

# **Report to Licensing Committee**

**Date of meeting: 10<sup>th</sup> April 2013**



**Epping Forest  
District Council**

**Subject: Hackney Carriage and Private Hire Licensing Policy**

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**Committee Secretary: Adrian Hendry**

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## **Decisions Required:**

**That, subject to any amendments agreed by the Committee, the attached Hackney Carriage and Private Hire Licensing Policy should go out to consultation.**

## **Report:**

### **BACKGROUND**

1. At its meeting held on the 11 April 2012 Licensing Committee members decided the Council should set a fare tariff for journeys undertaken within the district in a Hackney Carriage and that meters should be fixed into the vehicles. The current licensing conditions need to be amended to take this change into account.
2. The Department of Transport has issued a "Taxi and Private Hire Vehicle Licensing - Best Practice Guide" The Guidance recommends that the Council adopts a policy in respect of taxi meters and other matters mentioned in the Guidance which will inform its decision making.
3. Members have from time to time specified requirements and agreed policies but these have not been included in one policy document. There is attached a draft policy document for members consideration

### **DRAFT POLICY**

#### **Need for the Policy**

4. The Guidance states that "The aim of the local authority licensing of the taxi and PHV trades is to protect the public. Local Licensing Authorities will also be aware that the public should have reasonable access to taxi and PHV services, because of the part they play in local transport provision". The purpose of the draft policy is to set out and inform the trade of the Council's requirements. It will also allow members of the public to know what it may expect of the trade.

#### **Consultation**

5. The Guidance states that it is good practice to consult on any changes in licensing rules. The draft policy brings together in one document the current member approved regulations and the approach which has been taken over the years in respect to the application for and making of a decision upon an application. The draft policy also includes changes to the Licensing conditions. A list of consultees is set out in Appendix I of the draft policy.

## **Licensing Objectives**

6. There are suggested licensing objectives set out in paragraph 3 of the draft policy. There are no formal licensing objectives in taxi licensing legislation as there is with the Licensing Act 2003 or the Gambling Act 2005. The licensing objectives have been selected by considering what would be important to consider to achieve requirements of the taxi licensing legislation. Members are requested to consider these objectives as the policy and decisions relating to applications must be made taking the objectives into account.

## **Criminal Records Policy**

7. The Guidance recognises that a criminal record check is an important measure especially for those working with the young and the vulnerable. It recommends that in order to achieve consistency and thus avoid legal challenge local authorities should have a clear policy for the consideration of criminal records. A draft policy has been included as appendix 8.

8. This draft policy will be particularly relevant when an application in respect of a licence is being decided. Members of the sub-committee will be required to have regard to the criminal records policy and must be guided by it, unless there are good reasons not to.

9. The draft policy distinguishes minor traffic offences and major traffic offences. There is annexed to this report information issued by the Department of Transport which sets out the various types of traffic offences, the penalty points which are attached to each and how long the endorsement stays on the licences. This information is attached to assist members in considering the types of offences which members consider to be in either category and whether they consider the time limits mentioned in the draft policy are reasonable.

10. The Rehabilitation of Offenders Act 1974 and the associated regulations permit members to take account of criminal convictions when making a decision as to whether a person is a fit and proper person to hold a driver's licence after the period when a conviction is otherwise regarded as 'spent'.

11. The information below as to the periods after which an offence may be considered 'spent' under the Rehabilitation of Offenders Act is included so that members can consider the seriousness attached to these offences under other legislation and assist in deciding whether the time limits specified in the draft policy is reasonable.

12. Members are requested to comment on this part of the policy and whether they agree the time limits proposed.

## **Hackney Carriage Vehicles/Private Hire Vehicles, Drivers and Operators.**

13. This section sets out the procedure and matters which licensing staff take into account when assessing the applications. The matters have been approved in the past by members either as part of the licensing conditions or committee decisions.

## **LICENCE CONDITIONS**

### **Hackney Carriage Proprietor's Licence**

14. The licence conditions have been amended to add the requirement for a taxi meter to be fitted. This condition can be removed if the members decide not to fix a tariff.

### **Private Hire Vehicle Licence**

12. These have been updated but not substantially changed.

## **Hackney Carriage Driver's Licence**

13. These conditions refer to the introduction of a fare tariff and meters and require the drivers to use the meters in respect of journeys undertaken in the district. These provisions can be deleted if the members decide not to introduce the tariff. There are other Minor amendments.

## **Private Hire Driver's Licence and Operator's Licence.**

14. Again these have been amended but the amendments are minor or reflect the current practice.

## **Conclusion**

15. Members are requested to review the draft policy and agree to the consultation subject to amendments they require.

## **Resource Implications:**

### **Legal and Governance Implications:**

Town and Police Clauses Act 1847 and 1889  
Local Government (Miscellaneous Provisions) Act 1976  
Human Rights Act – Article 6 - right to a fair hearing

### **Safer, Cleaner and Greener Implications:**

The aim of the local authority licensing of the taxi and PHV trades is to protect the public.

### **Consultation Undertaken:**

It is proposed that the draft policy be put out to consultation

### **Background Papers:**

The existing licence conditions

### **Impact Assessments:**

### **Risk Management**

To be assessed on the outcome of the consultations and reported to the Committee

### **Equality and Diversity**

To be assessed on the outcome of the consultations and reported to the Committee



## Penalty points (endorsements) from GOV.UK

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### Part 2 Endorsement codes and penalty points

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Each endorsement has a special code and is given 'penalty points' on a scale from 1 to 11. You get more points for more serious offences.

The table shows the offence codes that can be put on your driving licence. It also shows how many penalty points you can get for them. Some offences may also involve a disqualification.

Offence codes and penalty points must stay on your driving licence for 4 or 11 years depending on the offence.

#### Accident offences

These codes must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
AC10	Failing to stop after an accident	5 to 10
AC20	Failing to give particulars or report an accident within 24 hours	5 to 10
AC30	Undefined accident offences	4 to 9

#### Disqualified driver

These codes must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
BA10	Driving while disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of court	6

#### Careless driving

Codes CD10 to CD30 must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
CD10	Driving without due care and attention	3 to 9
CD20	Driving without reasonable consideration for other road users	3 to 9

Code	Offence	Penalty points
CD30	Driving without due care and attention or without reasonable consideration for other road users	3 to 9

Codes CD40 to CD70 must stay on a driving licence for 11 years from the date of the conviction.

Code	Offence	Penalty points
CD40	Causing death through careless driving when unfit through drink	3 to 11
CD50	Causing death by careless driving when unfit through drugs	3 to 11
CD60	Causing death by careless driving with alcohol level above the limit	3 to 11
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	3 to 11

Codes CD80 and CD90 must stay on a driving licence for 4 years from the date of the conviction.

Code	Offence	Penalty points
CD80	Causing death by careless, or inconsiderate, driving	3 to 11
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3 to 11

### Construction and use offences

These codes must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
CU10	Using a vehicle with defective brakes	3
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	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
CU80	Breach of requirements as to control of the vehicle, mobile telephone etc	3

## Reckless/dangerous driving

These codes must stay on a driving licence for 4 years from the date of the conviction.

Code	Offence	Penalty points
DD10	Causing serious injury by dangerous driving	3 to 11
DD40	Dangerous driving	3 to 11
DD60	Manslaughter or culpable homicide while driving a vehicle	3 to 11
DD80	Causing death by dangerous driving	3 to 11
DD90	Furious driving	3 to 9

## Drink or drugs

Codes DR10 to DR30 must stay on a driving licence for 11 years from the date of the conviction.

Code	Offence	Penalty points
DR10	Driving or attempting to drive with alcohol level above limit	3 to 11
DR20	Driving or attempting to drive while unfit through drink	3 to 11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3 to 11

Codes DR40 to DR70 must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of a vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4

Code DR80 must stay on a driving licence for 11 years from the date of the conviction.

Code	Offence	Penalty points
DR80	Driving or attempting to drive when unfit through drugs	3 to 11

Code DR90 must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
DR90	In charge of a vehicle when unfit through drugs	10

### Insurance offences

Code IN10 must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
IN10	Using a vehicle uninsured against third party risks	6 to 8

### Licence offences

These codes must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
LC20	Driving otherwise than in accordance with a licence	3 to 6
LC30	Driving after making a false declaration about fitness when applying for a licence	3 to 6
LC40	Driving a vehicle having failed to notify a disability	3 to 6
LC50	Driving after a licence has been revoked or refused on medical grounds	3 to 6

### Miscellaneous offences

These codes must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS50	Motor racing on the highway	3 to 11
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	3
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc	6

## Motorway offences

Code MW10 must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
MW10	Contravention of special roads regulations (excluding speed limits)	3

## Pedestrian crossings

These codes must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
PC10	Undefined contravention of pedestrian crossing regulations	3
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3

## Speed limits

These codes must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
SP10	Exceeding goods vehicle speed limits	3 to 6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3 to 6
SP30	Exceeding statutory speed limit on a public road	3 to 6
SP40	Exceeding passenger vehicle speed limit	3 to 6
SP50	Exceeding speed limit on a motorway	3 to 6

## Traffic direction and signs

These codes must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
TS10	Failing to comply with traffic light signals	3



Code	Offence	Penalty points
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3

### Special code

Code TT99 must stay on a driving licence for 4 years from the date of conviction.

It shows disqualification under 'totting-up' - if the total of penalty points reaches 12 or more within 3 years, the driver can be disqualified.

### Theft or unauthorised taking

Code UT50 must stay on a driving licence for 4 years from the date of the offence.

Code	Offence	Penalty points
UT50	Aggravated taking of a vehicle	3 to 11

### 'Mutual recognition' codes

You'll get an 'MR' code on your licence if you're disqualified while driving in Northern Ireland, Isle of Man or the Republic of Ireland. Your disqualification period will also be valid in GB and will stay on your licence for 4 years from the date of conviction.

Code	Offence
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

Code	Offence
MR59	Other conduct constituting an offence for which a driving disqualification has been imposed by the State of Offence

### Aiding, abetting, counselling or procuring offences

For these offences, the codes are similar, but with the number 0 on the code changed to 2.

For example, code LC20 (driving otherwise than in accordance with a licence) becomes code LC22 on your licence if you have helped someone to do this.

### Causing or permitting offences

For these offences, the codes are similar, but with the number 0 on the code changed to 4.

For example, LC20 (driving otherwise than in accordance with a licence) becomes LC24 on your licence if you've caused or permitted someone to do this.

### Inciting offences

For these offences, the codes are similar, but with the number 0 on the code changed to 6.

For example, DD40 (dangerous driving) becomes DD46 on your licence if you've incited someone to do this.



## Penalty points (endorsements) from GOV.UK

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### Part 3 How long endorsements stay on your driving licence

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An endorsement must stay on your driving licence for the following periods of time:

#### 4 years from date of conviction

If the offence is for:

- reckless/dangerous driving - shown on the licence as DD40, DD60 and DD80
- offences resulting in disqualification
- disqualification from holding a full driving licence until a driving test has been passed

**Example** Date of conviction 28 May 2004 – the endorsement must stay on the licence until 28 May 2008.

#### 4 years from the date of offence

In **all other cases** endorsements stay on your licence for 4 years from the date of offence.

**Example** Date of offence 10 June 2005 – the endorsement must stay on the licence until 10 June 2009.

#### 11 years from date of conviction

If the offence is:

- drink driving or drug driving - shown on the licence as DR10, DR20, DR30, DR80 and DR90
- causing death by careless driving while under the influence of drink or drugs – shown on the licence as CD40, CD50 and CD60
- causing death by careless driving, then failing to provide a specimen for analysis – shown on the licence as CD70

**Example** Date of conviction 3 December 2002 - the endorsement must stay on the licence until 3 December 2013.

## How long will it take before my caution or conviction becomes spent?

The rehabilitation period (the length of time before a caution or conviction becomes spent) is determined by the type of disposal administered or the length of the sentence imposed. It is calculated from the date of conviction or the date the caution is administered. The rehabilitation periods are shown in the table below.

<b>Sentence Disposal</b>	<b>Rehabilitation period for adults (18 or over at the time of conviction or time the disposal is administered)</b>	<b>Rehabilitation period for young people (under 18 at time of conviction or time the disposal is administered)</b>
Imprisonment or detention in a young offender institution for over 30 months (2 ½ years)	Never spent	Never spent
Imprisonment or detention in a young offender institution over 6 months but not exceeding 30 months (2 ½ years)	10 years	5 years
Imprisonment up to 6 months	7 years	3 ½ years
Fine	5 years	2½ years
Community Sentence	5 years	2½ years
Conditional discharge	3 months	3 months
Simple Caution, Reprimand Final Warning	Spent immediately	Spent immediately
<b><i>Some sentences carry variable rehabilitation periods. The main ones are as follows:</i></b>		
Compensation Order	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Bind Over	The period of the order, or a minimum of 12 months (whichever is longer)	The period of the order, or a minimum of 12 months (whichever is longer)
Attendance Centre Order	A period ending one year after the order expires	A period ending one year after the order expires
Hospital Order	Five years, or a period ending two years after the order expires (whichever is the longer)	Five years, or a period ending two years after the order expires (whichever is the longer)