



SHEFFIELD CITY COUNCIL LICENSING COMMITTEE

Report of: Chief Licensing Officer

Date: 12th September 2013

Subject: Private Hire and Hackney Carriage Licensing

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

Summary: Report –Drivers/ Applicants Referrals Policy

Category of Report: OPEN

Hackney Carriage and Private Hire Drivers Licensing

Driver's referrals policy.

1.0 Purpose

- 1.1 To review the current policy in respect of referring current and prospective licensed drivers to the Licensing Board and the setting of the guidelines as to when a driver and applicant should be referred.
- 1.2 The policy and the guidelines were last reviewed in 2009.
- 1.3 It is considered best practice that Councils consider and review Policies on a regular basis especially where the effects of a policy can impinge on peoples human and economic rights.

2.0 Current Position

- 2.1 The current written policy is attached to this report as appendix 1.
- 2.2 The setting out of referrals allows for applicants to understand the reason for referral and then make a considered decision on whether to make an application.

3.0 The Legal Situation

- 3.1 The Local Government (Miscellaneous Provisions) Act 1976 Sections 51(1)(a) and 59(1)(a) states "a district council shall not grant a licence- unless they are satisfied that the applicant is fit and proper to hold a licence.
- 3.2 The Local Government (Miscellaneous Provisions) Act 1976 Section 57 allows Councils to set conditions and have policies in place so that they can take a considered approach when dealing with questions of whether a driver or applicant is fit and proper to hold a licence.
- 3.2 The Council through the Licensing Committee have only granted delegated powers to Officers to grant or renew a drivers licence where the officer is satisfied that a referral to the Licensing Sub Committee is not necessary under the current referrals policy and the driver or applicant has met all the current criteria.

4. Consultation

- 4.1 The report was circulated to the trades associations in August 2013.
- 4.2 Representatives of the trades associations have been invited to attend this meeting and advised that, subject to the consent of the chair, they may address the meeting.
- 4.3 Any written representations received will be made available at the meeting.

7.0 Options

7.1 The Board consider the report and any representations made.

7.2 The Board take no action and consider the current referrals policy as adequate without any changes.

7.3 The Board consider the report and decide on a change to the Policy giving details of the changes to be made.

8.0 Recommendations

8.1 The Board consider this report and any representations made to it.

Stephen Lonnia
Chief Licensing Officer and Head of Licensing
Sept 2013

Appendix 1

Referral of Drivers or Applicants to the Licensing Board

The Licensing Authority (Sheffield City Council) has a duty under the Legislation (Local Government {Miscellaneous Provisions} Act 1976) to grant drivers licences **ONLY if it is satisfied that the person is a fit and proper person to hold a licence**. This means that it is up to you to show to the Council that you are a fit and proper person to hold a licence and not for the Council to show that you are not.

In most instances Licensing Officers are able to grant licences but in some cases the application/licence must be referred to the Licensing Board for it to make a decision about it. Set out below are the circumstances which will result in application being referred to the Licensing Board for decision.

Where the following offences/penalties are disclosed:-

- i) Any term of imprisonment or custody.

Except where in exceptional circumstances and in the view of the Chief Licensing Officer (Taxi Licensing) the age and nature of the offence(s) are such that a referral to the Board is not merited;

- ii) Any conviction for violence resulting in a custodial sentence, or violence offences which the Chief Licensing Officer considers to be serious nature.
- iii) Any conviction, for dishonesty resulting in a custodial sentence, or dishonesty offences which the Chief Licensing Officer considers to be serious nature.
- iv) Any conviction for sex offences resulting in a custodial sentence, or sex offences which the Chief Licensing Officer considers to be serious nature.
- v) Any caution, warning, anti social behaviour order (ASBO), fixed penalty (non driving) or Accepted Behaviour Contract (ABC) which the Chief Licensing Officer considers to be serious nature.
- vi) Any of the following driving offences:-

Drive or attempting to drive with alcohol level above the limit. (DR10)

Driving or attempting to drive while unfit through drink. (DR20)

Driving or attempting to drive then failing to supply a specimen for analysis. (DR30)

In charge of a vehicle while alcohol above limit. (DR40)

In charge of a vehicle while unfit through drink. (DR50)

Failure to provide a specimen for analysis or breath test. (DR60 & DR70)

Driving or attempting to drive when unfit through drugs. (DR80)

In charge of a vehicle when unfit through drugs (DR90)

Driving or attempting to drive whilst disqualified (BA10 & BA30)

- vi) Continued.
 - Causing Death by dangerous Driving (DD80)
 - Manslaughter or culpable homicide while driving a vehicle (DD60)
 - Dangerous Driving (DD40)
 - Driving without due care and attention (CD10, CD20 & CD30)
 - Causing death by careless driving (CD40, CD50, CD60 & CD70)
 - Using a vehicle uninsured (IN10)
- vii) Several motoring offences over a period of time particularly where the penalty points awarded could have resulted in disqualification and/or the applicant has claimed undue hardship to avoid disqualification.
- viii) Accumulated 9 or more penalty points or committed/been convicted of three or more motoring offences in a short period of time.
- ix) Accumulated 9 or more penalty points in 18 months or during the term of the last licence which ever is the longest.
- x) Have accumulated 12 or more penalty points or committed/ been convicted of four or more motoring offences in a 3 year period or the last two terms of licence, which ever is the lesser).
- xi) Any period of disqualification from driving.
- xii) warnings issued for failure to comply with private hire and taxi legislation which the Chief Licensing Officer considers to be of a serious nature.
- xiii) Any previous refusal/revocation of a licence by any Licensing Authority.
- xiv) Any other case which, at the discretion of the Chief Licensing Officer is regarded as appropriate for referral to the Board.

LICENSING BOARD DECISION 3rd December 2009

TRADE REPRESENTATIONS

GMB trade union – Response to Policy items for 12th September 2013.

Having consulted with our reps we have the following response, hopefully one of our reps will be at the meeting but should that not be the case please accept this as a formal response:

GMB concerns are:

Driver referrals:

1. Is this a '2 strikes and you're out policy' and if so why not 3, 4 or even 5 depending on the severity of the accusation etc? We would expect clear and concise guidance around the need for the policy change (i.e evidence of how any such change will improve the service for owners and stake holders alike and how it will be measured).
2. We would suggest that any change to the current policy should be developed and agreed through the Taxi forum.

Hackney use policy:

1. There are no examples of what or how the question would be posed on the licence application or renewal and unless we can see this we can't see how we are to be expected to respond.
2. Would the new policy restrict business and if so wouldn't that be to the detriment of the businesses in Sheffield? It is not evident in the proposal that this has actually presented any problem of a significant proportion to the Council. Again we would like to see more evidence of the need for the policy change and a proposal that outlines how the change will improve the service for owners and stake holders alike and how any improvement will be measured.
3. We would suggest that any change to the current policy should be developed and agreed through the Taxi forum.

Peter Davies
GMB