

## CAMBRIDGE CITY COUNCIL

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REPORT OF: Jas Lally  
Head of Refuse and Environment

TO: Licensing Committee

28/1/2013

WARDS: All

### **HACKNEY CARRIAGE AND PRIVATE HIRE ENFORCEMENT MANAGEMENT SYSTEM**

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#### **1 INTRODUCTION**

- 1.1 On 30<sup>th</sup> January 2012 the Licensing Committee received a report on a draft enforcement management system for hackney carriages and private hire vehicles which had been developed, in consultation with the Chair, Vice-Chair and Spokesperson, at the request of the committee, at its meeting on 24<sup>th</sup> October 2011 where it had considered the Hackney Carriage and Private Hire Licensing Policy and Taxi Guide and, in particular the section on Enforcement.
- 1.2 The Committee resolved to consult on the draft enforcement management system. The final version is attached as a Appendix A, including two alternatives for Section 2 of the draft policy as attached as Appendix B
- 1.3 Section 2 of the draft enforcement management system outlines a graduated approach when a licence holder breaches a licence condition or commits an offence or when complaints are received about the conduct of a licence holder or the condition of a vehicle. The purpose of this section is to ensure that Officers take a consistent approach with all licence holders and also to make the licence holders aware of what action can be taken as a result of their actions.
- 1.4 The draft enforcement management system was subject to 12 weeks of public consultation in accordance with the HM Government's Code of Practice. This took place between 13<sup>th</sup> February 2012 and the 8<sup>th</sup>

May 2012. All stakeholders were informed of the consultation in writing. A list of consultees is attached as Appendix C

- 1.5 The Consultation responses are contained (some of which are summarised) in the table attached as Appendix D to the report. All comments have been considered and incorporated appropriately.
- 1.6 The enforcement management system, once approved, will be attached to the 'Taxi Guide' as Appendix 5

## 2. **RECOMMENDATIONS**

### 2.1 Members are recommended:

- i) To adopt the Hackney Carriage and Private Hire enforcement management system, as set out in Appendix A to form part of the Taxi Guide approved at Licensing Committee 24<sup>th</sup> October 2011
- ii) To adopt option 2, which sets out a table of enforcement actions, as set out in Appendix B as part of the enforcement management system in 1.2) above

## 3. **BACKGROUND**

- 3.1 Cambridge City Council must ensure that taxi proprietors, drivers and operators it licenses undertake their trade in accordance with the law and the conditions attached to licences.
- 3.2 The Council has adopted an overall enforcement policy, which underpins the work of all services and sets out a graduated approach to enforcement. Specific policies set out how that applies to each service. Enforcement policies demonstrate that the Council seeks to apply the law in a consistent and transparent way that is both firm and fair.
- 3.3 Section 1 of the Hackney Carriage and Private Hire Enforcement Policy sets out the available options for enforcement, which range from informal action through to prosecution and the immediate suspension of a licence, in appropriate cases.
- 3.4 Section 2 of the policy, which describes the action to be taken by officers when there are concerns about the conduct of a licence, either on receipt of a complaint or as a result of officer activities, offers two options for schemes to deliver this consistently.

- 3.5 To achieve a stepped approach to enforcement, the Council will generally take the following action when
- a Licence holder breaches a Licence condition
  - a Licence holder commits an offence
  - a complaint is received about the conduct of a Licence holder or condition of a vehicle
  - there is a combination of the above

The options in Section 2 of the enforcement policy (see Appendix B) were as follows:

- i) a penalty points scheme
- ii) a table of enforcement actions

3.6 The Policy has undergone a formal consultation and although section 2 was the main area for consultation it was also noted that some other areas needed clarification.

3.7 Section 2.2 of the draft policy Grounds for Disbarment sub section 9 states:

*Been convicted within 1 year of any combination of offences which resulted in 6 or more points being attached to their driver's licence*

However this is quite onerous and a number of cases have been referred to sub committee for relatively minor offences and it is suggested that sub section 9 should state:

*Been convicted within 1 year of any combination of offences resulting in **more than 6 points** being attached to their driver's licence.*

## 4 CONSULTATIONS

4.1 In accordance with the Committee's resolution, a 12 week consultation was undertaken in respect of the two options set out in Section 2, in accordance with the Government code of practice on consultation and included letters to the trade, via the Taxi Forum and on the Council's website.

4.2 The questions asked in the consultation and a table of the 15 responses received are set out in Appendix D

4.3 Responses were generally supportive of the adoption of a clear and robust enforcement policy. Although there was support for option 1, the penalty points scheme, as a clear scheme, there was also concern that it might be too rigid, punitive and potentially expensive to implement. The stepped approach set out in option 2 was seen as

more practical to operate and, in particular, trade representatives have indicated their willingness to endorse and promote it.

## 5. **OPTIONS**

5.1 Members may resolve:

- i) not to adopt an enforcement policy for hackney carriage and private hire vehicles
- ii) to adopt the enforcement policy, including option 1, the penalty points scheme
- iii) to adopt the enforcement policy, including option 2, the table of enforcement actions

## 6. **CONCLUSIONS**

6.1 Cambridge City Council has a duty to ensure that taxi proprietors, drivers and operators are licensed undertake their trade in accordance with both the relevant law and the conditions attached to licences. By adopting and publishing its enforcement policy, the Council will demonstrate, to both the trade and the public in general, that it seeks to apply the law in a consistent and transparent way.

## 7. **IMPLICATIONS**

### (a) **Financial Implications**

The Council's budget provides for the taxi licensing service to be funded on a cost recovery basis.

### (b) **Staffing Implications**

The policy will be applied within existing staff resources

### (c) **Equal Opportunities Implications**

The adoption of an enforcement policy will assist in ensuring that the Council's statutory powers are applied consistently, fairly and transparently. An EqiA has been carried out and is attached

### (d) **Environmental Implications**

Nil

### (e) **Community Safety**

Cambridge City Council has a duty to provide a safe and secure taxi service. The publication of an enforcement policy will encourage

licence holders to comply with the conditions attached to their licences, the Council's byelaws and their statutory obligations.

## **APPENDICES**

### Appendix A

Draft Hackney Carriage and Private Hire enforcement Management System (EMS)

### Appendix B

Options for Section 2 of the EMS

### Appendix C

List of Consultees

### Appendix D

Consultation questions and table of responses

**BACKGROUND PAPERS:** The following are the background papers that were used in the preparation of this report:

Licensing Committee Meeting Minutes from 30<sup>th</sup> January 2012  
Cambridge City Council's General Enforcement Policy  
Equalities Impact Assessment

To inspect these documents contact Robert Osbourn on extension 7894

The author and contact officer for queries on the report is Robert Osbourn on extension 7894.

**Report file:** M:LICENSE/Licensing Committee mtgs/2013/Enforcement Policy report for 28.1.13

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### **Hackney Carriage and Private Hire Vehicle Enforcement Management System**

It is the policy of Cambridge City Council to ensure that proprietors, drivers and operators are licensed and carry out their trade in accordance with both the relevant law and the conditions attached to the licences. This will ensure a safe and secure Hackney Carriage and Private Hire Service.

In relation to private hire operators' licences and both hackney carriage and private hire drivers' licences the Council cannot grant or renew a licence unless they are satisfied that the applicant is a fit and proper person to hold the licence.

The enforcement management system is intended to fairly and firmly enforce the law in a consistent and transparent way. The Council is in agreement with the provisions of the Government's Enforcement Concordat. This is reflected in the Council's Common Enforcement Policy, which underpins all service or topic specific enforcement policies adopted by the Council. This represents a graduated approach to enforcement based on the principles of:

- Courtesy and Helpfulness
- Clear Standards and Practices
- Consistency
- Openness
- Proportionality
- Training of Staff

Achieving and maintaining a consistent approach to making decisions about taxi licensing and enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, the guidelines must be considered and followed. Enforcement action will be related to the seriousness of the breach and the possible consequences arising out of it. Enforcement action will not, therefore, constitute a punitive response to minor technical contraventions of legislation.

When making enforcement decisions, Authorised officers will take this enforcement management system into account. Any departure from this must be fully considered, exceptional, capable of justification, and must be endorsed by the Licensing & Enforcement Manager or more senior officer before the decision is implemented, unless significant risk to the public may result from delaying the decision.

#### **1. Enforcement Options**

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

- seriousness of any offences;
- driver, proprietor or operator's past history;
- consequence of non-compliance;
- likely effectiveness of the various enforcement options;
- public safety;

Having considered all relevant information and evidence, the choices for action are:

a) Licence Applications:

- Grant licences subject to the Council's Hackney Carriage and Private Hire Licensing Policy requirements and such conditions as the Council deems necessary and proportionate
- Refuse to grant or renew a licence.

b) Enforcement Action:

- Take no action;
- Take informal action;
- Issue statutory notices, (stop notices etc.);
- Issue fixed penalty notices;
- Suspend a licence;
- Revoke a licence;
- Use simple cautions;
- Prosecute
- A combination of any of the above

### 1.1 Informal Action

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

Such informal enforcement action may be appropriate in any of the following circumstances: -

- The act or omission is not serious enough to warrant more formal action;
- It can be reasonably expected that informal action will achieve compliance, perhaps by taking into account the individual driver, proprietor or operator's past history;
- Confidence in the operator's management is high;
- The consequences of non-compliance will not pose a significant risk to the safety of the public.

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

### 1.2 Section 68 Local Government (Miscellaneous Provisions) Act 1976 (Suspension Notices)



An authorised officer of the Council or any constable may at any reasonable time inspect and test any hackney carriage or private hire vehicle licensed by the Council or the taximeter affixed to such vehicle for the purpose of ascertaining its fitness. If the authorised officer is not satisfied as to the fitness of the vehicle or the accuracy of the taximeter, the officer may give notice in writing to require the proprietor of the vehicle to make the vehicle available for further inspection and testing at such reasonable time and place as specified in the notice, and suspend the licence until such time as the officer is satisfied that the vehicle or meter is again fit for purpose.

The suspension notice will remain in place until such time as the Officer issuing the notice is satisfied that the grounds for suspension have been satisfactorily resolved. Written confirmation of the lifting of the suspension notice will be given.

If the Authorised Officer or constable who issued the suspension notice is not satisfied as to the fitness of the vehicle or its taximeter before the expiration of a period of two months, the licence will, by virtue of the provisions of section 68, be deemed to have been revoked.

Where a licence is deemed to be revoked, the Council will write to the proprietor of the vehicle giving notice of the grounds on which the licence has been revoked within 14 days of the deemed revocation.

The proprietor may appeal to the Magistrates' Court.

### 1.3 Fixed Penalty Notices under the Health Act 2006

An authorised officer who has reason to believe that a person has been smoking in a licensed vehicle or that a person has failed to display the statutory 'no smoking' sign prominently in each compartment of a licensed vehicle and thereby committed an offence, may give that person a penalty notice in respect of the offence. This is a notice offering a person the opportunity to discharge any liability to conviction for the offence to which the notice relates by paying a penalty. The issuing of a fixed penalty notice is therefore an alternative to prosecution.

In deciding whether to issue a fixed penalty notice instead of prosecuting offenders, the Council will consider the seriousness of the offence, the history of the person and whether any previous fixed penalty notices have been issued to that person for similar offences. It is unlikely that more than two fixed penalty notices will be issued to a person before the Council will consider prosecuting that person for any further offences.

### 1.4 Appearance before the Licensing Sub Committee of the Council

A licence holder may be asked to appear before the licensing sub-committee to answer allegations of breaches of relevant legislation, byelaws or conditions attached to licences or a contravention of the Council's Hackney

Carriage and Private Hire Licensing Policy. Prior to this, the licence holder may be provided with warnings, depending on the seriousness of the complaint or contravention. Section 2 provides a guide to the action that the Licensing & Enforcement team is likely to take in response to these matters. In exceptional circumstances, the Council may deviate from the indicated course of action.

Current licence holders who breach relevant legislation during the period of their licence may be asked to appear before the Licensing Sub Committee. The Taxi Regulatory Committee Hearing Procedure is shown below in Section 3. This contains Cambridge City Council's 'Grounds for Disbarment' that indicate when a licence may be suspended, revoked or not renewed unless there are exceptional circumstances. The Council also has discretion to suspend, revoke, or refuse to renew a licence for "any other reasonable cause".

The licensing sub-committee will consider whether, in all the circumstances of the case, including the underlying facts of the incidents, including the incidents on previous occasions, the licence holder is a fit and proper person to hold a licence. The licensing sub-committee will consider whether there is reasonable cause to suspend or revoke a licence.

When considering an application or the standing of a licence holder the Committee may decide to take one or more of the following actions:-

- no action;
- a written warning;
- require the production of driving licences or other specified documentation at the Council's Office;
- suspend a licence;
- revoke a licence;
- recommend consideration of prosecution action;
- other appropriate action as deemed necessary

There is a right of appeal against any decision of the Licensing Sub Committee or authorised officers to suspend, revoke or refuse to renew a licence, or against the imposition of conditions on the licence. Any application to appeal against such a decision shall be made to the Magistrates' Court.

Any notifications of enforcement actions will include written information on how to appeal.

Usually a suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which written notice is given to the driver.

If the Council considers that the interests of public safety require the suspension or revocation of a drivers' licence to have immediate effect and the written notice given to the driver by the Council includes a statement that this is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

. The revocation or suspension will then be effective when the notice is given to the driver, regardless of whether an appeal is lodged with the Magistrates' Court.

A driver can also appeal against a decision to refuse to renew his/her driver's licence, but if the previous licence has already expired when the decision is made, (s)he cannot continue to drive because (s)he would no longer hold a current licence.

### 1.5 Simple Cautions

A simple caution may be used as an alternative to a prosecution in certain circumstances.

The purposes of the simple caution are:

- to deal quickly and simply with less serious offences;
- to divert less serious offences away from the Courts;
- to reduce the chances of repeat offences

To safeguard the suspected offender's interests, the following conditions must be fulfilled before a 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;
- the suspected offender must understand the significance of a simple caution and give informed consent to being cautioned.

If there is insufficient evidence to consider taking a prosecution, then by implication, the criteria are not satisfied to enable the offer 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 caution).

Where a person declines the offer of a simple caution, it will be necessary to consider taking a prosecution.

### 1.6 Prosecution

The decision to prosecute is a significant one as a conviction may impact on the licence holder's future employability. Prosecution will, in general, be appropriate for circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not followed and / or the public is put at serious risk. Such circumstances are in a minority. The criteria on which a decision to prosecute is made should ensure a consistent approach.

The circumstances which are likely to warrant prosecution are 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;
- where a particular contravention has caused serious public alarm.

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

Before referring a matter for possible prosecution, the Head of Refuse and Environment must be satisfied that there is relevant, admissible, substantial and reliable evidence that an identifiable person or company has committed an offence. There must be a realistic prospect of conviction; a bare prima facie case is not enough. With insufficient evidence to prosecute, the issue of a simple caution is not an alternative.

In addition to being satisfied that there is sufficient evidence to provide realistic prospect of conviction, it must be established that it is in the public interest to prosecute. The Code for Crown Prosecutors (November 2004), issued by the Crown Prosecution Service, provides guidance (including relevant public interest criteria) that will be considered.

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. (As indicated above, advice on the public interest is contained in the
- Code for Crown Prosecutors. The general thrust of the advice contained therein is that, the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution);

- whether other action, such as issuing a simple caution in accordance with the Home Office Circular 016/2008 would be more appropriate or effective.

## 1.7 Transparency

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

Any written documentation issued or sent will: -

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

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

## **2. Enforcement Action**

### **2.1 Table of Enforcement Actions**

To achieve a stepped approach to enforcement, the Council will generally take the following action when:

- a licence holder breaches a licence condition
- a licence holder commits an offence
- a complaint is received about the conduct of a licence holder or condition of a vehicle
- there is a combination of the above

At any stage in the process, Licensing Officers may, if they consider it appropriate to do so, refer a licence holder to the Licensing Sub-Committee for a decision as to whether the licence holder continues to be a fit and proper person to hold a licence.

|               |   |
|---------------|---|
| <b>1</b>      | <p><b>For any of the following:</b></p> <ul style="list-style-type: none"> <li>i) A breach of a licence condition see appendix 2;</li> <li>ii) A road traffic offence witnessed by an Officer of the Licensing &amp; Enforcement team (e.g. driving whilst using a mobile phone);</li> <li>iii) Two complaints of a similar nature in a 12-month period**;</li> <li>iv) Any road traffic offence or combination of offences that resulted in the accrual of penalty points except where the number of points accrued means that the licence holder falls within 4.</li> </ul> <p><b>Invited to provide a formal response in writing and appropriate action taken, which may include a letter of warning</b></p> |
| <b>Action</b> |   |

*When a complaint concerning a licence holder is received the complaint will be investigated and the Licence holder will be invited to provide comments in writing. The Licensing Officer will decide whether they consider, on the balance of probabilities that the complaint is justified. ,*

|               |  |
|---------------|--|
| <b>2</b>      | <p><b>For any of the following:</b></p> <ul style="list-style-type: none"> <li>i) A simple caution for an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010 see appendix 3;</li> <li>ii) Substantiated complaint regarding the conduct of the Licence holder (other than an offence) or the condition of a vehicle;</li> <li>iii) An offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010 where legal proceedings are not instigated see appendix 3;</li> <li>iv) Two licence conditions are breached or two road traffic offences are witnessed by an Officer of the Licensing section (e.g. driving whilst using a mobile phone), or one of each occurs within a 12 month period;</li> <li>v) Three complaints of a similar nature in a 12-month period.</li> </ul> <p><b>Interviewed by an Officer of the Licensing &amp; Enforcement team and appropriate action taken which may include reminder of expected standards</b></p> |
| <b>Action</b> |  |

|               |  |
|---------------|--|
| <b>3</b>      | <p><b>For any of the following:</b></p> <ul style="list-style-type: none"> <li>i) A conviction for an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010; See appendix 3</li> <li>ii) The Licence holder commits an action resulting in them falling under 1 i)-ii) or 2 ii)-iii) where they have been interviewed by an Officer of the Licensing section in the previous 12-month period and reminded of expected standards.</li> <li>iii) Four complaints of a similar nature within a 12-month period.</li> </ul> |
| <b>Action</b> | <b>Interviewed by an Officer of the Licensing &amp; Enforcement team and a appropriate action taken, which may include a written warning</b>   |

|               |  |
|---------------|--|
| <b>4</b>      | <p><b>For any of the following:</b></p> <ul style="list-style-type: none"> <li>i) The Licence holder commits an action resulting in them falling under 1 i)-ii) or 2 ii)-iii) where they have been interviewed by an Officer of the Licensing section in the previous 12-month period and a final written warning has been given;</li> <li>ii) Five unsubstantiated complaints of a similar nature within a 12-month period;<br/>Or, in accordance with the Council's grounds for disbarment:</li> <li>iii) An unspent conviction of any offence of a sexual nature;</li> <li>iv) An unspent conviction of any offence involving possession, supply of drugs or related offence;</li> <li>v) An unspent conviction of any offence involving dishonesty;</li> <li>vi) An unspent conviction for any offence involving violence;</li> <li>vii) A second conviction within 5 years of an offence related drunkenness;</li> <li>viii) An unspent conviction of any offence relating to alcohol and motor vehicles;</li> <li>ix) An offence committed that resulted in more than 6 points being attached to a driver's licence within the last 3 years;</li> <li>x) Any combination of offences committed that result in a total of 6 or more points being attached to a driver's licence within the past 1 year;</li> <li>xi) Any combination of offences committed that result in more than 9 points being attached to a driver's licence;</li> <li>xii) Two or more convictions for offences under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010 other than those that are spent under the Rehabilitation of Offenders Act 1974.</li> </ul> |
| <b>Action</b> | <b>Referred to the Licensing Sub-Committee to consider whether the licence holder is a fit and proper person to hold a licence; action that may be taken includes revocation, suspension or refusal to renew a licence.</b>  |

The above gives an indication of the likely action that the Council will take. However, each case will be considered individually and, in exceptional circumstances, the Council may deviate from the above in order to take the appropriate enforcement action.



## 2.2 Referral to the Licensing Sub-Committee

Specific consideration will be given to the following Grounds for Disbarment by the Head of Refuse and Environment, and subsequently the Licensing Sub Committee, may exercise discretion to grant or to renew a licence, or to suspend or revoke an existing licence.

Unless there are exceptional circumstances it is unlikely that an individual will be granted a licence if they have:

1. Been convicted of any offence of a sexual nature which is not spent under the Rehabilitation of Offenders Act 1974
2. Been convicted of any offence involving possession, supply of drugs or related offence not spent under the Rehabilitation of Offenders Act 1974
3. Been convicted of any offence involving dishonesty not spent under the Rehabilitation of Offenders Act 1974
4. Been convicted of any offence involving violence not spent under the Rehabilitation of Offenders Act 1974
5. Been convicted within the last 5 years of more than one offence of drunkenness or related (see item 7 below)
6. Held their DVLA driver's licence for less than 2 years after its return as a result of suspension for any reason
7. Been convicted of any offence relating to alcohol and motor vehicles which is not spent under the Rehabilitation of Offenders Act 1974
8. Been convicted within the past 3 years of any offence which resulted in 6 or more points being attached to their driver's licence
9. Been convicted within 1 year of any combination of offences resulting in more than 6 points being attached to their driver's licence
10. If at the time of application (for grant, renewal or during the life of an existing licence) have more than 9 points attached to their driver's licence
11. If they have more than 1 conviction relating to 'taxi' law which is not spent under the Rehabilitation of Offenders Act 1974

## **3. Taxi Regulatory Committee Hearings Procedure**

The purpose of this section is to provide a standardised procedure for hearings of taxi regulatory matters that are considered by the sub-committee. The procedure allows for all parties to exercise their right to a fair hearing.



The City Council, as licensing regulatory authority for Hackney Carriage and Private Hire matters within the City of Cambridge, has a responsibility to determine those matters within its jurisdiction. In many cases these will involve one or more of the Grounds for Disbarment.

In certain circumstances the authority will hold a hearing. It is considered good practice that a recognised procedure is followed and that parties to hearings should be advised of that procedure, in advance.

### 3.1 Preparation of report

Where the Licensing Enforcement Officer (LEO) considers that the Taxi Regulatory Sub-Committee should decide whether an applicant for a licence is a fit and proper to hold the licence for which she/he has applied, the LEO will refer the matter to the Sub Committee.

Where the LEO has reason to believe that any of the circumstances set out in Sections 60 and 61 of the 1976 Act may apply, the LEO will conduct an investigation on behalf of the Head of Refuse and Environment.

Following investigation and where the LEO considers it appropriate to do so, the LEO will prepare a report for the Sub-Committee setting out the relevant law, Council policy and the powers of the Sub-committee. The LEO will also submit any information obtained as a result of the investigation, the source of that information and any matters in dispute.

The LEO will write to the applicant or licence holder (driver, proprietor or operator) and ask her/him to say which of the witnesses she/he wants to attend the hearing to give their evidence in person. The Council will write to the applicant or licence holder, and the witnesses to tell them when and where the Sub-Committee meeting will be held.

Evidence can be given in writing or orally, by the LEO, the applicant or licence holder, or by their witness(es). There are no legal restrictions in terms of the kind of evidence that can be heard or the form in which it must be presented.

If a witness whose presence is requested by the applicant or licence holder is unable or unwilling to attend and the Sub-committee does not wish to adjourn the hearing, the evidence may be given in writing instead.

The applicant or licence holder can give evidence about her/his character in any way she/he thinks fit, e.g. by letters of reference or by calling witnesses

The Head of Refuse and Environment will send the applicant or licence holder a copy of the report at least 5 working days before the hearing to give her/him the opportunity to comment on it or, if she/he chooses, to submit further written representations or additional evidence. For example, a driver may wish to provide evidence that they have undertaken a speed awareness or advanced driving course since accruing penalty points for speeding.

When presenting the report to the Sub-Committee the LEO will inform the Sub-Committee of any comments, representations or additional evidence submitted by or on behalf of the applicant or licence holder.

At any stage the applicant or licence holder may instruct someone (such as a solicitor, a friend or relative, an employer or a member of a trade organisation) to act as her/his representative. The applicant or licence holder can be represented at the hearing whether or not the applicant or licence holder attends the hearing.

If the applicant or licence holder fails to attend the hearing the Sub-Committee may decide to continue in her/his absence.

Any references in this note to an applicant or licence holder should be taken to include her/his representative.

### 3.2 Conflict of Interest

If a member of the Taxi Regulatory Sub-Committee becomes aware of a possible conflict of interest before or during the hearing she/he should raise this with the Head of Legal Services.

Members should not take part in hearing a case if they have a personal interest or involvement with it or the issues raised by it might be seen as affecting their impartiality, e.g. if they know the applicant / licence holder or a complainant, or they have been previously involved with the case or a closely related case in another capacity.

### 3.3 The Hearing

Present at the hearing will be members of the Taxi Regulatory Sub-Committee, the LEO and a Legal Officer who will be the Sub-Committee's legal adviser. A Committee Manager will normally also be present.

At the start of the hearing the Chair of the Sub-Committee will open the meeting introduce the members of the committee and officers present and explain the procedure to be followed.

The committee members will decide whether members of the press and public should be excluded from the remainder of the hearing.

The LEO will outline the report and present any witnesses in support of the LEO's case.

Members may ask any relevant questions of the officer or witnesses.

The Chair will invite the applicant / licence holder or her/his representative to ask questions of the Officer or witnesses. The Chair will then invite the applicant / licence holder or a representative to put their case to the

committee. This will include calling any witnesses. Witnesses will be allowed into the hearing only when giving their evidence.

Members may ask any relevant questions of the applicant / licence holder and/or her/his witnesses.

The LEO may ask any relevant questions to clarify the evidence or information that has been given.

When all the evidence has been offered, the Chair will invite all parties to summarise their points if they wish.

The Chair will ask all parties if they are satisfied that they have had the opportunity to say everything that they wish to say.

The Chair will invite the Legal Adviser to the Sub-Committee to give any legal advice that the advisor considers to be appropriate.

If the Sub-Committee wish to consider their decision in private, everyone except the members of the Sub-Committee, will be asked to leave the room; alternatively the Sub-Committee will withdraw to another room. The Sub-committee may invite the Legal Advisor to join them. Any legal advice given to the Sub-Committee when they are withdrawn will be reported back to the hearing before the Chair resumes it.

The Sub-Committee may reconvene the meeting in order to seek clarification of the facts.

When the decision has been made with Chair will announce this to the applicant or licence holder.

### 3.4 The applicant or licence holder

Following the hearing the Council will write to the driver with formal notification of the decision of the sub-Committee and informing the applicant or licence holder of the right of appeal to the Magistrates Court and the time within which appeals must be submitted.

A suspension or revocation of a licence will take effect at the end of the period of 21 days beginning with the day on which written notice of the Sub-Committee decision was given to the licence holder EXCEPT in the case of the suspension or revocation of a Driver Licence where the Sub-Committee have decided that the interest of public safety require the suspension or revocation to have immediate effect. The letter notifying the driver of the Sub-Committee's decision will include a statement that this is so and an explanation why. The suspension will then take effect when the letter notifying the decision is given to the driver.

In urgent cases, the Head of Refuse and Environment has delegated power to suspend a driver or vehicle licence.



The table below provides the rehabilitation period for offences. A conviction is deemed 'spent' under the Rehabilitation of Offenders Act 1974 once the rehabilitation period has expired.

| <b>Sentence</b>  | <b>Rehabilitation Period</b>   |
|--|--|
| Two and a half years (30 months) imprisonment and over whether the sentence was suspended or not.                              | Never Spent  |
| Six month imprisonment and over but under 30 months whether the sentence was suspended or not.                                 | 10 years   |
| Under six months imprisonment/ youth custody whether the sentence was suspended or not.  | 7 years  |
| A fine or community service order.   | 5 years  |
| Conditional discharge, bound over or probation order. Also includes fit person, supervision and care orders.                   | One year or period of probation sentence, whichever is longer                                |
| Absolute discharge   | 6 months   |
| Disqualification, disability or prohibition  | Period of sentence unless a long period as above e.g. Disqualification and a fine five years |
| For applicants aged under 17 when they were convicted; The fixed rehabilitation periods for imprisonment or a fine are halved. |  |
| For convictions which can only be passed on young offenders; they remain fixed and cannot be halved i.e.                       |  |
| Borstal  | 7 years  |
| Six months – two years detention in a place determined by the Secretary of State   | 5 years  |
| Six months detention and less as above   | 3 years  |
| Detention Centre Orders  | 3 years  |

All penalty points are normally spent for totting up purposes after three years from the date of offence. Exceptions to this are, for example, disqualifications for drink driving (10 years).

The periods of time that must elapse in other cases before the conviction becomes spent vary considerably according to the nature of the offence and other circumstances.

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## Options for Section 2 of the Taxi Enforcement policy

### Option1

#### Enforcement Action Points Scheme

The Council generally will take a stepped approach to enforcement when:

- a Licence holder breaches a Licence condition
- a Licence holder commits an offence
- a complaint is received about the conduct of a Licence holder or condition of a vehicle
- there is a combination of the above

In these cases, the Licence holder will accrue points as outlined below.

#### Licence Conditions

|  | Points |
|--|--------|
| Breach of a Hackney Carriage or Private Hire Vehicle Licence condition, or a Private Hire Driver Licence condition | 3      |

#### Offences

|   | Points |
|---|--------|
| A conviction for an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010.   | 8      |
| A simple caution for an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006 or Chapter 1 of Part 12 of the Equality Act 2010.                                   | 6      |
| Committing an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006 or Chapter 1 of Part 12 of the Equality Act 2010, where legal proceedings are not instigated. | 4      |
| A conviction of any of the following: <ul style="list-style-type: none"> <li>• An offence of a sexual nature,</li> <li>• An offence involving possession, supply of drugs or related offence</li> <li>• An offence involving dishonesty</li> </ul>  | 12     |

|  |    |
|--|----|
| <ul style="list-style-type: none"> <li>• An offence involving violence</li> <li>• An offence relating to alcohol and motor vehicles</li> </ul> Or two convictions within 5 years of an offence related drunkenness |    |
| A road traffic offence committed that resulted in 1-5 points being attached to a drivers licence   | 6  |
| A combination of road traffic offences committed that resulted in a total of 6 or more points being attached to a drivers licence within the past 1 year   | 6  |
| Any combination of road traffic offences committed that resulted in more than 9 points being attached to a drivers licence   | 6  |
| A road traffic offence committed that resulted in 6 or more points being attached to a drivers licence   | 12 |

### Complaints

|  | Points |
|--|--------|
| Substantiated complaint regarding the conduct of the Licence holder (other than an offence) or the condition of a vehicle  | 4      |
| A second or subsequent unsubstantiated complaint of a similar nature to the first in a 12-month period, regarding the conduct of the Licence holder (including an offence) or the condition of a vehicle** | 3      |

*\*\*With regard to the first unsubstantiated complaint, the complaint will be investigated and the Licence holder will be invited to provide comments in writing, but in the absence of sufficient evidence to substantiate the complaint, no points will be accrued.*

### Offences witnessed by an Officer

|   | Points |
|---|--------|
| Road traffic offence witnessed by an Officer (e.g. driving whilst using a mobile phone) | 3      |

### Outcome

If any incident covers a number of areas (e.g. breach of statutory obligation and breach of Licence condition), the maximum number of points accrued will be capped at whichever area has the highest number of points. E.g. if a Licence holder is found to be breaching 2 conditions of a Licence, the number of points would be capped at 3 instead of 6 points being allocated.

The enforcement action that will be taken will generally be as follows:



| Number of Points accrued in a rolling 12 month period | Action   |
|---|--|
| 3   | Letter of warning and invitation to provide comments in writing  |
| 4-7   | Interviewed by an Officer of the Licensing section and reminded of conduct expected                          |
| 8-11  | Interviewed by an Officer of the Licensing section and a final written warning given                         |
| 12+   | Referred to the Licensing Sub-Committee to consider the revocation or refusal to renew the relevant Licence. |

Points will only cease to apply on the passing of 12 months from the date of the action by the Licence holder that resulted in the accrual of the points (i.e. date of offence, date of incident that resulted in complaint etc). If a Licence holder is referred to the Licensing Sub-Committee but no action is taken, the points will remain effective and the incident will again be considered if further points are accrued.

The above table gives an indication of the likely action that the Council will take. However, each case will be considered individually and in exceptional circumstances the Council may deviate from the above in order to take the appropriate enforcement action.

## Option 2

### Table of Enforcement Actions

To achieve a stepped approach to enforcement, the Council will generally take the following action when:

- a licence holder breaches a licence condition
- a licence holder commits an offence
- a complaint is received about the conduct of a licence holder or condition of a vehicle
- there is a combination of the above

|               |  |
|---------------|--|
| <b>1</b>      | <b>For any of the following:</b><br>i) A breach of a licence condition;<br>ii) A road traffic offence witnessed by an Officer of the Licensing & Enforcement team (e.g. driving whilst using a mobile phone);<br>iii) Two unsubstantiated complaints of a similar nature in a 12-month period**;<br>iv) Any road traffic offence or combination of offences that resulted in the accrual of penalty points except where the number of points accrued means that the licence holder falls within 4. |
| <b>Action</b> | <b>Letter of warning and invitation to provide a formal response in writing</b>  |

|               |  |
|---------------|--|
| <b>2</b>      | <b>For any of the following:</b><br>i) A simple caution for an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010;<br>ii) Substantiated complaint regarding the conduct of the Licence holder (other than an offence) or the condition of a vehicle;<br>iii) An offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010 where legal proceedings are not instigated;<br>iv) Two licence conditions are breached or two road traffic offences are witnessed by an Officer of the Licensing section (e.g. driving whilst using a mobile phone), or one of each occurs within a 12 month period;<br>v) Three unsubstantiated complaints of a similar nature in a 12-month period. |
| <b>Action</b> | <b>Interviewed by an Officer of the Licensing &amp; Enforcement team and reminded of expected standards</b>  |

|               |   |
|---------------|---|
| <b>3</b>      | <p><b>For any of the following:</b></p> <ul style="list-style-type: none"> <li>i) A conviction for an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010;</li> <li>ii) The Licence holder commits an action resulting in them falling under i)-ii) or ii)-iii) where they have been interviewed by an Officer of the Licensing section in the previous 12-month period and reminded of expected standards.</li> <li>iii) Four unsubstantiated complaints of a similar nature within a 12-month period.</li> </ul> |
| <b>Action</b> | <b>Interviewed by an Officer of the Licensing &amp; Enforcement team and a final written warning given</b>  |

|               |  |
|---------------|--|
| <b>4</b>      | <p><b>For any of the following:</b></p> <ul style="list-style-type: none"> <li>i) The Licence holder commits an action resulting in them falling under 1 i)-ii) or 2 ii)-iii) where they have been interviewed by an Officer of the Licensing section in the previous 12-month period and a final written warning has been given;</li> <li>ii) Five unsubstantiated complaints of a similar nature within a 12-month period;<br/>Or, in accordance with the Council's grounds for disbarment:</li> <li>iii) An unspent conviction of any offence of a sexual nature;</li> <li>iv) An unspent conviction of any offence involving possession, supply of drugs or related offence;</li> <li>v) An unspent conviction of any offence involving dishonesty;</li> <li>vi) An unspent conviction for any offence involving violence;</li> <li>vii) A second conviction within 5 years of an offence related drunkenness;</li> <li>viii) An unspent conviction of any offence relating to alcohol and motor vehicles;</li> <li>ix) An offence committed that resulted in 6 or more points being attached to a driver's licence;</li> <li>x) Any combination of offences committed that result in a total of 6 or more points being attached to a driver's licence within the past 1 year;</li> <li>xi) Any combination of offences committed that result in more than 9 points being attached to a driver's licence;</li> <li>xii) Two or more convictions for offences under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010 other than those that are spent under the Rehabilitation of Offenders Act 1974.</li> </ul> |
| <b>Action</b> | <b>Referred to the Licensing Sub-Committee to consider the revocation or refusal to renew the relevant licence</b>   |

*\*\* With regard to the first unsubstantiated complaint, the complaint will be investigated and the Licence holder will be invited to provide comments in writing, but in the absence of sufficient evidence to substantiate the complaint, no warning letter will be sent.*

The above gives an indication of the likely action that the Council will take. However, each case will be considered individually and, in exceptional circumstances, the Council may deviate from the above in order to take the appropriate enforcement action.

## Appendix C

### List of Consultees

| Name                               | Organisation                  | Contact  |
|------------------------------------|-------------------------------|--|
| Jonathan James                     | Cambridge City Council        |  |
| Ilona Balfe                        | Cambridge City Council        |  |
| Roxanne McLean                     | Cambridge City Council        |  |
| Martin Whelan                      | Cambridge City Council        |  |
| Toni Birkin                        | Cambridge City Council        |  |
| Carol Patton                       | Cambridge City Council        |  |
| Jane Connell                       | Cambridge City Council        |  |
| David Cox                          | Cambridge City Council        |  |
| Michael Parsons                    | Cambridge City Council        |  |
| Emma Thornton                      | Cambridge City Council        |  |
| Frank Harrison                     | Cambridge City Council - EH   |  |
| Robert Osbourn                     | Cambridge City Council - EH   |  |
| Richard Lord                       | Cambridge City Council - EH   |  |
| Jo Dicks                           | Cambridge City Council - EH   |  |
| Planning                           | Cambridge City Council        | <a href="mailto:planning@cambridge.gov.uk">planning@cambridge.gov.uk</a>                             |
| Child Protection                   | Child Protection              | <a href="mailto:peter.wilson@cambridgeshire.gov.uk">peter.wilson@cambridgeshire.gov.uk</a>           |
| Trading Standards                  | Trading Standards             | <a href="mailto:trading_standards@cambridgeshire.gov.uk">trading_standards@cambridgeshire.gov.uk</a> |
| Vicky Hornsby                      | CAMBAC                        |  |
| Diana Neill                        | Cambs Police                  | <a href="mailto:diana.neill@cambs.pnn.police.uk">diana.neill@cambs.pnn.police.uk</a>                 |
| Dave Sargent                       | Cambs Police                  | <a href="mailto:dave.sargent@cambs.pnn.police.uk">dave.sargent@cambs.pnn.police.uk</a>               |
| Stev Poppitt                       | Cambs Police                  | <a href="mailto:Steve.Poppitt@cambs.pnn.police.uk">Steve.Poppitt@cambs.pnn.police.uk</a>             |
| Peter Sinclair                     | Cambs Police                  | <a href="mailto:Peter.Sinclair@cambs.pnn.police.uk">Peter.Sinclair@cambs.pnn.police.uk</a>           |
| Brian Stinton                      | Cambridgeshire County Council | <a href="mailto:brian.stinton@cambridgeshire.gov.uk">brian.stinton@cambridgeshire.gov.uk</a>         |
| Mark Kemp                          | Cambridgeshire County Council | <a href="mailto:mark.kemp@cambridgeshire.gov.uk">mark.kemp@cambridgeshire.gov.uk</a>                 |
| Brenan Morgan                      | Cambs Fire Service            | <a href="mailto:brenan.morgan@cambsfire.gov.uk">brenan.morgan@cambsfire.gov.uk</a>                   |
| Pete Jones                         | Cambs Fire Service            | <a href="mailto:pete.jones@cambsfire.gov.uk">pete.jones@cambsfire.gov.uk</a>                         |
| Cambridge Forum of Disabled People | Disabled Group                | <a href="mailto:thecfdp@yahoo.co.uk">thecfdp@yahoo.co.uk</a>   |
| Councillors                        | Cambridge City Council        | Members Email  |
| Myles Bebbington                   | South Cambs                   | <a href="mailto:Myles.bebbington@scambs.gov.uk">Myles.bebbington@scambs.gov.uk</a>                   |
| Mike Hill                          | South Cambs                   | <a href="mailto:Mike.hill@scambs.gov.uk">Mike.hill@scambs.gov.uk</a>                                 |
| David Wratten                      | CCLT                          | <a href="mailto:cambridgetaxis@hotmail.com">cambridgetaxis@hotmail.com</a>                           |
| Glenn Hall                         | CCLT                          | <a href="mailto:g.c.hall@hotmail.co.uk">g.c.hall@hotmail.co.uk</a>                                   |
| Michael Peacock                    | CCLT                          | <a href="mailto:cabi@supanet.com">cabi@supanet.com</a>   |
| John Riley/ Tim Fowler             | CHDA                          | <a href="mailto:tim.fowler@live.co.uk">tim.fowler@live.co.uk</a>                                     |
| William Stewart                    | A1 Cabco                      | <a href="mailto:a1cabco@btinternet.com">a1cabco@btinternet.com</a>                                   |
| Max Nemer                          | Camcab                        | <a href="mailto:info@camcab.co.uk">info@camcab.co.uk</a>   |
| Lawrence Beech                     | Camtax                        | <a href="mailto:booking@camtax.co.uk">booking@camtax.co.uk</a>                                       |
| Andy Cundell                       | Panther                       | <a href="mailto:andycundell@panthertaxis.co.uk">andycundell@panthertaxis.co.uk</a>                   |
| John Raynham                       | Panther                       | <a href="mailto:info@panthertaxis.co.uk">info@panthertaxis.co.uk</a>                                 |
|                                    | PH Association                | <a href="mailto:cambridgelda@gmail.com">cambridgelda@gmail.com</a>                                   |
| General Public                     | Via Web                       | <a href="http://www.cambridge.gov.uk">www.cambridge.gov.uk</a>                                       |
| Trade - Drivers and Proprietors    | Letter                        |  |

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## Appendix D

### Consultation Questions

Do you agree that an enforcement policy will ensure that enforcement is carried out in a firm yet fair, consistent and transparent way?

Do you consider that Option 1 or Option 2 for section 2 of the policy is clearer and easier to understand?

Do you consider that the graduated enforcement steps in section 2 of the policy could be set out in a clearer and more transparent way than the two suggested options? If so, please give details.

Do you have any constructive comments or recommendations on the policy?

### Consultation responses – Taxi Enforcement options

|   | From          | Capacity         | Comment   |
|---|---------------|------------------|---|
| 1 | Andrew Petrie | Licence holder   | I have been asked to comment on the draft policy for taxi driver enforcement rules. I simply say that at present the Council is in breach of natural justice. A complaint was made about my conduct in the last year or so and I received 'words of advice' in a letter from the enforcement officer. This is tantamount to a presumption of guilt on behalf of taxi drivers. The Licensing Officer offered to leave a letter from me on the file. However this was after I received his 'words of advice'. I was not given the opportunity to present my version of events before the "advice" and it later transpired that my letter had not been kept on my file and the enforcement officer had not even spoken to the complainant! The principles of natural justice say that one is entitled to a FAIR hearing and an IMPARTIAL judge. One should also be allowed to cross-examine the complainant. There is great danger if the Council go down the route of finding taxi-drivers guilty unless proven innocent and award penalty points against them without proper due process. I believe the new policy cuts corners and breaches the Rules of Natural Justice because I do not think it allows for sufficient protection to the driver. The Council must be more equitable and more rigorous in investigating all complaints |
| 2 | Andrew Bowen  | Member of public | I have read the draft policy. I doubt many will, especially taxi drivers. It is worthy, but very wordy. I suggest all taxis should carry in a place easy for a passenger to read, front and back, notice of the council contact if they have a complaint to make. Some of us protest to the driver, perhaps withholding a tip; most merely put up with bad driving. You are unlikely ever to get enough protests to trigger disqualification  |

|   |                 |                             |   |
|---|-----------------|-----------------------------|---|
| 3 | Frank Harrison  | Commercial Team Leader (EH) | <p>I believe that option 1 is clearer insofar as it states an offence &amp; what action will be taken, rather than option 2 which appears to rely more on an interview than a judgement being made, &amp; this can therefore lead to greater ambiguity &amp; inconsistency. My one reservation about option 1 is the inclusion of unsubstantiated complaints triggering penalty points; clearly if they are unsubstantiated, penalising a driver for something which cannot be proven does seem a bit harsh</p>   |
| 4 | Heather Coleman | Member of public            | <p><i>Do you agree that an enforcement policy will ensure that enforcement is carried out in a firm yet fair, consistent and transparent way?</i><br/> Yes.</p> <p><i>Do you consider that option 1 or option 2 for section 2 of the policy is clearer and easier to understand?</i><br/> I consider that option 1 is the clearest, as it lays out a numerical penalty for each circumstance.</p> <p><i>Do you consider that the graduated enforcement steps in section 2 of the policy could be set out in a clearer and more transparent way than the two suggested options? If so, please give details.</i><br/> No, not without a great deal of work.</p> <p><i>Do you have any constructive comments or recommendations on the policy?</i><br/> I think the policy is a good one. There needs to be a clear expectation of standards with clear penalties if those standards are not met. If implemented, I think it needs to be publicised widely to the general public, so they are aware of it, and also, how to make a complaint if they need to. The procedure for making complaints needs to be simple. For example, either the taxi license plate OR the registration number of the vehicle should be sufficient as they are totally interlinked, and a member of the public may not have the expertise or time to take both.</p> <p>Most complaints I have had about taxis have related to either poor driving standards (eg excessive speed, impatient driving, tailgating), or causing an unnecessary obstruction (eg overranking, stopping to let off fares in a clearly dangerous spot), which would be under the category of "unsubstantiated complaints" by a member of the public. I think it is important that the public know that they can make complaints about poor driving or causing an obstruction that they feel is serious enough that it has either endangered them or other road users, but has not been witnessed by an Officer, and that this complaint will be kept on file such that if there is another complaint from someone else within twelve months, action that is more than a "ticking off" will result.</p> <p>Perhaps examples of poor or inconsiderate driving that should warrant a complaint should also be publicised, so that both taxi drivers, and the general public, both passengers and those who share the roads with taxis, know what is not acceptable from professional drivers, most of whom attempt to drive to a high standard at all times, but who are let down by a minority who do not. Those taxi drivers who drive to a high standard have nothing to fear from these proposals.</p> |



|   |                    |                  |  |
|---|--------------------|------------------|--|
| 5 | Jonathan Schneider | Member of public | <p>I am in favour of the strictest standards you can reasonably enforce. If any other European cities work to a standard without much problem then it's reasonable. In the middle of the city a major problem is running engines. That is completely unnecessary emissions or if you like it stinks. This should be banned outright using whatever legal machinery is available.</p> <p>I have spoken to local police many times. Clearly despite reams of legislation and proposals enforcement for over-ranking is ineffective since they wander over from Parkside fully uniformed. It should be possible for normal members of the public to submit pictures.</p> <p>No strong feeling on the differences between options 1 and 2.</p>   |
| 6 | John Fenton        | Member of public | <p>1) I agree that an enforcement policy will ensure enforcement is carried out in a firm yet fair, consistent and transparent way. It will create a policy that will make it crystal clear to taxi drivers, traffic wardens and the public and in the end could save lives in particular with their long term illegal parking in St Andrews Street outside the banks and in the bus stops.</p> <p>2) I think both option 1 &amp; 2 are clear but favour slightly option 1 – clean, crisp, clarity is required so that the taxi drivers are left in no doubt what will happen if they do things wrong.</p> <p>3)The graduated enforcement steps are transparent but could be put slightly clearer (plain English, so all levels of taxi driver can fully understand each point).</p> <p>4) The only constructive comments are those which I have already given. Just make sure that if the taxi drivers are going to have this long overdue enforcement policy, it must be crystal clear what penalties they will get (for continually parking illegally on double yellow lines for example). It is important for you to get input from the traffic wardens who do a fantastic job and feel powerless against the daily abuse meted out to them by taxi drivers whilst carrying out their duties.</p> <p>I think it would also be beneficial for you to email people like myself with a copy of your final draft so we can give you our final constructive comments.</p> |
| 7 | Sarah McManus      | Licence holder   | <p>With regard to your proposed changes to the enforcement of regulations governing Hackney Carriage and Private Hire Drivers in Cambridge, I believe there is enough legislation for enforcement, but a lack of presence by the Enforcement Officers in the city.</p> <p>The option 1 looks like it's been drawn up as an exercise in "jobs for the boys", and is open to abuse from the public or even a driver who has problems with other drivers. This also looks like it will be expensive to enforce and monitor.</p> <p>If I had to choose an option, it would be Option2.</p>   |

|    |                                   |                                   |   |
|----|-----------------------------------|-----------------------------------|---|
| 8  | Panther Taxis<br>(Paul Clare)     | Private Hire Operator             | We strongly favour option 2 of this proposal as we believe a graduated stepped approach is more practical, fair, and provides a workable and understandable framework for all parties to work to. Using our own experience of dealing with complaints and driver discipline, we do not believe that the type of rigid penalty points system outlined in option 1 can be applied effectively and efficiently to the broad range of complaints that can be received. We believe that each complaint has the capacity to be different and requires treatment on its own merits and option 2 allows for this.                         |
| 9  | National Private Hire Association | National Private Hire Association | Little need to consider either option currently as there are sufficient powers for a licensing authority to enforce its policies and conditions. We believe that penalty points schemes (option 1) are overly punitive, not reasonably necessary and result in double jeopardy. We would urge the council to wait until after the Law Commission consultation has opened and preferably until fresh legislation is outlined before proceeding.  |
| 10 | Roger Salmon                      | Member of public                  | I strongly support Option 1. To make this effective, I think it is essential to extend the period over which points are assessed from 12 months, say to 3 years or 5 years. This makes it much more practicable to set enforcement levels which catch rogue multiple-offenders without penalising occasional offenders. I do not believe that Option 2 provides a realistic alternative or will be effective.   |
| 11 | Cambridge City Licensed Taxis Ltd | Taxi trade representative body    | CCLT Ltd agrees that enforcement is required and important for the trade.<br>Option 1, the penalty points system, is not a reasonable or acceptable option for the trade.<br>Option 2 is a reasonable option of enforcement and the trade would be happy to endorse it, with proper management.   |
| 12 | Tess Jones                        | Member of public                  | I strongly support there being clear guidance on determining if a driver is a fit and proper person to hold a taxi licence. This is long overdue.<br>I prefer Option 1 since it is clearer, and it also allows evidence of complaints and offences to be taken together. I think it is important that unsubstantiated complaints can accrue against a driver since these are the most common cause of conflict between taxis and other road users / pedestrians.<br>I do believe that complaints and offences should be considered over longer than 12 months, e.g. 3 years as a means to improve taxi driving over the long term |

|    |   |                            |  |
|----|---|----------------------------|--|
| 13 | "Wookey"  | Member of public           | <p>Option 1 (points) seems clearer.</p> <p>I have a few comments: It is not clear exactly how the expiry periods will work. It is implied that everything in done on a one-year basis - is that a fixed year, or does each points allocation last for one year from application (or one year from offence - probably impractical?) then evaporate.</p> <p>I do not know what the substantiated and unsubstantiated reporting rates are in practice, but I assume not very high, and thus noisy. It seems to me that having a longer period of accrual (and correspondingly higher thresholds) at least for complaints would make the system much less noisy and thus less prone to both false negatives and false positives. 2 or 3yrs would work a lot better than one.</p> <p>The document also does not make clear the distinction between substantiated and unsubstantiated complaints. Does substantiation require a second witness, a second report of same incident, a photo, an admission of guilt, or something else?</p> |
| 14 | Richard Jennings                                | Member of public           | <p>I support option 1, a penalty points system as I believe it will be clearer. However I think that one year is too short a time for penalty points to expire and a term of three or five years would serve better to indicate any poor drivers</p>   |
| 15 | Cambridge Cycling Campaign (Martin Lucas-Smith) | Cambridge Cycling Campaign | <p>We welcome the principles of the draft policy and particularly the intent that the driving behaviour of taxi drivers should be potentially an enforcement matter. There is a lot of bad and dangerous driving by taxis in Cambridge and cyclists and other road users suffer under it.</p> <p>We welcome the principle that driving offences that are not prosecuted should be taken into account in assessing whether a driver is a fit and proper person to hold a taxi licence, and normally to a lesser degree than a conviction.</p> <p>Of the two options we greatly prefer option 1, as it is more flexible and can take into account bad driving and behaviour of mixed kinds. If Option 2 were adopted, we would expect endless claims by drivers that different complaints were not "of a similar nature".</p>  |

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# Cambridge City Council Equality Impact Assessment



Completing an Equality Impact Assessment will help you to think about what impact your strategy, policy, plan, project, contract or major change to your service may have on people that live in, work in or visit Cambridge, as well as on City Council staff.

The template is easy to use. You do not need to have specialist equalities knowledge to complete it. It asks you to make judgements based on evidence and experience. There are guidance notes on the intranet to help you. You can also get advice from David Kidston, Strategy and Partnerships Manager on 01223 457043 or email [david.kidston@cambridge.gov.uk](mailto:david.kidston@cambridge.gov.uk) or from any member of the Joint Equalities Group.

## 1. Title of strategy, policy, plan, project, contract or major change to your service:

Hackney Carriage and Private Hire Enforcement Management System

## 2. What is the objective or purpose of your strategy, policy, plan, project, contract or major change to your service?

To clarify how the Council will undertake investigations of complaints about taxis and taxi drivers and how it will conduct enforcement activities in relation to breaches of the law or licence conditions

## 3. Who will be affected by this strategy, policy, plan, project, contract or major change to your service? (Please tick those that apply)

- Residents
- Visitors
- Staff

A specific client group or groups (please state):  
Users of taxis services in the city and the taxi trade

## 4. What type of strategy, policy, plan, project, contract or major change to your service is this? (Please tick)

- New
- Revised
- Existing

## 5. Responsible directorate and service

Directorate: Environment

Service: Refuse & Environment - Licensing

## 6. Are other departments or partners involved in delivering this strategy, policy, plan, project, contract or major change to your service?

No

Yes (please give details):

Legal Services, in appropriate instances

## 7. Potential impact

Please list and explain how this strategy, policy, plan, project, contract or major change to your service could **positively** or **negatively** affect individuals from the following equalities groups.

When answering this question, please think about:

- The results of relevant consultation that you or others have completed (for example with residents, people that work in or visit Cambridge, service users, staff or partner organisations).
- Complaints information.
- Performance information.
- Information about people using your service (for example whether people from certain equalities groups use the service more or less than others).
- Inspection results.
- Comparisons with other organisations.
- The implementation of your piece of work (don't just assess what you think the impact will be after you have completed your work, but also think about what steps you might have to take to make sure that the implementation of your work does not negatively impact on people from a particular equality group).
- The relevant premises involved.
- Your communications.
- National research (local information is not always available, particularly for some equalities groups, so use national research to provide evidence for your conclusions).

**(a) Age** (any group of people of a particular age, including younger and older people)

All

**(b) Disability** (including people with a physical impairment, sensory impairment, learning disability, mental health problem or other condition which has an impact on their daily life)

People with disabilities, especially wheelchair users should benefit positively from clear and consistent enforcement of the rules

**(c) Gender**

NA

**(d) Pregnancy and maternity**

NA

**(e) Transgender** (including gender re-assignment)

NA

**(f) Marriage and Civil Partnership**

NA

**(g) Race or Ethnicity**

NA

**(h) Religion or Belief**

NA

**(i) Sexual Orientation**

NA

**(j) Other factor that may lead to inequality (please state):**

NA

## 8. If you have any additional comments please add them here

NA

## 9. Conclusions and Next Steps

- If you have not identified any negative impacts, please sign off this form.
- If you have identified potential negative actions, you must complete the action plan at the end of this document to set out how you propose to mitigate the impact. If you do not feel that the potential negative impact can be mitigated, you must complete question 8 to explain why that is the case.
- If there is insufficient evidence to say whether or not there is likely to be a negative impact, please complete the action plan setting out what additional information you need to gather to complete the assessment.

All completed Equality Impact Assessments must be emailed to David Kidston, Strategy and Partnerships Manager, who will arrange for it to be published on the City Council's website. Email [david.kidston@cambridge.gov.uk](mailto:david.kidston@cambridge.gov.uk)

## 10. Sign off

Name and job title of assessment lead officer: Robert Osbourn, Licensing & Enforcement Manager

Names and job titles of other assessment team members and people consulted:  
Yvonne O'Donnell, Environmental Health Manager

Date of completion: 3.1.13

Date of next review of the assessment: January 2016



## Action Plan

**Equality Impact Assessment title:**

**Date of completion:**

| <b>Equality Group</b>   | <b>Age</b> |
|---|------------|
| Details of possible disadvantage or negative impact               |            |
| Action to be taken to address the disadvantage or negative impact |            |
| Officer responsible for progressing the action                    |            |
| Date action to be completed by                                    |            |

| <b>Equality Group</b>   | <b>Disability</b> |
|---|-------------------|
| Details of possible disadvantage or negative impact               |                   |
| Action to be taken to address the disadvantage or negative impact |                   |
| Officer responsible for progressing the action                    |                   |
| Date action to be completed by                                    |                   |

| <b>Equality Group</b>   | <b>Gender</b> |
|---|---------------|
| Details of possible disadvantage or negative impact               |               |
| Action to be taken to address the disadvantage or negative impact |               |
| Officer responsible for progressing the action                    |               |
| Date action to be completed by                                    |               |

| <b>Equality Group</b>   | <b>Pregnancy and Maternity</b> |
|---|--------------------------------|
| Details of possible disadvantage or negative impact               |                                |
| Action to be taken to address the disadvantage or negative impact |                                |
| Officer responsible for progressing the action                    |                                |
| Date action to be completed by                                    |                                |

| <b>Equality Group</b>   | <b>Transgender</b> |
|---|--------------------|
| Details of possible disadvantage or negative impact               |                    |
| Action to be taken to address the disadvantage or negative impact |                    |
| Officer responsible for progressing the action                    |                    |
| Date action to be completed by                                    |                    |

| <b>Equality Group</b>   | <b>Marriage and Civil Partnership</b> |
|---|---------------------------------------|
| Details of possible disadvantage or negative impact               |                                       |
| Action to be taken to address the disadvantage or negative impact |                                       |
| Officer responsible for progressing the action                    |                                       |
| Date action to be completed by                                    |                                       |

| <b>Equality Group</b>   | <b>Race or Ethnicity</b> |
|---|--------------------------|
| Details of possible disadvantage or negative impact               |                          |
| Action to be taken to address the disadvantage or negative impact |                          |
| Officer responsible for progressing the action                    |                          |
| Date action to be completed by                                    |                          |

| <b>Equality Group</b>   | <b>Religion or Belief</b> |
|---|---------------------------|
| Details of possible disadvantage or negative impact               |                           |
| Action to be taken to address the disadvantage or negative impact |                           |
| Officer responsible for progressing the action                    |                           |
| Date action to be completed by                                    |                           |

| <b>Equality Group</b>   | <b>Sexual Orientation</b> |
|---|---------------------------|
| Details of possible disadvantage or negative impact               |                           |
| Action to be taken to address the disadvantage or negative impact |                           |
| Officer responsible for progressing the action                    |                           |
| Date action to be completed by                                    |                           |

| <b>Other factors that may lead to inequality</b>                  |  |
|---|--|
| Details of possible disadvantage or negative impact               |  |
| Action to be taken to address the disadvantage or negative impact |  |
| Officer responsible for progressing the action                    |  |
| Date action to be completed by                                    |  |

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