



# LICENSING COMMITTEE

BURNLEY TOWN HALL

Wednesday, 8th November, 2023 at 6.30 pm

## PRESENT

## MEMBERS

Councillors M Ishtiaq (Chair), A Lewis (Vice-Chair), H Baker, C Briggs, S Cunliffe, S Hussain, J Inckle, N Kazmi, J Launer, S Lone, A Raja, M Townsend and D Whitaker

## OFFICERS

Joanne Swift	– Head of Streetscene
Karen Davies	– Environmental Health and Licensing Manager
Catherine Waudby	– Head of Legal and Democratic Services
Carol Eddleston	– Democracy Officer

### 21. Apologies

Apologies for absence were submitted on behalf of Councillors Ingham and Kelly.

### 22. Minutes

The minutes of the meeting held on 21<sup>st</sup> June 2023 were approved as a correct record and signed by the Chair.

### 23. Additional Items of Business

There were no additional items of business.

### 24. Declarations of Interest

There were no declarations of interest in any of the items on the agenda.

### 25. Exclusion of the Public

All of the items on the agenda were to be heard in public.

## **26. Public Question Time**

Councillor Hosker addressed the committee under the Right to Speak policy about vehicles which were licensed by other Licensing Authorities but continued to operate predominantly in Burnley.

In his response, the Chair confirmed that members of the Licensing Committee shared similar concerns.

A 2015 change in the law permitted sub-contracting between operators in different authorities. This deregulation, and subsequent case law, had led to a fundamental change in the way operators ran their businesses, often holding operator licences with multiple licensing authorities. This meant that those who worked with these operators could effectively choose where to apply for their licence, perhaps in a neighbouring authority where conditions were better suited to their needs.

Vehicles licensed by neighbouring authorities then continued to predominantly work in Burnley via these subcontracting arrangements. As Council Officers could only enforce compliance in relation to their own licensed vehicles, issues relating to vehicles & drivers licensed elsewhere must be passed on to the relevant authority.

Targeted interventions of the Hackney Carriage and Private Hire fleet in Burnley continued and the safety of licensed drivers, passengers, pedestrians and other road users was paramount in all of the Licensing Authority's interventions and enforcement activities.

## **27. Taxi Licence Fees 2024**

Consideration was given to a report which outlined options for the level of taxi licence fees effective from January 2024.

RESOLVED, THAT:

1. Taxi fees remain unchanged for 2024, and
2. Costs incurred by the six monthly Disclosure and Barring Service (DBS) update service checks through the year be built into next year's full review of fees.

## **28. Hackney Carriage & Private Hire Licensing Policy**

Consideration was given to a report which proposed a number of revisions to the Hackney Carriage and Private Hire Licensing Policy document.

The consolidated Policy document was first introduced in November 2022 to reflect the Department for Transport (DfT) Statutory Taxi & Private Hire Vehicle Standards and brought together all of our procedures on taxi and private hire vehicle licensing, the primary and overriding objective of which must be to protect the public.

The proposed amendments reflected issues that had arisen since it was introduced. It made the document more relevant to drivers by explaining legal requirements and introduced new local requirements that applied to the licence or process.

Feedback from the recent Taxi Task Group meeting had been circulated as a Supplementary Agenda and included three further recommendations for the committee's consideration.

Members made a number of observations and asked a number of questions to which responses were provided as shown in italics below:

**Driver Licence Surrender:**

Would this new requirement to prevent the surrender of a licence mean that a driver who no longer wanted to be a driver, and who wanted to change their occupation, could not surrender their licence?

*This would not prevent any movement of occupation, whereas surrender of a licence might prevent the sharing of relevant information with other local authorities so whilst not a mandatory measure, it was, in effect, closing a public safety loophole.*

If a driver were to apply for a licence in another area, would that area's Licensing Authority check on the national database [NR3]?

*Licensing Authorities were required to conduct regular DBS service update checks in order to identify any convictions. If the driver had no convictions but their behaviour had resulted in some penalty, such as suspension or revocation, this would be noted on the national register and any Licensing Authority conducting a search could take their findings into account when considering any application.*

Was use of NR3 mandatory for Licensing Authorities?

*Yes, All Licensing Authorities must now make use of it.*

By checking NR3 as a matter of course, Burnley was potentially protecting citizens of other areas more than other areas were protecting the citizens of Burnley.

NR3 would potentially prevent a driver who wanted to move towns and would have previously surrendered their Burnley licence in order to work in Blackburn.

Was there any restriction on holding more than one licence if a driver wanted to move areas for genuine reasons?

*There was no restriction and a valid licence would continue to exist until it expired [unless revoked/suspended etc].*

Did the information on NR3 allow Licensing Authorities to see if a driver had been refused a licence elsewhere?

*It did indeed. When a Hackney/Private Hire Driver's Licence was revoked or suspended, or an application for one refused, the authority would automatically record this decision on NR3.*

## **Operator Booking Office CCTV:**

Public houses had to have working CCTV, would that be the same for Booking Offices?

*The draft revised policy document proposed 'Booking Offices must have CCTV coverage which operates on a 90 day loop'. If it was not working that would constitute a breach of conditions and could result in an operator being brought to a licensing sub-committee review hearing.*

Could the wording be strengthened to include requirement to provide footage?

*The text could be expanded to add ', with any footage to be provided by authorised officers upon request'.*

## **Extending Age Limits where vehicles meet Exceptional Conditions 1 (vehicle Safety) and 2 (Emissions) standards:**

Balancing climate change and social justice (such as affordability of new vehicles) considerations was complicated and difficult. The carbon footprint involved in buying a new car might be no different than running an older vehicle into the ground but it was important that cars were maintained in good condition to ensure safety.

Vehicle condition was covered by targeted interventions (spot checks) and enforcement in addition to 4 monthly compliance tests on renewal of the vehicle licence.

*Officers undertake regular targeted intervention checks because of concerns over vehicle safety. In the course of these checks, vehicles often failed seriously.*

What was the failure rate for targeted interventions?

*Private Hire fleet – 100% failure in the last two checks - five vehicles failed on 17<sup>th</sup> October and 13 failed on 25<sup>th</sup> July*

*Hackney Carriage fleet – were generally very well maintained, with only a small number of failures.*

Increasing the age limits would bring Burnley closer to other Licensing Authorities' age limits.

*Burnley was seeing drivers leaving the fleet and licensing their vehicles elsewhere. Burnley Licensing Officers consequently had no authority for enforcement and could only report issues to the relevant Licensing Authority. Officers wanted to retain a fleet of safe vehicles in Burnley for longer and at the same time influence the zero emissions agenda going forwards. The upper age limit had been eight years for some time and it was now eight years since the Euro 6 emissions standards were introduced. Burnley now had a fleet of Euro 6 compliant vehicles and if they were kept on the fleet for another two years we would know that they were clean diesel vehicles.*

Contrary to the new local requirements discussed earlier which seemed to raise standards in Burnley, increasing the age-limits would seem to be lowering standards.

*In no way was this proposal intended to allow unsafe vehicles to remain on the fleet. Exceptional Condition (EC) 1 predominantly dealt with vehicle safety and Exceptional Condition (EC) 2 with emissions. Officers would be looking at how to inspect vehicles differently and on a more routine basis.*

*Officers had had the same detailed conversations with the Taxi Task Group. They wanted to work with and support the trade, with both being committed to safety. Members had been fighting very hard for a long time to make things better for Burnley and we had policies in place to support and nudge the trade in relation to climate change. Safety was paramount.*

Introducing ECs would make sense and give us more control over vehicles which might otherwise be taken off the Burnley fleet and licensed by other authorities.

It was difficult to see why we would want to increase the age limit to allow operators and drivers not to have to purchase new vehicles. Euro 6 compliance did not cover seat belt torsion and wear and tear of tyres.

*In relation to private hire saloon vehicles, the upper age limit would remain at eight years if the ECs were not met. There would be much more monitoring and rigorous enforcement in the future. A fail where an authorised MOT vehicle examiner identified two or more dangerous or major faults and/or where a vehicle was found to have a poor maintenance history, evidenced by two or more previous suspensions for vehicle safety issues could lead to EC1 not being met. The ECs were intended to make things better and to be an incentive to drivers to maintain their vehicles.*

Who could stop a vehicle and when?

*Licensing Authority Officer working with uniformed member of the police – only a uniformed police officer could stop a moving vehicle.*

*Burnley Licensing Authority Officer only - could deal with a stationary vehicle licensed by Burnley.*

*Burnley Licensing Authority Officer only with concerns about a vehicle licensed out of area – had no authority to stop the vehicle, or deal with any concerns, but would report the concern to police and/or the issuing Licensing Authority. Partnership working was crucial.*

In relation to the Hackney Carriage upper age limit increase to 17 years proposed by the Taxi Task Group, had there been an impact assessment undertaken and were we confident in relation to safety?

*No impact assessment had been undertaken but the Hackney Carriage fleet was generally well maintained. There was no suggestion of increasing the upper age limit for vehicles that did not meet either or both of the ECs.*

It would be helpful to do some cost/benefit analysis of buying a new vehicle so that we could communicate the findings to drivers and operators.

*In relation to the request from the Taxi Task Group to amend EC1 to permit Euro 5 petrol, it was explained that Burnley had no petrol vehicles in its fleet but that vehicles meeting the requirements of the EURO 5 standard would be allowed to enter the clean air zones until 2030.*

RESOLVED, THAT:

1. The amended Hackney Carriage and Private Hire Licensing Policy document be approved for immediate implementation other than as indicated below.
2. A new requirement to refuse licences where vehicles are subject to manufacturer recall or have no MOT in place, for implementation from 1<sup>st</sup> December 2023, be approved.
3. A new requirement preventing surrender of driver licences, for immediate implementation, be approved.
4. A new requirement to have functioning CCTV and to provide footage to an authorised officer upon request, applicable at the next application / renewal, be approved.
5. Age limits for vehicles meeting vehicle safety and clean emission standards, EC1 and EC2 be approved as per Appendix 5 of the Draft Policy document (APPENDIX A to the Report), for implementation from 1<sup>st</sup> December 2023, with the following amendments:
  - a) Exceptional Condition 1 be amended to permit Euro 5 petrol, as well as Euro 6 diesel vehicles.
  - b) Non-wheelchair accessible private hire vehicles (i.e. saloons, estates and all MPVs) be subject to the large MPV age limits where EC 1 and EC2 are met.
  - c) The Hackney Carriage age limit be increased to 17 years for vehicles meeting Exceptional Condition 1.
6. Members note that the unlimited upper age limit is for all wheelchair accessible vehicles meeting Exceptional Conditional 2, i.e. both Hackney Carriage and Private Hire.