

**HARLOW COUNCIL****GENERAL ENFORCEMENT POLICY FOR LICENSING SERVICES****Appendix 1 - Hackney Carriage and Private Hire Licensing**

Hackney Carriage and Private Hire licensing is governed by the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.

Within Harlow hackney carriages are all London Style Black Cabs. They can pick up passengers from a rank, or can be hailed in the street.

Private hire vehicles are saloon type cars and people carriers. Bookings for private hire vehicles must be made through a private hire operator.

Unless covered specifically within the enforcement policy, where immediate action is required to secure public safety this is delegated to the Environment and Licensing Manager in consultation with the Chair and Vice Chair of the Licensing Committee.

**Deciding the Level of Action to Take/Decision Making Process**

A variety of enforcement options exist including:

- Verbal Warning and Advice
- Written Warning and Advice
- Formal Caution
- Suspension of Licence
- Revocation of Licence
- Prosecution

**Verbal Warnings and Advice**

In some circumstances we verbally advise the offender, clearly identifying the contraventions, giving advice on how to put them right including a deadline by which this must be done. Failure to comply could result in formal enforcement action being taken. The time allowed must be reasonable, but must also take into account the implications of the contravention. An enforcement certificate is issued when a verbal warning has been given. A verbal warning can be issued by an authorised officer of Harlow Council or a Licensing Sub Committee as part of a hearing decision.

**Written Warning and Advice**

For some contraventions we will send the offender a firm warning letter clearly identifying the contraventions. This may contain advice on how to put them right, and include a deadline by which this must be done. Failure to comply could result in further enforcement action being taken in the future. Any time allowed must be reasonable, but must also take into account the implications of the contravention. An enforcement certificate is issued when a verbal warning has been given.

A written warning can be issued by an authorised officer of Harlow Council or a Licensing Sub Committee as part of a hearing decision.

## Formal Caution

This procedure is used as a final warning and can only be issued by an authorised officer of Harlow Council.

For a formal caution to be issued a number of criteria must be satisfied.

- Sufficient evidence must be available to prove the case.
- The offender must admit the offence.
- The offender must agree to be cautioned.
- The offender must not have committed the same offence before.

A record of the caution will be sent to the Office of Fair Trading, and will be kept on file for 3 years. If the offender commits a further offence, the formal caution may influence our decision to take a prosecution. If during the time the caution is in force the offender pleads guilty to, or is found guilty of committing another offence anywhere in England or Wales, the caution may be cited in court and this may influence the severity of the sentence that the court imposes. Cautions are issued in accordance with guidance supplied by LACORS (Local Authority Co-Ordination of Regulatory Services)

## Suspension of Licence

In order to warrant suspension of a licence, the individual or organisation must have met one or more of the following criteria.

- Breached legal obligations the outcome of which caused a risk to the safety or well being of people or material loss to others.
- Engaged in activities that, or whose conduct, caused distress or the risk of safety to passengers or the general public.
- Failed to provide information or details that if made available may have resulted in a licence not being granted.
- Breached Council licensing procedures or conditions.
- Ignored a written warning.
- Where an officer is obstructed, abused, intimidated, threatened or assaulted, or any attempt is made to so obstruct an officer, whilst undertaking his or her duties.
- Any other reasonable cause.

When issuing a suspension due consideration **must** be given to the financial outcome that the individual will be subject to as a result of this sanction.

## Revocation of Licence

In order to warrant revocation of a licence, the individual or organisation must have met one or more of the following criteria.

- Engaged in fraudulent activity.
- Provided false information in order to obtain a licence.

- Breached legal obligations the outcome of which caused a risk to the safety or well being of people or material loss to others.
- Engaged in activities that, or whose conduct, caused distress or the risk of safety to passengers or the general public.
- Breached Council licensing procedures or conditions.
- Ignored written warnings.
- Has had a licence previously suspended.
- Where an officer is obstructed, abused, intimidated, threatened or assaulted, or any attempt is made to so obstruct an officer, whilst undertaking his or her duties.
- Any other reasonable cause.

## **Prosecution**

The circumstances where prosecution is available will normally include one or more of the following.

- Breached legal obligations, where there is a significant risk to the safety or well being of people.
- Deliberately or persistently ignored verbal or written warnings.
- Where there is a history of similar offences
- Breached Council licensing conditions.
- Where it is appropriate in the circumstances as a way of drawing general attention to the need for compliance with the law, the maintenance of standards required by the law, or conviction may deter others from similar failures to comply with the law.
- Where an officer is obstructed, abused, intimidated, threatened or assaulted, or any attempt is made to so obstruct an officer, whilst undertaking his or her duties.

The final decision to prosecute will be taken by the Environment and Licensing Manager in consultation with Legal Services.

## **Public Safety**

When enforcement action is being instigated if there is concern regarding public safety then consideration will be given as to whether Section 52 of the Road safety Act 2006 should be utilised.

Section 52 of the Road Safety Act 2006 amends the Local Government (Miscellaneous Provisions) Act 1976 to give the Licensing Authority the power to immediately suspend or revoke a licence where they are of the opinion, which must be recorded with reasons, that the interests of public safety require such a course of action.

## **Random Alcohol Testing**

Random alcohol testing using a digital alcohol breathalyser meter is undertaken by authorised Officers from the Licensing Team.

The digital alcohol breathalyser meter samples for 3.5 seconds and displays the breath alcohol concentration in BAC%, the UK Drink-Drive limit for which is 0.08%.

Any failure or refusal of a random alcohol test will result in an immediate suspension of the private hire driver licence under the provisions of Section 52 of the Road safety Act 2006 and the matter referred to a Licensing Sub Committee within seven working days.

### **Driving Standards Agency (DSA) Assessment**

When enforcement action is being considered in respect of an issue relating to driving standards, then the Licensing Sub Committee can consider whether it is appropriate for the licence holder to be required to undertake a DSA assessment within a prescribed timescale.

### **General**

An enforcement certificate is issued with verbal and written warnings and will provide details of the enforcement action that has been implemented and the reason why.

Details of all enforcement action will be recorded on the Licensing Team hackney carriage and private hire licensing management system.

Information obtained through a Disclosure and Barring Service (DBS) disclosure will be used in accordance with the Licensing Team's policy on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information and the DBS's own policies and procedures.

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Version 2  
Version 3  
Version 4  
Version 5

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