

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 28 NOVEMBER 2012

Title of report	AMENDMENT TO HACKNEY CARRIAGE AND PRIVATE HIRE FIT AND PROPER PERSON POLICY
Contacts	<p>Councillor Alison Smith 01530 835668 alison.smith@nwleicestershire.gov.uk</p> <p>Environmental Health Team Manager 01530 454610 lee.mansfield@nwleicestershire.gov.uk</p> <p>Licensing Team Leader 01530 454844 stephen.eyre@nwleicestershire.gov.uk</p>
Purpose of report	To review the Hackney Carriage and Private Hire Driver Fit and Proper Person policy specifically in relation to drivers reaching 12 penalty points on their DVLA driving licence.
Council Priorities	Business & Jobs
Implications:	
Financial/Staff	No staffing implications
Link to relevant CAT	Business CAT
Risk Management	None identified.
Equalities Impact Assessment	Equality impact assessment already undertaken, issues identified actioned.
Human Rights	None
Transformational Government	This relates to the new ways in which council's are being asked to deliver their services.
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	All current NWLDC hackney carriage and private hire drivers. National Private Hire Association.
Background papers	Council's Fit and Proper Person Policy for Licensed Drivers http://www.nwleics.gov.uk/pages/taxi_and_private_hire_application_forms

	Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice Guidance http://www.dft.gov.uk/publications/taxi-private-hire-licensing/
Recommendations	<p>(1) THAT LICENSING COMMITTEE AGREE TO THE INCLUSION OF THE PROCEDURE SETTING OUT THE PROCESS WHEN A DRIVER REACHES 12 PENALTY POINTS ON THEIR DVLA DRIVING LICENCE DETAILED AT PARAGRAPH 3.1</p> <p>(2) THAT THE LICENSING COMMITTEE AGREE THE INTRODUCTION DATE OF 1 DECEMBER 2012.</p>

1.0 BACKGROUND AND CURRENT SITUATION

- 1.1 Since 1 December 2008 North West Leicestershire District Council has had a 'Fit and Proper Person' policy relating to its licensed hackney carriage and private hire drivers. Should drivers fail to comply with its various provisions they would risk the suspension or revocation of their driver's licence. The policy informs the drivers of the Authority's response to certain situations. In this way the Authority's actions are transparent and open.
- 1.2 The Authority's response to a driver accumulating 12 penalty points on their DVLA driving licence is not currently clear. By reviewing the policy to include the Authority's position in relation to this issue, the Authority's position will be made clear to licence holders.

2.0 CONSULTATION PROCESS

- 2.1 In order to obtain the opinions of drivers and the trade associations a 2 week consultation period took place from 28 September to 12 October 2012. All recipients were sent a copy of the letter attached at Appendix 1.
- 2.2 The consultation resulted in two responses which can be found at Appendix 2 and 3. The content of both consultees have been considered in devising the following proposal:

3.0 PROPOSED AMENDED POLICY

- 3.1 It is proposed that the following paragraphs are inserted in section 7.0 of the policy (COUNCIL POLICY RELATING TO THE RELEVANCE OF CONVICTIONS):-

Procedure on reaching 12 Penalty Points on DVLA Driving Licence

- a) Certain driving offences can attract a punishment of penalty points on a DVLA driving licence and once a person has attracted 12 or more points within a 3 year period they are likely to be disqualified by the courts under the 'totting up' procedures.
- b) The accumulation of 12 or more DVLA driving points within a 3 year period will cause this Authority to consider whether that person is a 'fit and proper' person to be licensed as a taxi/hackney driver.
- c) Any taxi/hackney driver licensed with this Authority who has been disqualified from driving by a court of law under this 'totting up' procedure will automatically have their hackney carriage/private hire driver's licence revoked.
- d) Should any driver accumulate 12 or more points on their DVLA driving licence within a 3 year period and retain their driving licence, there will be a rebuttable presumption that their hackney carriage/private hire drivers licence will be either

suspended or revoked unless the Driver can show good cause as to why their licence should not be suspended or revoked and that they are a fit and proper person.

- e) Once the Authority has been notified by a driver or has received notification that a driver has accumulated 12 or more points within a 3 year period it will write to the driver informing them of the presumption to either suspend or revoke their taxi/hackney licence. The driver will then have 14 days to make a written reply stating why the licence should not be suspended or revoked. It is a condition that drivers must inform the Authority of any convictions they receive. Failure to do so may result in their licence being suspended or revoked.
- f) Where a decision has been taken by the Authority to suspend or revoke a licence under paragraph 5 they shall give to the driver notice of the grounds on which the licence has been suspended or revoked within fourteen days of such suspension or revocation and the driver shall on demand return to the district council the driver's badge issued to him.

4.0 IMPLEMENTATION PROCESS

- 4.1 The Licensing team is not currently aware of any driver who has reached the 12 point limit. In view of this there should be no implementation issues with the policy being introduced on 1 December 2012.

APPENDIX 1

Legal and Support Services

Licensing

Please ask for: Stephen Eyre

Telephone: 01530 454844

Fax: 01530 454574

Our Ref:

Your Ref:

Date: 28 September 2012

Letter Recipient

Address Line 1

Address Line 2

Address Line 3

Address Line 4

Address Line 5

Post Code

Dear Licence Holder

AMENDMENT TO FIT AND PROPER PERSON POLICY

After a recent problem concerning the number of points endorsed on a DVLA driving licence it has become necessary to consider amending the Council's current 'fit and proper person' policy.

The following paragraphs set out and clarify the procedure when a driver accumulates 12 points within a 3 year period and I would invite you to comment on the proposals.

1. Certain driving offences can attract a punishment of penalty points on a DVLA driving licence and once a person has attracted 12 or more points within a 3 year period they are likely to be disqualified by the courts under the 'totting up' procedures.
2. The accumulation of 12 or more DVLA driving points within a 3 year period will cause this Authority to consider whether that person is a 'fit and proper' person to be licensed as a taxi/hackney driver.
3. Any taxi/hackney driver licensed with this Authority who has been disqualified from driving by a court of law under this 'totting up' procedure will automatically have their hackney carriage/private hire driver's licence revoked.
4. Should any driver accumulate 12 or more points on their DVLA driving licence within a 3 year period and retain their driving licence, there will be a rebuttable presumption that their hackney carriage/private hire drivers licence will be either suspended or revoked unless the Driver can show good cause as to why their licence should not be suspended or revoked and that they are a fit and proper person.
5. Once the Authority has been notified by a driver or has received notification that a driver has accumulated 12 or more points within a 3 year period it will write to the driver informing them of the presumption to either suspend or revoke their taxi/hackney licence. The driver will then have 14 days to make a written reply stating why the licence should not be suspended or revoked.
6. Where a decision has been taken by the Authority to suspend or revoke a licence under paragraph 5 they shall give to the driver notice of the grounds on which the licence has been suspended or revoked within fourteen days of such suspension or revocation and the driver shall on demand return to the district council the driver's badge issued to him.

The current 'fit and proper person' policy can be found on the licensing web page at http://www.nwleics.gov.uk/pages/taxi_and_private_hire_application_forms

Please reply to me with your comments as soon as possible but on or before Friday 13th October 2012. Your comments will be considered by the Licensing Committee on 28th November 2012.

If you have any questions or queries about this letter, please contact **Stephen Eyre** on telephone number **01530 454844** or by e-mailing **stephen.eyre@nwleicestershire.gov.uk**.

Yours faithfully

Stephen Eyre
Licensing Team Leader

Dear Sir

I write in response to your proposal to amend the fit and proper person rules to revoke a drivers taxi licence, despite a magistrate that may have allowed to remain driving on twelve or (in some example)more points

Having reached that regrettable position myself some 5 years ago, I feel I should comment. In attempting to defend a driver in such a position is to try and argue that speeding, and any other motoring offences should somehow be overlooked by the licensing authorities. Obviously this is not possible. Speeding is indefensible. Speeding can and does kill. So I cannot expect too much leniency or sympathy.

I think however that I would wish that you express some understanding.

My first point to note is that you are applying the same considerations to both hackney drivers and private hire drivers.

That may not seem relevant, however, if you consider a private hire driver will do many more miles every day than your city hackney. The extra mileage will eventually, considerably raise the percentage chance of picking up points.

Let me qualify that statement. Having been a driver for some forty-four years I believe that no matter how much todays drivers endeavour to stick to all traffic and speed limits, at some point, we all make an error of judgement, or loose a little focus.

It may be that you don't know an area, and fall foul of a 40 to 30 reduction until it's too late and you've been flashed. Another; common one is variable speed limits; they often lead to confusion of the correct limit when it changes frequently.

Motorways are very clear about speed limits, or are they? Many times I have been behind a police vehicle at 70mph, only to observe most drivers overtaking at something approaching 80mph. This suggests to me that many speed limits are sometimes liable to be "pushed" to a degree.

Indeed this happens on many urban roads and suddenly you may find yourself doing maybe five or six miles over the limit without realizing, and then flash! Yes wrong I know, but the point I am trying to make is, that type of thing can happen to every sensible driver such as you or I. so if a private hire driver does sixty thousand miles per year then the likely hood is that he will be more likely to fall foul of these situations than a driver that does the average ten thousand a year.

As I said I found myself in that position. A magistrate, due to totting up banned me. However when I explained that such a ban would cause me extreme financial hardship he allowed me to retain my licence.

NWCC after much deliberation put me on a three year warning that any further offences would see me before the committee again.

As you can imagine I was driving on "egg shells" for that time. My experience was just how difficult it was not to exceed any speed limits. As I rigidly did so I found I literally became a hazard to other impatient road users, in as much that they would make dangerous manoeuvres to get past me. I recall many times even my passengers encouraging me to hurry up!

I respectfully implore you not to revoke a driver's licence when the law of the land has deliberated that he may continue.

The unanimous view of my fellow drivers on the rank is that it is grossly unfair to remove a man's livelihood after he can still legally drive. Most of us have vehicles to pay for and maintain, and mortgages to keep a roof above our heads.

A fit and proper person is moreover a statistical victim of what can all too easily happen to anyone who drives so many miles. Someone who does similar miles on motorways can "push" the speed limit every day and never get a point, whereas a taxi covers town city and urban road more prone to small oversights.

Thank you for this opportunity to attempt to put a view across. I suspect it will not be viewed from a driver's perspective, however this is how I and many of my fellow drivers feel.

Regards

(Name redacted by Licensing Team Leader)

APPENDIX 3

Consultation response emailed from a NWLDC driver (Name redacted by Licensing Team Leader)

His response was:

‘I am currently a hvc driver in North West DC. I have received your letter regarding amendment to fit and proper person policy regarding endorsements on DVLA driving licence. Out of the 6 paragraphs from the letter I would like to make a suggestion that Number 5 paragraph would be best suited to most drivers and being most fair to long term drivers in this profession.’