

GD: 2018/0023



Road Transport Licensing Committee

Annual Report for the year ended 31st March 2017

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Chairperson's Report

I was appointed Chair of the Road Transport Licensing Committee ("RTLC" or "the Committee") with effect from late February 2017 so this report largely covers a year when Keith Watterson was Chairman.

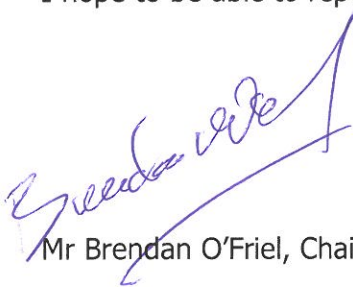
Keith served as a member, Vice Chairman and Chairman from 2002 – 2017. This was a substantial contribution to the difficult task of establishing the RTLC as the regulatory body for the PPV and HGV trades on the Island. In the last 5 years as Chairman, Keith encouraged the committee to tackle the problem of poor maintenance in a minority of PPV vehicles resulting in them failing their annual test. Keith also encouraged the Committee to tackle the problem of PPV drivers and operators who had acquired convictions, raising serious issues about their "good repute" or whether they were a "fit person".

We shall miss his experience and wisdom in the years ahead.

I have asked the new Committee to take forward an ambitious programme of work. We plan to:-

- Through public statements and advertisements to raise the profile of the RTLC and to clarify the standards we expect from the PPV Trade,
- In discussion with the Department of Infrastructure – our sponsoring Department – seek to improve measures to enforce high standards,
- To introduce training for the PPV trade in Safeguarding and Customer service,
- To examine ways of recognising good work and achievement in the PPV trade.

I hope to be able to report progress on this programme in our next annual report.



Mr Brendan O'Friel, Chairperson

Introduction

The Road Transport Licencing Committee is an autonomous independent organisation within the Isle of Man Government established under the Road Transport Act 2001 ("the Act"). The duty of the RTLC under Section 1(6) is to enforce the provisions of the Act. The RTLC regulates the providers of road transport services to benefit and protect the public through the provision of sufficient, efficient, safe and quality services of public transport.

The Department of Infrastructure ("DoI") acts as the sponsoring Department for the Committee within the Isle of Man Government. A Framework Agreement between the RTLC and the DoI was signed in 2011. The Committee holds formal meetings with the DoI approximately every six months.

This report provides information about the work of the Committee for the year ended 31st March 2017. Annual Reports were not provided for the early years of the RTLC; however since 2007 an annual report has been published and is available on the RTLC website or through the Tynwald Library.

Scope of Responsibilities

The Act requires the Committee to regulate providers of both Public Passenger Vehicle ("PPV") and Heavy Goods Vehicles ("HGV") services. However since the commencement of the Act in 2001, Tynwald has only approved legislation to allow the Committee to regulate PPVs and then only on a "transitional basis".

The "transitional provisions" of the Act have been in place for more than 15 years and the Committee supports the removal of these provisions to allow more efficient and effective regulation of both PPVs and HGVs. It is understood that the DoI supports progress in these areas.

The Committee

The Committee consists of five members of the public. Following a public advertisement, members are appointed by the Council of Ministers subject to the approval of Tynwald for a period of up to five years.

The membership of the Committee for most of 2016/17 was:-

- Mr J Keith Watterson (Chairman)
- Mr Brendan O'Friel (Vice-Chair)
- Mr Alan Payne
- Mr Fred Peck
- Mr David Sellick

In February 2017, the five year terms of Mr Watterson, Mr O'Friel, Mr Payne and Mr Sellick finished (Mr Peck had been appointed to the Committee in 2014) and the Council of Ministers nominated a new Committee comprised of the following members in addition to Mr Peck:-

- Mr Brendan O'Friel (Chairperson)
- Mr David Sellick (Vice Chairman)
- Mr Graham Curphey
- Mr Mark Pattison

These appointments were approved by Tynwald on February 21st 2017.

RTLC Office Staff and PPV Inspector

The RTLC office staff consists of the Secretary to the Committee, Mr Noel Capewell and an Administrative Officer, Miss Liz McMahon. They are assisted by a part-time PPV Inspector, Mr David Berry. During the latter part of 2016, following the move to the Department of the Environment, Food and Agriculture ("DEFA") at St Johns – see below – changes were introduced to try and improve the resilience of the admin staff by combining several administrative support functions into one team.

Despite being so few in number, the office staff are still able to cover absences through annual leave and training courses with a minimum of fuss and little or no decrease in the quality of the service offered to Operators and the public in general. Maintaining this level of service is extremely challenging. However, the difficulties of dealing with complex issues arising from conduct issues and regulatory uncertainty means that the work load on the team has grown considerably in recent years.

RTLCL Office

In 2016, as part of Government initiatives to reduce costs, the DoI approached the Committee about moving offices. This move was implemented in July 2016. A Memorandum of Understanding was signed between the RTLCL and DEFA to formalise the new arrangements.

Definitions

Ply for Hire Taxis ("PFH") are licenced to pick up passengers in the street and to stand on taxi ranks awaiting passengers. The maximum fare that can be charged by a taxi is calculated by a meter (present in all PFH taxis) and determined by time taken and distance travelled.

Private Hire Cars ("PH") have to be pre-booked, usually by telephone. Fares charged are not regulated but are a matter for passengers and drivers to agree before a journey commences. If a PH car is fitted with a meter, agreement should be reached between the driver and passenger before the journey commences as to whether the meter is to be used for calculating the fare. The meter would then use the same fare tariff as a PFH taxi.

Regulatory Activities

First Principles – PPV Drivers

Under Section 40(4) of the Act, an applicant for a PPV drivers Licence has to satisfy the RTLCL that they are a "fit person" to be a PPV driver. The "fit and proper person" test applies to PPV drivers both PFH and PH on the Island and across the UK. In 1998 in the case of *McCool vs Rushcliffe Borough Council*, Lord Bingham, Lord Chief Justice, gave a clear and concise definition of the test as follows:-

"that they are safe drivers with good driving records and adequate experience; sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers"

This is the test that the RTLCL applies when considering applications to be drivers and when existing drivers wish to renew their licences.

First Principles – PPV Operators

Under Section 10 of the Act, the Committee has to be satisfied that all applicants wishing to become PPV Operators are "of good repute". Furthermore, nearly all of these same applicants must also be of an "appropriate financial standing" and be "professionally competent".

Meetings

During the year, the Committee held 16 meetings, 12 of which had all or some of their proceedings held in public.

The Committee considered 67 applications at meetings held in public which were either for new Operator Registrations, variations of existing Operator Registrations or for section 29 Ply for Hire Service Licences.

66 of these applications were approved by the Committee, although some of these were deferred by the applicant as the Committee had asked them for additional information. When each of these applications was considered again, they were eventually approved.

1 application was refused and none were withdrawn.

Ply for Hire (Taxi) Applications

During the year the Committee did not receive any applications for new Ply for Hire "taxi" licences to be issued in any District.

The Committee considered 35 applications which involved either existing Ply for Hire Operator Registrations or people applying to become Ply for Hire Operators and approved 34 of them. Included in these applications were variation applications such as; changes to operating centres, applications to transfer a Ply for Hire business from an existing Operator and issues surrounding the appointment of Transport Managers.

The Committee also considered and approved 21 applications for section 29 Ply for Hire Service Licences.

Private Hire Applications

The Committee approved 8 applications which involved Private Hire vehicles. These included additional Private Hire cars, the transfer of a Private Hire car from one Operator to another, commercial courtesy minibus services, applications for new operating centres and issues surrounding the appointment of Transport Managers.

Regular Service (Bus and Coach) Licence Applications

The Committee considered 2 applications for variations to Regular Service licences during the year, approving both of them.

Public Safety Issues

The Committee is very concerned about the safety of the travelling public and they have a duty under the Act to ensure that all PPV Drivers and Operators do not present any danger to the public. As a result, they invited 13 different individuals to meetings to explain why they had been convicted of, or cautioned for, a wide variety of offences. This included driving related offences (such as speeding).

Some of the people who came into meetings were applicants for new PPV Driver licences whose cautions or convictions had been brought to the Committee's attention by a Disclosure and Barring Service certificate.

Other PPV Drivers or Operators had committed offences during the term of their PPV Driver licence. While some PPV Drivers / Operators informed the Committee of their convictions as they were required to do, most did not. The Committee had to rely on reports in the local press or other sources as well as the Disclosure and Barring Service certificate which is required for all new and renewal applications.

The Secretary regularly attends Court to obtain detailed information about alleged offences committed by PPV Drivers and Operators. Over the past year he has also been liaising with other authorities on the Island with regard to safeguarding issues.

In addition to this, the Committee also met with an applicant for a PPV Driver licence whose command of the English language was not very good. The application was refused.

The Committee held Formal Inquiries for 4 different PPV Drivers or Operators during the past year. 3 PPV Drivers had their licences revoked while one Operator had his Operator Registration revoked.

The Committee continued to monitor the initiatives of other UK PPV licencing authorities to strengthen regulation following the sexual exploitation of children and young people in Rotherham, Oldham and elsewhere. Discussions with DoI continue about the most effective measures to take on the Island.

The Committee also met with the Chair of the Safeguarding Board on the Island to discuss appropriate steps to try and reduce the dangers revealed by child abuse scandals in the UK. The Committee is convinced that a programme of training for operators and drivers is needed and is actively exploring how this might be delivered.

Driver Medical Issues

Following the tragedy of the "Glasgow Bin Lorry" crash in December 2014, public attention was drawn to driver medical fitness issues. On Island, from time to time, medical issues with drivers are mentioned to the Committee. The RTALC continues to advise all Operators to ensure that their drivers are medically fit and that drivers agree in writing to notify operators of any new or recurring medical issue that might restrict their ability to drive.

Annual Budget

In 2016/17 the annual budget for the RTALC was £115,872 and the RTALC managed to restrict the spending during the calendar year so that the total net expenditure for 2016/17 was significantly under budget at £84,624.

It is interesting to note that the Committee itself is only paid expenses when there are meetings held. In 2016/17 the total cost of Committee expenses was £14,001.

The RTALC was able to limit expenditure to ensure that they were significantly under budget despite the fact that there has been no increase in the fees that they can charge since July 2012 which, in turn, was the first fee increase since the creation of the RTALC in 2002.

Support for Other Regulators

The Vehicle Testing Centre ("VTC") carries out annual examinations of PPVs and failure notices are issued to vehicles which do not pass this examination. In some extreme cases, it has been known for a Prohibition Notice to be issued for a PPV at the VTC following an annual examination. The Department also carries out unannounced spot checks on PPVs which take place at taxi ranks or other places around the Island where PPVs are likely to congregate. The Committee and the VTC have agreed if any defects are detected on licensed PPVs which result in a test failure or a Prohibition Notice being issued, either at the VTC or as a result of a roadside check, the Committee is notified.

Where this occurs the Committee will wish to see evidence that the Operator of the vehicle has adequate procedures in place for regular safety checks as well as the proper maintenance and servicing of their vehicles. The Committee is particularly looking for evidence of a preventative maintenance system which will not only help to prevent future test failures but will also hopefully save the Operator time and money as potential faults with the vehicle can be spotted when they are still relatively minor and easy to rectify at a time of the Operator's choosing.

The Committee's primary aim when speaking to Operators about vehicle maintenance is to impress upon them the importance of regular maintenance checks and daily safety checks, all of which should be documented.

The Committee is willing and able to provide advice to the Operators as evidenced by the production of the Guide to Maintaining Roadworthiness ("the Guide") in July 2012. The Guide describes a system for maintaining vehicles in a roadworthy condition regardless of operating conditions, fleet size or vehicle type and is also supplied to all new Operators when they make their application for a new Operator Registration to the Committee. The Committee has received some positive feedback from Operators who have found the Guide to be helpful and have followed most of the recommendations contained within it.

Should an Operator have repeated test failures which, in the Committee's opinion are jeopardising the safety of the travelling public, the Committee may then hold a formal Inquiry into whether the Operator can meet the standard of "professional competence" necessary to retain their Operator Registration.

The Committee received a total of 39 test failures or vehicle prohibition notices from the VTC for PPVs during 2016/17. This was down from a figure of 63 for the previous year. Of those 39 notices, 25 were considered serious enough to warrant the Committee inviting the Operator into a meeting to discuss their maintenance procedures. No Formal Inquiries were held due to maintenance issues with Operators in 2016/17. There was evidence that most Operators who appeared before the RTLC following a test failure took significant steps to improve their safety and maintenance procedures.

Occasionally the Committee find that a small minority of Operators have repeat failures which raise questions as to whether advice is being heeded and improvements actioned. One action that the Committee considers in cases where the Operator has licences for more than a single vehicle is whether to reduce that Operator's fleet until higher standards are achieved. There were a couple of notable Operators with repeat failures in 2016/17 and the Committee shall be watching these Operators very carefully going forward.

The Committee continue to be concerned that a minority of Operators are deploying vehicles which are over 10 years old, some with a very high mileage recorded. These vehicles are likely to be less attractive to passengers and more liable to breakdowns.

There is also increasing evidence that Licencing Authorities in the UK are imposing age limits on vehicles. The RTLC has started to inquire from operators seeking to renew their operating licence what plans they have to replace vehicles over 10 years old.

Support for the Industry - Quality

Drivers of Ply for Hire taxis and Private Hire cars and minibuses play a significant and vital role in providing services to the public, and a customised training course has been designed for taxi drivers, which is aimed at improving customer care.

The Committee has become aware of continuing complaints from the travelling public about the variable standard of customer care being given by a small minority of PPV drivers when collecting or returning passengers at Ronaldsway Airport.

The Committee continues to receive occasional reports of passengers being delayed because of a shortage of taxis at Ronaldsway Airport, especially on weekend evenings. This may be partially caused by aircraft arriving around the same time and larger aircraft discharging higher numbers of passengers.

The issue of a variable standard of customer care is one example of the need to strengthen regulations and the penalties that can be imposed upon those that do not follow them. Another example was mentioned earlier in the Report where the majority of Operators or PPV drivers do not inform the Committee when they have committed an offence. The Committee is exploring ways of strengthening these regulations and penalties through legislative avenues with the DoI.

The Committee also consider that additional training for drivers and operators in both safeguarding and customer care would be helpful in addressing the above issues. As reported earlier in this Report, the Committee is actively seeking effective training for the industry to help raise standards and address problems.

Licensing Statistics

As part of its duties under the Act the Committee holds registers of PPV Drivers and Operators. The following statistics were valid on the 1st April 2017.

Statistic	1st April 2017	1st April 2016
Total number of registered Operators	267	264
Total Number of registered PPVs	433	430
Number of Ply for Hire taxis licenced	194	197
Number of Private Hire cars licenced	52	61
Number of Buses, Minibuses and other vehicles (including motorcycles, trikes, funeral cars, etc.).	187	172
Total number of registered PPV Drivers (many only work part-time)	1,192	1,169
Number of PPV Drivers licensed to drive Ply for Hire taxis and Private Hire cars (approximately)	588	630
Total number of new applications for PPV Driver Licences	136	122
Number of new applications for PPV Driver Licences to drive Ply for Hire taxis or Private Hire Cars	43	53
Number of new applications for PPV Driver Licences to drive buses, minibuses or Restricted PPV Driver Licences	93	69
Total number of renewal applications for PPV Driver Licences	200	226

Review of Fare Tariffs

The Committee may from time to time determine the maximum fares to be charged by vehicles when under hire as per Section 35 of the Act. Such a review was undertaken by the Committee in January / February 2017 with the deadline for submissions being February 10th.

The Committee asked for submissions from all Operators as well as the Manx Taxi Federation, inviting them to submit their views and any fare proposals to the Committee as part of the review. The Committee were disappointed that only 7 submissions were received from the Manx Taxi Federation and other Operators. These submissions included proposals such as;

- No change to the current Tariffs.
- The introduction of a third Tariff to operate between 22:00 and 00:00 as well as between 06:00 and 08:00.
- No extra charge for two people travelling together.

- Each passenger to be allowed to store one large item without any extra charge.
- An increase in the number of Public Holidays attracting the Tariff 2 charge.
- Increases of varied amounts at the Flag Drop.
- Reducing the distance units on Tariffs 1 and 2.
- Tariff 2 being returned to 1.5 times Tariff 1.

It was noted that the Committee and the trade were conscious of fluctuating charges on fuel and other motoring costs since the last review. The Committee believed that some allowance for such costs should be reflected in meter fares.

The Committee and the trade were however, also mindful of the needs of the public and the economic climate, and the danger of increasing fares to levels which could prove counterproductive to the taxi industry.

Following careful consideration of the representations and proposals made in connection with the review, the Committee agreed the following changes to the Tariff which would come into force on 1st April 2017;

- A 20p increase at the Flag Drop on both Tariff 1 and Tariff 2.
- A shortening of distances and waiting times on Tariff 1.
- Tariff 2 will now be applicable on all Bank Holidays (as well as any substitute days for Christmas Day, etc.).
- Tariff 2 will be returned to being approximately 1.5 times Tariff 1. Please note, due to the complicated nature of the Tariff calculations this will not be exact.
- The Booking Fee for journeys where time and place of engagement is stipulated by the hirer has been removed from the Tariff.
- Please be aware that it is currently the Committee's intention to also remove the Booking Fee for every journey commencing from the Airport, Ballasalla with effect from 1st April 2018. It will remain in place for this year however.

Challenges Facing the Road Transport Licensing Committee

The continuation of the "transitional provisions" of the Road Transport Act 2001 have in the opinion of the Committee led to the following undesirable activities which reduce the effectiveness of regulation and work contrary to the Committee's remit to protect public safety and to ensure services are provided for the benefit of the community.

Sale of Taxi Businesses/"Trading" in Taxi Plates

An unofficial and unlawful market in trading in Ply for Hire (taxi) licences has been created by the trade which supports the buying and selling of statutory approvals to operate a taxi business. Anecdotal evidence suggests that a value of up to £20,000 can be gained from the sale of statutory approvals to operate a ply for hire taxi. Anecdotal evidence also suggests that unofficial and unlawful market in "trading" in taxi plates has been in existence for more than 40 years.

The Committee consider that the illegal diversion of operator funds into "trading" in taxi plates probably accounts for the failure of parts of the trade to invest in newer vehicles to provide the travelling public with a better service. As we have noted earlier in this report, the existence of too many older vehicles in the present fleet probably contributes to the failure rate of PPVs at annual test. Steps to reduce and eliminate this illegal practice (and cost to operators) should encourage greater investment in better and newer vehicles by the trade.

The Committee does not, at present, have the power to prevent the lawful transfer or takeover of a taxi business, or to restrict the sale of a business within a given timescale, even in circumstances where it is evident that a taxi plate is dormant and no actual business exists.

The problems associated with the sale, and trading of taxi businesses or “plates” only arise where a limit is placed on the overall number of taxi licences. Such difficulties will persist whilst the “transitional provisions” of Schedule 2 of the Act continue to provide for quantity controls.

Renting of Taxi Plates

The practice of “renting taxi plates” is unlawful but the Committee has been unable to identify actual arrangements or agreements that may exist. This is caused by the difficulty in obtaining reliable evidence of these arrangements or agreements.

The “renting of taxi plates” can, on occasions, generate income for a number of people, including the Operator, the Transport Manager, and the driver or drivers. The difficulty for the Committee arises when a complaint occurs or the Committee have reason to suspect that “plate renting” is taking place. Investigating such practices is time consuming and obtaining evidence very difficult.

There is a further danger to the public. For any operator or driver using a PPV to carry passengers with a “rented” plate, it is highly likely that this illegality will invalidate any insurance on the vehicle. The travelling public would therefore be exposed to the danger of being driven in an uninsured vehicle. The consequences, if there was to be an accident, could be extremely serious.

Problems associated with the “renting of taxi plates” only arise where a limit is placed on the overall number of taxi licences and such difficulties will persist whilst the “transitional provisions” of Schedule 2 of the Act continue to provide for quantity controls.

Private Hire

Applications to operate additional Private Hire vehicles are not subject to the “transitional provisions” of Schedule 2 of the Act and the Committee has no authority to restrict the numbers of such class of vehicles. Services of Private Hire can also be operated on an all-Island basis.

It is estimated that over 90% of all PPV journeys originate from a Private Hire booking, e.g. by mobile phone or landline, rather than Ply for Hire where the vehicle is hailed at a taxi rank or in the street.

There has been an increase in the number of applications to operate Private Hire cars, which is largely due to the problems generated by the limit on numbers of Ply for Hire taxis.

The continuation of the “transitional provisions” means that owners who operate on a purely Ply for Hire basis are not able to compete fairly with their Private Hire counterparts for bookings made by telephone.

Private Hire Cars are currently subject to one restriction – namely they have to be of a standard regarded as “executive cars” by the RTLC. A list of such vehicles has been used by the RTLC and only vehicles on the list will be licenced. The RTLC, DEFA and DoI agree that the standards of private car hire need reviewing and this will be undertaken, subject to the pressure of other business, in the 2017/18 year.

Mobile Taxi Applications or Apps (e.g. Uber)

The Committee understands that a number of established, on-Island, service providers have developed or are developing mobile taxi apps which are similar to those provided in other jurisdictions such as Uber.

The impact of Uber and similar developments on the taxi trade worldwide may affect the Island. The Committee note the considerable controversy generated by the arrival of Uber (for example in London) and intend to continue to monitor what is in the best interests of the Island and especially our travelling public.

Taxi Districts or Zones

The “transitional provisions” support a system of four “zones” in the Island and restricts taxi operators to only accept customers in the area in which they are licensed and when they are in other “zones” they have to refuse to accept passengers.

The present zonal system can be confusing and frustrating to the public, who sometimes do not understand that a taxi is restricted to plying for hire in its licensed District.

When the “transitional provisions” come to an end, the Act provides for the introduction of an all-Island licensing system, which would likely increase the supply of taxis and the scope for customer choice. It would also likely promote fuel efficiency, and better utilisation of vehicles, time and resources.

Some members of the taxi trade are concerned that the removal of the District system will result in a proliferation of out-of town taxis in the Douglas area (the East District), which could in turn result in a shortfall in the number of taxis available in other areas of the Island.

Tynwald has previously approved a recommendation that legislation be amended in order to make provision for all-Island taxi licensing, but that such legislative change is still awaited.

RTLTC considers that if “all island” licencing increases shortfalls of service in parts of the Island, one way of tackling such a deficiency would be to provide incentives to those operators willing to provide the necessary service.

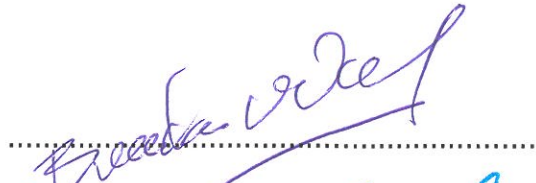
Language / Cultural Difficulties

The Committee is experiencing increasing difficulties with applicants and Operators who have a lack of familiarity with the English language. It is not uncommon to receive applications from new PPV drivers or Operators for whom English is not a first language, but the Committee is now meeting applicants who are unable to either read, speak or understand English – or, in some cases, all three.

It is clear that the Committee must adapt and modify some of its mechanisms such as the knowledge test to not only ensure that a driver has sufficient knowledge of a particular District and the Island as a whole, but also that they are able to understand the travelling public and also be understood by them.

This is a problem likely to be experienced increasingly across other public services and Island wide initiatives to encourage improved knowledge of spoken and written English may be needed. For example, the RTLTC favours an objective educational test for spoken English to be administered by an educational resource (such as the University College Isle of Man) which will have the advantage of developing and applying a common standard as well as being able to offer those with inadequate grasp of English the opportunity to attend courses to improve their language skills.

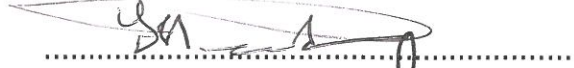
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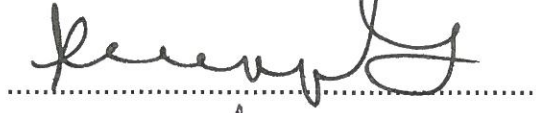
Mr David Sellick (Vice-Chair)



Mr Fred Peck



Mr Graham Curphey



Mr Mark Pattison



Road Transport Licensing Committee
Thie Slieau Whallian
Foxdale Road
St Johns
Isle of Man
IM4 3AS

Telephone: 651564
Email: rtlc@gov.im
Website: www.gov.im/rtlc