

**LICENSING COMMITTEE**  
**02/03/2021 at 9.30 am**



**Present:** Councillor Briggs (Chair)  
Councillors Davis, Garry, C. Gloster, Harrison, Malik, McLaren,  
Price, Sheldon and Shuttleworth

Also in Attendance:

John Garforth	Trading Standards and Licensing Manager
Gabriel Agboado	Consultant in Public Health Medicine
Alan Evans	Group Solicitor - Environment
Mark Hardman	Constitutional Services
Kaidy McCann	Constitutional Services

**1            APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Marie Bashforth and Cosgrove.

**2            URGENT BUSINESS**

The Committee was advised of an item of urgent business relating to Disclosure and Barring Service Checks which required agreement of a procedure in response to recently introduced Government statutory guidance that had been accepted onto the agenda by the Chair and would be considered following item 8 on the agenda.

**3            DECLARATIONS OF INTEREST**

There were no declarations of interest received.

**4            PUBLIC QUESTION TIME**

The Committee considered two public questions that had been received in accordance with the Council's Constitution.

The first question, from Mr. Abdul Khayal, Chair of the NPHTA related to MOT tests in Moorhey Street Garage and read -

"I did raised this question in 2019 March or November meeting that MOT tests which causing major problems to taxi drivers.

They take the vehicle with fully serviced and some time with private MOT tests certificates still vehicles failed for no apparent reasons.

When a driver asked why my vehicle failed inspectors Shrug of the shoulders which clearly shows What may the reasons he is determined to failed the vehicle ?

I made a little survey regarding this matters and reported to Mr John Garforth.

I just read previously licensing meeting reports which shows failure rate 52% which never gone so low in past .

Taxi drivers presumption are that inspectors just failing vehicles to make the money nothing else”.

The Chair provided the following response –

“The Council’s vehicle compliance tests are conducted in accordance with the Governments MOT standards and the Council’s own vehicle testing policy. Every vehicle that is tested gets a report issued to the owner which details whether the vehicle has passed or failed and the reasons for failure together with any advisory messages. No clear evidence has been presented to Officers by the trade of any discrepancies.

The rolling 12 months hackney carriage test results show that only 44% of the 119 tests conducted resulted in a pass with the top three reasons for failure being defective lights, brake and suspension. Looking at the figures there has been a clear deterioration in the pass rate since the onset of the COVID pandemic which leads to questions as to how the trade have been maintaining their vehicles. Vehicle inspectors fail vehicles due to defects and for no other reason”.

Further to questions raised by Members in respect of this question, the Licensing Manager advised that it was the responsibility of drivers to present their cars in a fit condition for the test and it was not possible for the garage to maintain a supply of items such as bulbs to fit to vehicles where this might be the only reason for failure. The Garage was registered with VOSA and was a fully accredited testing station that conducted private MOTs as well as for the taxi trade. The Licensing Service was expected to be self-funding and no profit was made from MOT testing, the current charge for which was £45 per test against the allowed charge of £54.85.

The second question was from a Mr Farooq relating to taxi driver license renewal requirements and read -

“As per current taxi driver license renewal requirements drivers have to pay a 3rd party company a fee of £24 for checking their UK driver license record. Could you please clarify why I need to pay this 3rd party company to view my driving information when this can be done free of charge on the gov.uk site via DVLA share code. All the information regarding my license can be checked on the gov.uk site. DVLA & UK Government have authorised this method to view driving license data”.

The Chair provided the following response –

“The Council understands your concern. Had it been simply that we undertake a DVLA check only upon renewal it would have been easier to facilitate, but we don’t. Due to a high rate of non-compliance with conditions that drivers should report traffic offences, the Council changed its policy to require annual DVLA checks. For the Council to conduct this themselves by contacting each of our 1300 drivers to send in a code, chase up those that don’t and further suspend those that fail to comply would be a huge administrative task which Officers cannot take on.

It was decided therefore that the system we currently use was easier to administer. We do however monitor changing innovations in technology and best practice and will continue to do so in order to ensure compliance with our policy”.

Further to a query from a Member as to whether the Council could provide the service itself, the Licensing Manager advised that the DVLA had required an £24,000 set-up cost for a new system, with an individual test cost of between £5 - £6 thereafter. The set-up costs would have needed to have been recouped from drivers and a view was taken to adopt the current process.

## 5 **MINUTES OF PREVIOUS MEETING**

**RESOLVED** that the minutes of the meeting of the Licensing Committee held on 3<sup>rd</sup> November 2021 be approved as a correct record.

## 6 **ADOPTION OF REVISED LICENSING ACT 2003 POLICY**

The Committee gave a consideration to the proposed Statement of Licensing Policy that would be submitted to the Council for adoption in due course.

Members were reminded that the Licensing Act 2003, the primary piece of legislation which regulates the alcohol, entertainment and late-night refreshment industry, requires licensing authorities to prepare and publish a statement of their licensing policy every five years. The Policy must be kept under review and the licensing authority may make such revisions to it, as it considers appropriate. The Policy is underpinned by four licensing objectives, comprising the prevention of crime and disorder; the prevention of public nuisance; public safety; and the protection of children from harm, which must be considered by both operators and regulators.

The submitted proposed revised Policy was presented to the Committee, with principal areas of change or update being highlighted in the text. These areas particularly addressed –

- protection of children from harm where advice had been received from the Safeguarding Children Board, for example in updating definitions;

- Child Sexual Exploitation and Child Criminal Exploitation where a number of recommendations or encouragements were being made to licence holders and operators of licensed premises;
- alcohol delivery services which had developed in recent years;
- boxing, particularly in the consideration of 'White Collar Boxing', often undertaken for charity and involving non-boxers;
- considerations following the inclusion of a Local Authority's 'Public Health' department as a responsible Authority; and
- pavement licences, the application for and issue of which had been encouraged during the Covid pandemic.

A Member queried content in the proposed Policy indicating the use of plastic containers which conflicted with the Council policy to stop the use of plastic. The Trading Standards and Licensing Manager noted that the Council could not control businesses and that alcoholic drinks required a measured dispense. Polycarbonate glasses were more robust, but there always needed to be a balance struck between public safety at high volume events and environmental issues.

With regard to proposals relating to boxing, a Member suggested that content indicating an expectation or an encouragement should be strengthened to, for example, a requirement to have a medical card on safety grounds. The Trading Standards and Licensing Manager undertook to look further into the potential for strengthening or making a mandatory condition in this regard. In response to a request that it be clarified the fee payable for pavement licenses was non-refundable, the Trading Standards and Licensing Manager undertook to consider this further.

**RESOLVED** that

1. the report be noted;
2. subject to a consideration by the Trading Standards and Licensing Manager as to content relating to boxing and pavement licenses as discussed by the Committee, the adoption of the proposed Statement of Licensing Policy by the Council be endorsed.

7

**PUBLIC HEALTH DATA TOOL IN LICENSING DECISIONS**

The Committee gave consideration to a proposal that public health data should be used to assist in decision making in relation to alcohol premises applications under the Licensing Act 2003 (the Act).

The Act is the primary legislation that regulates the alcohol, entertainment and late-night refreshment industry and which is underpinned by the four licensing objectives of the prevention of crime and disorder, the prevention of public nuisance, public

safety, and the protection of children from harm. When premises applications are submitted there is a statutory consultation period where representations, which must be linked to the licensing objectives, can be made to the licensing authority. Since 2013, local authority Directors of Public Health (DsPH) in England have been included in the Act as responsible authorities and the public health data tool was intended to support the Council's DPH in making appropriate input to the licensing process to improve the health of the population.

The public health impact attributable to alcohol misuse in Oldham was considered within the submitted report using data sourced from Public Health England - Local Alcohol Profiles 2021. The data sets that had been used to develop the tool were considered, along with the uses that might be made of the tool by the DPH and the Licensing Service in their respective considerations of licensing matters.

The development of the tool was welcomed by Members but, in noting the sometimes interlinked nature of alcohol with drugs, it was queried whether the tool should be extended. The concern around drugs was acknowledged, but the Committee was advised that the current unreliable data relating to drug misuse meant it was difficult to combine the two issues. Should reliable data become available it could be possible to revise this position.

In response to queries noting that public health was not a licensing objective, it was confirmed that public health inputs must relate to the four objectives, for example issues that might be highlighted such as domestic abuse could relate to a licensing objective. If there was a need to review a premises license, the tool could be used to consider the prevalence and nature of alcohol misuse in the area around the premises. In such a case it would be for the Licensing Panel to determine the weight to be given to such representations.

Responding to a query regarding local convenience stores with licenses to sell alcohol from 7am, the Trading Standards and Licensing Manager noted that this was a consequence of the Act, that many large supermarkets had 24 hour licences, and that to not have a license to sell alcohol when a store was otherwise open could cause operational issues. However, it was possible for the Licensing panel to consider local issues in the event of a review being required for such premises.

In response to a comment that some data presented in the report appeared quite old, the Committee was advised that this was the latest available as some data publication had been delayed as a result of Covid. The data tool would be updated as updated source data was published.

**RESOLVED** that

1. the report be noted;

2. the use of the public health data to assist in decision making be endorsed.



## **LICENSING UPDATE**

The Trading Standards and Licensing Manager reported verbally to the Committee, advising that

- the Licensing Office remained closed other than for appointments, with the majority of staff working from home except where office attendance was required for essential purposes;
- the Council would soon be in a position to invite applications for grants in support of business costs, it being known that many drivers had been affected by Covid;
- a lot of advice had been provided to licensed premises, for example in relation to lockdowns which had generally happened very quickly;
- with regard to taxis, delegated powers continued to be used to determine a number of reviews. Vehicle test results continued to be a concern, with 56% of public hire and 51% of private hire failing compliance tests. Fail rates had increased during the Covid period so it could be drivers were reducing maintenance due to reduced incomes;
- consultations on the Greater Manchester minimum licensing standards project had ended before Christmas 2020. There was linkage to the Clean Air Zone proposals so it might be summer before recommendations were presented to the Committee; and
- outstanding annual fees from licensed premises would be collected once these had re-opened. While the number of licensed premises had fallen, applications for a number of new premises had been received.

In response to concerns expressed with regard to the reported vehicle failure rates, the Trading Standards and Licensing Manager advised the Council had suspended the previous 'Star' scheme and that ultimately vehicle failures lay with individual owners, not the operators. While drivers should advise the Council which company they were driving for, in practice this did not happen regularly. Once Covid restrictions were lifted it would be important to get back on track with Police checks, random checks and enforcement.

Members sought an update on considerations relating to the colour of public and private hire saloons, indicating that further to discussion at the previous meeting of the Committee there had been an expectation for this meeting to be taking a decision following the consultation held before Christmas 2020. The Trading Standards and Licensing Manager advised that timescales on this issue had slipped and data from the consultation, which was part of the Greater Manchester (GM) consultation, had not been made available to date. It was put to



the Committee that it would be best to proceed on a GM-wide basis to prevent the possibility of Oldham choosing a different scheme to the rest of GM. Members queried whether the GM issue had been raised at the previous meeting, and comment was made that GM should be expected to ask views of the Committee before a decision was made and so the Committee should determine an Oldham position. In terms of timescales, it was hoped to bring a report on common conditions and policies for drivers to the next meeting. The similar item with regard to vehicles, which had some linkage with the Clean Air Plan, may have to follow and require a special meeting of this Committee.

Reference was made to complaints received about taxi drivers not wearing face coverings. The Committee was advised that while the drivers were exempt under their classification as 'transport workers', they had been encouraged to wear masks. Passengers were however required by law to wear masks.

**RESOLVED** – that the report be noted.

9

## **DISCLOSURE AND BARRING SERVICE CHECKS**

The Committee was advised that recently issued Government statutory guidance requires Licensing Authorities to conduct a Disclosure and Barring Service (DBS) criminal records check every six months on licensed drivers and the Committee was asked to endorse a new procedure that had been developed to facilitate this process.

The statutory guidance had indicated evidence to support the view that taxis and private hire vehicles are a high-risk environment for abuse and exploitation of children and vulnerable adults and sought to improve the consistency of licensing policy and focus attention on protecting these vulnerable groups. In order to comply with the guidance and ensure that six monthly checks take place a procedure has been written.

The procedure includes those requiring a DBS check to register for the online service which will be a cheaper and quicker option for conducting checks every six months rather than submitting a full application every time, and also covers the situation where an online check has failed or the driver has failed to apply for the online service in time and enforcement action needs to be taken.

In response to a query, the Committee was advised that a new DBS check cost £40 and that the Council had no choice but to be compliant with the new national Guidance. There would not be a burden to the Licensing Team arising from this new arrangement as checks were conducted on-line and handled by a third-party provider. Under current arrangements, unless a driver advised the Council of a new offence on their record, the Council would not be aware. The new arrangement would provide comprehensive and timely notification.

Members queried these arrangements compared to Personal Licences for licensed premises, being asked to note that personal licences were by law granted for life and no check could be made unless initiated by the Police or the Courts. While not providing notification of a conviction to the Council was itself a criminal offence, the Committee was asked to note that often it was outside the prosecution window before the Council became aware.



**RESOLVED** that

1. The report be noted;
2. The Disclosure and Barring Service Checks procedure, as outlined in the submitted report, be approved.

The meeting started at 9.30 am and ended at 11.30 am