” as no record is made of this work and it is not traceable. They are also at liberty to charge any fare they desire for this hiring.
- 3.9 The effect on legitimate services and drivers is considerable. The obvious loss is to hackney carriage drivers. Drivers of hackney carriages invest significant amounts of money into purpose built vehicles that are designed to carry in reasonable comfort citizens of and visitors to Sheffield including those that have various forms of disability. These vehicles also have a separate passenger compartment that offers security to both the passenger and the driver. Fares from people that hail them on the street form a significant part of their income. Illegal plying for hire deprives them of income and reduces the incentive for others to invest in such vehicles.
- 3.10 A less obvious, but just as serious, consequence is in relation to properly licensed private hire vehicle drivers that are trying to work legally. Customers book a private hire vehicle through a licensed operator and the operator dispatches a vehicle to undertake the booking. At night in the city centre there is a fair chance that when the (legitimate) driver arrives his fare will have already been picked up by a driver illegally plying for hire. That leaves the legitimate driver with no fare to pick up. This could occur to a private hire vehicle driver several times in any night and as they are only paid for completed journeys a “no pick up” means time and fuel lost for no income. The result is that some drivers will decide to illegally ply for hire themselves and some operators will not accept job bookings in the city centre. The effect on the public is that if they want to hire a private hire vehicle to take them from the city centre at busy times they will have some difficulty doing so and may well decide to flag down a vehicle that is not licensed.
- 3.11 There is a restriction on the number of hackney carriage vehicle licences that Sheffield Council will issue. This has in the past with considerable less numbers of hackney’s formed part of the defence of a driver in some cases.

4.0 Public attitudes

- 4.1 Public attitudes to the dangers of illegal plying for hire are a significant problem. Most will accept that there are risks involved in getting into a vehicle that is not a taxi or a pre-booked private hire vehicle and yet late at night, particularly after visiting a pub or club, many people seem to be prepared to jump into any vehicle that comes their way.

Licensing Officers have, on occasions, intervened to warn unaccompanied women not to get into unlicensed vehicles, unfortunately, the most common response is that they don’t care – they just want to go home, a not uncommon response is abuse.

- 4.2 Some members of the public seem to think that Licensing Officers are on the streets in the early hours of the morning for no purpose other than to prevent them getting home. These can be unhelpful, abusive and on occasions threatening.

- 4.3 Some members of the public seem to think (wrongly) that it is far cheaper to get in a private hire vehicle, illegally plying for hire then to get a hackney carriage.
- 4.4 There have been a number of publicity campaigns to inform the public about safe travel home using taxis and private hire vehicles and of the dangers of getting into unlicensed vehicles. These seem to have had little impact on the problem except for short periods following a serious incident e.g. a sexual assault on a passenger in a vehicle illegally plying for hire.

Officers will, however, continue to take advantage of any opportunities that arise to publicise this issue.

5.0 Enforcement Activity

- 5.1 Enforcement takes on many guises and officers can now use many ways and different types of enforcement.
- 5.2 The best results gained come from the use of covert passengers, these being either Sheffield Licensing Officers or fellow officers from neighbouring Councils who we have good working relationships.
- 5.3 Video and CCTV evidence have been previously used with some affect.

6.0 Financial implications

- 6.1 The cost of enforcement is a necessary cost in relation to the statutory duties of the Council. These costs are recovered through the charging of fees to licensees and applicants for licences.
- 6.2 The costs associated with the securing of a conviction can, and usually are, quite high. If full costs are not awarded to the Council on the securing of a conviction then it is some of the "victims" i.e. those licensed drivers that are trying to work legally that actually pay through the fees that they are charged.
- 6.3 The usually running time for a person who pleads not guilty to this sort of offence from date of offence to hearing date is between six and nine months.
- 6.4 There are no additional costs to the Council arising from this report.

7.0 Consultation

- 7.1 A draft of this report was circulated to representatives of the trades associations at the scheduled consultation meeting 22nd May 2012 of the 3 trades associations and the Principal Licensing Officer.
- 7.2 Any correspondence received in respect of this report is attached.

8.0 Recommendation

8.1 That Members confirm that:

- i) Because of the potentially serious consequences of the offence, offenders will be prosecuted (where there is considered to be sufficient evidence to secure a conviction and it is in the public interest to do so);
- ii) Officers must endeavour to recover the costs of prosecutions from those convicted in order to reduce the financial burden on licensed drivers who work within the law;
- iii) Officer's refer any current licensed drivers to the Licensing Board at the point that there is sufficient evidence for the Officers to submit a file for legal proceedings to be brought against that driver.
- iv) Unless there are exceptional circumstances offenders should expect to have any licences they hold revoked and/or any application for a licence refused.
- v) Councillors' confirm that they deem that this offence is a matter of public safety and any revocation of a licence would be done under Section 52 Road Safety Act 2006, which amends Section 61 of the Local Government (Miscellaneous Provisions) Act 1976. This means any revocation would be with immediate effect.
- vi) The use of officers as covert passengers be endorsed as a method of enforcement, and instruct Chief Licensing Officer to carry on conducting enforcement activity against this illegal activity.
- vi) A copy of this report and the resulting resolution is made available to the Courts when relevant cases are being considered.

Steven Lonnia
Chief Licensing Officer
Licensing Service
12th June 2012

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SHEFFIELD CITY COUNCIL LICENSING COMMITTEE

Report of: Chief Licensing Officer

Date: 12th June 2012

Subject: Private Hire and Hackney Carriage Licensing

Author of Report: Steven Lonnia Chief Licensing Officer,
Business and Strategy, Place Portfolio

Summary: Report – Enforcement Review

Category of Report: OPEN

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Private Hire & Hackney Carriage Licensing

Enforcement Activity

1. PURPOSE

- 1.1 To report to the Licensing Sub Committee the enforcement activity undertaken in private hire and taxi licensing for the period 1st November 2011 to 29th February 2012.

2.0 BACKGROUND

- 2.1 On 25th October 2005, the Licensing Board considered the comments and recommendations of the Strategic Resources and Performance Scrutiny and Policy Development Board and one of the resolutions of the meeting was;

“the Assistant Chief Executive, Legal and Governance, be requested to submit quarterly reports to this Board on enforcement practice by the Taxi Licensing Section”

- 2.2 The Licensing Board have previously agreed the level of enforcement activity, at its meeting of April 2007, the Licensing Board accepted that the Taxi Licensing Section undertake 88 enforcement duties per year.

- 2.3 This equates to at least 40 weeks per year with 2 officers having some form of enforcement activity take place over 2 nights/days a week. The rest is made up of day time and out of town enforcement with other agencies

3.0 Description of and reasoning behind enforcement Activity.

- 3.1 The Council has a duty to enforce the legislation in relation to Hackney Carriage and Private Hire Licensing.

- 3.2 The purpose of enforcement should always be to safeguard the health safety and welfare of the public by ensuring that the relevant legislation is complied with. The aim is to provide a good, accessible and safe means of public transport. It must be remembered that Private Hire and Hackney Carriage Drivers provide the service in order to earn a wage, they will only be there to provide a service if they are able to make a reasonable living.

- 3.3 Enforcement is all about maintaining reasonable standards in terms of vehicle condition and driver conduct and safeguarding both the public and licensees by preventing, insofar as we are able, illegal activity by those that are not appropriately licensed.

- 3.4 Current enforcement takes many forms, this includes night time on street enforcement by Officers, day time enforcement by officers, Enforcement is also done by way of stringent testing of vehicles by the Councils testing centre.

- 3.5 The 88 enforcement activities as stated in 2.2 are to take the form of out of office enforcement duties whether that be within normal office hours or out of office hours which will include at least 30 night time and/or weekend enforcement duties.

- 3.6 The 88 will also be included in the enforcement duties undertaken in joint agency enforcement exercises what ever form they take.

4.0 Enforcement Activity Undertaken

4.1 Set out below are the number and types of enforcement action conducted in the period 1st November 2011 to 29th February 2012

4.2 Vehicle Enforcement.

4.3 The table below shows how many vehicles were checked by officers, or seen over the period stated with the following outcomes;-

MONTH	No Vehicles	Checked No Faults	Defect notice issued	Suspensions	Warning letters	Other
November	17	7	10	0	0	0
December	17	5	12	0	0	0
January	24	11	9	0	2	2
February	21	10	10	0	0	1
TOTALS	79	33	41		2	3

4.4 Driver checks

4.5 The table below shows how many drivers/licensee checks undertaken by officers for the period, and gives the outcomes. Driver enforcement can take many forms and the numbers below may include warning letters that have been issued for reasons other than on street enforcement checks.

MONTH	No Drivers	Checked No Faults	Warning letters/defect notices	Suspensions	Formal Warning	Other
November	9	6	3			
December	5	4	1			
January	21	11	10			
February	5	1	4			
TOTALS	40	22	18			

4.6 Drivers & Licensee warning letters are often issued in relation to the licensed vehicle that they own or were the driver of at the time.

4.7 Defect letters will be sent out to licensees if a vehicle is seen to have a defect, e.g. Brake Light inoperative, and the vehicle was not physically inspected by an officer but was seen whilst officers were undertaking their duties.

4.8 The above statics are not a true reflection of the number of vehicles and drivers checked during this period. During the month of December the licensing software was updated to a newer version unfortunately when the upgrade was completed it had corrupted some of the information stored and the enforcement check system seems to have been affected the most.

5.0 Areas of Concern

5.1 As part of the normal enforcement duties carried out by officers, they have standing instructions to undertake enforcement activity in certain areas of the city where either members of the public or other agencies have reported problems involving hackney carriages or private hire vehicles. Some of the findings in the problem are listed below.

- 5.2 Rudyard Road. This area continues to be of concern for local residents, a number of warning letters and formal warnings have been issued to drivers who have repeatedly transgressed in this particular area. 47 warning letters have been issued to drivers in 2011, for causing a hazard or obstruction on this particular road.
- 5.3 City Road. This is an area of concern for the illegal activity of private hire vehicles plying for hire without a licence, the enforcement team will be carrying on with enforcement in this area, during the next year, although the decline of the venues in the area have affected the trade.
- 5.4 Fulwood Road, this area of concern has been raised by local residents we have not encountered any of problems in this area in the last 6 months, enforcement in this area is now scaled down to reflect this.
- 5.5 Chapeltown – Market Place, this area as with City Road has been identified as a problem area for illegal plying for hire, some covert operations have taken place here and we are now awaiting court dates for potential prosecutions of offenders.

6.0 Prosecutions and Cautions of Offenders

6.1 The Private Hire and Taxi Licensing Section has submitted files for prosecution or dealt with the 4 offenders as listed below the trial dates will have been within the time period of this report, but the date of offence may have been prior to the 1st November 2011.

6.2

NAME	OFFENCE (S)	OUTCOME
Shahryar Hessmpour	Plying for hire without a licence	Fine £250
	Using a Vehicle uninsured (2 separate Occasions)	Fine £300 6 pts each £500 costs
Gary Bardill	Failure to carry assistance dog	Official Caution
Carmello Caponcello	Failure to declare an offence	Official Caution
Munawar Hussain	Failure to carry assistance dog	£60 Fine £75 costs £15 surcharge

6.3 The licensing section has no pending prosecutions for different offences currently awaiting trial dates.

7.0 Multi Agency Enforcement

7.1 One Multi Agency event took place within this period with Police officers in attendance on 27th January 2012.

7.2 On the exercise 21 vehicles were checked by officers. 9 defect notices were issued to drivers for vehicle faults.

8.0 Future Multi Agency Enforcement

8.1 Taxi Licensing Section have formed working partnerships with Road Traffic Police, VOSA and other Agencies including the Council's own parking services.

8.2 There will be more joint enforcement exercises but due to the nature and the complexity of the organisations involved these take some time to set up. All future reports will include details of all joint exercises.

8.3 Sheffield Officers will be involved in the summer months with a joint exercise at East Midlands Airport. Outcomes will be reported at the next review.

9.0 Future Reports

9.1 Future reports on enforcement practice by the Taxi Licensing Section will be submitted on regular basis through out the year up to a maximum of 4 reports.

9.2 Over the past few months the Licensing Service has been reorganised and structures within the service changed. We now have a more flexible team and taxi officers will be working along side other licensing officers. Enforcement will continue but it will be more joined up then we have been operating under in the past.

9.3 This means that on certain operations and exercises the officers time spent solely on taxi enforcement will be limited.

9.4 The new joined up approach will not affect the amount of taxi enforcement undertaken and we will strive to maintain the current high standards of enforcement we operate under.

10.0 Financial & Staffing Implications

10.1 None in relation to this report.

10.2 The enforcement costs are met from fee's received on vehicle applications and miscellaneous items to the Council. It is not legal to pay for enforcement duties from driver licence fees.

10.3 licence fees are reviewed on an annual basis and this is when the fee's would be adjusted if needed to be.

11.0 Recommendations

11.1 That members consider the content of this report.

12.0 Options

12.1 Consider the report and change the type and frequency of enforcement activity they require from the Taxi Licensing Section. If any changes are made then those changes to be clearly stated in the resolution.

12.2 Accept the report and make no changes to the frequency or type of enforcement undertaken.