



Taxi Licensing Policy

Enforcement

September 2018

CONTROL SHEET FOR TAXI LICENSING POLICY: ENFORCEMENT

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Taxi Licensing Policy: Enforcement
Current status - i.e. first draft, version 2 or final version	Final Version
Policy author	Solicitor
Location of policy - i.e. L-drive, shared drive	S Drive
Member route for approval	Licensing Committee
Cabinet Member (if applicable)	
Equality Impact Assessment approval date	21.8.18
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council /Planning Committee	Council
Date policy approved	17.9.18
Date policy due for review (maximum three years)	September 2021
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	At discretion of officers responsible for implementation

CONTENTS

ITEM		PAGE
1	Introduction	4
2	Scope	5
3	Principles	5
4	Statement of Policy	6
5	Responsibility for Implementation	12
6	Glossary of terms	12
7	Appendices:	
A	POLICY GUIDELINES FOR DEALING WITH OFFENCES COMMITTED DURING THE TERM OF A LICENCE	14
B	List of Traffic Offences	24

POLICY

1. Introduction

1.1 BACKGROUND

North East Derbyshire District Council has a responsibility for licensing hackney carriages and private hire vehicles, drivers and operators within the district of North East Derbyshire.

NB. Any reference in this Policy to notifying, informing or otherwise contacting the Council means contacting the Council's Licensing Section.

Unless otherwise stated, where the term "Taxi" is used in this Policy it is a generic term including hackney carriages and private hire vehicles (which retain their specific meanings set out in the Glossary of Terms below).

1.2 ROLE OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.

1.3 STATUTORY, BEST PRACTICE AND INDUSTRY GUIDANCE

The Department for Transport has considered views about what constitutes "Best or Good Practice" and how licensing authorities can protect children and vulnerable adults, and has published both [best practice](#) (March 2010) and [statutory guidance](#) (July 2020).

In addition, the Institute of Licensing (Guidance on determining the suitability of applicants and licensees in – hackney and private hire trades), the Local Government Association and other bodies also produce guidance relating to taxi and private hire standards.

These documents have been used as an aid in shaping this policy. Regard has also been had to best practice learned from other local authorities.

1.4 CONSULTATION

There are a number of groups and organisations that have an interest in the provision of hackney carriage and private hire vehicle services, including the trade itself, residents and enforcers, all of whom have

views and concerns that require consideration. In drawing up this policy, the Council has consulted with the following -

This list is not definitive -

- Authorities who border North East Derbyshire District Council
- Derbyshire County Council
- Other departments within North East Derbyshire District Council
- Members of North East Derbyshire District Council
- The hackney carriage and private hire trade including all licensed operators within the district
- Parish Councils
- Derbyshire Constabulary
- Derbyshire Police & Crime Commissioner
- Chief Fire Officer for Derbyshire
- Derbyshire County Council Trading Standards
- Derbyshire County Council Transport
- Child Protection Services (Safeguarding)

1.5 POWERS AND DUTIES

This Policy has been produced pursuant to the powers conferred by the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976 and other legislation under which the Council is the licensing authority for hackney carriage and private hire vehicles.

1.6 STATUS

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above.

Notwithstanding the existence of this policy and any other relevant Council policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart from its policy, reasons will be given for so doing.

1.7 POLICY REVIEWS

This policy will be kept under constant review and may be updated periodically. Minor alterations to the policy may be approved and implemented in consultation with the Chair of the Licensing Committee.

The Policy will normally be reviewed every three years.

2. Scope

In setting out its policy Bolsover District Council seeks to promote the following objectives -

- the protection of public health and safety;
- the protection of children and vulnerable adults;
- the establishment of a professional and respected hackney carriage and private hire trade;
- access to an efficient and effective public transport service; and
- the protection of the environment.

The aim of this policy is to regulate hackney carriage and private hire vehicles in order to promote the above objectives.

3. Principles

The aim of licensing the hackney carriage and private hire vehicle trades is, primarily, to protect the public as well as to ensure that the public have reasonable access to hackney carriage and private hire services because of the local transport provision.

It is important that the Council's powers are used to ensure that the conduct of licence holders is monitored and, where their conduct falls short of what is expected, appropriate action is taken in a fair and proportionate manner to protect the public.

4. Statement of Policy

4.1 DISCIPLINARY AND ENFORCEMENT MEASURES

The Council has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to high standards. The Council will endeavour to do this in a consistent and transparent manner. These standards are defined by legislation, licence conditions, codes of practice or adopted by the Council. Together they identify what is required of the trade and help to ensure that a consistent approach is taken by the Council, Officers and Members in their application.

It is the policy of the Council to ensure that drivers, operators and vehicle proprietors are licensed correctly and carry out their trade in accordance with the relevant legislation and the conditions attached to the licences.

All enforcement action will be proportionate to the seriousness of the breach and the possible consequences arising out of it.

Specific advice on the issue of licences and enforcement actions is contained elsewhere in this Policy which sets out the general principles to be followed in taking enforcement decisions.

Authorised officers and Members must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.

4.1.1 ENFORCEMENT

To encourage responsible hackney carriage/private hire businesses, the Council will operate a firm but fair disciplinary and enforcement regime. With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, the Council will only intervene where it is necessary and proportionate to do so.

The Council will liaise with other bodies in carrying out its enforcement procedures, including officers of other Local Authorities and Police bodies. Achieving and maintaining a consistency of approach to making all enforcement decisions is vital. Enforcement will be carried out in accordance with this policy and the Enforcement Policy of the Joint Environmental Health Service.

Any departure from policy will be fully considered and endorsed by an officer acting under delegated powers (unless it is considered that there is significant risk to the public in delaying the decision).

4.1.2 DISCIPLINARY HEARINGS

Disciplinary matters which are considered serious enough to warrant the potential revocation or suspension of a licence will be referred to the Council's Licensing Sub-committee. The Sub-committee will consider the fitness of an individual to hold a licence, and take the action appropriate to the circumstances.

However, where it is deemed necessary for swift action to be taken for public safety, officers acting under delegated powers may suspend licences using delegated powers. In some cases this can be with immediate effect.

Any refusal or revocation will be notified to the National Register of Taxi Licence Revocations and Refusals.

4.1.3 RANGE OF POWERS

The Council may take any of the steps below where an offence or breach of the conditions has been committed:

- suspend the licence;
- revoke the licence;
- refuse to renew a licence;
- impose additional licence conditions;

- require the production of driving licences or other specified documentation to the Licensing Team;
- require the licence holder to retake one, some or all of the required tests
- present a vehicle for testing;
- issue a formal warning;
- recommend prosecution action; or
- take no further action

This list is not exhaustive.

4.1.4 ENFORCEMENT OPTIONS

Licence application and enforcement decision must always be consistent, balanced, fair and relate to common standards which ensure that the public is adequately protected. In reaching any decision the following must be considered:

- seriousness of any offences;
- driver or operator's past history;
- consequence of non-compliance;
- likely effectiveness of the various enforcement options;
- blatant disregard of law or Council instruction
- the promotion of public safety; and
- any other relevant factors.

4.1.5 INFORMAL ACTION

Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters.

Informal enforcement action may be appropriate where:

- the act or omission is not serious enough to warrant more formal action;
- it can be reasonably expected that informal action will achieve compliance; or
- confidence in the operator's management is high;

Even where some of the above criteria are not met, there may be circumstances in which informal action will be more appropriate than a formal approach.

4.1.6 APPEARANCE BEFORE THE LICENSING SUB-COMMITTEE

An individual or company may be invited before the Licensing Sub-committee to answer allegations of breaches of relevant legislation or conditions attached to licences.

The Sub-committee may decide to take one or more of the following measures:

- no action;
- a written warning;
- require the licence holder to retake one, some or all of the required tests
- present the vehicle for testing;
- require the production of driving licences or other specified documentation to the Licensing Team;
- propose further conditions on the licence
- suspend a licence;
- revoke a licence;
- recommend prosecution action.

This list is not exhaustive.

4.1.7 SUSPENSION NOTICES

An authorised officer may serve notice in writing for a hackney carriage or private hire vehicle (or the faresmeter affixed to such vehicle), requiring the licensee to comply with any requirements contained in the notice. This notice must only be served having had due regard to the condition of the vehicle, any reasonable grounds to suspect the accuracy of the faresmeter, or any other reasonable cause.

An authorised officer may inspect a vehicle and, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he/she is satisfied with the condition of the hackney carriage or private hire vehicle. This action will only be taken when he/she has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passenger and/or other road users.

4.1.8 APPEALS

Appeals against decisions of the Licensing Sub-committee or an authorised officer may be made to the Magistrates' Court, with the exception of decisions made regarding hackney carriage vehicle licences which are made to the Crown Court.

Any notifications of enforcement actions will include written information on how to appeal. This will explain how, where and within what period an appeal may be brought and on what grounds and may confirm that the enforcement action is suspended pending the outcome of the appeal.

4.1.9 PROSECUTION

The decision to prosecute is a very significant one. Prosecution will, in general, be restricted to those circumstances where the law is blatantly

disregarded, legitimate instructions of the Council are not followed and/or the public is put at serious risk. It is important that the decisions to prosecute are made using consistent reasons.

Each case will be considered on its merits, but the circumstances which are likely to warrant prosecution may be characterised by one or more of the following:

- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
- when there appears to have been reckless disregard for the safety of passengers, other road users or pedestrians;
- where there have been repeated breaches of legal requirements;
- where a particular type of offence is prevalent;
- where a particular contravention has caused serious public alarm.

When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered, to enable a consistent, fair and objective decision to be made.

Before referring a matter for prosecution, the Solicitor to the Council must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by identifiable person(s) or company. There must be a realistic prospect of conviction; a bare prima facie case is not enough.

In addition to being satisfied that there is sufficient evidence to provide a realistic prospect of conviction, there must be a positive decision, based on the relevant criteria that it is in the public interest to prosecute.

The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance which will be considered when assessing both evidence and the public interest.

When a decision is being taken on whether to prosecute, the factors to be considered may include -

- the seriousness of the alleged offence;
- the risk of harm to the public;
- identifiable victims;
- failure to comply with a statutory notice served for a significant breach of legislation;
- disregard of safety for financial reward;
- dishonesty;

- the previous history of the party(ies) concerned;
- offences following a history of similar offences;
- failure to respond positively to past warnings or Council instructions;
- the ability of any important witnesses and their willingness to co-operate;
- the willingness of the party to prevent a recurrence of the problem;
- the probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent. (As indicated above, advice on the public interest is contained in the Code for Crown Prosecutors. The general thrust of the advice contained therein is that, the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution);
- whether other action, such as issuing a caution in accordance with the Home Office Circular 16/2008 would be more appropriate or effective. See Section 8 of this appendix for advice in respect of simple cautions.

Once a decision that prosecution is the most appropriate course of action has been taken, the matter will be referred, without delay, to the Solicitor to the Council.

4.1.10 SIMPLE CAUTIONS

A simple caution (previously known as a formal caution) may be used as an alternative to a prosecution in certain circumstances.

Simple cautions are a non-statutory disposal and the Council may exercise discretion in deciding to use them. Decisions to issue a caution will depend whether it is appropriate to the offence and the offender and whether it is likely to be effective in the circumstances.

When considering the issuing of a caution officers will have regard to any statutory or Government guidance.

The following conditions should be fulfilled before a caution is administered:

- There must be sufficient evidence of the suspected offender's guilt to give a realistic prospect of conviction if a prosecution was brought.
- The suspected offender must have made a clear and reliable admission of the offence.
- It must be in the public interest to use a simple caution as the appropriate means of disposal. .

Where a person declines the offer of a caution, it will be necessary to consider taking alternative enforcement action.

A caution may be used as evidence in future prosecutions.

4.1.11 TRANSPARENCY

Following the completion of an investigation into a complaint or any enforcement activity, the licence holder will be informed of the action intended to be taken.

Any written documentation issued or sent will -

- contain all the information necessary to understand the offence and what needs to be done to rectify it. Where works are required, the period allowed for them to be completed will be indicated;
- indicate the legislation or conditions contravened and measures which will enable compliance with the legal requirements and point out, where appropriate, that other means of achieving the same effect may be chosen; and
- clearly indicate any recommendations of good practice under an appropriate heading, to show that they are not a legal requirement.

5. Responsibility for Implementation

This Policy will be implemented by, and at the discretion of, authorised officers acting under delegated powers.

This and other policies set out the principles that govern the Council's licensing of hackney carriage and private hire vehicle drivers, operators and vehicles. Minor modifications to conditions, specifications or procedures may from time to time be modified by officers acting under delegated powers, except where not appropriate to do so.

6. Glossary of terms

Throughout this document -

- "The Council" means North East Derbyshire District Council
- "Licensed Vehicle" means both a Hackney Carriage and Private Hire Vehicle
- "Hackney Carriage" means a vehicle of any form or construction, licensed for standing or plying for hire in any street

- "Hackney Carriage Driver" means a person licensed to act as driver of any hackney carriage
- "Private Hire Vehicle" means a licensed vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers
- "Private Hire Driver" means a person licensed to act as driver of any private hire vehicle
- "Private Hire Operator" means a person licensed to make provision for the invitation or acceptance of bookings for a private hire vehicle

7. Appendices

Appendix A and B follow.

APPENDIX A

POLICY GUIDELINES FOR DEALING WITH OFFENCES COMMITTED DURING THE TERM OF A LICENCE

1 GENERAL POLICY

Although each case will be determined on its own merits, listed below are some general principles relating to the commission of offences by licence holders.

The holders of both hackney carriage and private hire vehicle driver's licences must report all criminal convictions and driving convictions, cautions or acceptance of fixed penalty notices to the Council within two working days. In addition, breaches of the relevant legislation or conditions attached to driver, operator and vehicle licences may come to light following complaints, enforcement action and/or investigations

2 MATTERS NORMALLY TO BE DEALT WITH BY AUTHORISED OFFICERS UNDER DELEGATED POWERS

An officer acting under delegated powers may deal directly with less serious offences without referring the matter to the Licensing Sub-committee. They may choose to take no action or may issue warnings as to future conduct.

Officers will refer to Licensing Sub-committee any matter which they believe casts doubt on an individual's fitness and propriety.

3 CONSIDERATION OF CONVICTIONS

The Council's response to an individual receiving a conviction will be in line with the following principles:

3.1 Serious offences involving violence

Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence. A licence will normally be revoked if the licence holder receives a conviction for an offence that involved the loss of life.

Unless there are exceptional circumstances a licence will be revoked where the applicant is convicted for an offence such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Kidnapping or abduction

- Arson
- Malicious wounding or grievous bodily harm
- Actual bodily harm which is racially aggravated
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Violent disorder
- Threats to kill
- Resisting arrest
- Hate crime* against a person (including all forms of assault)
- Any racially-aggravated offences
- Hate crime* against property
- Any similar offences (including attempted or conspiracy to commit) or offences which replace the above.

*Hate crime in the above sections is defined as offences where an aggravating feature is that the offence was motivated by any qualifying characteristic pursuant to the Equalities Act 2010.

3.2 Other violent offences

Depending on the facts of the case revocation or a lengthy suspension may be appropriate in cases where a licence holder is convicted of the offences including:

- Common assault/Battery
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Harassment
- Offences involving anti-social behaviour
- Any similar offences (including attempted or conspiracy to commit) or any offences which replace the above

3.3 Miscellaneous guidance on violent offences

A licence will normally be revoked if a licence holder has more than one conviction for offences of a violent nature.

In the event of a licence remains in force, despite convictions against the licence holder for violence, a strict warning both verbally and in writing should be administered.

3.4 Possession of a weapon

If an applicant has been convicted of possession of a weapon or any other weapon related offence, depending on the circumstances of the offence, revocation or a lengthy suspension may be appropriate.

3.5 Sexual and indecency offences

As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. All sexual offences should be considered as serious. Licence holders convicted of sexual offences will normally have their licence revoked.

Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Grooming, Trafficking or other Sexual Exploitation related offences (adults and/or children)
- Making or distributing obscene material
- Possession of indecent photographs depicting child sexual abuse
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Any similar offences (including attempted or conspiracy to commit) offences which replace the above.

3.6 Indecency Offences

Depending on the facts of the case revocation or a lengthy suspension may be appropriate in cases where a licence holder is convicted of the offences including:

- Making indecent telephone calls
- Importuning
- Indecent exposure
- Soliciting (kerb crawling)
- Any offence occurring in the context of domestic violence
- Any similar offences (including attempted or conspiracy to commit) offences which replace the above.

A licence will normally be revoked if a licence holder has more than one conviction in the last 10 years for offences of an indecency offence.

- 3.7 In addition to the above the licensing authority will revoke the licence of anyone who is registered on the Sex Offenders Register or any other similar register.

3.8 Dishonesty

A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For these reasons, a serious view is taken of any conviction involving dishonesty.

Unless there are exceptional circumstances a licence will normally be revoked where the applicant is convicted for an offence such as

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

Revocation or a lengthy suspension may be appropriate where licence holders are found to have intentionally misled the council, or lied as part of the application process.

3.9 Alcohol and Drugs

An isolated conviction for drunkenness may not result in revocation or suspension. In some cases a warning may be appropriate. However, a number of convictions for drunkenness, including drunk and disorderly or drunk and incapable, could indicate a medical problem necessitating critical examination and revocation of licence.

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

A licence will normally be revoked where the licence holder is convicted of one or more offences related to the supply of drugs.

A revocation or lengthy suspension may be appropriate where the licence holder has received more than one conviction for offences related to the possession of drugs.

If there is evidence of persistent drug use, misuse or dependency, a specialist examination (in accordance with the DVLA group two medical standards) may be required before a suspended licence is reinstated.

3.10 Driving offences involving the loss of life

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. A licence will normally be revoked immediately if the applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers.
- Any similar offences (including attempted or conspiracy to commit) or any offences which replace the above.

3.11 Driving offences involving alcohol and/or drugs

A serious view will be taken of convictions of driving, or attempting to drive, or being in charge of a vehicle while under the influence of drink or drugs. Where a disqualification has occurred as a result of a drug or drink-driving offence a licence will be revoked.

Where no disqualification has occurred it may still be appropriate for a licence to be revoked or subject to a lengthy suspension depending on the circumstances.

3.12 Major Traffic Offences

Subject to the above paragraphs an isolated conviction for a major traffic offence, without disqualification, such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. However, depending on the circumstances of the case revocation or suspension may still be appropriate.

Where an existing licence holder is disqualified from driving as a result of a conviction for a major traffic offence, the licence will normally be revoked.

Where an existing licence holder is convicted of a major traffic offence, but the licence-holder is not disqualified from driving, the licence should normally be revoked or not renewed and any subsequent application for a new licence will be determined in accordance with the guidance above.

3.13 Minor Traffic Offences

Isolated convictions for minor traffic offences should not prevent a person from holding a licence. A warning may be more appropriate than revocation or suspension. However, multiple minor traffic offences will normally be taken as reflecting seriously on the applicant's driving standard and more serious sanctions may be considered.

Where an existing licence holder is disqualified from driving the licence will normally be revoked.

3.14 Totting Up Disqualifications

Where a number of traffic offences has resulted in a driver receiving 12 penalty points or more on his/her licence the driver will be disqualified from driving unless the Court is satisfied that exceptional hardship would be suffered by an individual if disqualified. This is known as a "totting-up" disqualification.

Where an existing licence holder is disqualified from driving as a result of a totting up, the licence will normally be revoked.

3.15 Hybrid traffic offences

Offences of the type listed in Appendix B under this heading will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

3.16 Plying for Hire

Any existing licence holder found to have committed this offence will be judged on the circumstances of the case, and normally a minimum suspension of 6 months should be considered. Where a driver is convicted on more than one occasion the licence may be revoked or not renewed.

Consideration will be taken if the offence of plying for hire was accompanied by the fact that at the time there was no insurance cover in place for the vehicle. It will be up to the licence holder to prove that there was valid insurance in place at the time of the offence.

3.17 Insurance Offences

A serious view will be taken of convictions of driving a vehicle without insurance. An isolated incident will not necessarily result in a licence being revoked, however a strict warning should be given as to future behaviour.

More than one of these offences would normally result in a licence being revoked

An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will have his operator's licence revoked immediately and prevented from holding a licence for 3 years.

3.18 DISQUALIFICATION FROM DRIVING

In all cases above where a licence is revoked following disqualification, an application for a new licence will only be accepted once the DVLA licence is restored and this will be treated in accordance with the Policy for new applications.

4 OTHER OFFENCES AND CONDUCT

4.1 FAILURE TO REPORT A CONVICTION

The failure to report a conviction, caution or fixed penalty notice within seven working days will normally be dealt with by issuing a written warning in addition to any further actions that may be warranted by the nature of the offence.

4.2 FAILURE TO REPORT AN ACCIDENT

The failure to report an accident to the Council will normally be dealt with, in the first instance, by issuing a written warning.

4.3 DEFECTIVE VEHICLES

Where a defect is identified on a licensed vehicle that could affect safety or suitability to carry passengers, authorised officers of the Council will issue a suspension notice with immediate effect. This will stop the vehicle being used as a hackney carriage or private hire vehicle, as appropriate, until the defect is remedied and the repair certified by the Council's appointed garage to ensure the vehicle is safe to carry passengers in comfort.

If a minor defect is identified, an officer acting under delegated powers may instead issue a notice giving seven or more days to repair the defect.

4.4 REFUSAL TO CARRY A PASSENGER IN A HACKNEY CARRIAGE

The driver will be invited to state the reasons for his actions. If an officer is satisfied that the driver had a justifiable reason, then no action will be taken. If there appears to be no acceptable justification for the refusal, the matter will normally be dealt with on the first occasion by the issue of a written warning. Subsequent offences would, however, result in immediate referral to the Licensing Sub-committee with a view to suspension or revocation.

4.5 UNAUTHORISED RANKING

This will normally result in the issue of a written warning. Subsequent contraventions will result in referral to the Licensing Sub-committee with a view to suspension or revocation.

4.6 EXCEEDING THE ALLOWED NUMBER OF PASSENGERS

This will normally result in, at least, the issue of a written warning. Subsequent contraventions will result in referral to the Licensing Sub-committee with a view to suspension or revocation.

4.6 UNAUTHORISED OR ILLEGAL ADVERTISING ON VEHICLE

This will normally result in the issue of a written warning. Subsequent contraventions will result in referral to the Licensing Sub-committee with a view to suspension. The advertising must be immediately removed.

4.7 FAILURE TO DISPLAY PLATES OR BADGES

This will result in, at least, a written warning. Subsequent contraventions will result in referral to the Licensing Sub-committee with a view to suspension or revocation.

4.8 CONFIRMED COMPLAINTS OF RUDE OR AGGRESSIVE BEHAVIOUR

In less serious cases, a warning as to future conduct will be given. However, if the nature or level of aggression leads to concerns about public safety, the matter will be brought before the Licensing Sub-committee with a view to suspension or revocation.

4.9 PRESENCE IN THE VEHICLE OF UNAUTHORISED TELECOMMUNICATION APPARATUS

This will normally result in the issue of a written warning. Subsequent contraventions will result in referral to the Licensing Sub-committee with a view to suspension or revocation.

4.10 FAILURE TO COMPLY WITH A LAWFUL REQUIREMENT OR INSTRUCTION FROM AN AUTHORISED OFFICER OF THE COUNCIL OR A POLICE CONSTABLE

The holders of licences are legally obliged, under the relevant legislation, to comply with a number of requirements or instructions given to them by an authorised officer of the Council or a Police Constable.

Where the licensee has failed to comply with such an instruction it will normally merit a written warning on the first occasion. Where, however, they continue to fail to comply the matter will be referred to the Licensing Sub-committee with a view to suspension or revocation.

This section applies where a licence holder fails to provide information, including medical information, when required to do so by an authorised officer.

However, where a driver or proprietor has failed to return a licence or plates following a revocation of a licence, the only sanction available is to institute a prosecution.

4.11 OBSTRUCTING AN AUTHORISED OFFICER OF THE COUNCIL OR A POLICE CONSTABLE IN THE EXECUTION OF HIS DUTY

If the holder of a licence has obstructed an authorised officer of the Council or a Police Constable carrying out their duties it will be considered a very serious matter and will normally result in a prosecution, if the evidence supports it.

4.12 FAILURE TO UPDATE A CHANGE IN CIRCUMSTANCES

If a licence holder fails to inform the Council of any relevant change in circumstances they may be liable to a written warning on the first occasion. Further failures may be referred to the Licensing Sub-sub-committee with a view to suspension or revocation.

5 PROSECUTIONS

Where appropriate the Council may institute proceedings to prosecute offenders without first referring the matter to the Licensing Sub-committee. In all such cases officers will subsequently report such action to the Licensing Sub-committee.

6 MATTERS TO BE DEALT WITH BY THE LICENSING SUB-COMMITTEE

The Licensing Sub-committee will be asked to deal with the more serious offences and/or to determine the most appropriate action

where further offences occur following a warning or other informal action.

The Licensing Sub-committee has the same options available as an officer acting under delegated powers. The Sub-committee will decide the most appropriate course of action based on the merits of each particular case in line with the guidance in Section 3 of this Appendix. The intention where licences are suspended or revoked is to ensure public protection.

7 OTHER CONTRAVENTIONS

Not all cases will be covered by specific guidance in this Policy.

In such cases any offence which, in the opinion of a Licensing Officer, is best dealt with by the Sub-committee may be brought before them. This may include cases where requirements have been persistently breached and where warnings have not been heeded.

All such matters will be decided on the facts of the case. Any action taken must be proportionate to the seriousness of the offence and the overriding requirement to ensure public safety.

8 IMMEDIATE SUSPENSION OR REVOCATION OF DRIVER'S LICENCES

If it appears that it is in the interests of public safety an officer acting under delegated powers, or the Licensing Sub-committee, may require the suspension or revocation of a driver's licence to have immediate effect.

Notice will be given to the driver including a statement that the suspension or revocation is immediate and an explanation as to why. The suspension or revocation takes effect when the notice is served upon the driver.

APPENDIX B

CATEGORIES OF MOTORING OFFENCES

1 MAJOR TRAFFIC OFFENCES

AC10 Failing to stop after an accident
AC20 Failing to give particulars or to report an accident within 24 hours
AC30 Undefined accident offences
BA10 Driving while disqualified by order of court
BA30 Attempting to drive while disqualified by order of court
BA40 Causing death by driving while disqualified
BA60 Causing serious injury by driving while disqualified
CD10 Driving without due care and attention
CD20 Driving without reasonable consideration for other road users
CD30 Driving without due care and attention or without reasonable consideration for other road users
CD40 Causing death through careless driving when unfit through drink *
CD50 Causing death by careless driving when unfit through drugs *
CD60 Causing death by careless driving with alcohol level above the limit *
CD70 Causing death by careless driving then failing to supply a specimen for analysis *
CD80 Causing death by careless or inconsiderate driving *
CD90 Causing Death by driving: unlicensed, disqualified or uninsured drivers *
DD40 Dangerous driving
DD60 Manslaughter or culpable homicide while driving a vehicle *
DD80 Causing death by dangerous driving *
DD90 Furious driving
DG60 Causing death by careless driving with drug level above the limit*
The above offences marked * are dealt with in the section entitled driving offences involving the loss life
DR10 Driving or attempting to drive with alcohol level above limit +
DR20 Driving or attempting to drive while unfit through drink +
DR31 Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity
DR40 In charge of a vehicle while alcohol level above limit +
DR50 In charge of a vehicle while unfit through drink +
DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR61 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive +
DR70 Failing to provide specimen for breath test +
DR80 Driving or attempting to drive when unfit through drugs +
DR90 In charge of a vehicle when unfit through drugs +
DG10 Driving or attempting to drive with drug level above the specified limit
DG40 In charge of a vehicle while drug level above the specified limit
28

The above offences marked + are dealt with in the section entitled alcohol and drugs

IN10 Using a vehicle uninsured against third party risks

LC20 Driving otherwise than in accordance with a licence

LC30 Driving after making a false declaration about fitness when applying for a licence

LC40 Driving a vehicle having failed to notify a disability

LC50 Driving after a licence has been revoked or refused on medical grounds

MS50 Motor racing on the highway

UT50 Aggravated taking of a vehicle

TT99 Signifies a disqualification under the totting up procedure 12 or more points within three years

2. MINOR TRAFFIC OFFENCES

CU10 Using vehicle with defective brakes

CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition

CU30 Using a vehicle with defective tyre(s)

CU40 Using a vehicle with defective steering

CU50 Causing or likely to cause danger by reason of load or passengers

CU80 Using a mobile phone while driving a vehicle

MS10 Leaving a vehicle in a dangerous position

MS20 Unlawful pillion riding

MS30 Play street Offences

MS40 Driving with uncorrected defective eyesight or refusing to submit to a test

MS60 Offences not covered by other codes

MS70 Driving with uncorrected defective eyesight

MS80 Refusing to submit to an eyesight test

MS90 Failure to give information as to the identity of driver etc.

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10 Undefined contravention of Pedestrian Crossing Regulations

PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle

PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle

SPI0 Exceeding goods vehicle speed limit

SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)

SP30 Exceeding statutory speed limit on a public road

SP40 Exceeding passenger vehicle speed limit

SP50 Exceeding speed limit on a motorway

SP60 Undefined speed limit offence

TS10 Failing to comply with traffic light signals

TS20 Failing to comply with double white lines

TS30 Failing to comply with a "Stop" sign

TS40 Failing to comply with direction of a constable/ warden

TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)

TS60 Failing to comply with school crossing patrol sign
TS70 Undefined failure to comply with a traffic direction sign

3. HYBRID TRAFFIC OFFENCES

CU10 Using vehicle with defective brakes
CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30 Using a vehicle with defective tyre(s)
CU40 Using a vehicle with defective steering
CU50 Causing or likely to cause danger by reason of load or passengers
SP10 Exceeding goods vehicle speed limit
SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30 Exceeding statutory speed limit on a public road
SP40 Exceeding passenger vehicle speed limit
SP50 Exceeding speed limit on a motorway
SP60 Undefined speed limit offence
Other non endorsable motoring offences i.e. no MOT

NOTE:

All offences in this Appendix may also include the following codes

Aiding, abetting, counselling or procuring:

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting:

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting:

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)