

7 Disclosure of Convictions

- 7.1 The operator shall, within 14 days of conviction, notify the Authority in writing of any conviction or fixed penalty notice imposed on him during the currency of his/her operator's licence. If the operator is a company or partnership, this requirement shall apply if any of the directors or partners receives a conviction or fixed penalty notice.



8 Insurance

- 8.1 The operator shall ensure that a certificate of motor insurance covers every private hire vehicle operated under the licence, which is compliant with the Road Traffic Act 1988 as regards the carriage of passengers for hire or reward.
- 8.2 If the Operator has premises to which the public have access, in connection with the hiring of vehicles, he shall ensure that there is public liability insurance in force, which indemnifies him against any claim for loss, damage or personal injury by any person using those premises.

9 Display of Terms and Conditions

- 9.1 The operator shall keep a copy of these conditions at all premises used for a private hire business and shall make the same available for inspection by customers and on request by authorised officers and the Police.

Note: Planning Consent

To operate a private hire business from a residential dwelling, planning permission, for such business use, will normally be required. A Private Hire Operator's Licence will not be granted without evidence that either planning permission has been issued for the premises concerned or planning permission is not required for the limited use proposed.



Appendix K

Enforcement Policy & Practice



1 Enforcement Policy Statement

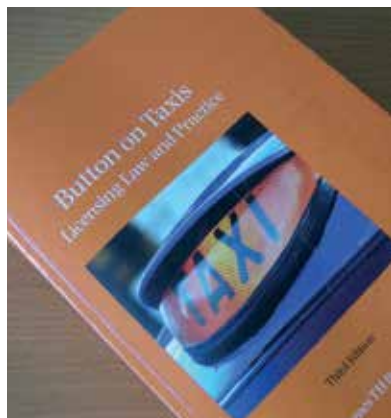
1.1 It is the statutory duty of the Authority to ensure that vehicle proprietors, drivers and operators are authorised to carry out their trade in accordance with the law, byelaws, statutory notices, this policy and conditions attached to licences. Enforcement activity is carried out in accordance with the Government's Regulators' Compliance Code and Preston City Council's Corporate Enforcement Policy. The Authority will endeavour to embed a risk-based, proportionate, targeted and flexible approach to regulatory inspection and enforcement. This approach should ensure that the Authority is efficient and effective in carrying out its duties, without imposing unnecessary burdens on those it regulates.

- 1.2 All enforcement action, be it advice, oral warnings, written warnings, the imposition of penalty points, licence reviews, simple cautions or prosecutions, will primarily be based upon the seriousness of the breach or offence and the possible consequences arising out of it. Enforcement action will not, therefore, constitute a punitive response to minor technical contraventions of legislation.
- 1.3 Authorised officers making enforcement decisions will abide by this policy. Any departure from the policy must be exceptional, capable of justification, be fully considered and be endorsed by the Licensing Manager or above before the decision is taken (unless it is considered that there is significant risk to the public in delaying the decision).
- 1.4 Officers shall be authorised by the Corporate Director Environment to take enforcement action relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.



2 General Policy

- 1.5 Authorised officers shall exercise the principles of openness, helpfulness, proportionality, consistency and targeting in deciding on the correct enforcement approach to all circumstances. They shall be fair, independent and objective and shall not let any personal views about ethnic or national origin, sex, religious beliefs, political views or sexual orientation influence their judgement or approach.
- 1.6 Where appropriate the Authority will work with external regulators and partners to ensure it achieves its aims and objectives through joint working.
- 2.1 Licence holders must immediately report, in writing, all criminal convictions, police cautions and motoring offences, which occur during the currency of their licence to the Authority. In addition, breaches of the relevant legislation or conditions attached to driver, operator and vehicle licences may come to light following complaints and enforcement action or investigations. The action to be followed in response to such matters will be determined on its own merits.
- 2.2 Achieving and maintaining a consistency of approach to making all decisions that concern hackney carriage and private hire licensing and enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, it is vital that the policy guidelines are always considered and followed where appropriate. In reaching any decision the following criteria must be considered :-
- seriousness of offences;
 - history of the licence holder;
 - consequence of non-compliance;
 - effectiveness of options; and
 - danger to the public.



3 Enforcement Options

3.1 Having considered all relevant information and evidence, the options for action are :-

3.2 Licence Applications

- Grant licences;
- Refer to Taxi and Miscellaneous Sub-Committee; and
- Refuse to grant a licence

3.3 Enforcement Action

- Take no action;
- Take informal action;
- Issue statutory notices;
- Issue penalty points;
- Review a licence;
- Suspend a licence;
- Revoke a licence;
- Simple caution; and
- Prosecution

4 Informal Action

4.1 Informal action to secure compliance with legislation and licence conditions such as offering advice (which can be written) or issuing verbal and written warnings is generally used by authorised officers to secure good conduct by licence holders following:-

- complaints made by the general public;
- convictions for traffic offences; and
- contraventions of the code of conduct and dress code.

4.2 Such informal enforcement action taken by authorised officers shall be appropriate in any of the following circumstances:-

- If the behaviour or offence is not serious enough to warrant more formal action;
- From historical information or a risk assessment it can be reasonably be assumed that informal action will achieve compliance;
- Confidence in the licensed Operator is high; and
- Consequences of non-compliance will not pose a significant risk to public safety.



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

5 Statutory Notices

5.1 Serious offences in respect of the condition and safety of licensed vehicles shall be dealt with by the issue of statutory notices by authorised officers and include:-

- Vehicle defect notices; and
- Stop notices.

6 Penalty Points

6.1 The Authority has a Penalty Points Scheme, which is detailed in **Appendix L**. Licence holders that have been found to be in breach of licence conditions, this policy or legislation are likely to be issued with penalty points for individual transgressions. If a licence holder accumulates a total of 20 points during a rolling 12 month period then they will have their licence reviewed by the Taxi and Miscellaneous Sub-Committee.

6.2 Licence holders that have had penalty points imposed on their licence can appeal to the Taxi and Miscellaneous Sub-Committee.



7 Licence Review

7.1 Licence holders can also be required to appear before the Taxi and Miscellaneous Sub-Committee in order that it can consider appropriate disciplinary measures on a case by case basis. This may arise in several ways:-

- The receipt of a criminal conviction, police caution or major motoring conviction;
- The history;
- Complaints;
- Penalty points;
- Transgression during "probationary" licence; and
- A driver who has accumulated nine or more DVLA penalty points for motoring convictions during the previous licence period.

7.2 The Sub Committee can decide to take one or more of the following actions:-

- no action;
- issue an oral or written warning;
- undertake the communications and local knowledge tests;
- undertake a driver assessment and/or improvement course;
- require the attainment of the NVQ Level 2 qualification;
- suspend a licence;
- revoke a licence; or
- recommend the cautioning or prosecution of licence holders.

7.3 Licence holders subject of a review shall be permitted to renew their driver licence pending the outcome of the licence review.

8 Prosecution

8.1 In circumstances where justified within this policy, the Assistant Director (Chief Environmental Officer) may recommend legal proceedings to prosecute offenders. Licence holders may be prosecuted for serious breaches of legislation including:-

- illegally plying for hire;
- driving a motor vehicle without valid insurance;
- refusing to carry a guide, hearing or other assistance dog (if not exempted);
- unauthorised alteration of a taximeter;
- exceeding the number of passengers permitted; and
- refusal to carry a passenger without reasonable cause.

8.2 Any person or vehicle proprietor or operator found to be driving or operating an unlicensed vehicle shall be prosecuted as shall any unlicensed drivers or operators found using licensed vehicles. (Section 46 of the 1976 Act).

8.3 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 Authority are not followed and /or the public is put at serious risk. Such circumstances are, however, in a minority. The criteria on which a decision to prosecute is made provides common standards, which ensures a consistent approach.

8.4 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 or other road users;
- where there have been repeated breaches of legal requirements;
- where a particular type of offence is prevalent; and
- where a particular contravention has caused serious public alarm.



8.5 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.

8.6 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's interest to prosecute.

8.7 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 or 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;
- the previous history of the party concerned;
- offences following a history of similar offences;
- failure to respond positively to past warnings;
- the ability of any important witnesses and their willingness to cooperate;
- 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.
- whether other action, such as issuing a simple caution would be more appropriate or effective.

9 Simple Cautions

9.1 A simple caution may be used as an alternative to a prosecution in order to:-

- deal quickly and simply with less serious offences;
- divert less serious offenders away from the Courts; and
- reduce the likelihood of re-offending.

9.2 To safeguard the suspected offender's interests, the following conditions should be fulfilled before a simple caution is administered:-

- there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction;
- the suspected offender must admit the offence; and
- the suspected offender must understand the significance of a simple caution and give informed consent to being cautioned.

9.3 If there is insufficient evidence to consider taking a prosecution, then by implication, the criteria is not satisfied for the use of a simple caution. A simple caution should also not be used where the suspected offender does not make a clear and reliable admission of the offence. (It should be noted that there is no legal obligation for any person to accept the offer of a simple caution and no pressure should be applied to the person to accept a simple caution).

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

10 Appeals

10.1 Appeals against decisions of the Taxi and Miscellaneous Sub-Committee may be made to the Magistrates' Court.

10.2 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 will confirm that the enforcement action is suspended pending the outcome of the appeal. In cases of danger to the travelling public, suspension can be immediate whether or not an Appeal is either lodged or contemplated.

11 Complaints

11.1 The general public are able to make complaints to the Authority about the conduct and/or service received from licensed drivers and operators and the Authority shall adhere to the following procedure:-

- ascertain facts regarding complaint and decide if actionable;
- register the complaint and refer to investigating officer;
- complainant contacted within 5 working days;
- complaint investigated;
- decision made; and
- all parties informed of that decision

11.2 Licensed drivers and operators subject of a written complaint shall be informed of the nature of the complaint, including date, time and location of the incident and if necessary given sufficient notice to attend an interview.

11.3 Interviews with licence holders shall not be carried out under the Police and Criminal Evidence Act 1984 (P.A.C.E) code of practice, unless the licence holder is suspected of a criminal offence.

11.4 Licence holders can attend a non P.A.C.E. interview with a support person who shall not be permitted to speak at the interview but merely to support by physical presence.

11.5 In respect of P.A.C.E. interviews under caution, licence holders shall be permitted to have in attendance independent legal advice from either a certified solicitor or an accredited or probationary representative. Licence holders may also have a support person at such interviews.

11.6 After consideration of the case file the investigating officer shall make one of the following recommendations to the Licensing Manager:-

- no action to be taken;
- issue written advice;
- issue a written warning;
- issue penalty points;
- refer to Taxi and Miscellaneous Sub-Committee (licence review)
- refer for prosecution

11.7 If the complaint is unsubstantiated then it is likely that no further action will be taken against the licence holder. It may be necessary to issue written advice to a licence holder but this does not infer that the licence holder was found to have acted wrongly.

11.8 Substantiated complaints that breach byelaws or conditions of licence shall result in the offender being issued with penalty points.

11.9 Substantiated complaints of a serious nature relating to public safety, dishonesty or violence shall result in the matter being referred to the Taxi and Miscellaneous Sub-Committee for a licence review.

11.10 Complaints received containing allegations of serious criminal offences shall be referred directly to Lancashire Constabulary.

11.11 Disputes between licensed drivers should be resolved between themselves and not through this complaints procedure. If there is evidence relating to an alleged serious criminal offence, such as threats of violence, assault etc, then this should be submitted to Lancashire Constabulary. Alleged breaches of bye laws and licence conditions should be submitted to the Authority.

11.12 If an investigation into a complaint provides evidence of conduct such as those outlined in paragraph 9.1 above then the matter shall be referred to the Chief Environmental Health Officer who will consider whether prosecution is appropriate.

11.13 A licensed driver or operator that has been the subject of a high number of complaints, whether substantiated or not, shall be required to have their licence reviewed by the Taxi and Miscellaneous Sub-Committee. This decision shall be taken by the Licensing Manager or above. Practice has evolved over many years that three such incidences in a 12 month period would result in such action but each case will be determined on its individual merits.



12 Transparency

- 12.1 Following the receipt of a notification of a conviction or an adverse vehicle inspection, the licence holder will be informed of the action intended to be taken as soon as possible.
- 12.2 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.

12.3 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.

12.4 The clear distinction between legal requirements and matters, which are recommended as good practice in all enforcement action, even if only giving verbal advice, is vitally important.



Appendix L

Penalty Points Scheme