



Appendix Z

HACKNEY CARRIAGE AND PRIVATE HIRE

ENFORCEMENT INTERVENTION SCHEME – INTERNAL WARNING SYSTEM

Aim of Interventions

The Licensing Authority shall operate a firm but fair disciplinary and enforcement regime for drivers, proprietors and operators.

Enforcement Policy

Any enforcement action will be taken in accordance with the Enforcement Policy. A copy of the policy can be obtained from the licensing or enforcement office.

General Licensing Sub Committee Hearings

The function of the Committee is to consider the impact of contraventions of the law and/or Conditions imposed by the Authority on the fitness of an individual to hold a licence.

Formal Warnings

As a method of dealing with less serious matters the Licensing Authority may issue a written formal warning for offences, which will stay 'live' for a period of 2 years from the date the offence was committed.

Offences will result in a maximum of 2 written warnings being issued within a 2-year period. A third offence within a 2 year period may result in the licence holder being referred to the General Licensing Sub Committee further consideration. Repeat offences could result in a caution being issued or the licence holder being prosecuted.

In certain circumstances Warnings may not be issued.

The Licensing Authority may take any of the following actions for first and repeat offences committed:

- Caution;
- Suspension of a Licence;
- Revocation of a Licence
- Refuse to renew a Licence;
- Prosecution.

DVLA Driving Licences

A licensed driver accumulating more than 10 or more points on their DVLA driving licence will be required to appear before the General Licensing Sub Committee, when the Members may decide to suspend or revoke a Licence. In cases where a licensed driver is disqualified from driving, their Licence will be suspended with immediate effect.

Cautions & Prosecution

Cautions

For a caution to be administered there must be sufficient evidence to justify a prosecution and the individual must admit the offence.

Prosecution

The Licensing Authority will usually prosecute licence holders in the following circumstances:

Where the allegation is of a serious nature or the offence is repeat

Where the Licensing Authority proposes to caution the licence holder, but the offence is not admitted, or the caution not accepted.

Criminal Convictions

If a licence holder is charged with a criminal offence, dependent upon the nature and seriousness of the charges, the following course of action may be taken:

- Suspend the Licence
- Refer to General Licensing Sub Committee

If a licence holder is convicted of a criminal offence or is issued with a caution the following courses of action may be taken:

- Suspend the Licence
- Refer to General Licensing Sub Committee

Appeal Procedure

An appeal against a written formal warning should be made in writing, within 21 days of the date shown on the warning, to the Head of Service. The appeal should address the reasons as to why there has been a breach of conditions.

An appeal against the decision to suspend a licence must be made within 21 days of the date shown on the suspension letter, to the South Staffordshire Magistrates Court & Administration Centre, Victoria Square, Stafford, ST16 2QQ.

It is not possible to appeal against a caution.

Function of the General Licensing Sub Committee

The General Licensing Sub Committee may revoke a licence or refuse to renew a licence when making a decision on the fitness of an individual to hold a licence.

Suspension/Revocation

If a licence is suspended then warnings will be removed from the licence at the end of the suspension period. Any person, who has a licence revoked and subsequently applies for a new licence, will be deemed to have a 'clean' licence, if a licence is granted. This does not prevent the General Licensing Sub Committee taking into consideration the reasons for revocation when considering a new application.

Complaints

Upon receiving a complaint, the licence holder will be notified of the nature of that complaint within 3 working days of the complaint being received. Complaints will be reviewed on an individual basis and where there is sufficient evidence, the appropriate course of action will be taken. This could include a written formal warning, suspension or revocation of a licence, refusal to renew a licence, a caution or prosecution.

Offences under the Health Act 2006 may result in action being taken under the powers of this Act.

Offences under the Equalities Act 2010 may result action being taken under the powers of this Act.

Conditions

The Licensing Authority may take any of the following actions for a breach of condition:

- Warning;
- Caution;
- Suspension of a licence;
- Revocation of a licence;
- Refuse to renew a licence.

Bylaws

The Licensing Authority may take any of the following actions for an offence committed under the Bylaws:

- Warning;
- Caution;
- Suspension of a licence;
- Revocation of a licence;
- Prosecution.

Hackney Carriage and Private Hire

Enforcement Interventions

Introduction

Two statutes mainly create offences relating to the hackney carriage drivers and proprietors and private hire drivers, proprietors and operators:

- i) Town Police Clauses Act 1847 (TPC Act)
- ii) Local Government (Miscellaneous Provisions) Act 1976 (LG (MP) 1976)

The offences set out in the following table are contrary to the 1847 and 1976 Acts.

Town Police Clauses Act 1847

Section	Offence	Penalty	Responsibility
40	Giving false information on application for a Hackney Carriage proprietors licence	Level 1	Proprietor
44	Failing to notify change of address of Hackney Carriage proprietor to the Licensing Authority	Level 1	HC Driver or HC Proprietor
45	Plying for hire without a Hackney Carriage proprietors licence	Level 4	Anyone
47	Driving a Hackney Carriage without a Hackney Carriage driver's licence	Level 3	Anyone
47	Lending or parting with a Hackney Carriage driver's licence	Level 3	HC Driver
47	Hackney Carriage proprietor employing unlicensed driver	Level 3	HC Proprietor
48	Failure by Hackney Carriage proprietor to hold licences for Hackney Carriage driver's driving his vehicle	Level 1	HC Proprietor
48	Failure by Hackney Carriage proprietor to produce licences for Hackney Carriage driver's driving his vehicle	Level 1	HC Proprietor
52	Failure to display Hackney Carriage licence plate	Level 1	HC Proprietor
53	Refusing to take a fare	Level 2	HC Driver
54	Charging the hirer more than the agreed fare	Level 1	HC Driver
55	Taking more than the fare shown on the meter	Level 3 Plus 1 month in prison until excess is refunded	HC Driver
56	Agreeing a fare with a passenger then not taking them as far as the fare would entitle the person to be carried	Level 1	HC Driver
57	Failing to wait for a hirer after a deposit to wait has been paid	Level 1	HC Driver
58	Charging more than the legal fare	Level 1	HC Driver

59	Carrying someone else in the vehicle without the consent of the original hirer	Level 1	HC Driver
60	Driving a Hackney Carriage vehicle without the proprietors consent	Level 1	HC Driver
60	Person allowing another to drive a Hackney Carriage vehicle without the proprietors consent	Level 1	HC Driver
61	Drunken driving of Hackney Carriage	Level 1	HC Driver
61	Wanton or furious driving or wilful misconduct leading to injury or danger	Level 1	HC Driver
62	Leaving a Hackney Carriage unattended on a rank	Level 1	HC Driver
64	Hackney Carriage driver obstructing other Hackney Carriage	Level 1	HC Driver

Hackney Carriage Provisions Local Government (Miscellaneous Provisions) Act 1976

49	Failure to notify the Licensing Authority of the transfer of Hackney Carriage vehicle licence	Level 3	Proprietor
50 (1)	Failing to present a Hackney Carriage vehicle for inspection when requested	Level 3	Proprietor
50 (2)	Failing to inform the Licensing Authority where a Hackney Carriage vehicle is stored when not in use	Level 3	Proprietor
50 (3)	Failing to report an accident involving a Hackney Carriage to the Licensing Authority within 72 hrs of the accident occurring	Level 3	Proprietor
50 (4)	Failing to produce a Hackney Carriage vehicle licence and insurance certificate to an Authorised Officer upon request	Level 3	Proprietor
53 (3)	Failing to produce Hackney Carriage driver's licence to an Authorised Officer or Police Officer upon request	Level 3	Proprietor

57	Making a false statement or withholding information to obtain a driver licence	Level 3	HC Driver
58 (2)	Failure to return a Hackney Carriage vehicle licence plate following expiry, revocation or suspension within 7 days of being requested to do so by the Licensing Authority	Level 3 Plus daily fine of £10	Proprietor
61 (2)	Failure to return a Hackney Carriage driver's licence to the Licensing Authority after suspension, revocation or refusal to renew	Level 3	HC Driver
64	Permitting any vehicle other than a Hackney Carriage to wait on a Hackney Carriage rank	Level 3	PH Driver
66	Charging more than the meter fare for a journey ending outside the district, without prior agreement	Level 3	HC Driver
67	Charging more than the meter fare when Hackney Carriage is used a Private Hire vehicle	Level 3	HC Driver
69	Unnecessarily prolonging a journey	Level 3	HC Driver
71	Interfering with a taximeter	Level 3	HC Prop or HC Driver
73(1)(a)	Obstruction of an Authorised Officer or Constable	Level 3	HC Proprietor or HC Driver
73(1)(b)	Failure to comply with a requirement of an Authorised Officer or Constable	Level 3	HC Proprietor or HC Driver
73(1)(c)	Failure to give information or assistance to an Authorised Officer or Constable	Level 3	HC Proprietor or HC Driver

Private Hire Provisions Local Government (Miscellaneous Provisions) Act 1976

46(1)(b)	Driving a Private Hire vehicle without a Private Hire driver's licence	Level 3	Anyone
46(1)(c)	Proprietor of a Private Hire vehicle using an unlicensed driver	Level 3	PH Proprietor

46(1)(d)	Operating a Private Hire vehicle without a Private Hire operator's licence	Level 3	PH Operator
46(1)(e)	Operating a vehicle as a Private Hire vehicle when the vehicle is not licensed as a Private Hire vehicle	Level 3	PH Operator
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a PH driver	Level 3	PH Operator
48 (6)	Permitting a Private Hire vehicle to be used without displaying licence plate	Level 3	PH Proprietor
49	Failure to notify the Licensing Authority of the transfer of Private Hire vehicle licence	Level 3	PH proprietor
50 (1)	Failing to present a Private Hire vehicle for inspection when requested	Level 3	PH Proprietor
50 (2)	Failing to inform the Licensing Authority where a PH vehicle is stored if requested	Level 3	PH Proprietor
50 (3)	Failing to report an accident involving a Private Hire to the Licensing Authority within 72 hrs of the accident occurring	Level 3	PH Proprietor
50 (4)	Failing to produce a Private Hire vehicle licence and insurance certificate to an Authorised Officer upon request	Level 3	PH Proprietor
53 (3)	Failing to produce Private Hire driver's licence to an Authorised Officer or Police Officer upon request	Level 3	PH Proprietor
54 (2)	Failure to wear Private Hire drivers badge while driving a licensed vehicle	Level 3	PH Drivers
56 (2)	Failure by Private Hire operator to keep records of bookings	Level 3	PH Operator
56 (3)	Failure by Private Hire operator to keep records of Private Hire vehicles operated by him	Level 3	PH Operator
56 (4)	Failure to produce operator's licence to an Authorised Officer or Police Officer upon request	Level 3	PH Operator

57	Making a false statement or withholding information to obtain a driver's or operator's licence	Level 3	PH Operator or PH Driver
58 (2)	Failure to return a Private Hire vehicle licence plate following expiry, revocation or suspension within 7 days of being requested to do so by the Licensing Authority	Level 3 Plus daily fine of £10	PH Proprietor
61 (2)	Failure to return Private Hire driver's licence to the Licensing Authority after suspension, revocation or refusal to renew	Level 3	PH Driver
69	Charging more than the meter fare when Hackney Carriage used as Private Hire vehicle	Level 3	
69 (1)	Unnecessarily prolonging a journey	Level 3	HC or PH Driver
73(1)(a)	Obstruction of an Authorised Officer or Constable	Level 3	PH Operator, PH Proprietor or PH Driver
73(1)(b)	Failure to comply with a requirement of an Authorised Officer or Constable	Level 3	PH Operator, PH Proprietor or PH Driver
73(1)(c)	Failure to give information or assistance to an Authorised Officer or Constable	Level 3	PH Operator, PH Proprietor or PH Driver

Private Hire Provisions Transport Act 1980

64(2)(a)	Driving a Private Hire vehicle with a roof sign which contravenes section 64(1)	Level 3	PH Operator or Proprietor
64(2)(b)	Causing or permitting a Private Hire vehicle to be driven with a roof sign which contravenes S64 (1)	Level 3	PH Operator or Proprietor

Road Traffic Act 1988

40A	To use or allow a vehicle to be used while the vehicle is not in a roadworthy condition	Level 3	HC or PH Proprietor or Driver
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The current maximum levels of fine are as follows:

Level 1 - £200

Level 2 - £500

Level 3 - £1,000

Level 4 - £2,500