



Review of Penalty Point system for Hackney Carriage and Private Hire licences

Report by the Director for Communities

1. Recommendation

- 1.0 Members are invited to view the scoping report reviewing the Hackney Carriage & Private Hire Licensing Penalty point system. Members are requested to consider the document and adopt the document including any amendments considered required.

2.0 Background

- 2.1 At the Licensing Control Committee on the 16 January 2017 the penalty point system was reviewed as part of the new Hackney Carriage & Private Hire Licensing Handbook.
- 2.2 The Committee requested the penalty point system be removed and the for officers to present a scoping report on the issue of enforcement action against a licence holder.

3.0 Proposals

- 3.1 The Committee members are invited to make a decision on the points system based on the facts within the scoping report. **Appendix A**
- 3.2 If approved the penalty point system will form part of the approved Hackney Carriage & Private Hire Handbook. **Appendix B**
- 3.2 Members are invited to review all the information detailed on this report and are requested to consider any matters they feel relevant.
- 3.3 The point system, will allow the licensing authority to deal with licence holders unable to comply with the conditions of licence and those that continually breach the conditions, in a fair and transparent manner in accordance with best practise. The object being to use it as an educational tool in the first instance and thereafter accumulation would require the Committee to consider the matter and make a decision.

4.0 Representations

- 4.1 Representation to the point system was made during the consultation period of the proposed handbook from the 9 May -12 August 2016.
- 4.2 Five Licensed drivers made representations to the penalty points system

Appendix C

5.0 Legal

- 5.1 The Council has a statutory duty when considering applications for hackney carriage and private hire driver's licences under the Local Government (Miscellaneous Provisions) Act 1976 to not grant a unless it is satisfied that the applicant is a fit and proper person to hold a driver's licence.
- 5.2 A district council may attach to the grant of a licence such conditions as it may consider reasonably necessary to ensure drivers are fit and proper and vehicles are safe.
- 5.3 When determining licensing policies and applications, the principles of the Human Rights Act 1998 must be taken into consideration. The convention rights of both individuals and members of the public as a whole will be given due weight. The Act acknowledges that local authorities are entitled, amongst other things, to act where this is in the "general interest".
- 5.4 All policies, guidance and applications, before Committee, must be considered against the backdrop of anti-discriminatory legislation, such as the Equality Act 2010 and also in accordance with the Council's stated policy on Equal Opportunities
- 5.5 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all licensing matters. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from the public and authorities particularly the Police.

6.0 Other Implications

- 6.1 No significant race relations or equal opportunities implications have been identified.

7.0 Recommendation

- 7.1 **That the Committee consider the scoping report and draft Penalty point system and the representations received.**

7.2 That Members adopt the penalty point system to form part of the handbook for use by the local industry, new applicants, council officers and members when considering Hackney Carriage & Private Hire Licensing matters.

7.3 That Members give reasons for their decision.

**Mary D'Arcy
Director for Communities**

Local Government Act 1972

Background Papers:

- **Appendix A** – Scoping Report
- **Appendix B** - Penalty point system
- **Appendix C** - Representations

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Schedule of Other Matters

1.0 Council Priority

- 1.1 Licensing of taxi and private hire drivers is directly related to public safety Issues.

2.0 Specific Action Plans

- 2.1 Matter considered and no issues identified.

3.0 Sustainability Issues

- 3.1 Matter considered and no issues identified.

4.0 Equality Issues

- 4.1 Dealt with in the body of the report.

5.0 Community Safety Issues (Section 17)

- 5.1 The Council is not obliged to issue a Hackney Carriage or Private Hire Driver's licence to any person unless the Council is satisfied that that person is a 'fit and proper person' to hold that licence. Hackney Carriage Driver's convey the fare-paying public and expected to comply with all legislative requirements

7.0 Reputation

- 7.1 The Committee must balance the rights of the individual against and the potential risk to the Council's reputation if it should transpire that the wrong decision has been taken.

8.0 Consultations

- 8.1 From 9 May until the 12 August 201 consultation 4 objections were received against the the point system.

9.0 Risk Assessment

- 9.1 Matter considered and no issues identified.

10.0 Health & Safety Issues

- 10.1 Matter considered and no issues identified.

11.0 Procurement Strategy

- 11.1 Matter considered and no issues identified.

12.0 Partnership Working

12.1 Matter considered and no issues identified

Outline Scoping Report for a Penalty Point System for Hackney Carriage and Private Hire Driver Licences.

1. Identifying the need for a Penalty Point system

The Council has a duty to ensure that all drivers remain fit and proper during the time they hold a Private Hire or Hackney Carriage Licence.

The fit and proper test on current licence holders is they must have a current DBS certificate, Medical certificate, Driving licence and Immigration status including the right to work in the UK

2. Purpose

The purpose of the scoping report is to set out an understanding goal and the potential advantages for the Penalty Point System.

3. Understanding Current Process

Currently if there is a breach to the Licence conditions, driving offence(s) or criminal offence, a variety of guidance and legislation is available that can be used to refer a licence for review or prosecution.

The Local Authority previously approved the conditions of Licence to be imposed on Hackney Carriage and Private Hire Licences with no specific penalty for breaching these conditions

Driving Offences usually incur penalty points on the driving licence. Penalty points must stay recorded on your driving record for a minimum of 4 years or a maximum of 11 years. If a total of penalty points reaches 12 or more within 3 years the driver can be disqualified.

The Legislation refers to offences under the Town Police Clauses act 1847 and the Miscellaneous Provisions Act 1976 these are statutory provisions that carry a fine level which is set by the Criminal Justice Act 1982 and are cases usually heard in the Magistrates Court. The Local authority may also choose to

administer a regulatory sanction as well or instead; depending on their enforcement policy.

Enforcement Policy November 2016 (Attached) is to assist officers when deciding what action to take when carrying out their statutory duty and would be taken into consideration when making any decision.

4. Goals

The penalty point system would work alongside the conditions of licence, legislation and enforcement policy ensuring a fair consistent and proportionate approach is applied.

Enabling the Public Health and Regulation team and provide education, support and training for current licence holders without taking formal action.

The Penalty point system will support any decisions made and ensure persistent offenders or serious matters are dealt with and any potential effect on the intervention ensures public safety

5. Resources required

The penalty point system will provide a process for the Public Health and Regulation to manage, a clear understanding trade and licensing committee ensuring working time is used efficiently and any referrals to committee have been reviewed thoroughly therefore minimising the time resource required.

PUBLIC HEALTH & REGULATION TEAM

ENFORCEMENT POLICY

1. PURPOSE OF THE POLICY

- 1.1 The purpose of this Enforcement Policy is to detail the process all officers will use when deciding what action to take when carrying out their statutory duties on behalf of the Public Health & Regulation (PH&R) team. It should be read in association with the documents referred to in section 2 below.

- 1.2 The main areas of work covered by this Enforcement Policy are:

Food Safety: including inspections of food businesses, sampling of foodstuffs, inspection of ships at Shoreham Harbour, infectious disease control, seizure and detention of unfit food and investigation of consumer complaints about food and food premises.

Health and Safety enforcement: in premises allocated by law to the local authority such as offices, shops, warehouses, catering establishments, hotels and hostels, places of religious worship, leisure centres, places used for child care or playgroups.

Licensing: administering and determining applications for licences, permits and registrations required by individuals and business to authorise the provision of licensable activities. Including such activities as the supply & sale of alcohol, provision of regulated entertainment, sale of late night refreshment, provision of hackney carriage and private hire transport, gambling & lotteries, street trading, sex establishments, scrap metal dealers and charitable collections. Investigating any possible breaches of licensing legislation and taking the appropriate enforcement action to ensure compliance with that legislation and the terms of individual licences and permits.

Noise control: investigating and taking enforcement action to deal with noise from residential, commercial and industrial premises, noise from vessels and noise in the street, such as loud music, barking dogs, intruder alarms and construction site noise.

Pollution: investigating and taking enforcement action to deal with complaints about rubbish, pests, bonfires, odours, dust and light. Monitoring and management of air quality and permitting certain industrial processes under the Pollution, Prevention and Control Act. Regulation of Private Water supplies. Dealing with contaminated land.

2.0 RELATED DOCUMENTS

2.1 Documents related to this Policy include:

- The Code for Crown Prosecutors
- Criminal Procedure and Investigations Act 1996 (CPIA) and associated Code
- Police & Criminal Evidence Act 1984 (PACE) and associated Codes
- The Enforcement Concordat
- The Regulators' Code
- Regulation of Investigatory Powers Act 2000
- Legislation relating to each service area
- Procedures and guidance notes within each team.

3.0 RESPONSIBILITIES

- 3.1 The Public Health & Regulation Manager (PH&R Manager) and Team Leaders are responsible for keeping this Enforcement Policy under review and monitoring it. It is recommended a full review is carried out every three years.
- 3.2 Where authorisation levels are specified within the document, those are considered to be the lowest level of seniority at which such action may be authorised.
- 3.3 All officers have individual responsibility for complying with the Enforcement Policy and must use the most appropriate legislation.
- 3.4 For the purposes of the Criminal Procedure and Investigations Act 1996 the PH&R Manager or Team Leader shall perform the function of Disclosure Officer for their Teams.
- 3.5 For the purposes of the Regulation of Investigatory Powers Act 2000, the Directors and Chief Executive are the Authorising Officers at the Councils for surveillance operations.
- 3.6 Where a shared enforcement role is identified, the relevant enforcement team will liaise with other agencies that may have a shared or complementary enforcement role, to prevent any conflict. Such partners include the County Fire Authority, Trading Standards, Emergency Planning, Police, Health & Safety Executive, Food Standards Agency, UK Border Agency, etc.
- 3.7 Where premises subject to enforcement action are owned or managed by the local authority, all activities will be undertaken in accordance with procedures for non-local authority premises. In cases where statutory action would normally be taken, the relevant Team Leader and Public Health & Regulation Manager will be informed at the earliest opportunity.
- 3.8 Any departure from the policy must be exceptional, justifiable and fully considered by the PH&R Manager having regard to risks to public health, safety and welfare.
- 3.9 Under the Council's constitution and scheme of delegation the decision to prosecute

or caution in each case will lie with the Head of Legal, following a review of the case with the relevant Team Leader and officer/s (see further at 8.1).

- 3.10 For the purposes of administering Simple Cautions the Head of Legal shall be designated as the "Cautioning Officer".
- 3.11 The training requirements to achieve and maintain the necessary competence levels for authorised officers will be regularly reviewed by the Team Leaders and training resources will be prioritised accordingly.

4.1 INTRODUCTION

- 4.2 This Enforcement Policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulators' Code.
- 4.3 In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.
- 4.4 The aim of the Services is to improve the health, safety and wellbeing of the Councils' residents, visitors and business community. To help us achieve this we will:-

- A. Work within the legal framework and apply the law fairly;
- B. Make the service accessible to all sectors of the community;
- C. Remain responsive to customer needs;
- D. Deal with customers with honesty and integrity;
- E. Work in partnership with groups which represent our customers;
- F. Use the resources available to the maximum benefit of our customers;
- G. Train and develop our staff to ensure their effectiveness;
- H. Treat our staff and customers equally in line with the Equality Policy.

These objectives will be achieved through education, guidance, advice and warning letters and where necessary by appropriate legal action, including the service of statutory notices, prohibitions, simple cautions and prosecution.

- 4.5 The Human Rights Act 1998, which fully came into force on 2nd October 2000 places general obligations on enforcement bodies to ensure fair treatment for all, to prevent any form of prejudice and to provide a right to privacy. This policy reflects the provisions of this Act in general terms as officers we are required to follow agreed policies and procedures and work within our legal powers. Individual team procedures and guidance notes will cover specific areas of our work where particular care must be taken to ensure the Act is followed.

4.6 The Team Leaders will ensure that their enforcement actions follow all aspects of good enforcement practice in accordance with the elements of the Enforcement Concordat. The use of enforcement will be proportional to any offence committed, consistent in application (including consistency with other local authorities or enforcement agencies), transparent in its use and appropriate to the circumstances of the particular case in question. In particular:

- (a) We will ensure that the main provisions of our enforcement policy are written in plain English and will be made available during inspections and other enforcement visits and in correspondence. The complete policy will be available on the Council's web site;
- (b) A copy of the relevant enforcement procedures will be available on request;
- (c) We will consult with our customers (including businesses and the public) to obtain continuous improvements to our policy and procedures; this will be incorporated into our three yearly reviews
- (d) We will ensure that where businesses are required to carry out works, that all associated costs are kept to a minimum.

We will make provision for the particular interests of consumers within our area including business owners, employees and the public. For example we will have access to an interpreting/translation service for those who do not speak English. We will make provision to visit businesses outside of normal office hours if necessary when the business is open.

4.7 The Services will carry out their enforcement functions in an equitable, practical and consistent manner and to this end are committed to:-

- (a) Drawing up clear standards, setting out the level of service and performance the public and business people can expect to receive;
- (b) Dealing with the public and business community in an open and honest way;
- (c) Providing a courteous, efficient and helpful service;
- (d) Responding promptly and positively to complaints about the service;
- (e) Ensuring that enforcement action is proportionate to the risks in each case.

4.8 While it is understood that it is primarily the responsibility of individuals and businesses to ensure compliance with relevant legislation, the Council will help them, where possible, to understand their legal responsibilities. The aim of the Council is to secure compliance with the legislation, which it will do by making the most efficient use of the Council's resources and having regard to minimising burdens on businesses.

- 4.9 This Policy supports and supplements specific guidance on enforcement action contained in statutory Codes of Practice, Government guidelines, approved industry guides, co-ordinating bodies such as the Better regulation delivery office (BRDO) and other approved sources.

5. TRAINING, COMPETENCY AND AUTHORISATION

- 5.1. Only officers authorised by the Head of Wellbeing may undertake enforcement duties. The Head of Wellbeing will only authorise officers when satisfied with their level of qualification, training and experience. Newly appointed or transferred officers will also be assessed by the Team Leaders for competency and referred for training where necessary, in line with the Councils' training policy.
- 5.2. Officers undertaking enforcement duties will be suitably trained and qualified to ensure they are fully competent to undertake their enforcement activities. Qualifications will be based on current government guidance, where applicable. Appropriate training programmes for officers will be set up to achieve the necessary competence. The training requirements to achieve the necessary level of competence will be regularly reviewed by the Team Leaders. Training will be prioritised within available resources.
- 5.3. Officers are responsible for ensuring they have regard to relevant guidance documents laid out in team procedures.

6. MANAGEMENT SYSTEMS

- 6.1. The Council will maintain a management system to monitor and review the quality and nature of the enforcement activities undertaken in the team in order to demonstrate the effectiveness of the policy with respect to its aims and objectives and to recommend changes and improvements. Issues arising and variations from this policy will be reported through the Public Health & Regulation Team Meetings.
- 6.2. Team Leaders will ensure all staff are trained to ensure they are fully conversant with this policy and arrange retraining and updating when necessary.

7. ADVICE, ISSUE OF INSPECTION REPORTS, WARNING LETTERS

- 7.1. If no breaches of legislation are discovered, or if the officer believes that a complaint or contravention does not warrant investigation or action, then it may be appropriate to take no action.
- 7.2. When a contravention is detected which in the opinion of the officer should be dealt with by advice or warning letter, then the officer will specify the details of the alleged infringement(s) in writing. Where this specifies a period of time within which corrective action should be taken, then a re-visit to the premises will normally be made to ensure compliance. Where possible any time periods for completion of work will be agreed with an appropriate person within the organisation.

- 7.3. It will be appropriate to give advice or a warning when:-
- 7.3.1. The act or omission is not serious enough to warrant a simple caution or prosecution;
 - 7.3.2. From past history it can be reasonably expected that such action will achieve compliance;
 - 7.3.3. Confidence in the individual and/or organisation is reasonably high;
 - 7.3.4. The consequences of non-compliance will not pose a significant risk to public health or affect the public interest;
 - 7.3.5. The nature of the undertaking is such that formal action in the first instance would be inappropriate, for example with voluntary organisations and charitable groups who are using volunteers to run their operation. Nonetheless this must be considered with the factors outlined above and does not rule out formal action in certain circumstances.
- 7.4. When such an approach is used to secure compliance with legislation, any written documentation issued will:-
- 7.4.1. Specify the legislation that has been contravened;
 - 7.4.2. Specify what remedial action is required, together with the reasons and timescales for compliance;
 - 7.4.3. Ensure that any recommended areas of good practice which are above the minimum levels required by statute are clearly differentiated within the document;
 - 7.4.4. Where examples are given of how compliance may be achieved, it will be made clear that alternative means of compliance may also be acceptable;
 - 7.4.5. Highlight the right to question works required by raising the matter with the relevant manager;
 - 7.4.6. Where appropriate, include the possible consequences of non-compliance, the possibility of formal action being initiated with possible associated costs to the relevant person.

Copies of such documentation will be sent to all interested parties, such as head or regional offices, contract managers, etc. and in the case of health and safety matters, to staff representatives.

8. ENFORCEMENT OPTIONS

- 8.1. In cases where more formal action is considered, such decisions will usually be taken by the PH&R Manager following an enforcement review. Enforcement reviews will comprise the appropriate Team Leader (or his/her nominee in his/her

absence), along with the case officer and a lawyer from the Council's Legal Team. Enforcement decisions will be consistent, balanced, fair and relate to common standards that ensure the public, businesses, employees and the environment are adequately protected. Where a decision to administer a simple caution or issue a prosecution is made, such a decision will be made by the Head of Legal Services.

- 8.2. In order to achieve and maintain consistency of enforcement, officers will follow all official guidance and codes of practice.
- 8.3. In the areas of food safety the Primary Authority scheme and Home Authority Principle set up by LACORS will be adhered to and in the area of health and safety the Lead Authority Principle shall be adhered to. Where applicable, the comments of the primary, home, lead or originating authorities shall be considered.
- 8.4. The factors to be considered in coming to a decision include:
 - 8.4.1. The seriousness of the offence and health and safety implications;
 - 8.4.2. The past history of the offender;
 - 8.4.3. The confidence in management and the degree of willfulness involved;
 - 8.4.4. The consequence of non-compliance;
 - (e) Mandatory/discretionary duties;
 - (f) The likely effectiveness of the various enforcement options;
 - (g) The different technical means of remedying the situation;
 - (h) The impact of the enforcement choice in encouraging others to comply with the law.
 - (i) The expediency of initiating enforcement action.
- 8.5. In the event of a contravention being detected then the enforcement options available to the Council include:
 - 8.5.1. Advice;
 - 8.5.2. Issue of an inspection report with details of recommended actions;
 - 8.5.3. Warning letter;
 - 8.5.4. Statutory powers, for example service of notice, emergency prohibition order or seizure provisions;
 - 8.5.5. Simple caution;

- 8.5.6. Licence Review, refusal to renew or revocation of Licences & Permits
- 8.5.7. Prosecution;
- 8.5.8. Injunctive restraint;
- 8.5.9. Execution of work required by statutory notice where the recipient has not complied.
- 8.5.10. Issue of Fixed Penalty Notice

In some cases a combination of enforcement options may be appropriate.

- 8.6. Officers will comply with Codes B, C and E of the Police and Criminal Evidence Act 1984 as it relates to local authority enforcement.
- 8.7. If enforcement action is being considered which the Council believes may be inconsistent with that adopted by other authorities or with nationally recognised guidance, or when the Council is informed of a possible inconsistency, the matter will, if appropriate, be referred to the relevant local co-ordinating body or the Primary, Home, Lead or originating authority. However, where circumstances could result in a serious risk to health, officers may continue to take enforcement action prior to any referrals.

9. STATUTORY NOTICES

- 9.1. The statutory notice procedures will in general be used to enforce legislation which relates to risks to health or quality of life.
- 9.2. Failure to comply with statutory notices will, other than in exceptional circumstances, result in prosecution and/or works in default and the Council will seek to recover the costs from the relevant person.
- 9.3. All statutory notices and intentions to serve a statutory notice will be signed by appropriately trained, experienced and authorised officers. The officer will be satisfied that the contravention is significant and that all appropriate criteria are met. Sufficient evidence will be available to justify the notice, and details of all evidence will be properly recorded to satisfy PACE and CPIA requirements and any other area of relevant legislation.
- 9.4. Time limits given within notices will be reasonable and in accordance with statutory requirements.
- 9.5. Other relevant bodies will be informed of the action as necessary, for example Primary, Home, Lead authorities, or originating authorities, and copies will be forwarded on request.
- 9.6. Recipients of notices will always be informed in writing of their rights to appeal and these will normally be on the rear of the notice unless otherwise stated. They will

also be informed in writing of the consequences of non-compliance.

- 9.7. In the case of breaches of Health and Safety legislation, copies of notices will be made available to staff representatives. Notices having public safety or environmental implications will be placed on a paper based register accessible to members of the public on request.
- 9.8. Compliance with the notice will be checked as soon as possible after the expiry date of the notice. Where appropriate any requests for time extensions to notices will not be unreasonably rejected. Confirmation of an extension or reason for a rejection of an extension will be put in writing to the applicant and will be dependent on the facts of each case.
- 9.9. Works in default: Where the powers of works in default are available, officers will consider the options and take the most appropriate form of action in each case.

10. SIMPLE CAUTIONS

- 10.1. The current guidance is the Ministry of Justice – Simple Cautions for Adult Offenders (the latest version is dated 13 April 2015). The guidance is used by police authorities and prosecution agencies. A Simple Caution (once known as a formal or police caution) is a formal warning that may be given to persons aged 18 or over who agree to it and admit to committing an offence. The Simple Caution scheme is designed to provide a means of dealing with low-level, mainly first-time, offending without a prosecution. Simple cautioning is not to be used as an alternative to a weak prosecution case.
- 10.2. A prosecution will only take place where it is in the public interest and where there is sufficient evidence (see section 11 below) to support that course of action. In a case where there is sufficient evidence to warrant a prosecution but the public interest would not benefit from such a course of action, then a Simple Caution may well be an alternative.
- 10.3. Simple Cautions will be issued:
- To offer a proportionate response to low-level offending where the offender has admitted the offence;
 - To deliver swift, simple and effective justice that carries a deterrent effect;
 - To record an individual's criminal conduct for possible reference in future criminal proceedings or in criminal record or other similar checks;
 - To reduce the likelihood of re-offending;
 - To enable officers to spend more time dealing with more serious cases.
- 10.4. In deciding whether to offer a Simple Caution the Full Code Test as set out in the Code for Crown Prosecutions must be applied.

- 10.5. Such cases should be fully considered by the Team Leader who will present the case to the Head of Wellbeing and the Head of Legal Services for authority to issue a Simple Caution.
- 10.6. The Cautioning Officer will be the Solicitor to the Council, who is the Head of Legal Services and the cautioning procedure in the Ministry of Justice guidance will be followed.
- 10.7. Where appropriate the issue of a simple caution will be notified to a home authority, originating authority, lead authority or primary authority.
- 10.8. If an offender refuses to accept a formal caution, the delegated officer will refer the matter to the Head of legal who may pursue a prosecution, taking into account the relevant guidance and the Council's Constitution.

11. PROSECUTION

- 11.1. The Councils recognise that the decision to prosecute is significant and could have far reaching consequences for all involved including defendants, victims and witnesses.
- 11.2. Each case is unique and will be considered on its own facts and merits.
- 11.3. Where the circumstances warrant it and the alternative actions outlined elsewhere in this policy are considered inappropriate, then a prosecution may result.
- 11.4. In determining whether a prosecution is appropriate the Council will have regard to and apply the guidance within the Code for Crown Prosecutors effective at the material time. It follows that a prosecution will only be progressed when the case has passed both the evidential test and the public interest test. The decision to proceed with a prosecution rests with the Head of Legal Services.

11.5. The Evidential Stage

For any prosecution to proceed the Council must be satisfied that there is enough evidence to provide a 'realistic prospect of conviction' against each defendant on each charge. A realistic prospect of conviction is an objective test that means that a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a separate test from the one that the criminal courts themselves must apply. A jury or Magistrates' Court should only convict if it is sure of a defendant's guilt.

11.6. The Public Interest Stage

The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. The Council will balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect. Some factors may increase the need to prosecute but others may suggest that another course of action would be better. A prosecution will usually take place unless there are public interest factors tending

against prosecution which clearly outweigh those tending in favour, or it appears more appropriate in all the circumstances of the case to divert the person from prosecution. Whichever route is pursued the Local Authority will only start or continue a prosecution if the case has passed both the evidential and public interest stages.

11.7. Although not an exhaustive list these are some of the factors that the Council may consider when determining whether a prosecution is appropriate:-

- a) The seriousness of the alleged offence;
- b) The role played by the defendant in the commission of the offence;
- c) Any explanation offered by the company or defendant;
- d) Whether the defendant was in a position of authority or trust;
- e) Evidence of premeditation on the part of the defendant;
- f) Evidence that an offence was committed by a group;
- g) The risk of harm to public health;
- h) Evidence of a disregard of legal standards for financial reward;
- i) The previous history, including whether there is a history of similar offences, or a failure to respond positively to past warnings or statutory notices;
- j) Any likelihood of a defendant being able to establish a defence;
- k) The reliability of the evidence available;
- l) The competence of witnesses and their willingness to co-operate;
- m) Evidence of a willingness by the defendant to prevent a recurrence of the problem;
- n) The need to influence the offender's future behaviour;
- o) The probable public benefit of a prosecution and the importance of the case in maintaining community confidence;
- p) The effect on the defendant's, or a witness's physical or mental health balanced against the seriousness of the offence;
- q) The views of any victims;
- r) The offence although not serious in itself is widespread in the area where it was committed;
- s) The penalty which is likely to be imposed, and
- t) Whether the offence is due to a genuine mistake or misunderstanding (but this must be balanced with the seriousness of the offence).

11.8. There may be circumstances where, as well as prosecution, it will also be appropriate to serve a statutory notice to enforce the remedy.

11.9. The final decision on whether to prosecute shall be made after:

- The suspected offender has been given the opportunity to offer an explanation;
- Wherever possible a full and complete prosecution report file has been prepared and presented to the Head of Legal Services detailing the facts in the prescribed format;
- The initiating officer has fully discussed the case with the Manager.

- 11.10. Consideration will be given to prosecuting directors of bodies corporate where:-
- It appears that the offence was committed with his/her consent, connivance or neglect; or
 - It is likely that the body corporate may be wound up to avoid criminal proceedings.
- 11.11. Prosecution of individual employees may be appropriate and may be considered by the Council. Circumstances where a prosecution may result include for example where the employee has clearly contradicted the employers' instructions, has been deliberately obstructive or contravened policy or legislation resulting in offences being committed.
- 11.12. In all cases of obstruction, prosecution will always be considered where this has resulted either in undue delay or in additional work/costs to the local authority, or where false information has been given deliberately.
- 11.13. Where there has been a death at work resulting from a failure to comply with health and safety law, the matter will be referred to the police if the circumstances of the case might justify a charge of manslaughter. The decision to prosecute will be co-ordinated between the Crown Prosecution Service (CPS) and the Health and Safety Executive (HSE) or the Local Authority. A manslaughter case may occur alongside a prosecution for health and safety breaches. In all cases, the Work-Related Death Protocol for liaison, signed by the appropriate agencies will be followed.
- 11.14. On final completion of prosecution cases, officers must inform other interested parties of the outcome of the case as necessary. In particular, any complainants or victims will be informed. The outcome of the case will be reviewed with the relevant Team Leader to discuss any necessary future action.

12. COMPLAINTS AGAINST THE SERVICE

- 12.1** If any person believes that they have not received fair or consistent treatment as outlined in this Policy, they can access the Councils' Complaints Procedure. The matter will be considered and a decision made as to whether the Enforcement Policy has been breached in this instance and the complainant will be given a reply in writing explaining the decision. This is without prejudice to any formal appeal mechanism.

Appendix M

Penalty Points Scheme

1. The Scheme

- 1.1 Any breach of legislation or the requirements of this Licensing handbook will be fully considered by authorised officers when determining the use of the penalty point system. Where it is decided that the penalty point system is appropriate, the points will be issued in accordance to this appendix. If this appendix allows a range of points for the particular incident, the authorised officer will determine the appropriate number of points proportionate to the offence.
- 1.2 Before penalty points are issued, there must be sufficient evidence to prove, on the balance of probabilities, the offence or breach of licensing requirements. The licence holder will be given the opportunity to provide any mitigating circumstances to be considered. The issuing of penalty points is not a formal sanction in its own right; it is merely an open and transparent method of how a driver will be assessed in terms of the 'fit and proper person' test. The points system is predominately an internal management tool for ensuring that licence holders who repeatedly contravene regulations and/or this Policy are assessed.
- 1.3 Points issued will be confirmed in writing within ten working days from the discovery of the contravention or the conclusion of an investigation into a complaint.
- 1.4 The maximum number of points that can be imposed in respect of any particular matter is 10 but it is possible for one incident or inspection to result in more than one set of points being issued.
- 1.5 If a licence holder accumulates 10 points or more within a rolling period of 12 months then their licence will be subject to a review by the Licensing Committee.
- 1.6 The penalty point system will operate without prejudice to the Council's ability to take other action under appropriate legislation
- 1.7 There is no right of appeal against the award of penalty points by an Authorised Officer of the Council as this is not a formal sanction in its own right. As stated in paragraph 1.2 above, the licence holder's penalty offences will be considered in light of any mitigating circumstances that the licence holder wishes to offer.
- 1.8 The following tables list the breaches of legislation, bye laws and conditions of licence that attract penalty points.

Reference to HC is Hackney Carriage and to PH, Private Hire.

Private Hire

A Offences under the Local Government (Miscellaneous Provisions) Act 1976		Points
1	Vehicle not displaying plates. (Sec.48(6)(a)	5
2	Failure to notify vehicle transfer. (Sec.49(1)	5
3	Failure to present vehicle for inspection. (Sec.50(1)	5
4	Failure to inform Authority where the vehicle is stored. (Sec.50(2)	5
5	Failure to report an accident.(Sec.50(3)	5
6	Failure to produce a vehicle licence and insurance certificate.(Sec50(4)	5
7	Failure to produce a vehicle licence and insurance certificate.(Sec50(4)	5
8	Failure to wear driver badge.(Sec.54(2)	10
9	Failure by Operator to keep records of bookings.(Sec.56(2)	10
10	Failure by Operator to keep records of vehicles.(Sec.56(3)	10
11	Failure to produce a PH Operators licence.(Sec56(4)	5
12	Making false statement or withholding information to obtain a licence.(Sec.57(2)	10
13	Failure to return vehicle plate after notice given.(Sec.58(2)	5
14	Failure to surrender driver licence after suspension.(Sec.61(2)	5
15	Charging more than the meter fare when HC used as a PH.(Sec.67)	10
16	Unnecessarily prolonging a journey.(Sec.69)	10
17	Obstruction of an authorised officer or constable.(Sec.73(1)(a)	10
18	Failure to comply with requirement of an authorised officer or constable.(Sec73(1)(b)	10
19	Failure to give information or assistance to an authorised officer or constable.(Sec.73(1)(c)	10
B	Offences under the Transport Act 1980	Points

Section		
64 (2) (a)	Driving a vehicle with a sign above its roof which consists or includes the word "taxi" or "cab" whether alone or part of another word	10
64 (2) (b)	Causes or permits a vehicle to have a sign above its roof which consists or includes the word "taxi" or "cab" whether alone or part of another word.	10
C Conditions of licence		
All breaches of licence conditions shall attract 5 penalty points.		

Hackney Carriage

A Offences under the Local Government (Miscellaneous Provisions) Act 1976		Points
1	Failure to notify vehicle transfer (Sec.49(1))	5
2	Failure to present vehicle for inspection. (Sec.50(1))	5
3	Failure to inform Authority where the vehicle is stored. (Sec.50(2))	5
4	Failure to report an accident.(Sec.50(3))	5
5	Failure to produce a vehicle licence and insurance certificate.(Sec50(4))	5
6	Failure to produce HC driver licence.(Sec.53(3))	5
7	Making false statement or withholding information to obtain a licence.(Sec.57(2))	10
8	Failure to return vehicle plate after notice given.(Sec.58(2))	5
9	Failure to surrender driver licence after suspension.(Sec.61(2))	5
10	Charging more than the fare shown on the meter for a journey ending outside the district without prior agreement	10
11	Charging more than the meter fare when HC used as a PH.(Sec.67)	10
12	Unnecessarily prolonging a journey.(Sec.69)	10
13	Obstruction of an authorised officer or constable.(Sec.73(1)(a))	10
14	Failure to comply with requirement of an authorised officer or constable.(Sec73(1)(b))	10
15	Failure to give information or assistance to an authorised officer or constable.(Sec.73(1)(c))	10
B Offences under the town Police Clauses Act 1847		

Section	Offence	Points
48	Failure by HC Proprietor to hold a copy of HC driver licences of persons who use the vehicle	10
59	Carrying other person than the hirer without consent	10
C Offences under the Byelaws		
All breaches of hackney carriage byelaws shall attract 5 penalty points.		
D Conditions of Licence		
Equalities Act 2010		
Section	Offence	Points
168	Refusal to carry a guide, hearing, or other assistance dog in a hackney carriage without a valid certificate of exemption	10
168	Charging an additional cost for the carrying of an assistance dog in a hackney carriage	10
170	Refusal to carry a guide, hearing, or other assistance dog in a private hire vehicle without a valid certificate of exemption	10
170	Charging an additional cost for the carrying of an assistance dog in a private hire vehicle	10
Hackney Carriage and Private Hire Licensing Policy		
Breach of policy requirement		Points
Failure to wear a driver's badge		4
Failure to ensure the safety of passengers		4
Concealing or defacing a vehicle Licence Plate		4
Failure to attend on time for a pre-arranged booking without reasonable cause		3
Conveying a greater number of passengers than permitted		6
Failure to give reasonable assistance with passenger's luggage		3
Private hire vehicle soliciting for hire or accepting a fare that is not pre-booked		6 - 10
Operating a vehicle that is not clean and tidy		2
Driving without the consent of the proprietor		5
Drinking or eating in the vehicle whilst carrying passengers		3
Smoking in a licensed vehicle at any time		4
Cause excessive noise from any radio or sound-reproducing equipment		3
Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand		6
Using a non-hands free mobile telephone whilst driving		4
Failure to advise of a relevant medical condition		6 - 10

Failure to provide a receipt for a fare when requested	2
Failure to operate the meter from the commencement of the journey and/or charging more than the fixed charge for hire of hackney carriages	6 - 10
Failure to notify the Council of any amendment to the details of a licence within fourteen days	3
Failure to surrender a driver's licence, badge or plate upon request	6
Failure of a licence holder to disclose pending prosecution or convictions within seven days of notification	6
Failure to take found property to the Police	3
Failure to report an accident within seventy two hours	3
Failure to comply with the requirements for the safe carrying of a wheelchair	6
Operating a vehicle which is not maintained in a sound and roadworthy condition	6 - 10
Failure to carry an approved fire extinguisher	3
Failure to carry an approved first aid kit	3
Operating a vehicle which is not maintained in a clean and/or safe condition internally or externally	3
Breach of policy requirement	Points
Modifying a vehicle without the consent of the Council	4
Displaying a sign or advertisement on a licensed vehicle contrary to the Policy requirements or has not been approved by the Council	4
Driving with no insurance or inadequate insurance for the vehicle	10
Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	6
Any other contravention of the Policy not covered above	2

ing Hackney Carriage and Private Hire Handbook Consultation

Please provide as much information by using the titles as guidance

Name Phil Cheal

Address 6 Willowbrook Court, Old Salford Rd, ^{BANKING} Post Code BN15 8GS

Page Number	Number point on page	Comment
8	4.13	I agree to CCTV with audio.
62	Penalty points.	Do not agree to the penalty points system



Page Number	Number point on page	Comments
22	7.1	First Aid Kit is carried in vehicle at all times. Reason: Do away with, people who have no First Aid training may do more harm than good. Call 999 or take to A&E as have done in past.
	7.2	Fire Extinguisher in vehicle Reason: Do away with, has not been used in 25 years and if car catches fire, move away from vehicle and call 999.
Appendix 31	C 7.2	Lost Property If lost property has been left in vehicle, which is usually mobile phones, the owner usually rings and you return it. If keys or anything else take to Police Station. Fee open to debate.
Appendix 62	M 1	The Scheme Totally against this scheme. 1. The Traffic Police are sufficient in policing taxis and any offence i.e. speeding is dealt with by them, with penalty points issued and a fine. If a driver has 6 points they are very careful to not get any more. 2. The Points are unfair and petty and can be ambiguous, misconstrued and doubtful in some cases. 3. If a driver is not liked could be picked on. 4. Infringement of Right To Work. 5. One offence i.e. not wearing badge 10 points and you are unable to work, utterly ridiculous and totally wrong. 6. You will end up soon with no one wanting to be a taxi driver. 7. 100% against any points system, leave to Licensed Inspectors and Police

31.7. The world has moved on. With the ubiquity of mobile phones (the most common article left behind.) People who ~~would not~~ believe they have left something behind ring up. "The police do not want to lock up the property. It's a waste of their time. Drivers are fundamentally honest and make reasonable efforts to contact the owner. For example if a wallet is left behind with cards in it. It can be the bank's own work far quicker than bothering the police. "Sp in the pound" is insulting. The whole section should be abolished. Any gross breach would be covered by "fit and proper person". Further whose responsibility is it to look after one's belongings?"

49 Appendix JT. (4)

"commences his journey" should be replaced by "makes contact with the hirer". Otherwise waiting time is a non sense. If the wording appears anywhere else it should be amended too.

Appendix M pgs 62

This is not necessary. My objections are the same as Sean Ridley & B&H Radio Cabs.

*** The licensing officer's have the power and should use it where necessary by suspending drivers for disciplinary matters. Not so hurt more than not being able to earn money.

of a "licensing handbook" and in its primary function, that of the protection of the public which no way would be impeded by Carcabs Limited's operating address being and remaining at 19 Victoria Road, Portslade. We would further submit that the position we are suggesting would in no way affect the Council's requirement to carry out its regulatory functions.

It may be that following on from the renewal of the licence as a private hire operator on 11 July 2016, with its two licensed office locations including that at Brighton (Shoreham) Airport, the Council would consider our concern to be unwarranted. We would of course request clarification but do maintain our view that the currently drafted provision within the proposed redrafted "licensing handbook" is too onerous.

Whilst writing and in addition to the representations we have made with regard to the licensed operator's operating address, we would also make representations in relation to the proposed provision for a "penalty point scheme" which would appear to relate to any breach of legislation or the requirements of the "licensing handbook". We would initially respectfully submit that it is duplication for such a penalty point scheme to be based upon a breach of legislation when the statutes relating to licensed private hire operators (and indeed drivers) already provides sanctions which Parliament considered adequate the protection of the public. So far as the proposed penalty points for a breach of the licensing handbook is concerned by an operator, all would appear to attract the maximum 10 penalty points is inconsistent with the apparently unfettered discretion given to the Council's authorised officers determining the use of that penalty point system. Moreover, we would respectfully submit the narrative relating to the operation of the "penalty point system" would appear to confer upon the Council's authorised officers unfettered discretion in the application of such penalty points. Whilst it is suggested that before issuing such penalty points, there must be sufficient evidence to prove on the balance of probabilities the offence or breach of licensing requirements, the current drafting presupposes the commission of an offence or breach of licensing requirements. With there being no right of appeal against the award of penalty points by an authorised officer, we would suggest the same as a breach of the rules of natural justice, let alone far too onerous and as already stated, confers excessive power upon such authorised officers of the Council.

Again, the licensing legislation more than fully provides the appropriate sanctions and so those relating to a licensed private hire operator should in our respectful submission be removed altogether.

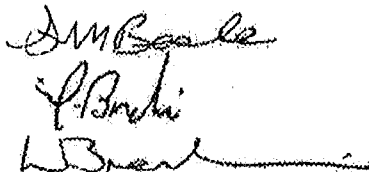
We should be more than pleased to be of further assistance to you and/or to the Council's licensing committee in its review of the draft "licensing handbook" and/or should be more than pleased to meet with you and/or the relevant councillors in this respect. We would be grateful if you would confirm when the licensing handbook will be placed before the licensing subcommittee and as to whether we may attend and make further written and oral representations at such a meeting if held in public.

We would be grateful if you would acknowledge receipt of this letter which we are sending by way of post and e-mail.

Yours sincerely,

Andrew Beale
Tony Breslin
Lesley Breslin

Directors



Appendix M

Penalty Points Scheme

1. The Scheme

1.1 Any breach of legislation or the requirements of this Licensing handbook will be fully considered by authorised officers when determining the use of the penalty point system. Where it is decided that the penalty point system is appropriate, the points will be issued in accordance to this appendix. If this appendix allows a range of points for the particular incident, the authorised officer will determine the appropriate number of points proportionate to the offence.

Page 62 - 66

Another piece of subjective and discretionary regulation that could be prone to manipulation depending on the individuals concerned! There is a perfectly good judicial system of regulation (including punitive measures) by Act(s) of Statute, together with an accepted "Penalty Points" system issued and enforced by the existing judicial system. This is subjective and discretionary on the part of the Council and therefore is unacceptable duplicate over regulation!!! This kind of unnecessary system has been proven (in other areas) to result in individuals being punished twice for the same offence or breach! The fact that there is no right of appeal casts serious doubt of its judicial value and clearly impacts on an individual's 'Human Rights' under relevant legislation!!!

1.2 Before penalty points are issued, there must be sufficient evidence to prove, on the balance of probabilities, the offence or breach of licensing requirements. The licence holder will be given the opportunity to provide any mitigating circumstances to be considered. The issuing of penalty points is not a formal sanction in its own right; it is merely an open and transparent method of how a driver will be assessed in terms of the 'fit and proper person' test. The points system is predominately an internal management tool for ensuring that licence holders who repeatedly contravene regulations and/or this Policy are assessed.

The law allows the Council to consider (proper) "Convictions" at any time, so therefore this is unnecessary over regulation!

1.3 Points issued will be confirmed in writing within ten working days from the discovery of the contravention or the conclusion of an investigation into a complaint.

Why as long as 10 days???

1.4 The maximum number of points that can be imposed in respect of any particular matter is 10 but it is possible for one incident or inspection to result in more than one set of points being issued.

1.5 If a licence holder accumulates 10 points or more within a rolling period of 12 months then their licence will be subject to a review by the Licensing Committee.

1.6 The penalty point system will operate without prejudice to the Council's ability to take other action under appropriate legislation

1.7 There is no right of appeal against the award of penalty points by an Authorised Officer of the Council as this is not a formal sanction in its own right. As stated in paragraph 1.2 above, the licence holder's penalty offences will be considered in light of any mitigating circumstances that the licence holder wishes to offer.

The mere fact that this will be recorded on a driver's record supports (legally) that this is indeed a sanction of sorts! The fact that there is NO "Right Of Appeal" allows an unacceptable possibility of manipulation of this policy by officers! There is no requirement for this and in areas where it exists, it has proved dubious in its application! We believe that this impacts on an individual's 'Human Rights!!!

1.8 The following tables list the breaches of legislation, bye laws and conditions of licence that attract penalty points.
Reference to HC is Hackney Carriage and to PH, Private Hire.

Private Hire

A Offences under the Local Government (Miscellaneous Provisions) Act 1976 Points

- 1 Vehicle not displaying plates. (Sec.48(6)(a) **5**
- 2 Failure to notify vehicle transfer. (Sec.49(1) **5**
- 3 Failure to present vehicle for inspection. (Sec.50(1) **5**
- 4 Failure to inform Authority where the vehicle is stored. (Sec.50(2) **5**
- 5 Failure to report an accident.(Sec.50(3) **5**
- 6 Failure to produce a vehicle licence and insurance certificate.(Sec50(4) **5**
- 7 Failure to produce a vehicle licence and insurance certificate.(Sec50(4) **5**
- 8 Failure to wear driver badge.(Sec.54(2) **10**
- 9 Failure by Operator to keep records of bookings.(Sec.56(2) **10**
- 10 Failure by Operator to keep records of vehicles.(Sec.56(3) **10**
- 11 Failure to produce a PH Operators licence.(Sec56(4) **5**
- 12 Making false statement or withholding information to obtain a licence.(Sec.57(2) **10**
- 13 Failure to return vehicle plate after notice given.(Sec.58(2) **5**
- 14 Failure to surrender driver licence after suspension.(Sec.61(2) **5**
- 15 Charging more than the meter fare when HC used as a PH.(Sec.67) **10**
- 16 Unnecessarily prolonging a journey.(Sec.69) **10**
- 17 Obstruction of an authorised officer or constable.(Sec.73(1)(a) **10**
- 18 Failure to comply with requirement of an authorised officer or constable.(Sec73(1)(b) **10**
- 19 Failure to give information or assistance to an authorised officer or constable.(Sec.73(1)(c) **10**

B Offences under the Transport Act 1980 Points

Section 64

- (2) (a) Driving a vehicle with a sign above its roof which consists or includes the word "taxi" or "cab" whether alone or part of another word **10**

Causes or permits a vehicle to have a sign above its roof which consists or includes (2) (b) the word "taxi" or "cab" whether alone or part of another word. **10**

C Conditions of licence

All breaches of licence conditions shall attract 5 penalty points.

Hackney Carriage

A Offences under the Local Government (Miscellaneous Provisions) Act 1976 Points

- 1 Failure to notify vehicle transfer (Sec.49(1) **5**
- 2 Failure to present vehicle for inspection. (Sec.50(1) **5**
- 3 Failure to inform Authority where the vehicle is stored. (Sec.50(2) **5**
- 4 Failure to report an accident.(Sec.50(3) **5**
- 5 Failure to produce a vehicle licence and insurance certificate.(Sec50(4) **5**
- 6 Failure to produce HC driver licence.(Sec.53(3) **5**
- 7 Making false statement or withholding information to obtain a licence.(Sec.57(2) **10**
- 8 Failure to return vehicle plate after notice given.(Sec.58(2) **5**
- 9 Failure to surrender driver licence after suspension.(Sec.61(2) **5**
- 10 Charging more than the fare shown on the meter for a journey ending outside the district without prior agreement **10**
- 11 Charging more than the meter fare when HC used as a PH.(Sec.67) **10**
- 12 Unnecessarily prolonging a journey.(Sec.69) **10**
- 13 Obstruction of an authorised officer or constable.(Sec.73(1)(a) **10**
- 14 Failure to comply with requirement of an authorised officer or constable.(Sec73(1)(b) **10**
- 15 Failure to give information or assistance to an authorised officer or constable.(Sec.73(1)(c) **10**

B Offences under the town Police Clauses Act 1847 Section Offence Points

- 48 Failure by HC Proprietor to hold a copy of HC driver licences of persons who use the vehicle **10**

59 Carrying other person than the hirer without consent **10**

C Offences under the Byelaws

All breaches of hackney carriage byelaws shall attract 5 penalty points.

D Conditions of Licence

Equalities Act 2010

Section Offence Points

168

Refusal to carry a guide, hearing, or other assistance dog in a hackney carriage without a valid certificate of exemption **10**

168 Charging an additional cost for the carrying of an assistance dog in a hackney carriage **10**

170 Refusal to carry a guide, hearing, or other assistance dog in a private hire vehicle without a valid certificate of exemption **10**

170 Charging an additional cost for the carrying of an assistance dog in a private hire vehicle **10**

Hackney Carriage and Private Hire Licensing Policy

Breach of policy requirement Points

Failure to wear a driver's badge **4**

Failure to ensure the safety of passengers **4**

Concealing or defacing a vehicle Licence Plate **4**

Failure to attend on time for a pre-arranged booking without reasonable cause **3**

Conveying a greater number of passengers than permitted **6**

Failure to give reasonable assistance with passenger's luggage **3**

Private hire vehicle soliciting for hire or accepting a fare that is not pre-booked **6 - 10**

Operating a vehicle that is not clean and tidy **2**

Driving without the consent of the proprietor **5**

Drinking or eating in the vehicle whilst carrying passengers **3**

Smoking in a licensed vehicle at any time **4**

Cause excessive noise from any radio or sound-reproducing equipment **3**

Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand **6**

Using a non-hands free mobile telephone whilst driving **4**
Failure to advise of a relevant medical condition **6 - 10**
Failure to provide a receipt for a fare when requested **2**
Failure to operate the meter from the commencement of the journey and/or charging more than the fixed charge for hire of hackney carriages **6 - 10**

Who decides whether it's 6 or 10???

Failure to notify the Council of any amendment to the details of a licence within fourteen days **3**
Failure to surrender a driver's licence, badge or plate upon request **6**
Failure of a licence holder to disclose pending prosecution or convictions within seven days

All of these "Offences" or "Breaches" are covered and administered by a fair and just current judicial and legislative system, with a right of appeal!!! Therefore, we see no reason to have a second and suitably "Kangaroo" Quasi judicial system, administered by Officers and open to potential and discretionary manipulation! We cannot agree to this and question its legality, particularly with regard to current "Human Rights" legislation!!!

Conclusion(s)

In "Adur's" own words, '... This handbook has been prepared in accordance with the relevant legislation and best practice...' Quite upon whose "Best Practice" this is based, or refers, is quite frankly anyone's guess, given that many of the provisions included in this documents differ substantially from and are inconsistent with both well established local industry norms and the policies of neighbouring authorities bar Worthing! Many of these provisions scream "inexperience" as they are clearly unworkable in practice. The whole of this document is unnecessarily irksome, financially onerous and will make our trade potentially financially unviable. A trade that is already financially 'on its uppers' due to saturation and over-supply in all areas! These provisions are unwarranted, unnecessary and what's more unwelcome!!!

To quote the Department For Transport's own words,

'... Licensing requirements which are unduly stringent will tend unreasonably to restrict the supply of taxi and PHV services, by putting up the cost of operation or otherwise restricting entry to the trade. Local licensing authorities should recognise that too restrictive an approach can work against the public interest – and can, indeed, have safety implications...'

They go on to say, '... For example, it is clearly important that somebody using a taxi or PHV to go home alone late at night should be confident that the driver does not have a criminal record for assault and that the vehicle is safe. But on the other hand, if the supply of taxis or PHVs has been unduly constrained by onerous licensing conditions, then that person's safety might be put at risk by having to wait on late-night streets for a taxi or PHV to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire...'

Legislation already exists by Act(s) of statute (including punitive clauses) and this handbook merely represents costly over regulation of a trade that is currently struggling financially to survive!

The Department For Transport's view on consultation is:

'... It is good practice for local authorities to consult about any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, or Chambers of Commerce, organisations with a wider transport interest (eg the Campaign for Better Transport and other transport providers), womens' groups or local traders...'