



ENVIRONMENTAL SERVICES

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING ENFORCEMENT POLICY 2013

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1.0 Introduction

1.1 This policy sets out the standards and guidance that will be applied by the Council when acting in its role as regulator and enforcement agency for Vehicle Licensing. Vehicle Licensing covers the licensing of Hackney Carriages and Private Hire Vehicles, Drivers and Private Hire Operators in the Corby area.

1.2 The Policy applies to enforcement and regulation affecting businesses and members of the public.

1.3 The statutory basis for enforcement is contained within the following legislation and documents:-

- *Local Government (Miscellaneous Provisions) Act 1976 as amended*
- *Town Police Clauses Act 1847*
- *Transport Act 1985*
- *The Environmental Services Enforcement Policy*
- *Licence Conditions and Councils' Hackney Carriage Byelaws*
- *Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010)*

2.0 Overall Aim

2.1 The aim of the Council is to undertake its regulatory and enforcement role in a fair, open and consistent manner. In doing this it will act in accordance with the guidance and standards set out in this policy.

In particular, the Council will:-

- Consult with parties subject to regulation and enforcement by the Council about the standards it sets in undertaking this role;
- Work with individuals and businesses to assist them in complying with their legal duties and obligations;
- Ensure its staff are appropriately trained and apply the Policy and standards professionally and consistently
- Make information about the Policy and the standards widely available to the public and businesses within the borough;
- Monitor compliance with the policy and review it from time to time in consultation with parties subject to its application; and
- Compliance with the various requirements and standards of external legislation, guidance, corporate policy and good practice.

2.2 The Authority has a statutory duty to ensure that licensed drivers, vehicles and operators are licensed correctly and carry out their trade in accordance with relevant legislation, byelaws, statutory notices and conditions attached to licences. The means by which this is achieved is through enforcement.

3.0 Guiding Principles

3.1 In undertaking its regulatory and enforcement role the Council will have regard to the following guiding principles:-

- Any decision regarding enforcement action will be impartial and objective, and will not be affected by race, gender, sexual orientation or religious beliefs of any alleged offender, complainant or witness;
- The Council believes the vast majority of individuals and businesses wish to comply with the legal requirements placed upon them and should be assisted in doing so;
- In dealing with any enforcement situation, the Council's actions will be proportionate to the scale, seriousness and intentionality of any non-compliance;
- There will be consistency of enforcement whilst recognising individual circumstances which may modify the appropriate action to be taken in each case;
- Except in the most serious cases where advice/warnings have not been heeded, adequate opportunity will be given to rectify non-compliance before formal legal action is commenced;
- Enforcement is seen as a final means of securing compliance with the appropriate standards, and not as an end in itself;
- Prosecution will normally only be considered where it is in the public interest to do so and in serious or blatant cases, or where other approaches have failed;
- Regard shall be had to the relevant legislation and codes of practice which protect the rights of the individual and guide enforcement action (including Human Rights Act 1998, Code for Crown Prosecutors and Departmental Enforcement Policy).

3.2 In this Policy, references to "Licensing Committee" mean reference to the Licensing Committee of Corby Borough Council.

4.0 Standards

4.1 The Council will always endeavour to meet the highest standards of service in undertaking its regulatory and enforcement function. The following specific level of service standards will be applied:-

- Matters relating to enforcement and regulation will be dealt with promptly, with enquiries and complaints receiving a first response within 2 working days.
- Except in the case of necessary and approved covert investigations, officers will announce themselves on arrival at premises and show identification unless they are already well known to the person;
- Officers will provide their name and a contact telephone number to those persons or businesses with whom they are in contact concerning a regulatory or enforcement matter;
- Requests for service relating to enforcement or regulatory matters will normally only be dealt with if the name and address of the complainant is given. Any such identification will be treated in confidence, but may need to be disclosed (with prior consent) should formal legal proceedings be taken against the person or business to which the complaint relates. Anonymous complaints may, however, be investigated if they relate to protection of children or other vulnerable groups, or matters relating to serious safety issues etc. or where the issue complained of can be determined by the Enforcement Officers themselves without further involvement of the complainant.
- Officers will be professional, courteous and helpful in their conduct of regulatory or enforcement matters, and wherever possible will seek to work with individuals and businesses towards compliance.
- Officers will endeavour to provide advice in a clear and simple manner and where any corrective or remedial work is necessary, an explanation will be given as to why it is necessary, and over what timescale it is required.

- Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken.
- Where there is known to be involvement of any other enforcement agency, or any case involves joint enforcement arrangements, the Council will consult with that other agency prior to taking any formal enforcement action.
- Where any charges or fees are to be levied for a service, individuals and businesses will be informed of the cost or rate of charge prior to the service being provided.

5.0 Enforcement activities

5.1 Enforcement activities will fall into the following broad areas:-

- Undertaking routine inspections of licensees, vehicles and premises
- Undertaking proactive inspections, sometimes with other agencies
- Responding to requests for service, complaints or information provided by the public, businesses and others
- Offering general and specific advice to applicants, licensees and the public about the requirements of the licensing regime, and
- Taking action and, where necessary, imposing sanctions in response to breaches of the requirements of the licensing regime.
- Record keeping in relation to enforcement action taken.

6.0 Enforcement actions available

6.1 Decisions about licence applications and enforcement will be consistent, balanced and fair and be made by reference to approved standards. This will ensure the safety of the public is adequately protected. The seriousness of any infringement is the starting point for action to be taken in particular circumstances. Final action taken will depend on any modifying or mitigating factors present.

6.2 After having due regard to all relevant information and evidence, the following enforcement options will be considered:

1. To take no action
2. To take informal action
3. To take statutory action
4. To review a licence
5. To suspend a licence
6. To revoke a licence
7. To issue a simple caution
8. Prosecution

6.3 No Action

This course of action is only considered appropriate where, in the Authorised Officers' opinion, all relevant statutes and guidelines are satisfactorily complied with.

6.4 Informal Action

Informal actions, such as offering advice (which can be written) or issuing oral and written warnings, are generally used by Enforcement Officers to secure good conduct by licence holders following, for example, convictions for minor traffic offences; and contraventions of

Corby Borough Council's Driver Code of Conduct¹, which is contained within the Driver Penalty Points Scheme 2019.

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

- If the behaviour or offence does not warrant more formal action;
- Consideration of the history of the licensee results in reasonable expectation that informal action will achieve future compliance
- Confidence in the licensee is high; and
- Consequences of non-compliance will not pose a significant risk to public safety.

Even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a more formal approach. Such decisions will be at the Licensing Officer's discretion.

6.5 Written warnings

Written warnings will be given where it is considered important to formally document the breach. The written document will be evidence that the licensee knew about the issue should it arise again and may override any claimed mitigation.

6.6 Statutory Notices

Serious offences in respect of the condition and safety of licensed vehicles will be dealt with by the issue of a statutory notice.

6.7 Suspension/revocation

This action may affect the livelihood of the licensee and will not be undertaken lightly. However, if a situation arises involving the safety of the public (e.g. a dangerous vehicle or lapsed insurance) then suspension may be applied immediately. Revocation is unlikely to be used as a sanction without affording the licensee a full hearing.

6.8 Licence Review

Licence holders can be required to appear before a hearing of the Licensing Panel in order that the Panel can consider appropriate measures on a case by case basis. This may arise in several ways:-

- The receipt of a conviction or police caution;
- Where a driver is spoken to or given a written warning on three or more occasions within a 12 month period for breach of licence conditions or byelaws; and
- Accruing 12 or more points in accordance with Corby Borough Council's Penalty Points Scheme (see Section 8 below).

The Licensing Panel can decide on a number of actions including:-

- No action;
- Issue an oral or written warning;
- Suspend a licence;
- Revoke a licence.

6.9 Simple Cautions

A Simple Caution is an option that officers may consider, in accordance with Home Officer

¹ <https://www.corby.gov.uk/sites/default/files/Driver%20Penalty%20Points%20Scheme%20v%20FINAL.pdf>

Circular 016/2008, as an alternative to a prosecution. If insufficient evidence is available to consider instituting legal proceedings, by implication the criteria are not satisfied for the use of a simple caution. There is no legal obligation for any person to accept the offer of a simple caution and no obligation on the enforcing authority to agree to offer such a caution.

Where a person declines the offer of a simple caution, the institution of legal proceedings would normally follow.

6.10 Prosecution

The decision to prosecute is a serious matter and will only be considered after consultation with the Licensing Officer, the Health Protection Manager and the Council's Solicitor. Any decision must also have the approval of the Head of Planning and Environmental Services.

Licence holders will be prosecuted for serious breaches of legislation such as:-

- Illegally plying for hire
- Driving a motor vehicle without valid insurance
- Refusing to carry a guide, hearing or other assistance dog (if not exempted);
- Unauthorised alteration to a taximeter;
- Exceeding the number of passengers permitted; and
- Refusal to carry a passenger without reasonable cause.

Any person or vehicle proprietor or operator found to be driving or operating an unlicensed vehicle will be prosecuted as will any unlicensed drivers or operators found using licensed vehicles (s46 of the 1976 Act). The decision to prosecute is a very significant one. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Authority are not followed and/or the public is put at serious risk.

The circumstances that are likely to justify prosecution may be 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;
- Where 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;
- The offence involves the threat of violence against any person, or obstruction of an Officer of the Council;
- False information, either in written or verbal form, is deliberately provided to the Council or to an investigating officer;
- The victim is part of a vulnerable group e.g. children, elderly persons;
- The offender has repeatedly ignored advice;
- There is a widespread disregard of the law and appropriate notice has been given to the public or the business community that legal proceedings will be considered for future breaches; and
- Some other significant public purpose would be served.

7.0 Appeals

7.1 Appeals against decisions of the Licensing Panel may be made to a Magistrates' Court.

7.2 Any notifications of enforcement action will include written information about how to appeal. This will explain how, where and within what time period an appeal may be brought and on what grounds and will confirm that the enforcement action is suspended pending the outcome of any appeal. In cases of danger to the travelling public, suspension of a driver or vehicle can be immediate whether or not an Appeal is either lodged or contemplated.

8.0 Penalty Points Scheme

8.1 Whilst the operation of a successful hackney carriage and private hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use the service.

8.2 The Council clearly has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to basic minimum standards and to do this in a consistent and transparent manner. These standards are defined by legislation, licence conditions or byelaws adopted by the Council. Together they identify what is required of the trade and help to ensure that a consistent approach is taken, by Council Officers, in their application.

8.3 The Council has found that an effective means of applying the conditions at a local level is through a penalty points scheme. This acts as a first step in ensuring compliance with the conditions, and serves as an "early warning" system to drivers and owners or operators who see fit to ignore their responsibilities or fail to meet the requirements of the conditions. Points are accumulated on a sliding scale dependent upon the type of offence or breach of licence conditions. These penalty points then remain "live" for a period of 12 months from the date they are imposed. If a driver, proprietor or operator accumulates twelve or more points within a period of 12 months from the date they are imposed, he/she would then be brought before the Panel, who have a range of options open to them, depending on the circumstances. Further details of the scheme are set out in CNC's Driver Penalty Points Scheme².

9.0 Complaints about licensees

9.1 The general public are able to make complaints to the Council about the conduct and/or service received from licensees and the Council will adhere to the following procedure:-

- Ascertain the facts regarding the complaint and decide if actionable;
- Register the complaint and refer to an investigating officer;
- Contact the complainant within 2 working days;
- Investigate the complaint;
- Make a decision; and
- Inform all parties of that decision.

9.2 Licensees who are the subject of a written complaint will be informed of the nature of the complaint, including date, time and location of the incident and, if necessary, given sufficient notice to attend any interview.

² <https://www.corby.gov.uk/sites/default/files/Driver%20Penalty%20Points%20Scheme%20v%20FINAL.pdf>

9.3 The outcome of the investigation will be implemented in accordance with this Enforcement Policy.

9.4 Disputes between licensees should be resolved between themselves and not through this procedure. If there is evidence relating to an alleged serious criminal offence, such as threats of violence, assault etc. this will be referred to Northamptonshire Police.

10.0 Complaints about the service

10.1 Any dissatisfaction with the actions of an Officer of this Council will be dealt with under the Council's Complaint Procedure, copies of which are available from offices of the Council, by accessing the Council's website (www.corby.gov.uk) or by telephoning Corby Borough Council.

11.0 Policy review

11.1 The implications and effectiveness of this Policy will be regularly monitored.

11.2 This Policy will be reviewed periodically by the Health Protection Manager to reflect changes indicated by the internal monitoring arrangements, by legislation or by guidance issued by Central Government.

11.3 Views of the policy and its implementation will be sought to ensure it continues to meet the principles of good enforcement.

12.0 Access to the Policy

12.1 This Enforcement Policy is available on the Council's website and in hard copy on request by writing to Environmental Services, Deene House, New Post Office Square, Corby, NN17 1GD.