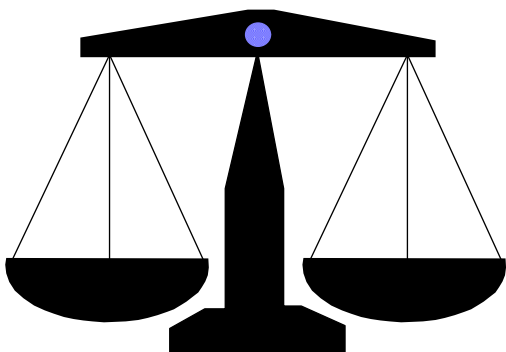


Taxi and Private Hire Licensing Enforcement Policy



Principles

When considering the need for enforcement action, authorised officers will have regard to the Regulators Compliance Code and the Council's own Enforcement Statement and relevant Policies.

- *Consistency*: to ensure that similar issues are dealt with in the same way whilst taking into account
 - the attitude and actions of the offender;
 - the history of previous incidents or breaches
 - the likely effectiveness of the action taken.
- *Fairness*: to ensure a fair and even handed approach that promotes decisions which are not influenced by gender, ethnic origin, religious or political beliefs or sexual preferences or by contractual or other relationships to the Licensing Authority its members or officers.
- *Transparency*: to ensure that any enforcement action taken by the Licensing Authority is easily understood by individuals and that clear distinctions are made between legal requirements and that which is desirable.
- *Targeting*: to ensure that any enforcement action taken is focused primarily on those activities which give rise to the most risk or where the risks are considered to be inadequately controlled.
- *Proportionality*: any actions taken will reflect that seen as necessary to achieve compliance with legislation and relate directly to the actual or potential risk to the travelling public. Enforcement activities will be focused on those individuals or businesses where the Licensing Authority is in possession of :
 - intelligence from partners and/or
 - evidence indicating breaches of the law and /or attempts to mislead officers.
- *Helpfulness*: Enforcement officers will be courteous and identify themselves by name and if requested will provide a contact telephone number. In most circumstances officers will seek to help individuals and businesses.
- *Accountable*: The Licensing Authority has responsibility to the public for its actions and will provide clear, accessible policies and a fair and efficient complaints procedure.

Levels of Enforcement Action

The Licensing Authority may either alone, or in conjunction with its partner organisations use one or a combination of methods to achieve compliance with the law.

Actions taken will follow any procedures laid down in the law, codes of practice and guidance notes. In order to further promote consistency, due regard will also be had to the advice and guidance available from the Institute of Licensing, the Crown Prosecution Service, the Offices of the Surveillance Commissioner and other such organisations.

- Education - To raise awareness about legal standards and promote good practice.

- Informal action - Where contraventions are seen to be minor in nature or compliance is believed possible without recourse to more formal sanctions written or verbal warnings will be issued.
- Formal enforcement - A range of formal sanctions may be considered including where appropriate Fixed Penalty Notices, Simple Cautions or prosecution.

Informal Action

The approach of giving advice and writing letters about minor contraventions is accepted and understood by most businesses. This informal approach may be used where:

- the contravention identified by the officer is not serious enough to warrant more formal action;
- past history indicates that informal action will achieve compliance;
- confidence in the management is high

Informal action may take the form of

- advice;
- verbal warnings;
- written warnings;

Where appropriate, individuals will also be issued with penalty points in accordance with the Licensing Authorities penalty points scheme.

Fixed Penalty Notices

A number of offences may be dealt with by way of fixed penalty and the Council will issue Fixed Penalty Notices where it is appropriate to do so.

Simple Cautions

In some cases, a simple caution may be a suitable alternative to prosecution and generally this option will be considered before prosecution.

A simple caution is however still a serious matter. It remains a live consideration for the Licensing Authority for 5 years and will influence any decision to institute proceedings should the offender be found infringing the law again. It can also be referred to in Court proceedings where it is relevant, for up to 5 years following the date of issue.

Simple cautions may be used in a variety of circumstances. Their value in terms of formal enforcement mean they can be used to deal quickly with offences, or to avoid unnecessary appearances in the criminal courts or to reduce the chances of offenders re-offending.

Before a simple caution can be issued the Licensing Authority must have sufficient evidence of guilt to give a realistic prospect of conviction, the offender must fully acknowledge and admit to the offence, understand the significance of receiving a caution and be able to give informed consent to the caution.

Simple cautions will be issued by an appropriate Director. The offender will normally be required to receive it in person.

Should a suspected offender decline the offer of a formal caution, the Authority will consider the need to prosecute.

Prosecution

The Licensing Authority will use discretion in deciding whether to initiate a prosecution and have regard to the corporate prosecutions policy. Whilst other approaches may be effective where the circumstances warrant it, prosecution without prior warning and recourse to alternative sanctions may take place.

The Licensing Authority will consider prosecution when:

- It is appropriate in the circumstances, as a way to draw attention to the need for compliance with the law and the maintenance of standards required by law. This is especially so where there would be a normal expectation that a prosecution would be taken, or where through the conviction of offenders, others may be deterred from similar failures to comply with the law;
or
- Where there is the actual or potential for harm arising from the breach;
or
- It has good reason to suspect that non-compliance will continue until such time as the offender(s) is/are called to account for their actions in a criminal court.
or
- There has been a failure to supply without reasonable excuse or knowingly or recklessly supplying false or misleading information
or
- Council staff have been obstructed when carrying out their authorised duties
or
- There is evidence that someone is impersonating Council staff.

Before deciding to prosecute, the Licensing Authority must satisfy itself that it has identified the most appropriate individual(s) to pursue, that there is sufficient evidence for a realistic prospect of conviction, taking into account any defence that may be available and that it is in the public interest to do so.

The following is a list of some of the criteria that would normally be taken into account when assessing the public interest element of a potential prosecution, although the list is by no means exhaustive.

- Prevalence of the offence
- Need for a suitable deterrent
- Risk of danger or injury to an individual, the community or the environment
- Failure to respond to advice about legal requirements
- Disregard of legal requirements for financial reward
- Potential or actual financial loss to a third party
- History of similar offences/persistent breaches of legislation
- Where fraud, negligence or guilty knowledge is a factor
- Where there are a combination of relatively minor breaches

Wherever possible the offender will be advised at the earliest opportunity that the Licensing Authority has sufficient evidence and is considering prosecuting for the offence.

All prosecutions will be brought without any unnecessary delays.

Penalty Points Scheme

The Licensing Authority recognises the importance of transparency when regulating the licensed trade and so, like many neighbouring authorities has a penalty points scheme to record infringements and has authorised officers to issue points to licence holders.

If an individual licence holder has been issued with 20 or more points in a rolling 12 month period, they will be referred to the next scheduled meeting of the General Licensing Committee who will consider in the circumstances, if that individual is still fit and proper to hold such a licence.

An individual's right of appeal against the imposition of penalty points is to the General Licensing Committee. Any appeal must be submitted in writing within 14 days of being issued with the points.

While the maximum number of points for an individual contravention is 10, officers may issue multiple points if a number of contraventions have been identified at one time.

Town and Police Clauses Act 1847		Points
S.48	Failure of HCV proprietor to hold a copy of HC drivers licences of all persons who use the vehicle	10
Local Government (Miscellaneous Provisions) Act 1976		
S.48(6)(a)	Failure to display Private Hire plates	10
S.49(1)	Failure to notify LA of a vehicle transfer within 14 days	10
S.50(1)	Failure to present a vehicle for inspection	5
S.50(2)	Failure to inform LA where vehicle is stored	5
S.50(3)	Failure to report an accident to LA within 72 hours	10
S.50(4)	Failure to produce a vehicle licence and insurance certificate	5
S.53(3)	Failure to produce Private Hire or Hackney Carriage Driver Licence forthwith	5
S.54(2)	Failure to wear driver badge	10
S.56(2)	Failure by Operator to keep record of bookings	10
S.56(3)	Failure by Operator to keep records of vehicles	10
S.56(4)	Failure to produce Private Hire Operators Licence	5
S.57(3)	Making a false statement or withholding information in order to obtain a licence	10
S.58(2)	Failure to return vehicle plate within 7 days after notice given	5

S.61(2)	Failure to surrender driver licence after suspension	5
S.64(1)	Cause or permit a private hire vehicle to wait on a HC rank	10
S.67	Charging more than the metered fare in a HCV for a PH journey	10
S.69	Unnecessarily prolonging a journey	10
S.73(1)(a)	Obstructing an Authorised Officer or Police Constable	10
S.73(1)(b)	Failure to comply with an Authorised Officer or Police Constable	10
S.73(1)(c)	Failure to give information or assistance to an Authorised Officer or Police Constable	10
Transport Act 1980		
S64(2)(a)	Driving a PHV with a sign above its roof which consists of or includes the word "taxi" or "cab"	10
S64(2)(b)	Cause or permit a PHV to have a sign above its roof which consists of or includes the word "taxi" or "cab"	10
Health Act 2006		
S.6(5)	Failure to display smoke-free signs	5
S.7(2)	Smoking in a smoke-free place or vehicle	5
S.8(4)	Failure to prevent smoking in a smoke-free place or vehicle	10
South Ribble Hackney Carriage By-Laws		
Any breach of the By-Laws		10
South Ribble Taxi Licensing Policy and Licence conditions		
Any non-compliance with the Council's Policy or breach of licence conditions		10