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Isle of Man
Government

Reiltys Ellan Vannin

Road Transport Licensing Committee

Annual Report for the year ended 31st March 2018

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Chairperson's Report

This is the Annual Report of the Road Transport Licencing Committee ("the RTLC" or "the Committee") for the year ending 31st March 2018.

The work of the RTLC requires much more than holding meetings of the Committee, a fact partly recognised in the Framework Agreement of 2011 between the Department of Infrastructure and the RTLC describing some of the Chair's wider responsibilities. During my first full year as Chair, I have been carefully assessing the challenges and opportunities as well as seeking solutions.

RTLC strategy is in line with the Programme for Government 2016 - 2021. In particular RTLC seeks to support Government objectives of building up both Island Business and the Visitor economy.

I have encouraged the Committee to set out more clearly the standards the RTLC expect of the PPV trade. Discussions have continued with the DoI to improve measures to enforce high standards.

Work has begun to introduce training in Safeguarding and Customer Service, much needed to raise standards of driver and operator performance and encourage a better overall standard of vehicles.

To encourage continuing improvement, the RTLC is exploring ways to introduce recognition of good work by operators and drivers.

Change will take time; improvements are urgently needed.



Brendan O'Friel, Chairperson

Introduction

The Road Transport Licencing Committee ("the RTLC" or "the 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 2018. Annual Reports were not written for the early years of the RTLC; however each year 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 Goods Vehicles ("GV") 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 16 years and the Committee supports the removal of these provisions to allow more efficient and effective regulation of PPVs. The Committee also pressed DoI during the year to introduce regulations concerning GVs. The Committee notes 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 2017/18 was:-

Mr Brendan O'Friel (Chair)

Mr David Sellick (Vice Chair)

Mr Fred Peck

Mr Graham Curphey

Mr Mark Pattison

Mr Peck was appointed in 2014; the other members in 2017.

RTLC Office Staff and PPV Inspector

The RTLC office staff consists of the Secretary to the Committee, Mr Noel Capewell assisted by a part-time PPV Inspector, Mr David Berry. During the latter part of 2016, following the move to DEFA at St Johns – see below - changes were introduced to try and improve the resilience of the staffing team by combining several administrative support functions into one team. This team provides the RTLC and the public with administrative support including staffing the public counter at St John's. Mr Capewell has some additional support in the administration of meetings from a part time nominated Assistant Secretary.

It had been apparent for some time that the Secretary had a very high workload that was increasing as the RTLC began to tackle long standing problems over criminality and PPV vehicle maintenance. Accordingly, the Chairman made the case for some temporary additional support for the Secretary. After considerable delay, this was agreed and an additional staff member will be in post in Spring 2018.

RTLC Office

In 2016, as part of Government initiatives to reduce costs, the DoI approached the Committee about moving offices. The proposal was for the RTLC offices to be moved out of central Douglas to the Department of the Environment, Food and Agriculture ("DEFA") building at St Johns. This move was implemented in July 2016. A Memorandum of Understanding was signed between the RTLC and DEFA to formalise the new arrangements.

Definitions

Ply for Hire Taxis ("PFH") are those licenced to pick up passengers in the street and to stand on taxi ranks awaiting passengers. The maximum fare charged by a taxi is regulated – details are available on the RTLC website.

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 private hire 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.

Regulatory Activities

First Principles – PPV Drivers

Under Section 40 (4) of the Act, an applicant for a PPV Driver Licence has to satisfy the RTLC 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 –v– 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 RTLC 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 an applicant wishing to be a PPV Operator is "of good repute", of "appropriate financial standing" and "professionally competent".

All of these criteria are defined in Schedule 1 of the Act.

Meetings

During the year, the Committee held 19 meetings, of which 15 had all or some of their proceedings held in public. The Act requires that meetings at which certain applications are to be considered by the Committee are held in public. Meetings "held in public" are different from "public meetings". Public meetings imply the opportunity for members of the public to have an opportunity to contribute; meetings that are "held in public" are designed to allow the public to attend and listen to what takes place. Most of the RTLC meetings held in public are held with no members of the public present. Occasionally members of the public – almost all of whom are members of the PPV trade - attend in numbers because an application is contentious.

Bus Vannin submitted applications in 2017 to introduce two "Dial a Ride" services. These applications were to be considered at a meeting on 13th December 2017 but had to be abandoned as the meeting became unruly. Following this experience, the Committee introduced new procedures for handling contentious applications. Objectors were given an opportunity to air their objections as a preliminary meeting so that the Committee could decide which applications fell within the remit of the Act. Those relevant objections were then heard at a meeting of the Committee after the applicants had presented their case. The rules of procedure were also changed so ensure that any attempt to disrupt proceedings could be dealt with and to reduce the danger of either applicants or objectors feeling intimidated.

There had been a number of contentious applications for additional Ply for Hire licences over the previous ten years which had resulted in lengthy and difficult meetings. The Committee expect the new procedures to assist the process of allowing arguments to be heard from both applicants and objectors in a balanced way.

The legislation requires that the following types of applications (including variations) are considered by the Committee considered at meetings held in public;

- Operator Registrations,
- section 29 Ply for Hire Service Licences,
- section 25 Regular Service Licences, and
- Operator Licences.

In previous Annual Reports detailed statistics have been provided regarding the number and types of applications considered at meetings held in public. Unfortunately, these statistics are not available this year due to the increasing workload of the Secretary.

Public Safety Issues

The Committee continues to be very concerned about the safety of the travelling public as it has a duty under the Act to ensure that all PPV drivers and Operators do not present any danger to the public. As a result, multiple PPV drivers and Operators were invited to meetings to explain why they had been convicted of a wide variety of offences. Some offences were driving related such as speeding while others involved criminal convictions or cautions.

Some of these 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 drivers or Operators had committed offences during the term of their PPV Driver licence. While some 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 was required for all new and renewal applications.

The Secretary often attends Court to be aware of the details of offences which have been 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, the Committee held Formal Inquiries for seven different PPV Drivers or Operators during the past year. As a result of these Formal Inquiries;

- four PPV Drivers had their licences revoked (although one was returned following an appeal), and
- one PPV Operator had both his Driver licence and Operator Registration revoked.

The child abuse scandals in parts of England involving PPV drivers has been followed by tightening of enforcement rules for the trade in many licencing areas across. The "Worboys" case of the London "Black Cab" Taxi driver convicted of drugging and raping many passengers is rarely out of the news. In 2018 the Suzy Lampugh Trust launched a disturbing report "Steering Towards Safety" calling for tighter regulation of PPV drivers and highlighting existing failures.

The Committee continues 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's Chair and Deputy Chair 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 RTLC 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

The RTLC annual budget was different from previous years as it was the first full financial year that the RTLC office had been situated in the DEFA building at St Johns. As a result, many sections of the budget that had been previously allocated to the RTLC – examples include computing, stationery, communications and printing – were instead allocated to DEFA as they would be supplying the RTLC with these functions. The overall RTLC budget and expenditure fell accordingly.

In 2017/18 the annual budget for the RTLC was £99,688 and the RTLC managed to restrict spending during the calendar year so that the total net expenditure for 2017/18 was significantly under budget at £74,342.

The Committee itself is only paid expenses when there are meetings held. In 2017/18 the total cost of Committee expenses was £14,859.

While the fees that the RTLC can charge were increased in March 2018, it is worth noting that this was only the second fee increase since the creation of the RTLC in 2002.

Support for Other Regulators

The Vehicle and Driver Testing Centre ("VDTC") 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 VDTC 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 VDTC 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 VDTC 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 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 31 test failures or vehicle prohibition notices from the VDTC for PPVs during 2017/18. This was down from a figure of 39 for the previous year and 63 for the year before that. Of those notices, 16 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 2017/18. 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 2017/18 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. 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 in the "Public Safety Issues" paragraph above, 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 3rd April 2018.

Statistic	3 rd April 2018	1 st April 2017
Total number of registered Operators	278	267
Total Number of registered PPVs	427 *	433
Number of Ply for Hire taxis licenced	181*	194
Number of Private Hire cars licenced	53*	52
Number of Buses, Minibuses and other vehicles (including Classic Private Hire cars, motorcycles, trikes, funeral cars, etc.).	193*	187
Total number of registered PPV Drivers (many only work part-time)	1,136	1,192
Number of PPV Drivers licensed to drive Ply for Hire taxis and Private Hire cars (approximately)	534	588
Total number of new applications for PPV Driver Licences	104	136
Number of new applications for PPV Driver Licences to drive Ply for Hire taxis or Private Hire Cars	26	43
Number of new applications for PPV Driver Licences to drive buses, minibuses or Restricted PPV Driver Licences	78	93
Total number of renewal applications for PPV Driver Licences	359	200

*The number of vehicles recorded as of 3rd April 2018 does not include any Operators who failed to renew their operator discs on 31st March 2018 and then came into the RTLC office to renew the discs in early April. Neither does it take into account Operators who have permission to operate a particular type of vehicle but have chosen not to licence it with the RTLC or put it on the road.

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 and the Tariff was increased from 1st April 2017 as a result.

No such review was undertaken in 2018 due to the increasing workload being experienced by the Secretary as well as the fact that the Tariff was increased the previous year.

It is worth noting that the Secretary did not receive any enquires regarding the lack of a Tariff review in 2018.

Challenges Facing the Road Transport Licensing Committee

The continuation of the “transitional provisions” as detailed in Schedule 2 of the Act 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 was surprised to find that “taxi plates” were listed in the accounts of one PPV business as an “asset” and were valued at in excess of £50,000.

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 – not surprisingly given that the arrangements are unlawful – 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 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.

Apart from all of their business having to be pre-booked, 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 2018/19 year.

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

In 2014 a mobile taxi app called “Appy Taxi” came to the attention of the Committee. The company behind Appy Taxi marketed itself extensively on social media before launching in the last few months of 2014. The company did attempt to make contact with the Committee, but all efforts to meet with them or discuss how their app would work on the Island came to nought.

The Committee did not stop trying to investigate how the company was operating but it became apparent after several months that the company had ceased operating. It is believed that this was because of a lack of interest from drivers to sign up to the company (which was acting as a service provider) and a lack of interest from the travelling public.

The Committee understands that a number of established, on-Island service providers have developed or are developing apps of their own.

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 licencing, but that such legislative change is still awaited.

RTLCL 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.

Unforeseen Regular Service Licence Applications

As previously described in "Meetings", the Committee received a number of applications in 2017 for new section 25 Regular Service Licences. These included "Dial a Ride" services for which there was no specific legislation on Island unlike the position in the UK. Nor was there precedent on Island for these applications so far as the RTLCL could ascertain. Consequently legal advice had to be sought on several occasions with some of the advice appearing contradictory. In the light of legal advice, the original applications were withdrawn and fresh applications submitted. The publication of the applications sparked many objections. The result was considerable additional work which was ongoing at the end of the reporting period.

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 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, RTLCL favour 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.

Mr Brendan O’Friel (Chairperson)

Mr David Sellick (Vice-Chair)

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