

**NORTH LINCOLNSHIRE COUNCIL**

**LICENSING (MISCELLANEOUS) SUB-COMMITTEE**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976  
TOWN POLICE CLAUSES ACT 1847**

**REVIEW OF A PRIVATE HIRE VEHICLE DRIVERS LICENCE**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To inform the Sub-Committee of a review of a Private Hire Vehicle Drivers Licence.
- 1.2 To request that the Sub-Committee determines the appropriate action to be taken in relation to the Private Hire Vehicle Drivers licence in regard to Mr Mark Ian Dobbs.

**2. BACKGROUND INFORMATION**

- 2.1 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states that the Council may suspend, revoke or refuse to renew a licence on the grounds that since the grant of the licence the person has:
  - (a) been convicted of an offence involving dishonesty, indecency or violence; or
  - (b) been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847; or
  - (c) any other reasonable cause.
- 2.2 The Licensing (Miscellaneous) Sub-Committee is authorised to determine applications for the grant, transfer, renewal or revocation of Hackney Carriage/Private Hire Licences relating to drivers, operators and vehicles. The Sub-Committee is also authorised to attach points to hackney carriage and private hire licenses where they deem it is appropriate.
- 2.3 Drivers of Hackney Carriages and Private Hire Vehicles must be in possession of a valid Hackney Carriage or Private Hire Vehicle Drivers Licence, depending which vehicle they wish to drive. On initial application, prior to the grant of a licence, and upon application to renew a licence a check is made with the Criminal Records Bureau to see if the person has any cautions or convictions.

- 2.4 Information may also be received from the police in regard to current Hackney Carriage/Private Hire Vehicle Drivers who have been found guilty of an offence by the courts.
- 2.5 Mr Mark Ian Dobbs has held a Private Hire Vehicle (PHV) Drivers Licence since 13 November 2013. It expires on 12 November 2016.
- 2.6 Information has been received from the Disclosure Barring Service that means it is necessary to review the Private Hire Vehicle Drivers Licence on the grounds of 'any other reasonable cause'.
- 2.7 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and Amendments Order 2002, exempts applicants for PHV Driving Licences from the Rehabilitation of Offenders Act 1974, and therefore all relevant convictions can be considered.
- 2.8 Any information disclosed on a DBS check will be presented at the meeting as the said information cannot be reproduced. Reports will be updated at the meeting if necessary to take account of any additional relevant information received after publication
- 2.9 Members should not allow themselves to pre-determine or to be prejudiced in favour of or opposed to the application until they have had an opportunity to consider all the pertinent facts.
- 2.10 Members should be aware that as they are acting in a quasi-judicial role as regards this licensing matter, they should remain in the room so that they hear all the evidence on which the decision will be based.

### **3. OPTIONS FOR CONSIDERATION**

- 3.1 The options available to the Licensing (Miscellaneous) Sub-Committee under the Local Government (Miscellaneous Provisions) Act 1976 when considering such information are as follows:

Option 1 – To take no action.

Option 2 – To warn the person regarding future conduct.

Option 3 – To issue points against the licence in accordance with Appendix I of the Council's Hackney Carriage and Private Hire Licensing Policy.

Option 4 – To add additional conditions to the licence or add conditions of obtaining a licence.

Option 5 – To suspend the licence for a set period of time.

Option 6 – To revoke the licence.

## 4. ANALYSIS OF OPTIONS

- 4.1 A criminal record does not debar an applicant from gaining or renewing a licence unless the authority considers the conviction(s) render the person unsuitable. In the first instance criminal records are checked against guidelines in respect of the Rehabilitation of Offenders Act 1974 and guidance produced in line with the Department of Transport Circular 2/92 and Home Office Circular 13/92. A Copy of the guidance is attached for Members' information as **Appendix A**. The analysis of the four options at paragraph 3.1 are as follows:

Option 1 – Members may choose to take no action when they feel that there is no case to answer. This option is unlikely as prior to any review the matter has been considered by an Assessment Board of three officers- who will only refer matters to the committee where there is sufficient evidence for the matter to be considered.

Option 2 – Where the case has been upheld, but the committee does not feel the need to take more punitive action, a warning can be issued as to the future conduct of the driver. Should there be a re-occurrence then the driver could be referred back to the sub-committee.

Option 3 – Endorsing a Hackney Carriage and/or Private Hire Licence with penalty points provides a cost effective means of addressing the issue. It provides a balance between doing nothing and suspending/revoking the licence.

Option 4 – Conditions can be added to a Private Hire Vehicle Drivers Licence so long as they are reasonable. Conditions cannot be added to a Hackney Carriage Vehicle Drivers Licence. Additional requirements can be added to the conditions of obtaining the licence, for example a CRB can be requested every year and a requirement can be added that licences are renewed annually.

Option 5 – The licence could be suspended for a set period of time. Such an action would be punitive in nature.

Option 6 – The revocation of a licence is the ultimate action available to the sub-committee. Should the sub-committee feel that it is appropriate to remove the licence having considered all the evidence, the revocation can take immediate effect if it is deemed appropriate to protect the public. Revocation should be considered where it is deemed necessary to protect the public.

- 4.2 Should the Licensing (Miscellaneous) Sub-Committee revoke the licence or impose additional terms, conditions or restrictions then the applicant may appeal to a Magistrates Court within 21 days from the date on which he was notified of the decision. Should the Magistrates uphold the decision of the council, the applicant has further recourse to the Crown Court.

**5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

5.1 There are no resource implications

**6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)**

6.1 Local Government (Miscellaneous Provisions) Act 1976

6.2 Town Police Clauses Act 1847

**7. OUTCOMES OF CONSULTATION**

7.1 Not applicable.

**8. RECOMMENDATIONS**

8.1 That the application be determined in accordance with the options outlined at paragraph 3 above, taking into account the trace on the Disclosure.

**DIRECTOR OF PLACES**

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**Background Papers used in the preparation of this report: -**  
Application file, except information protected by the Data protection Act.



**GUIDANCE TO MEMBERS OF THE  
LICENSING (MISCELLANEOUS) SUB-COMMITTEE  
IN RESPECT OF PREVIOUS CONVICTIONS  
RELATING TO  
Applications for Hackney Carriage & Private Hire  
Vehicle Drivers' Licences**

## 1.0 Introduction

- 1.1 This guidance was originally based on the Department of Transport Circular 2/92 and the Home Office Circular 13/92. In developing the guidance consideration has been given to the amendment to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 in March 2002 to include drivers of Hackney Carriages and Private Hire Vehicles and the Bichard Enquiry regarding the disclosure of non-conviction information on Criminal Record Disclosures. The guidance was reviewed in 2014 to include a points scheme, which is used to determine if a person is “fit and proper” or “for any other reasonable cause” and to provide further clarification as to how motoring convictions and fixed penalties are dealt with.
- 1.2 The purpose of the guidance is to assist members and officers to determine the fitness of an applicant to hold a Hackney Carriage/Private Hire Vehicle Drivers Licence in accordance with The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

## 2.0 Background

- 2.1 North Lincolnshire Council is a registered body with the Disclosure and Barring Service, formally the Criminal Records Bureau.
- 2.2 It uses the **Disclosure and Barring Service, formally the Criminal Records Bureau** (DBS) to assess an individual's suitability to drive a Hackney Carriage / Private Hire Vehicle.
- 2.3 The main objective is to obtain information to assist in establishing whether a person is a ‘fit and proper person’ under the Local Government (Miscellaneous Provisions) Act 1976.
- 2.4 It also enables the local authority to attach any conditions to the granting of the licence, which it feels are necessary to protect members of the public.

## 3.0 Scope of Legislation

- 3.1 The Rehabilitation of Offenders Act was introduced in 1974 to help restore the reputation of persons who have been convicted of an offence but have since stayed on the right side of the law. In normal circumstances, if someone is sentenced to 30 months or less in prison, the conviction will become 'spent' after 10 years, beginning with the date of sentence, and would no longer need to be disclosed when applying for employment. However, applicants for certain occupations, including Hackney Carriage and Private Hire Drivers, will always be required to disclose all their previous convictions, regardless of whether or not they would normally be regarded as ‘spent’, and all relevant convictions can therefore be considered.

- 3.2 The Bichard Enquiry came following the Home Secretary's announcement that an independent inquiry would be held. This would consider the way in which the police handled intelligence and the vetting processes prior to Huntley being employed in a school.
- 3.3 Sir Michael Bichard, Rector of the London Institute and a former Permanent Secretary at the Department for Education and Employment, was appointed as Chairman of the inquiry.
- 3.4 Sir Michael Bichard looked into the events surrounding the Soham Murders of 2002 and in particular what was previously known about Huntley. The concern existed that professionals in Humberside were aware that Huntley had a history of sexual relationships with girls under the age of sixteen. However, this information did not appear to have been readily available and as a consequence when the school where Huntley was subsequently employed carried out its statutory checks on him nothing untoward came to light. Bichard made a number of recommendations, some of which affects the information, which is now disclosed on the Criminal Records Disclosure that may not have appeared before.
- 3.5 On initial application for a licence, and upon application to renew a licence every 3 years, a request is made to the DBS for a disclosure of any criminal record held in the name of the applicant prior to the grant of a licence
- 3.6 An Enhanced Disclosure is requested, which contains the same details as a Standard Disclosure but may also contain non-conviction information from local police records, which a chief police officer thinks may be relevant in connection with the matter in question.
- 3.7 It is also a requirement that the applicant must submit their DVLA driving licence for both new and renewal applications failure to do so will result in the application being incomplete.
- 3.8 A further DBS check can be requested by the Licensing Division at any time during a licence where there is reason to believe that the licence holder has been convicted of a further offence. Information may be received from many different sources such as, the public, trade, police or even in the local press regarding current Hackney Carriage/Private Hire Vehicle Driver's who have been convicted of an offence.
- 4.0 Determination of Relevant Information / Convictions, by Board of Officers**
- 4.1 As previously stated, applicants for Hackney Carriage & Private Hire Vehicle Drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974, and therefore all relevant convictions can be considered.

- 4.2 The legislation also allows the Licensing Authority to consider comments received by the police relating to Hackney Carriage/Private Hire Vehicle Drivers, in situations where a conviction may or may not have been obtained. As all applicants or licensed Hackney Carriage/Private Hire Vehicle Driver's have the right to a fair and proper hearing, the members, in these circumstances, will have the opportunity to put questions to the applicant and the police and clarify any issues raised in the DBS disclosure made by the police, at the Sub-Committee.
- 4.3 Where a DBS Disclosure, for the application or review of a driver's licence shows a Trace or is accompanied by any relevant police comments, an Assessment Board of Officers of the Licensing Division considers the nature of any offences or information provided by the Chief Police Officer. The date of the event, the age of the applicant and any other relevant factors will be considered to determine if it is relevant. In the event that the Assessment Board is not satisfied that the applicant is a "fit and proper" person, a recommendation is made to this Sub-Committee to determine the application.
- 4.4 On receipt of the application, disclosure and DVLA driving licence, the Licensing officer will check the details. If convictions are disclosed and/or offences displayed on the driving licence, an Assessment Board, comprising a further three licensing officers, will be convened.
- 4.5 **The Assessment Board will consider: -**
- Whether the conviction or other matters revealed are relevant to the application in question,
  - The seriousness of any offence or other matter revealed,
  - The length of time since the offence or other matter occurred,
  - Whether the disclosure reveals a pattern of behaviour,
  - Whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters, and
  - The circumstances surrounding the offence and the explanation(s) offered by the applicant.

**5.0 Determination of Application where Convictions/Endorsements are disclosed**

- 5.1 If the matters revealed are deemed relevant, the Assessment Board will refer the matter to the Licensing (Miscellaneous) Sub Committee for determination. Certain types of offences will always be referred.
- 5.2 The following examples afford a general guide on the action to be taken where convictions are admitted.

a) *Minor traffic offences*

Convictions or fixed penalties for minor traffic offences should not prevent a person from proceeding with an application. The following offences, in Table 1 are deemed to be minor motoring convictions for the purpose of this guidance:

<b>Table 1</b>	
<b>Code</b>	<b>Offence Detail</b>
AC10	Failing to stop after an accident.
AC20	Failing to give particulars or report an accident within 24 hours.
AC30	Undefined accident offence.
CU10	Using a vehicle with defective brakes.
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
CU30	Using a vehicle with defective tyres.
CU40	Using a vehicle with defective steering.
CU50	Causing or likely to cause danger by reason of load or passengers.
CU60	Undefined failure to comply with Construction and Use Regulations.
CU80	Breach or requirements as to control of the vehicle, mobile telephone etc.
LC10	Driving without a licence.
LC20	Driving otherwise than in accordance with a licence.
LC30	Driving after making a false declaration about fitness when applying for a licence.
LC40	Driving a vehicle having failed to notify a disability.
LC50	Driving after a licence has been revoked or refused on medical grounds.
MS10	Leaving a vehicle in a dangerous position.
MS20	Unlawful pillion riding.
MS30	Playstreet Offences
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle).
MS70	Driving with uncorrected defective eyesight.
MS80	Refusing to submit to an eye test.
MS90	Failure to give information as to identity of driver etc.
MW10	Contravention of special roads regulations (excluding speed limits).
PC10	Undefined contravention of pedestrian crossing regulations.
PC20	Contravention of pedestrian crossing regulations with moving vehicle.
PC30	Contravention of pedestrian crossing regulations with stationary vehicle.
SP10	Exceeding goods vehicle speed limit.
SP20	Exceeding speed limit for type of vehicle (Excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road.
SP40	Exceeding passenger vehicle speed limit.
SP50	Exceeding speed limit on a motorway.
TS10	Failing to comply with traffic light signals.
TS20	Failing to comply with double white lines.
TS30	Failing to comply with 'STOP' sign.
TS40	Failing to comply with direction of a constable/warden.
TS50	Failing to comply with traffic sign (excluding 'STOP' signs, traffic lights or double white lines).
TS60	Failing to comply with school crossing patrol.
TS70	Undefined failure to comply with traffic direction sign.

Where an endorsement is made for aiding, abetting, counselling or procuring offences (0 is replaced with 2, code LC20 becomes LC22); or causing or permitting offences (0 is replaced with 4, code LC20 becomes LC24); or inciting (0 is replaced with 6, code LC20 becomes LC26), these will also be deemed to be minor traffic offences.

Where an applicant or driver has accrued 12 or more points on their licence, that would be sufficient to require a period of disqualification of the applicant's driving licence, then members will normally consider either suspension or revocation of the licence, especially if there is a pattern of offending, for example of excessive speed. In such cases, it would be for the applicant/driver to state their mitigation to the Licensing (Miscellaneous) Sub-Committee as to why they are a fit and proper person or why they should be allowed to keep their licence.

*b) Major traffic offences*

An isolated conviction one of the offences listed in Table 2, for example for reckless driving or driving without due care and attention etc, should not normally merit either the refusal of an application or the suspension or revocation of a Hackney Carriage and/or Private Hire Vehicle Drivers Licence. Clarification should be sought as to the reason for the conviction and circumstances at the time of the offence should be taken into account.

<b>Table 2</b>	
<b>Code</b>	<b>Offence Detail</b>
BA10	Driving while disqualified by order of court.
BA30	Attempting to drive while disqualified by order of court.
CD10	Driving without due care and attention.
CD20	Driving without reasonable consideration for other road users.
CD30	Driving without due care and attention or without reasonable consideration for other road users.
DR70	Failing to provide specimen for breath test.
IN10	Using a vehicle uninsured against third party risks.
MS50	Motor racing on the highway.
TT99	Disqualification under totting-up.

More than one conviction or endorsement for this type of offence within the last three years would normally merit refusal of an application or the revocation of a Hackney Carriage or Private Hire Vehicle Drivers licence and no further application should be considered until a period of 3-5 years free from convictions has elapsed.

Convictions or endorsements for the offences listed in Table 3 overleaf would normally merit the revocation or immediate suspension of a hackney carriage or private hire vehicle drivers licence or the refusal of an application for a licence where the date of conviction/endorsement was within the last five years.

<b>Table 3</b>	
<b>Code</b>	<b>Offence Detail</b>
CD40	Causing death through careless driving when unfit through drink.
CD50	Causing death by careless driving when unfit through drugs.
CD60	Causing death by careless driving with alcohol level above the limit.
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis.
CD80	Causing death by careless, or inconsiderate, driving.
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers.
DD10	Causing serious injury by dangerous driving.
DD40	Dangerous driving.
DD60	Manslaughter or culpable homicide while driving a vehicle.
DD80	Causing death by dangerous driving.
DD90	Furious driving.
DR10	Driving or attempting to drive with alcohol level above limit.
DR20	Driving or attempting to drive while unfit through drink.
DR30	Driving or attempting to drive then failing to supply a specimen for analysis.
DR31	Driving or attempting to drive then refusing to give permission for analysis of blood sample that was taken without consent due to incapacity.
DR40	In charge of a vehicle while alcohol level above limit.
DR50	In charge of a vehicle while unfit through drink.
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive.
DR80	Driving or attempting to drive when unfit through drugs.
DR90	In charge of a vehicle when unfit through drugs.
MR09	Reckless or dangerous driving (whether or not resulting in death, injury or serious risk).
MR19	Wilful failure to carry out the obligation placed on driver after being involved in a road accident (hit or run)
MR29	Driving a vehicle while under the influence of alcohol or other substance affecting or diminishing the mental and physical abilities of a driver.
MR39	Driving a vehicle faster than the permitted speed
MR49	Driving a vehicle whilst disqualified.
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence.
UT50	Aggravated taking of a vehicle.

Where an applicant has such a conviction/endorsement, then no further application would be considered until a period of five years free of conviction has elapsed.

c) *Drunkenness*

1. *With motor vehicle.* A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of alcohol. An isolated incident should not necessarily debar an applicant but there is an expectation that applicants have had a period free of conviction of five years.

More than one conviction for these offences gives the Council serious doubts as to the applicant's fitness to hold a licence. At least five years should elapse (after the restoration of the driving licence) before an applicant may be considered for a licence.

If there is any suggestion that the applicant is an alcoholic, a special medical examination shall be arranged before the applicant is entertained. If the applicant is found to be an alcoholic a period of five years should elapse after treatment is complete before a further licence application is considered.

2. *Not in motor vehicle.* An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions or a pattern for drunkenness could indicate a medical problem necessitating critical examination (see (1) above). In some cases, a warning may be sufficient, however.

Table 4 of Schedule 1 to Appendix I determines points that may be attached to a licence.

d) *Drugs*

An applicant with a conviction for a drug related offence should be required to show a period of at least three years free of convictions before an application is entertained, or five years after detoxification treatment if he/she was an addict.

Where an applicant has been convicted of an offence relating to dealing drugs, then a substantial period free of convictions would normally be expected.

Table 6 of Schedule 1 to Appendix I determines points that may be attached to a licence.

e) *Indecency/Sexual Offences*

As Hackney Carriage and Private Hire Vehicle Drivers often carry unaccompanied passengers, applicants with convictions for a sexual offence, indecent exposure, indecent assault, or importuning, should be refused until they can show a substantial period free of such offences.

If more than one conviction of this kind or under circumstances where a serious crime of indecency or of a sexual nature has been committed, or where the applicant is on the Sex Offenders Register, the Sub-Committee should give serious consideration as to whether or not a licence should be granted.

Table 7 of Schedule 1 to Appendix I determines points that may be attached to a licence.

f) *Violence*

As Hackney Carriage and Private Hire Vehicle Drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

If someone has re-offended or has committed a serious offence of violence consideration should be given as to whether or not a licence should be granted.

Table 4 of Schedule 1 to Appendix I determines points that may be attached to a licence.

g) *Dishonesty*

Hackney Carriage and Private Hire Vehicle Drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty and note whether there is a pattern. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

Table 5 of Schedule 1 to Appendix I determines points that may be attached to a licence.

**6.0 Determination of an Application where Non-Conviction Information has been disclosed by the Police**

6.1 There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have been developed. These tend to be based on a test similar to the following:

'Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage and/or private hire driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person from whom you care, to get into a vehicle with this person alone?'

6.2 If the answer to this question (or a similar test) is an unqualified 'Yes', then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a hackney carriage/private hire driver's licence.

6.3 Mr Justice Silber made an obiter observation in the case of *Leeds City Council v Hussain*. In the context of suspension of a drivers licence “for any other reasonable cause” he said:

‘...the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose, therefore, is to prevent licenses being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.’

6.4 This test would support the test for fitness and propriety.

6.5 Where a person is barred from working with children or vulnerable adults, serious questions need to be asked as to a person’s fitness and propriety. Where such a bar is applied then the Council would normally refuse an application for a licence or revoke a vehicle drivers licence, subject to hearing an mitigating factors.

## **7.0 General**

7.1 It is important to stress that the above examples constitute guidance only and that each case must be decided on its own merits.

7.2 A person with a relevant conviction for serious crime need not be permanently barred from obtaining a licence but, generally speaking, the applicant will be expected to remain free of conviction for a period of 3 to 5 years, depending on the type of offence and the circumstances, before a licence is determined. Consideration should be given as to whether or not the offence is isolated and whether there are mitigating circumstances.

7.3 The overriding consideration should be the protection of the public.

## **8.0 Action available to the Sub-Committee**

8. The options available to the Licensing (Miscellaneous) Sub-Committee are as follows:

- a) Take No Action
- b) Issue the Driver/Proprietor with a warning
- c) Endorse the Hackney Carriage/Private Hire Vehicle, Drivers and/or Operators Licence with penalty points
- d) Require a medical or CRB check at shorter intervals than specified in the Hackney Carriage and Private Hire Licensing Policy
- e) Suspend the licence
- f) Suspend the licence subject to meeting a set criteria, e.g. passing a DSA test or knowledge test

- g) Add additional conditions to the licence
- h) Revoke the licence
- i) Take other action as deemed appropriate

8.1 The penalty points scheme as attached as Appendix I will be used to fill a gap between issuing a warning to drivers, proprietors and operators. Where a person has amassed 12 valid points then the Council will determine if an applicant is a fit and proper person or review a licence for any other reasonable cause, with a view to refusing an application or revocation/suspension of a licence.

Schedule 1 to Appendix I specifies the points to be added for each offence, for both applicants and licence holders.

**PENALTY POINTS SCHEME****1.0 The details of how the scheme will be operated are as follows:**

- 1.1 The Licensing Enforcement Policy will be fully considered by an authorised officer when determining the manner on which any breach of legislation or the requirements of this Policy are dealt with.
- 1.2 The Penalty Points Scheme will operate without prejudice to Licensing Authority's ability to take other action under appropriate legislation or as provided for by this policy.
- 1.3 The Penalty Points Scheme outlined in Schedule 1 identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven and by whom.

**2.0 Imposition of Points**

- 2.1 Where it is decided that the use of the Penalty Points Scheme is appropriate, the points will be issued in accordance with Schedule 1 to this appendix.
- 2.2 The imposition of penalty points against a driver who is an employee will not necessarily result in the additional imposition of points to his/her employer or operator. However the Licensing Authority will issue penalty points to drivers, proprietors, driver/proprietors and operators for a single contravention if the circumstances warrant it, i.e. the breach is one against all these licences and it is considered joint responsibility is held.
- 2.3 Points issued to a proprietor, operator or driver will be confirmed in writing within three weeks of the completion of enquiries into the contravention or upon discovery of breach.
- 2.4 Points will be imposed on licences by either Licensing Officers or by the Licensing (Miscellaneous) Sub-Committee. The imposition shall be in accordance with Schedule 1 to this Appendix.
- 2.5 There is no financial penalty associated with the Penalty Point Scheme, and the licensee may continue to work. However, the licensee may be asked to attend a hearing before the Licensing (Miscellaneous) Sub-Committee if 12 or more penalty points are imposed on an individual licence and are still valid, where appropriate action will be taken in accordance with this policy.

### **3.0 Duration of Points**

3.1 When issued, the penalty points will remain “live” for the period specified in Schedule 1 to this Appendix. They will remain on the licence for consideration from the date they are imposed for the specified period indicated in Schedule 1.

### **4.0 The Hearing**

4.1 Where a driver, proprietor or operator attains 12 penalty points, disciplinary options available to the Licensing Authority will include suspension or revocation of the driver’s licence.

4.2 If it is felt that the matter does not warrant suspension or revocation of the licence, a written warning may be issued to the driver as to his future conduct.

4.3 Periods of suspension of a licence will be dependent on the nature of the breach of legislation or the requirements of this Policy and the compliance history of the licence holder.

4.4 A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances he deems necessary.

### **5. Appeals**

5.1 Should a driver, operator or proprietor wish to dispute the imposition of points made by an officer, then they have the right to appeal. Appeals will be made to the Licensing (Miscellaneous) Sub-Committee, who may quash the points, uphold the points or increase the where they deem it appropriate, subject to the maximum points identified in Schedule 1.

5.2 Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the Magistrates Court against the suspension or revocation. In most cases a suspension will be subject to a 21 day appeal period starting on the date of the suspension notice to allow for the formal appeal process. There might be occasions where immediate suspension is required e.g. danger to the public.

## **Schedule 1 to Appendix I - Penalty Points Tariff**

### 1.1 Legislative offences and penalties:

Two statutes principally create offences relating to hackney carriages and private hire vehicles are; i) The Town Police Clauses Act 1847; and ii) The Local Government (Miscellaneous Provisions) Act 1976. Offences may also be committed under other legislation, byelaws or conditions.

1.2 The offences are set out below under the relevant statute state the number of points and the length of time that the points will remain on the licence. Where there is an option to attach more points, Licensing Officers will only be permitted to attach the minimum number of points. Where the Licensing Officer determines that the offence is of a more serious nature, the awarding of any points or action will be determined by the Licensing (Miscellaneous) Sub-Committee, who on hearing the case may attach points between the minimum and maximum, should the case be found.

1.3 When an application or licence is determined by the Licensing (Miscellaneous) Sub-Committee the points attached to a licence will be taken into consideration. In such cases the hearing will consider all relevant information and will determine the review in accordance with the relevant legislative framework. Points attached to a licence will not be the reason for refusal, suspension or revocation.

1.4 The Licensing Authority reserves the right to take all appropriate action as is deemed necessary. The attachment of points to a licence in no way prejudices the Licensing Authorities right to prosecute an offender should it be deemed in the public interest to do so.

1.5 Tables 4-7 set the number of points that will be deemed attached to a licence or application when determining the said application, renewing a licence or reviewing the licence of a current driver, proprietor or operator. The term conviction will be deemed to mean any conviction or fixed penalty or any material disclosed by the police on a DBS certificate which they consider to be relevant to a person acting as a Hackney Carriage or Private Hire Driver.

1.6 A list of the offences, penalty points and the relevant period that points remain on the licence are in accordance with the following tables:

Table 1

## TOWN AND POLICE CLAUSES ACT 1847

List No.	Imposition of points by LO or Ctte	Section and Offence	Penalty Points or Action	Period Points Remain on the Licence	Operator	Proprietor	Driver
1	LO L' Ctte	S40 - Giving false information on a hackney carriage licence application.	6-12*	3 Years		✓	✓
2	LO	S44 - Failure to notify change of address on a hackney carriage licence.	2	1 Year		✓	✓
3	L' Ctte	S45 - Plying for hire without a hackney carriage licence.	12	5 Years			✓
4	L' Ctte	S47 - Driving a hackney carriage without a hackney carriage driver's licence.	12	5 Years			✓
5	L' Ctte	S47 - Lending or parting with a hackney carriage driver's licence.	12	3 Years			✓
6	L' Ctte	S47 - Hackney carriage proprietor permitting or employing an unlicensed driver to drive a hackney carriage vehicle.	12	5 Years		✓	✓
7	LO	S48 - Failure of a proprietor to retain in his/her possession copies of any hackney carriage driver's licence that permits them to drive their vehicle.	3	1 Year		✓	
8	LO	S48 - Failure of a proprietor to produce on request by an authorised officer any hackney carriage driver's licence for whom he has permitted to drive his/her vehicle.	3	1 Year		✓	
9	LO	S52 - Failure to display a hackney carriage plate.	4	3 Years			✓
10	LO L' Ctte	S53 - Refusal to take a fare without a reasonable excuse.	8-12*	5 Years			✓
11	LO L' Ctte	S54 - Charging more than the agreed fare.	8	5 Years			✓
12	LO L' Ctte	S55 - Obtaining more than the legal fare (including failure to refund).	8	5 Years			✓
13	LO L' Ctte	S56 - Travelling less than the lawful distance for an agreed fare.	6	5 Years			✓
14	L' Ctte	S57 - Failure to wait after a deposit to wait has been paid.	12	3 Years			✓
15	LO L' Ctte	S58 - Charging more than the legal fare.	8-12*	5 Years			✓
16	LO	S59 - Carrying persons other than with the consent of the hirer.	6	3 Years			✓
17	L' Ctte	S60 - Driving a hackney carriage without the proprietor's consent.	12	5 Years			✓
18	L' Ctte	S60 - Allowing a person to drive a hackney carriage without the proprietor's consent.	12	5 Years			✓
19	LO	S62 - Driver leaving a hackney carriage unattended.	2	1 Year			✓
20	LO	S64 - Hackney carriage driver obstructing other hackney carriages.	2	1 Year			✓
21	LO L' Ctte	S68 - Breach of Byelaws	3-6*	3 Years		✓	✓

Table 2

### Local Government (Miscellaneous Provisions) Act 1976

List No.	Imposition of points by LO or L' Ctte	Section and Offence	Penalty Points or Action	Period Points Remain on the Licence	Operator	Proprietor	Driver
22	L' Ctte	S46(1)(a) - A licensed driver using an unlicensed vehicle for private hire purposes.	12	5 Years			✓
23	L' Ctte	S46(1)(b) - Driving a private hire vehicle without a private hire driver's licence.	12	5 Years			✓
24	L' Ctte	S46(1)(c) - Proprietor of a private hire vehicle permitting or employing an unlicensed driver to drive a private hire vehicle.	8-12*	5 Years		✓	
25	LO L' Ctte	S46(1)(d) - Operating a private hire vehicle without a private hire operators' licence.	8-12*	5 Years	✓		
26	L' Ctte	S46(1)(e) - Operating an unlicensed vehicle as a private hire vehicle.	12	5 Years	✓	✓	✓
27	L' Ctte	S46(1)(e) - Operating a private hire vehicle when the driver is not licensed as a private hire driver.	12	5 Years	✓	✓	✓
28	LO	S48(6) - Failure to display a private hire vehicle plate.	4	1 Year		✓	✓
29	LO	S49 - Failure to notify the transfer of a vehicle licence.	3	1 Year		✓	
30	LO	S50(1) - Failure to present a hackney carriage or private hire vehicle for inspection upon request.	6	3 Years		✓	
31	LO	S50(2) - Failure to inform the Licensing Authority where a hackney carriage or private hire vehicle is stored, if requested.	3	1 Year		✓	
32	LO	S50(3) - Failure to report an accident to the Licensing Authority within seventy two hours.	6	3 Years		✓	✓
33	LO	S50(4) - Failure to produce the vehicle and/or insurance upon request.	6	3 Years		✓	✓
34	LO	S53(3) - Failure to produce a driver's licence upon request.	6	3 Years			✓
35	LO	S54(2) - Failure to wear a private hire driver's badge.	3-6*	3 Years			✓
36	LO L' Ctte	S56(2) - Failure of a private hire operator to keep proper records of all bookings, or failure to produce them upon request of an authorised officer of the Licensing Authority or a police officer within reasonable time / or time specified.	3-8*	3 Years	✓		
37	LO L' Ctte	S56(3) - Failure of a private hire operator to keep proper records of all private hire vehicle licenses and driver licenses, or failure to produce them on request of an authorised officer of the Licensing Authority or a police officer within reasonable time / or time specified.	3-8*	3 Years	✓		

38	LO	S56(4) - Failure of a private hire operator to produce his licence upon request.	4	1 Year	✓		
39	L' Ctte	S57 - Making a false statement or withholding information to obtain a hackney carriage/private hire driver's licence.	12	5 Years			✓
40	L' Ctte	S58(2) - Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence.	6-12*	5 Years		✓	
41	L' Ctte	S61(2) - Failure to surrender a driver's licence or badge on or after suspension, revocation, or refusal to renew.	6-12*	5 Years			✓
42	LO L' Ctte	S64 - Permitting a private hire vehicle to wait on a hackney carriage rank.	6-12*	5 Years			✓
43	LO L' Ctte	S66 - Hackney Carriage charging more than the meter fare for a journey ending outside the District, without prior agreement.	8	3 Years			✓
44	LO L' Ctte	S67 - Hackney Carriage charging more than the meter fare when a hackney carriage is used as a private hire vehicle.	8	3 Years			✓
45	LO L' Ctte	S69 - Unnecessarily prolonging a journey.	8	3 Years			✓
46	L' Ctte	S71 - Interfering with a private hire taxi-meter with intent to mislead.	12	5 Years		✓	✓
47	L' Ctte	S73(1)(a) - Obstruction of an authorised officer of the Licensing Authority or a police officer.	6-12*	5 Years	✓	✓	✓
48	LO L' Ctte	S73(1)(b) - Failure to comply with a requirement of an authorised officer of the Licensing Authority or a police officer.	3-12*	5 Years	✓	✓	✓
49	LO L' Ctte	S73(1)(c) - Failure to give information or assistance to an authorised officer of the Licensing Authority or police officer.	3-12*	5 Years	✓	✓	✓

Table 3

## LICENSING AUTHORITY POLICY

List No.	Imposition of points by LO or L' Ctte	Section and Offence	Penalty Points or Action	Period Points Remain on the Licence	Operator	Proprietor	Driver
50	L' Ctte	Failure to ensure the safety of passengers.	12	5 Years	✓	✓	✓
51	LO L' Ctte	Concealing or defacing a vehicle licence plate.	6	3 Years	✓	✓	✓
52	LO	Failure to attend on time for a pre-arranged appointment at the request of the Licensing Authority for interview without reasonable cause.	2	1 Year	✓	✓	✓
53	LO L' Ctte	Conveying a greater number of passengers than permitted.	6-12*	5 Years			✓
54	LO	Failure to give reasonable assistance with passenger's luggage.	2	1 Year			✓
55	LO L' Ctte	Private hire soliciting for hire or accepting a fare that is not pre-booked.	6	3 Years			✓
56	LO	Operating/using a vehicle that is not clean and tidy internally or externally.	2	1 Year		✓	✓
57	LO L' Ctte	Operating/using a vehicle that is not in a safe condition internally or externally.	6-12*	5 Years		✓	✓
58	L' Ctte	Driving without the consent of the proprietor.	12	5 Years			✓
59	LO	Drinking or eating in the vehicle whilst carrying passengers.	2	1 Year			✓
60	LO	Smoking in the vehicle at any time.	4-8*	3 Years			✓
61	LO	Causing excessive noise from any radio or sound-reproducing equipment.	2	1 Year			✓
62	LO	Sounding the horn to signal that the vehicle has arrived. disturbing residents	2	1 Year			✓
63	LO	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand.	6	3 Years			✓
64	LO	Allowing a hackney carriage vehicle to stand in a position, not being a hackney carriage stand, to suggest that is plying for hire.	6	3 Years			✓
65	LO L' Ctte	Using a non-hands free mobile telephone whilst driving/engine running.	3-12*	5 Years			✓
66	L' Ctte	Failure to advise of a relevant medical condition.	12	5 Years			✓
67	LO	Failure to provide a receipt for a fare when requested.	2	1 Year			✓
68	LO L' Ctte	Failure to operate the meter from the commencement of the journey and /or charging more than the fixed charge for hire of a hackney carriage.	8-12*	5 Years			✓
69	LO	Failure to notify the Licensing Authority of relevant change to licence details within the time specified in the associated licence conditions.	2	1 Year	✓	✓	✓

70	LO	Failure to produce a hackney carriage or private hire licence upon request.	3	1 Year	✓	✓	✓
71	LO	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment.	2	1 Year			✓
72	LO	Failure of a private hire operator to request and keep a copy all driver's licence in his employ at the beginning of employment.	2	1 Year	✓		
73	L' Ctte	Failure of a licence holder to disclose convictions within seven days of conviction.	12	5 Years	✓	✓	✓
74	LO	Carrying any animal other than a guide, hearing or other prescribed assistance dog or those owned by bone-fide fare paying passengers.	6	3 Years			✓
75	LO	Failure to search a vehicle after a journey or failure to take found property to the police within forty eight hours of finding.	3	3 Years			✓
76	LO	Failure to report an accident within seventy two hours.	6	3 Years			✓
77	LO	Failure to comply with requirements for the safe carrying of a wheelchair	6	3 Years		✓	✓
78	LO L' Ctte	Operating a vehicle that does not comply with the Licensing Authority's licensing policy or relevant legislation where such a breach of policy/legislation is not otherwise specified herein.	3-12*	5 Years		✓	✓
79	L' Ctte	A Private Hire driver using a Hackney Carriage vehicle without a Hackney Carriage driver licence.	12	5 Years			✓
80	LO	Failure to carry an approved fire extinguisher.	2	1 Year		✓	✓
81	LO L' Ctte	Modifying a licensed vehicle without the consent of the Licensing Authority.	6-12*	5 Years		✓	✓
82	LO	Failure to display or maintain external plates as issued by the Licensing Authority or displaying them incorrectly e.g. in the window of a vehicle.	4	3 Years		✓	✓
83	LO	Affixing or displaying a roof sign on a private hire vehicle.	4	3 Years		✓	✓
84	LO	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the Licensing Authority.	4	3 Years		✓	✓
85	LO	Using a taxi-meter that does not conform to Licensing Authority requirements.	6	3 Years	✓	✓	✓
86	L' Ctte	Driving with no insurance or inadequate insurance for the vehicle.	12	5 Years		✓	✓
87	L' Ctte	Permitting the vehicle to be used for any illegal or immoral purposes.	12	5 Years	✓	✓	✓
88	LO	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times.	2	1 Year	✓		
89	LO	Failure of a private hire operator to keep the operating premises in accordance with Licensing Authority requirements.	3	1 Year	✓		

90	L' Ctte	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured.	12	5 Years	✓		
91	LO L' Ctte	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access.	6	3 Years	✓		
92	LO	Driving or allowing a hackney carriage vehicle to be driven with tinted windows which do not conform to licence conditions.	2	1 Year		✓	✓
93	LO	Driving or allowing a hackney carriage or private hire vehicle to be driven without displaying the door signs or attaching the signs other than in accordance with the Councils Policy.	2	1 Year		✓	✓
94	LO	Failing to display the licence number on the vehicles top sign.	2	1 Year		✓	
95	LO	Allowing a hackney carriage vehicle to be driven with a top sign that is in breach of the licence conditions.	2	1 Year		✓	

Table 4

### Convictions - Violence

		Number of Points									
Date Since Conviction Received (Years or Part Thereof)		1	2	3	4	5	6	7	8	9	10
List No.	Type of Offence	Points are doubled for a term of imprisonment served									
96	Common Assault	12	12	12	5	4	3	2	1	0	0
97	Assault, s47	12	12	12	5	4	3	2	1	0	0
98	Grievous Bodily Harm, s20	12	12	12	12	12	12	8	6	4	2
99	Grievous Bodily Harm, s18	12	12	12	12	12	12	12	12	8	6
100	Assault Police	12	12	12	8	6	5	4	3	2	1
101	Affray	12	12	12	6	5	4	3	2	1	0
102	Riot	12	12	12	12	8	6	4	2	0	0
103	Murder	12	12	12	12	12	12	12	12	12	12
104	Manslaughter	12	12	12	12	12	12	12	12	12	12
105	Manslaughter or Culpable Homicide while Driving	12	12	12	12	12	12	12	12	12	12
106	Using Threatening, Abusive Words or Behaviour	5	4	3	2	1	0	0	0	0	0
107	Breach of the Peace	3	2	1	0	0	0	0	0	0	0
108	Drunk and Disorderly	3	2	1	0	0	0	0	0	0	0
109	Common Assault - Aggravated	12	12	12	8	6	4	3	2	1	0
110	Obstruction	12	12	12	6	4	2	0	0	0	0
111	Robbery	12	12	12	12	12	12	12	12	8	6
112	Possess Offensive Weapon	12	12	12	8	6	4	2	0	0	0
113	Possess Firearm	12	12	12	8	6	4	2	0	0	0
114	Possess Firearm with intent	12	12	12	12	12	8	6	4	2	0
115	Criminal Damage	12	12	12	8	6	4	2	0	0	0
116	Violent Disorder	12	12	12	8	6	4	2	0	0	0
117	Resist Arrest	12	12	12	8	6	4	2	0	0	0
118	Arson	12	12	12	12	12	12	12	12	12	12

Table 5

### Convictions - Dishonesty

		Number of Points									
Date Since Conviction Received (Years or Part Thereof)		1	2	3	4	5	6	7	8	9	10
List No.	Type of Offence	Points are doubled for a term of imprisonment served									
119	Theft	12	12	12	6	4	2	1	0	0	0
120	Theft – Shoplifting	12	12	12	6	4	2	1	0	0	0
121	Theft – Employee	12	12	12	6	4	2	1	0	0	0
122	Theft – From Vehicle	12	12	12	6	4	3	2	1	0	0
123	Burglary & Theft - Dwelling	12	12	12	12	8	6	4	2	1	0
124	Burglary & Theft – Non Dwelling	12	12	12	6	4	3	2	1	0	0
125	Burglary & Theft – Aggravated	12	12	12	12	12	12	8	6	4	2
127	Fraudulent Use	12	12	12	6	4	3	2	1	0	0
128	Handling	12	12	12	6	4	3	2	1	0	0
129	Receiving	12	12	12	6	4	3	2	1	0	0
130	Forgery	12	12	12	6	4	3	2	1	0	0
131	Conspiracy to Defraud	12	12	12	6	4	3	2	1	0	0
132	Obtain Money by Deception	12	12	12	6	4	3	2	1	0	0
133	Obtain Money by Forged Instrument	12	12	12	6	4	3	2	1	0	0
134	Deception	12	12	12	6	4	3	2	1	0	0
135	False Accounting	12	12	12	6	4	3	2	1	0	0
134	False Statement to Obtain Benefit	12	12	12	6	4	3	2	1	0	0
136	Going Equipped	12	12	12	6	4	3	2	1	0	0
137	Taking/Driving or Attempt to Steal Vehicle	12	12	12	6	4	3	2	1	0	0
138	Allow to be Carried in a Stolen Vehicle	12	12	12	6	4	3	2	1	0	0
139	Perverting the Course of Justice	12	12	12	12	8	6	4	2	0	0

Table 6

**Convictions - Drugs**

		Number of Points									
Date Since Conviction Received (Years or Part Thereof)		1	2	3	4	5	6	7	8	9	10
List No.	Type of Offence	Points are doubled for a term of imprisonment served									
140	Possessing Controlled Drugs	12	12	12	12	8	6	4	2	1	0
141	Possessing Controlled Drugs with Intent to Supply	12	12	12	12	12	12	10	8	6	4
142	Producing Controlled Drugs	12	12	12	12	12	10	8	6	4	2
143	Import Drugs	12	12	12	12	12	12	10	8	6	4

Table 7

### Convictions - Indecency

		Number of Points									
Date Since Conviction Received (Years or Part Thereof)		1	2	3	4	5	6	7	8	9	10
List No.	Type of Offence	Points are doubled for a term of imprisonment served									
144	Indecent Exposure	12	12	12	12	12	12	12	10	8	6
145	Indecent Exposure to the Annoyance of Residents	12	12	12	12	12	12	12	10	8	6
146	Indecent Exposure with intent to insult a female	12	12	12	12	12	12	12	12	10	8
147	Unlawful Sexual Intercourse	12	12	12	12	12	12	10	8	6	4
148	Importuning	12	12	12	12	12	12	12	10	8	6
149	Gross Indecency with a Female	12	12	12	12	12	12	12	12	12	12
150	Gross Indecency with a Male	12	12	12	12	12	12	12	12	12	12
151	Indecent Assault on a Female	12	12	12	12	12	12	12	12	12	12
152	Indecent Assault on a Child under 16 years of age	12	12	12	12	12	12	12	12	12	12
153	Living Off Immoral Earnings	12	12	12	12	12	12	12	10	8	6
154	Prostitution	12	12	12	12	12	12	10	8	6	4
155	Possessing or Distributing Obscene Material	12	12	12	12	12	12	12	12	10	8
156	Buggery	12	12	12	12	12	12	12	12	12	12
157	Rape	12	12	12	12	12	12	12	12	12	12
158	Indecent or Nuisance Telephone Calls	12	12	12	12	12	8	6	4	2	1

Any subsequent amendments to the legislation will supersede the tables below and this appendix may be amended to reflect the revised legislation by way of an addendum to this policy.

**Where a breach is proven that is a combination of any of the above offences, the option to allocate points for each of the offences can be utilised by any authorised licensing officer or the Officer Review Board.**