

REGULATORY PANEL

WEDNESDAY 12 NOVEMBER 2014 AT 2.00PM

PRESENT: Councillor Bell (Chairman), Councillors Betton, Bowman S, Morton, Mrs Parsons, Mrs Prest (as substitute for Councillor Layden), Scarborough, Mrs Stevenson, Stothard (as substitute for Councillor Cape), Mrs Warwick and Wilson.

OFFICERS: Assistant Solicitor
Licensing Manager
Licensing Officer x2

RP.26/14 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillor Cape, Councillor Ms Franklin and Councillor Layden.

RP.27/14 DECLARATION OF INTEREST

There were no declarations of interest affecting the business to be transacted at the meeting.

RP.28/14 PUBLIC AND PRESS

It was agreed that the items of business in Part A be dealt with in public.

RP.29/14 MINUTES OF PREVIOUS MEETING

RESOLVED – 1) That the minutes of the meeting held on 3 September 2014 be agreed as a correct record of the meetings and signed by the Chairman.

2) That the minutes of the meeting held on 8 October 2014 be noted.

RP.30/14 TAXI AND PRIVATE HIRE DRIVER KNOWLEDGE TEST

The Licensing Officer submitted report GD.53/14 regarding an amendment to the delivery of the taxi and private hire driver knowledge test.

The Licensing Officer reported that 'knowledge tests' were introduced in 2001 to test prospective drivers knowledge of streets, routes, public buildings, the terms and conditions attached to the licence and their understanding of the various tariffs.

As Carlisle developed into a modern and multi cultural city there had been an increase in applications for drivers' licences from people born outside of the United Kingdom whose first language was not English. As a result there had been occasions where complaints had been received regarding the quality of the language skills of some of the drivers. Complaints were often difficult to investigate and the drivers had been known to bring their English speaking partners with them to assist in an investigation. Obviously, this can not happen during the drivers shifts if they were required to have a dialogue with passengers.

The Licensing Officer explained that a number of Councils had introduced a basic English Language Test which could be carried out in house or out sourced to an independent training provider. Although it was not a significant problem in Carlisle it was felt that the communication skills of all applicants needed to be assessed. The Licensing Office believed that this could be achieved by changing the existing knowledge test from a written test to a verbal test. The verbal test could assess accuracy and clarity and would assist applicants whose written skills were poor. The verbal test would only apply to new applicants unless the language skills of an existing driver were called into question, the Regulatory Panel may then require them to undertake and pass the verbal test.

The Licensing Officer reported that there was no fee for the knowledge test and under the proposed scheme an officer would have to be present during the whole test. It was therefore proposed that a first attempt at the test was free but upon failing, any future tests would incur a fee of £10. It was also proposed that there would be a 10 day interval between tests to ensure applicants were adequately prepared.

The Licensing Officer added that should an applicant be refused a licence because of inadequate communications skills they had a right of appeal to the Regulatory Panel and, if necessary, the Magistrate Court. The Taxi Association had been in favour of the proposed changes.

The Regulatory Panel discussed the proposed fee and felt that it should be monitored for the next twelve months and if there was a high number of people who needed second tests then the £10 fee would be increased accordingly.

In response to a question the Licensing Officer explained that the Cumbria Adult Education Speakers of Other Languages course had a low sign up rate due to the cost and length of the course.

RESOLVED - 1) That the taxi and private hire knowledge test be changed from a written test to a verbal test;

2) That no charge be made for the first test and a £10 charge be incurred for subsequent tests;

3) That a minimum of 10 days elapse between tests;

4) Where instructed by the Regulatory panel, existing licensed drivers may be required to undertake and pass the verbal test when their English language skills had been brought into question and that the appropriate fee be paid;

5) That a review of the number of tests that had been re-taken, be reviewed in twelve months time to re-evaluate the level of fee.

RP.31/14 REVIEW OF HACKNEY CARRIAGE DRIVER CODES OF PRACTICE AND PRIVATE HIRE DRIVERS TERMS OF CONDITIONS

The Licensing Officer submitted report GD.57/14 regarding necessary amendments to the drivers' Codes of Practice and Terms of Conditions.

The Licensing Officer reported that the Hackney Carriage Driver Codes of Practice and Private Hire Driver Terms and Conditions were issued with Driver Licences under the Local Government Miscellaneous Provisions Act 1976. Both of the documents had been

amended by officers to accommodate minor changes but major changes had to be agreed by the Regulatory Panel.

It had come to the attention of the Licensing Office that in recent months the Police had been unwilling to take possession of property which had been found in vehicles and handed into the Police by taxi drivers. Following a dialogue with Cumbria Constabulary and after reading their website it was clear that they expected the finder of any identifiable item to return it to the owner if possible. The Police would only accept identifiable items if they could not be reunited they would then return the items to the issuing authority.

The new instructions allowed taxi drivers to hand in identified property that they had been unable to reunite, this included wallets, purses, handbags and driving licences. A taxi driver should obtain a receipt from the Police for any item handed in. Any other property that was not identifiable such as umbrellas should be retained by the driver for 28 days before being disposed of.

All items, whether handed to the Police or retained by the driver, should be reported to the Licensing Team within 48 hours of being found to enable the Licensing Office to retain a record should any member of the public contact them.

Section 12 of the Hackney Carriage Driver Codes of Practice and Private Hire Drivers terms of Conditions had to be amended to allow for the change in procedure, the wording was set out in section 3 of the report.

RESOLVED – That section 12 of the Hackney Carriage Driver Codes of Practice and Private Hire Drivers terms of Conditions be amended as follows:

“12. At the end of each hiring and before commencing any further hiring the driver shall search the vehicle for any property accidentally left by the immediately preceding hirer. It is the drivers legal obligation to try and reunite all lost property with the owner and shall as soon as practicable and in any case within 48 hours after the discovery of property, attempt to return it to the owner. Failing that and still within 48 hours, all identifiable property shall be handed into the Police Station within the Council’s area and a receipt obtained, which must be kept by the proprietor of the vehicle. Identifiable property can range from purses, bank cards, driving licences, mobile phones, laptops, cameras, i.e anything that can identify the owner.

All unidentifiable property shall be kept by the proprietor for a minimum of 28 days and a record kept of the description.

ALL found property must be reported to the Licensing Section, Civic Centre, Carlisle within 48 hours where a record will be taken “

RP.32/14 REVIEW OF CHARGES 2015/16 - LICENSING

The Licensing Manager submitted report GD.49/14 setting out the proposed fees and charges for areas falling within the responsibility of the Licensing Section of the Governance Directorate with the exception of those under the Scrap Metal Dealers Act 2013 which falls to the Executive.

The Licensing Manager reported that the Corporate Charging Policy, which was part of the Strategic Financial Framework approved by the Executive and full Council, set out the City Council’s policy for reviewing charges.

He added that it was recognised that licence fees (that could be determined by local authorities) could only be set at a level which recovered the cost of administration, inspection and enforcement of the licensing authorities, arising out of carrying out their licensing functions under the various legislation. Pursuant to the case of Hemming V Westminster City Council 2013 licence fees could not include an element of enforcement against unlicensed operators.

It was the Council's policy to maximise charges to maintain full cost recovery wherever possible, and this should be the case when setting charges. Licensing were operating at an income level that was achieving full cost recovery.

Recognition should be made of the risk that licensing income levels could be subject to market forces outwith the Council's overall control, including new responsibilities and the repeal of other legislation. The full range of factors identified in the guidance must be taken into account when setting charges, with the overall aim of achieving target income levels to achieve the full cost recovery.

In addition the Policy recognised that each Directorate was different and required Directors to develop specific principles for their particular service or client groups, but within the parameters of the three main principles.

The Licensing Manager then outlined for Members the summary of income generated and the proposed increases to vehicle and Miscellaneous licences, as detailed within his report.

RESOLVED – That the fees and charges for areas falling within the responsibility of the Licensing Section of the Governance Directorate, as set out in Appendices A and B to Report GD.49/14, be agreed with effect from 1 February 2015, with the exception of the Scrap Metal Act fees which had been determined by the Executive and be effective from 1 December 2013, subject to any required advertising for hackney carriages and no objections being received.

RP.3/14 REGULATORY PANEL COMMENTS

Members of the Regulatory Panel asked if it was possible to delegate authority from the Regulatory Panel to the Chairman and Vice Chairman for policy agenda items to avoid the full Panel meeting for items which required little or no discussion.

The Licensing Manager explained that the decision to amend policy items and agree the charges review was delegated to the whole Panel within the Council's Constitution and any changes would require agreement by whole Council.

RESOLVED – That the Assistant Solicitor and the Licensing Manager investigate further the possibility of changes to the delegated powers of the Regulatory Panel.

(The meeting ended at 2.20pm)