

Restoration of Licensing Function from May 2016

The case supporting its return

Current responsible Commissioner: *Commissioner Ney*
Chair of Licensing Board: *Cllr Sue Ellis*
Lead Officer: *Karen Hanson, Assistant Director Community Safety and Street Scene*

As part of the government's intervention, the powers of the Council in relation to licensing functions have been undertaken by Commissioners since March 2015. This includes all decisions previously taken by the Licensing Board and in the case of policy decisions, by full Council. The licensing functions cover taxi licensing, entertainment and alcohol licensing and house to house collection permits.

Whilst all decisions since March 2015 have been made by the Commissioner, the members of the Licensing Board have sat alongside the Commissioner in an advisory capacity as part of the process. Also, whilst the new policy was decided by the Commissioner, it was set in conjunction with the Licensing Board and debated at full Council. Elected members have therefore been fully sighted and involved in an advisory capacity in the full range of decision making issues over the past 15 months.

The Casey Report identified a range of failures and weaknesses within the Council's licensing function: in member level decision-making; in dealing with poor behaviour and past criminality of drivers; and a general loss of confidence in the Council's ability to promote public safety and in the taxi trade itself. The Jay Report commented on the nature of links between Child Sexual Exploitation and the taxi trade in Rotherham.

Therefore the key tasks of intervention were fourfold:

1. to put in place a new policy with the aim of: raising standards; restoring public confidence; and ensuring public safety;
2. to implement that policy including an audit of all drivers against the new standards of 'fit and proper';
3. to ensure the Council's licensing and enforcement functions were fit for purpose, and;
4. to put in place robust arrangements for decision making and to model good practice for advisory members of the Licensing Board.

All actions are well advanced and many are complete, with any outstanding measures having clear deadlines for later this summer (e.g. taxi cameras).

Commissioners now propose for consideration by the Secretary of State for Communities and Local Government that the licensing functions of the Council

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be restored to the Licensing Board and to full Council. The Commissioners consider that the four tests for the return of functions are met:

- Commissioners have satisfied themselves that the service is operating at a good enough level with no significant value for money deficits;
- there is good enough officer leadership and that definitions of service quality and plans for further improvement are in place;
- there has been some external scrutiny and independent management from interims and a number of new management appointments in place;
- Councillors are now in a position to exercise full decision making authority over the function. (It is worth noting that Councillors themselves seek the return of those powers.)

This note and the attached evidence pack provide the information to support the Commissioners' recommendation to the Secretary of State under the following four headings:

- Operation of the service
- Hackney Carriage and Taxi Licensing Policy
- Operation of decision making
- Councillor skills and capability.

1. Operation of the service

Prior to the arrival of Commissioners and in the wake of the Corporate Governance Inspection led by Louise Casey CB, the Council had already commenced a process of improvement of the service. This has continued and the following improved arrangements are in place.

- Revised organisational structure has been agreed and is now in place. Chart attached at Appendix C. In particular this brings together the licensing policy/administration and licensing enforcement under a single manager. The dysfunctionality of the previous split arrangements was referred to in Louise Casey's report and was evident from Commissioners' direct experience.
- The revised structure has provided the opportunity to recruit new managers to the service who will be in place by spring 2016. In the interim, the Business Regulation Manager has undertaken a hands-on role in relation to licensing for the past year working closely with the Commissioner. This will ensure strong continuity and focus on the improvement agenda and good day to day management and leadership of the licensing team. This will include addressing the need for an improved culture within the team, customer focus and greater respect for the trade. In addition a new Assistant Director and a new Director with overall responsibility for the service are now in post. This combination of existing and new managers should provide a strong combination of new expertise as well as an important understanding of the past

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failures to ensure continued delivery of the improvement plan attached at Appendix D.

- The Council is progressing plans to upgrade the IT systems used by licensing and enforcement staff so that they interface and provide more effective recording and sharing of data. This was a contributory factor to previous weaknesses in dealing with complaints and investigations.
- Significant progress has been made in improving the flow of information between licensing, the Police (SYP and the NCA Stovewood) and with the Council's Children's Services on issues of safeguarding including CSE. The Business Regulation Manager is the single point of contact, is a member of the information exchange forum set up to deal with safeguarding (the MARP), and attends the weekly CSE briefings. Appendix E (i and ii) highlights two examples of this proactive approach in dealing with cases of concern, marking a positive shift from past experience.
- A pattern of more regular meetings and channels of communication with the taxi trade Associations has been established which over time should lead to better relationships, sharing of concerns and tackling of issues.
- The new organisational arrangements council wide will also facilitate the involvement of licensing in corporate council wide action to deal with safeguarding concerns, hot spots and enforcement activity many of which may be led by the Assistant Director with responsibility for this service.

Prior to the arrival of Commissioners, the Council had appointed Weightmans, an independent law firm, to undertake a scrutiny of licensing staff failings which had been identified in the Casey Report. They have not yet concluded their work and the final report is not expected for some weeks. All staff have been interviewed as part of this process but the outcome is not expected to impact on the tests for return of decision-making for the licensing function.

2. Hackney Carriage and Taxi Licensing Policy

Following widespread consultation a new policy is now in place together with an implementation scheme. The full policy, supporting documents and implementation scheme are available at:

http://www.rotherham.gov.uk/downloads/download/219/taxi_licensing. In summary the key improvements and measures to address issues of public safety which this puts in place include:

- Higher standards of driver 'fit and proper person test', including: consideration of criminal and driving records; other non-conviction information from the Police and other agencies; complaints about driver performance and behaviour; pattern of offending behaviour and regard for the law; and driver honesty . An audit of all existing drivers (approximately 1200) is now complete and identified 6% of drivers

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who may fail to meet the new test of fit and proper person due to their convictions history and wider record. All of this group have had the opportunity of a hearing with the Commissioner sitting with advisory licensing members and as a result around 60% no longer hold a licence. Attached Appendix F is a record of all case hearings which include the audit of taxi drivers.

- Requirements to hold BTEC qualification in and compulsory attendance at safeguarding children and vulnerable adults training which includes awareness of CSE. Nearly 1000 drivers (out of 1200) have now attended the safeguarding sessions.
- Compulsory installation of taxi cameras with video facility operational at all times when being used as a taxi, and audio facility to be used when carrying unaccompanied children or at the instigation of the passenger or the driver in the event of concerns (the date of which varies depending on the date of the renewal).
- Age requirements in relation to vehicles to ensure safety and quality.
- Requirements on top of the DBS check to enrol with the DBS online service to provide the Council with continuous access to criminal record changes.

3. Operation of Decision-making

A number of changes have been made by the Commissioner in the way in which formal decision making is undertaken as follows:

- Urgent revocation decisions delegated to officers must be subject to consultation with the Commissioner/ Advisory Chair.
- The format for reports for case hearings has been reviewed and now includes all previous known information (whether or not previously considered); clear officer recommendations; explanations of issues of departure from the licensing policy. In addition revised arrangements are being put in place with social care services on the referral of complaints/information by social workers.
- Licence holders are formally asked to submit a written statement in response to the officer report.
- The case hearings are recorded and a transcript produced if the matter moves to the magistrates' court.
- A full statement of the reasons for the decision including the information provided by the driver and the views and concerns of the decision maker is produced.

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- The Commissioner/Advisory Chair lead the questioning on a systematic basis and question the driver in relation to all convictions, motoring offences or other information.
- The submission of evidence to the Magistrates' Court includes a statement from the Commissioner concerning the new policy and the Rotherham context.

4. Councillor Skills and Ability

The Commissioner has adopted a method of working which has involved the Advisory Chair and the members of the Licensing Board in the entire process of developing the new taxi licensing policy, its implementation and in all case hearings. This has provided the opportunity to model good ways of working and decision making across the full range of licensing activity. It should be noted that the volume of hearings is around four times the normal level and therefore members have had a far wider range of experiences over the past 15 months than would normally be the case.

In particular, the following review of involvement demonstrates the range of activities undertaken by members:

- All members of the Licensing Board received 2 days training in September 2015 on the legislation, their role and decision making. A further round of training is scheduled for the new Licensing Board when appointed in May 2016.
- The Advisory Chair of the Licensing Board has participated in meetings with the trade to consult on the taxi licensing policy and its implementation; she has been involved in responding to media enquiries, she has sat with the Commissioner on all case hearings concerning drivers, operators, public house licence reviews and variations and house to house permits, and has led on questioning at the most recent hearings. The attached schedule at Appendix G shows the full range and number of these meetings.
- All members of the Licensing Board have been able to sit on a number of case hearings and gain experience. This has included the audit of drivers against the higher standard. See attached schedule at Appendix G. In addition the Commissioner has produced an overview analysis of decisions and held a meeting with the members of the board to discuss this and to ensure consistency and confidence in decision making.
- The Licensing Board was enabled to give oversight to the development of the new policy, the arrangements for implementation and to monitor progress at meetings convened specifically for that purpose. All members of the Council were able to debate the new policy at a meeting of full Council in July 2015.

In addition the Licensing Board which will be appointed by full Council on 20th May 2016, will continue to be chaired by the previous Advisory Chair, and following the

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elections on 5th May, 15 of the 21 councillors have been re-elected who were members of the previous board. It is expected therefore that the make-up of the new Licensing Board will have sufficient experience, and new members will be appropriately trained to take up their roles.

Conclusion

Commissioners consider that the criteria for restoration to the Council of decision making in relation to the licensing function are met. Commissioners are confident that the service and its management are fit for purpose and that members have the skills and capability to take on the decision making role. However, I propose that the Commissioner maintains an overview of decisions and sits in an advisory capacity with members, in the few cases which were deferred from the Commissioners previous hearing, on a sample basis and at the request of the Chair.

Mary Ney
Commissioner