



**WATFORD
BOROUGH
COUNCIL**

LICENSING COMMITTEE

Thursday, 15th September, 2016

7.30 pm

Town Hall, Watford

Publication date: 7 September 2016

Contact

If you require further information or you would like a copy of this agenda in another format, e.g. large print, please contact Jodie Kloss/Alan Garside in Democracy and Governance on 01923 278376 or by email to legalanddemocratic@watford.gov.uk .

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Committee Membership

Councillor K Crout (Chair)

Councillor J Fahmy (Vice-Chair)

Councillors S Bolton, J Connal, A Dychton, K Hastrick, M Hofman, Ahsan Khan, R Laird, B Mauthoor, M Mills, A Rindl, G Saffery, D Scudder and M Turmaine

Agenda

Part A - Open to the Public

1. Apologies for absence/ committee membership

2. Disclosure of interests (if any)

3. Minutes

The minutes of the meeting held on 29 February 2016 to be submitted and signed.

Copies of the minutes of this meeting are usually available seven working days following the meeting.

(All minutes are available on the Council's [website](#).)

4. Guidelines for the Grant, Revocation and Refusal of Hackney Carriage and Private Hire Drivers licences and Private Hire Operators Licences (Pages 5 - 40)

Report of the Head of Community and Customer Services.

This report seeks that the committee adopt the new Guidelines from 1st October 2016 to progress the working group's recommendations.

5. Environmental Health and Licensing Compliance Policy (Pages 41 - 92)

Report of the Head of Community and Customer Services

The report seeks member's approval that the Environmental Health and Licensing Compliance Policy be adopted on 19th September 2016.

6. Update Report on Disability Access Improvements for Taxi and Private Hire Passengers (Pages 93 - 120)

Report of the Head of Community and Customer Services

The report asks that the Licensing Committee note the current progress of the disability access improvement project.

PART A

Report to: Licensing Committee
Date of meeting: 15th September 2016
Report of: Head of Community and Customer Services
Title: Guidelines for the Grant, Revocation and Refusal of Hackney Carriage and Private Hire Drivers licences and Private Hire Operators Licences

1.0 Summary

- 1.1 The Council are responsible for the issuing of licences for persons wishing to act as hackney carriage or private hire drivers, hackney carriage or private hire vehicle proprietors, or private hire operators.
- 1.2 The power to grant, refuse or revoke a licence is delegated to officers who must be satisfied that the applicant is a 'fit and proper' person.
- 1.3 Guidelines on the issue of licences serve to assist officers when making decisions on an applicants fitness and propriety. Guidelines further assist officers when dealing with matters concerning existing drivers who they have reason to suspect are no longer 'fit and proper'.

2.0 Recommendations

- 2.1 That the Committee adopt the new Guidelines from 1st October 2016
That the Guidelines be reviewed no later than September 2021

Contact Officer:

For further information on this report please contact: Jamie Mackenzie, (Business Compliance Officer), tel: 01923 278476 email: jamie.mackenzie@watford.gov.uk

Report approved by: Alan Gough, Head of Community and Customer Services

3.0 Detailed proposal

3.1 **Existing Guidelines**

3.2 The council first introduced a policy covering convictions in 1992. The council's existing guidelines were first adopted in 2000. There were subsequent revisions in 2007, 2011 and 2014.

The existing guidelines are at appendix 1.

3.3 The existing guidelines are satisfactory however, there have been occasions when the guidelines have not provided the necessary clarity for officers to be confident that their decisions they are making are fully within the spirit of the guidelines. This could leave the council open to challenge.

3.4 The existing guidelines list three distinct categories of offence: Violence, Dishonesty and Indecency. These are taken directly from sections 61, 64, etc etc Local Government (Miscellaneous Provisions) Act 1976 which provides the legal basis for a refusal to grant a licence or revocation of an existing licence.(Appendix 2).

3.5 The existing guidelines also mention other offences such as drug misuse, insurance offences, driving offences, and relevant licensing offences.

3.6 **Rationale for Change**

3.7 The determination of an application on the basis of whether or not a person is fit and proper goes far beyond the categories of offence listed in the current guidelines. The current guidelines allude to this but they do not give clarity and do not help prospective and current licence holders to make informed choices about their application or actions.

3.8 The current guidelines do not address the need to ensure improved safeguarding for passengers and drivers as a result of emerging issues over the past few years. This needs addressing to prevent both drivers and passengers being vulnerable and was identified in a recent audit by the Shared Internal Audit Service who commented:

We recommend that the Convictions policy be reviewed to include a specific reference to CSE and indicators / patterns to remove the sole reliance on offences.

3.9 In summary, the purpose of the guidelines is to help in making a decision as to the suitability of applicants. To quote from the proposed guidelines:

“In determining whether a person is fit and proper to hold a **driver's** licence, those tasked with determining licences / applications are asking the following

question of themselves:

“Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?”

In determining whether a person is fit and proper to hold an **operator’s** licence, those tasked with determining licences / applications are asking the following question of themselves:

“Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”

- 3.10 The guidelines have served for over sixteen years but are now in need of refreshing to make them fully fit for purpose and reflective of the current issues and opportunities to assess suitability and safety of drivers. It should be noted that in relation to existing drivers who have offences that have already been considered by the Licensing Authority, there is no proposal to reconsider licensing decisions in the light of the proposed new guidelines. They will not be retrospectively applied unless new information on offences or potential offences comes to light.
- 3.11 It is important to note that whilst a number of offences are specifically mentioned, these are given as guidelines only and are not exhaustive. They are given as examples in order that prospective applicants or existing licence holders at renewal can make informed decisions about the likelihood of being granted a licence. The council are entitled to take into account all relevant information including offences not specifically listed in the guidelines.
- 3.12 **Key Changes**
- 3.13 Whilst there is a difference in document length between the existing guidelines and the proposed ones the majority of this extension is down to a much more in depth description of how the consideration of issuing a licence should be undertaken and in terms of specific offences that may lead to a refusal or revocation. The proposed guidelines are at appendix 3. This is to give that clarity and certainty and to help consistency and informed decisions to be made.
- 3.14 The length of time that an applicant should be barred from holding a licence has not significantly altered in the most part. For example, an offence of violence currently carries a recommendation to bar the applicant from holding a licence for 5 years. Under the new guidelines an offence of common assault carries the

same recommendation.

3.15 There is one category of offences for which the recommendation has been significantly increased to 10 years. This is for the following offences:

- Arson
- Actual bodily harm
- Robbery
- Possession of firearm
- Assault Police
- Any racially-aggravated offence against a person or property
- Affray
- Any related offences that are similar in gravity to those above.

These are all very serious offences and the council should be very mindful of the impact on public confidence in the safety of licensed vehicles should an applicant with a conviction for any of these offences be granted a licence outside of this recommendation.

3.16 Further significant changes are as follows:

- That drivers who leave the trade for longer than three years must attend an update course on their return.
- Drivers who leave the trade for six years must attend the update course and re-take the knowledge test upon their return. The Council must be satisfied that drivers understand the legal requirements of the trade. The trade moves at such a pace that six years is considered too long a time without any kind of update.

The current New Driver Training Day has a very high first time pass rate due to the classroom based teaching element. The cost of this training is £97 and includes 3 hours of Disability Awareness training and it is recommended that returning drivers would attend the full day.

- That licence holders or applicants who can be shown to have a record of consistently failing to notify the relevant authorities of concerns they have over safe-guarding issues may have their licence refused or revoked.

This is introduced in light of recent issues highlighted across the country where taxi and private hire drivers and operators were shown to have been in a position to do more to prevent exploitation of children and other vulnerable persons. This is included for use in situations where it is very likely that drivers

are complicit in this type of action, and where action is supported by intelligence shared amongst agencies, but where no conviction has been obtained. Councillors may wish to note that we have just provided free training to drivers on how to spot and report Child Sexual Exploitation and a further session of training is booked for November 2016.

4.0 Policy Consultation

4.1 The policy was consulted on between 15th July 2016 and 19th August 2016. It was publicised on the council website, all drivers and operators were notified via text message and/or email and a driver consultation event was held on the 10th August 2016.

Partner Agencies such as other licensing authorities and the police were also consulted directly.

4.2 The driver consultation was attended by 34 drivers including representatives of the Hackney Carriage Association.

Responses were generally in support of the proposals.

The majority of drivers raised specific concerns over the original proposed timescales of any bar to application for offences of ABH, aiding and abetting, resist arrest, incidents of domestic violence and handling stolen goods.

As of 19th August 2016 32 written responses had been received from drivers. Many of these came from drivers who had attended the drop-in session.

Of these, the majority shared the same concerns over the timescales for a bar on application for the same above listed offences.

A few drivers raised concerns over the length of time for a bar for licensing offences commenting that 3 years was too long.

A few drivers raised concerns over the length of time for a bar on application following insurance offences stating that this could be a genuine mistake.

Four drivers disagreed with the majority of proposals but did not give reasons why.

4.3 There were no responses from partner agencies or other licensing authorities.

4.4 Following the analysis of responses, the proposed guidelines were amended:

A bar on applicants for the offence of ABH remained at 10 years to reflect the seriousness of such an offence

Resisting arrest was reduced to a bar on application for 5 years to more accurately reflect the nature of this offence.

Incidents categorised as domestic violence will be dealt with as per the offence committed, e.g. GBH - no licence, ABH – 10 years, Common Assault – 5 years

Major road traffic offences not listed separately in the policy are still referred to non-specifically given the number of possible offences, but would include offences such as:

- dangerous driving
- careless driving
- racing
- driving without due care and consideration
- aggravated vehicle taking
- interfering with a motor vehicle

The proposal to reduce re-test times from 6 years to 3 years for returning drivers was discussed and the resultant proposal is as agreed at consultation.

4.5 Some suggested changes were not made.

This included a reduction in the time of any bar for applicants guilty of licensing offences. Under the current policy this stands at between 3 and 5 years. The new policy proposes 3 years.

No changes were made to suggestions concerning insurance offences since it was not accepted that forgetting to insure a vehicle was a valid excuse.

Many drivers opposed the requirement for those who have been resident overseas for longer than six months to have a full background check on application. For those drivers who attended the consultation session, this was explained more clearly. Drivers were incorrectly assuming this would count against resident UK drivers who wish to visit overseas for a length of time. The proposal is aimed at those who are legally resident overseas and not for anyone, whether existing driver or otherwise, who is simply on an extended holiday but is usually resident in the UK. As a result, no change was made to this proposal.

5.0 Implications

5.1 Financial

5.1.1 As a result of these changes to the guidelines there is potential for a reduction in application numbers or suitable applicants; however, given the general continuing increase in applications for taxi driver licences which are currently exceeding budget predictions, then these changes are not considered significant enough to impact on incomes levels and should not create a pressure in meeting budgets.

5.2.1 It should also be acknowledged that the changes to these guidelines may result in a need for the Council to defend its decisions to refuse, revoke or suspend licences if these are appealed; this can cost significant amounts. However, it is not considered that these changes are significant enough to affect overall budget predictions and every effort will be made to recover costs if an appeal is successfully defended. The safeguarding benefits should take precedence of the likely costs of appeals.

5.2 Legal Issues (Monitoring Officer)

5.2.1 The Head of Democracy and Governance comments that the Guidelines allow for a rational, open and proportionate decision to be made by the Council when determining licensing applications. The Council's decisions may be challenged in court and the existence of the Guidelines will support any decision made.

5.3 Equalities

5.3.1 This policy does not inherently discriminate and applies equally to all applicants/licence holders who are considered within it's scope. Systems of approval, monitoring and review are in place to ensure equality of application of the guidelines.

5.4 Potential Risks

5.4.1

Potential Risk	Likelihood	Impact	Overall score
Legal Challenge in Court	2	3	6
Guidelines deemed unreasonable	1	3	3

Appendices

1. Existing Guidelines on the Grant of licences
2. Extract from Legislation, Local Government (Miscellaneous Provisions) Act 1976
3. Proposed Guidelines on the Grant of Licences

Background Papers

Consultation responses



GUIDELINES FOR THE ISSUE OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCES (REVISED SEPTEMBER 2014)

1. Introduction

- 1.1 When submitting an application for a Licence to drive a Hackney Carriage or Private Hire Vehicle you are requested to declare any cautions or convictions you may have. The information you give will be treated in the strictest confidence and will only be taken into account in relation to your application. Failing to disclose relevant information may prejudice an application or the right to hold a licence, and may be a criminal offence.
- 1.2 You should be aware that the Council will obtain an enhanced disclosure from the Disclosure and Barring Service. Checks will also be made with the Driver and Vehicle Licensing Agency. Information received from the DBS and DVLA will be kept in the strictest confidence while the licensing process takes its course, and will be retained on manual and computer records for no longer than is deemed necessary. The DBS disclosure will be securely disposed of once a licensing decision has been made. A DVLA disclosure will be retained until either a decision has been made to refuse a licence (and any subsequent appeal) or until your licence is surrendered.
- 1.3 The existence of a criminal record or disclosure of other information will not necessarily preclude you from gaining a licence unless the Council considers the conviction renders you not to be a 'fit and proper person'. In making this decision the Council will consider the nature of the offence, how long ago and what age you were when it was committed, and any other factors it or you feel are relevant.
- 1.4 Any applicant refused a licence on the grounds that they are not a fit and proper person to hold a licence has a statutory right of appeal to a magistrates' court.
- 1.5 Existing holders of drivers licences are required to notify the Council in writing on the Council's official forms within twenty-eight days of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including

cautions).

- 1.6 If you would like to discuss further what effect a caution/conviction might have on any application, you may telephone the Licensing Officer on (01923) 278476 (or e-mail licensing@watford.gov.uk) in confidence for advice.
- 1.7 The Council conducts enhanced disclosures from the Disclosure and Barring Service of any applicant for a driver licence. The Council follows the DBS's Code of Practice on the fair use of disclosure information, and a copy is available on request.

Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain an enhanced disclosure at their expense.

The Council also abides by the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.

More information about the DBS can be found on www.gov.uk.

- 1.8 The Council is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other Councils, and information disclosed by the Police under the Home Office scheme for reporting offences committed by notifiable occupations.

2. General Policy

- 2.1 Each case will be decided on its own merits.
- 2.2 A person with a conviction for crime need not necessarily be permanently barred from obtaining a licence, but should be expected to remain free from conviction for three to five years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Persons with spent convictions for offences of a violent, sexual, child-related nature, a racially aggravated offence or other very serious crime will not normally be issued with a licence for five years once the sentence is spent unless they can show the convictions are no longer serious, relevant or so old that they do not affect their ability to hold a licence. Persons whose sentences for violent, sexual, child-related nature, a racially aggravated offence or other very serious crime are never spent will not be granted a licence unless they can show the convictions are no longer serious, relevant or so old that they do not affect their ability to hold a licence. The overriding consideration should always be the protection of the public.

However, remaining free of convictions for a specified period may not be sufficient to show that a person is a fit and proper person, and additional evidence may be required.

- 2.3 A person who has received a Penalty Notice for Disorder for offences listed in this policy will be expected to remain conviction-free for at least twelve months from the date that the notice was paid for or discharged.
- 2.4 In this policy, the time periods mentioned in each case refer to the time that has elapsed since the date of conviction.
- 2.5 The Council reserves its right to act as a judicial authority in the case of relevant spent convictions under the Rehabilitation of Offenders Act 1974 (as amended).
- 2.6 Applicants who have prior convictions or driving endorsements will be invited to attend an interview with a Licensing officer. They may be accompanied by a representative should they wish, and bring supporting evidence with them. The interviewing officer will record any mitigating circumstances. The fact that existing licensed drivers rely on their licence for their livelihood will not be seen as a mitigating factor.
- 2.7 The Council will take a strict view of anyone convicted of any offence listed in this policy where alcohol or illegal drugs was a factor, which it will take as an

aggravating and not a mitigating factor unless evidence is presented to the contrary.

- 2.8 A review will then be arranged within three working days (wherever possible) with the Environmental Health and Licensing Section Head or the Head of Community Services and Housing, which the applicant may attend. The senior Officer will review the application and the result of the first interview (but not accept any new evidence) before making an immediate determination.
- 2.9 Where a person has been convicted of an offence by the Council itself, the decision on whether the licence should be revoked or refused will be taken by a Licensing sub-Committee of Councillors. The sub-Committee shall be convened within three weeks of being notified of the conviction, and will be heard in private. Applicants will be entitled to address the sub-Committee, to answer questions, and will be given written reasons for any decision.
- 2.10 There may be occasions where it is appropriate to depart from the guidelines, eg where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.11 In accordance with current case law, the Council will not seek to go behind the convictions by reinvestigating the circumstances of the case or questioning the decision of the relevant judicial authority. It will be for applicants to persuade the Council that the conviction is no longer serious, relevant or is so old that it should not affect their ability to hold a licence.
- 2.12 'A decision to revoke a licence following a conviction is not a case of penalising the individual twice. The objective of a conviction is for an offender to be punished by a court or other judicial process; a licensing decision is made to assess whether a person is a fit and proper person to hold a licence; to protect public safety; and to promote public confidence in the licensing system.
- 2.13 The following examples afford a general guide on the action to be taken where convictions are declared. It is based on Department of Transport Circular 2/9/Home Office Circular 13/92.
- 2.14 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence, punishable by a maximum fine of level 3 (£2500) upon summary conviction.

3. Driver Licences

3.1 Minor traffic offences

Convictions or a fixed penalty notice for minor traffic offences, e.g., obstruction, waiting in a restricted street, speeding etc, should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicants DVLA driving licence then a hackney carriage or private hire vehicle licence may be granted after its restoration but a warning should be issued as to future conduct. Holders of a Hackney Carriage or Private Hire Driver Licence convicted of such offence(s) may be warned as to future conduct, and any disqualification from driving will lead to revocation of any licence issued by the Council.

3.1.1 Under the “totting up” procedure a court may find that despite having 12 or more points endorsed on their DVLA licence there are special reasons not to disqualify the person from driving. In those circumstances the Council may still bar an individual for three years from the date of the last conviction on the DVLA licence unless they can show that the convictions are no longer serious, relevant or so old they do not affect their applicability to hold a licence.

3.2 Major traffic offences

A major traffic offence is one for which a person may be sentenced to a term of imprisonment or which is not otherwise specified as a minor traffic offence. A conviction for a major traffic offence such as causing death by dangerous driving, careless driving, racing, driving without due care and consideration, taking vehicles without consent, aggravated vehicle taking, interfering with a motor vehicle etc (which is not specified as a minor traffic offence), within the last five years will normally disbar an applicant from being given a licence. A conviction for a major traffic offence during the period of a Council-issued licence may lead to the licence being revoked.

3.3 Drunkenness

A serious view will be taken of convictions of driving or being in charge of a vehicle under the influence of drink. An isolated incident in the past should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to an applicant’s fitness to hold a Hackney Carriage or Private Hire Driver’s licence. At least five years should elapse after the restoration of the DVLA driving licence before an applicant is considered for a Hackney Carriage or Private Hire Drivers licence.

3.4 If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic a period of five years should elapse after treatment is complete before a further licence application is considered. A driver found guilty of driving whilst under the influence of alcohol will have their Hackney Carriage or Private Hire Drivers Licence revoked immediately and be banned from holding a licence from the Council for a minimum period of five years.

3.5 Drugs

An applicant with a conviction for a drug-related offence, the supply or trafficking of drugs should be required to show a period of at least five years free of convictions before an application is entertained, or five years after detoxification treatment if they were an addict. A driver found guilty of driving whilst under the influence of drugs, or found guilty of any drug-related offence, will have their Hackney Carriage or Private Hire Drivers Licence revoked immediately and be banned from holding a such a licence with the Council for a minimum period of five years.

3.6 Indecency and sexual offences

Hackney carriage and Private Hire Vehicle drivers often carry unaccompanied and/or vulnerable passengers. Applicants with convictions for indecency or sexual offences that are never spent will not be granted a licence unless they can demonstrate that the convictions are no longer serious, relevant or so old that they do not affect their ability to hold a licence. Applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused a licence until they can show a substantial period (at least five years) free of such offences. More than one conviction of this kind should preclude consideration for at least five years. In either case if a licence is granted a strict warning as to future conduct should be issued. A driver found guilty of indecency offences during the period of a Licence will have their Hackney Carriage or Private Hire Drivers licence revoked and be banned from holding a licence from the Council for a minimum period of five years.

3.7 Violence

Applicants with convictions for violent offences that are never spent will not be granted a licence unless they can demonstrate that the convictions are no longer serious, relevant or so old that they do not affect their ability to hold a licence. As hackney carriage and Private Hire Vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least five years free of such convictions should be shown before an application is entertained and even then a strict warning will be administered. A driver found guilty of

violence-related offences will have their Hackney Carriage or Private Hire Drivers Licence revoked immediately and be banned from holding such a licence from the Council for a minimum period of five years.

3.8 Dishonesty

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property, taking children to school and families on holiday is indicative of the trust that people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by any lost property being kept by unscrupulous drivers. For these reasons a serious view should be taken of any convictions involving dishonesty. In general, a period of at least five years free of conviction should be required before entertaining an application. Any existing driver convicted of offences of dishonesty can expect any licence held to be revoked and a possible ban on holding a licence from the Council for a minimum five year period.

3.9 Insurance offences

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily debar an applicant provided he has been free of conviction for three years, but strict warning should be given as to future behaviour. More than one conviction for these offences will raise grave doubts as to an applicant's fitness to hold a Hackney Carriage or Private Hire Driver Licence unless there are exceptional circumstances. A period of at two years must elapse if a licensed private hire vehicle was being driven, or three years if any other vehicle was being driven. Any applicant with three insurance offences or more will not be considered 'fit and proper' to hold a Hackney Carriage or Private Hire Drivers Licence with the Council.

3.10 Plying for hire

This is regarded as a serious offence likely to undermine the rationale for the system of licensing hackney carriages and private hire vehicles. More than one conviction for these offences will raise grave doubts as to an applicant's fitness to hold a licence unless there are exceptional circumstances. A period of at least one year must elapse if a licensed private hire vehicle was being driven, or three years if any other vehicle was being driven. Any applicant with three or

more convictions will not be considered 'fit and proper' to hold a Hackney Carriage and Private Hire Vehicle with the Council.

3.11 Use of hackney carriages or private hire vehicles

Anyone convicted of any offence relating to the use (not driving, covered above) of any licensed hackney carriage or private hire vehicle will be banned from holding any such licence for a minimum three year period.

4. **Vehicle Licences**

- 4.1 If you apply for a vehicle licence but do not have a drivers' or operators' licence from the Council, you must also produce with your application a basic disclosure form from Disclosure Scotland.
- 4.2 Licences will not generally be granted to applicants who have been convicted within the last three years of an offence relating to the use or ownership of motor vehicles, or offences involving dishonesty.

5. **Private hire vehicle operator licences**

- 5.1 If you apply for a private hire vehicle operators' licence but do not have a drivers' licence from the Council, you must also produce with your application a basic disclosure form from Disclosure Scotland.

5.2 Violence

At least three years free of such convictions should be shown before an application is entertained and even then a strict warning will be administered. An existing operator convicted of an offence relating to violence could be expected to have their licence revoked for a period of three years.

5.3 Dishonesty

Private hire vehicle operators are often privy to confidential information about their customers, and are required to maintain records in relation to their business. In general, a period of at least three years free of conviction should be required before entertaining an application. Any existing operator convicted of offences of dishonesty can expect any licence held to be revoked and a ban on holding a licence from the Council for a minimum three year period.

5.4 Insurance offences

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily debar an applicant provided he has been free of conviction for three years, but strict warning should be given as to future behaviour. More than one conviction for these offences will raise grave doubts as to an applicant's fitness to hold a licence unless there are exceptional circumstances.

- 5.5 At least three years should elapse (after the restoration of the DVLA driving licence), before an applicant is considered for a hackney carriage or private hire drivers licence. An operator found guilty of aiding and abetting the driving passengers for hire and reward whilst without insurance will have his

operators' licence revoked immediately and be banned from holding a licence for a three years. Any applicant with three insurance offences or more will not be considered 'fit and proper' to hold a operators' licence with the Council.

5.6 Use of hackney carriages or private hire vehicles

Anyone convicted of any offence relating to the use (not driving, covered above) of a licensed vehicle during the period of their operator's licence will be banned from holding any such licence for a minimum three year period.

5.7 Other regulatory offences

An operator who has been convicted of other regulatory offences (eg tax evasion, or under the Health and Safety at Work etc Act 1974) will generally be debarred from holding a licence for a further two years from the date of conviction.

Extract From Local Government (Miscellaneous Provisions) Act 1976

Suspension and revocation of drivers' licences.

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—

(a) that he has since the grant of the licence—

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or

(b) any other reasonable cause.

(2)(a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.

(b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[F106]** level 1 on the standard scale].

[F107](2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

(2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.]

(3) Any driver aggrieved by a decision of a district council under **[F108]** subsection (1) of [] this section may appeal to a magistrates' court.



WATFORD BOROUGH COUNCIL

Guidelines for the grant, suspension and revocation of Hackney Carriage Driver, Private Hire Driver and Operator Licences

1. Introduction

1.1 This policy provides guidance to all parties on the criteria that will be taken into account when determining whether or not an Applicant or an existing licence holder is a fit and proper person to hold a Hackney Carriage and/or Private Hire Driver or Operator Licence. Whilst criminal convictions play a significant part in the Licensing Authority's determination on whether an individual is fit and proper or not, the Council will also take into account other factors such as demeanour, general character, non-criminal behaviour, driving abilities, and police information etc.

1.2 It is the responsibility of Watford Borough Council (referred to as the Council) to grant Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976. In exercising this duty the Council will regard the duty to ensure the safety of the public as the primary consideration. Licences will not be issued unless the person is considered to be 'fit and proper'.

1.3 In seeking to safeguard the public. The Council will ensure:

- That a person is a fit and proper person in accordance with Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safety of children, young persons and vulnerable adults

1.4 The term "Fit and Proper" for the purposes of taxi and private hire licensing is not legally defined but it has been alternatively described as "safe and suitable".

1.5 In determining whether a person is fit and proper to hold a **driver's** licence, those tasked with determining licences / applications are asking the following question of themselves:

"Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?"

1.6 In determining whether a person is fit and proper to hold an **operator's** licence, those tasked with determining licences / applications are asking the following question of themselves:

"Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"

1.7 If the answer to the question is an unqualified 'yes', then the person can be considered to be fit and proper. If there are any doubts in the minds of those who

make the decision, then further consideration should be given as to whether a licence should be granted to that person.

1.8 In order to assess the suitability of an applicant (and to inform decision makers when answering the question above), or to assess the continued fitness of existing licence holders, the Council will undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, unsuitable people. In assessing the suitability of an applicant or licence holder, the Council will take into consideration the following factors:

- Criminality
- Period of holding a driver's licence
- Number of endorsed driving licence penalty points
- Right to work in the UK
- Medical fitness
- Standard of driving / driving ability
- The conduct of the Applicant in making the application (e.g. whether they have acted with integrity during the application process, made a misleading statement or omission)
- The previous licensing history of existing / former licence holders

In addition the Council will also consider further information sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards, other licensing authorities and statutory agencies where appropriate.

1.9 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for a driver's licence
- Existing licensed drivers whose licences are being reviewed
- Licensing officers
- Members of the licensing committee/sub-committee
- Magistrates and Judges hearing appeals against local authority decisions

1.10 In considering this guidance the Council will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the decision makers may depart from the guidelines. Any departure from the guidelines must be carefully considered and adequate reasoning should be recorded to explain the departure.

1.11 In this policy the word "Conviction" is to be defined as including **convictions, formal or informal cautions or warnings, reprimands, bind overs, conditional or unconditional discharges and other relevant information**. In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant.

For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term ‘since completion of sentence’ is to be construed in a similar way.

- 1.12 In this policy the word “Applicant” refers to **either new Applicants, or existing licence holders who are seeking renewal and existing licence holders** who are the subject of periodic auditing or are having their licence reviewed by the Council. It also includes existing licence holders who are being considered by the Council as a result of offending activity having recently come to light.

The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered or new information has come to light.

- 1.13 In drafting this policy and considering responses to the consultation consideration has been given to the Human Rights Act 1998, particularly in relation to:

- Article 6 (right to a fair trial);
- Article 8 (the right to respect for private and family life); and
- Protocol 1, Article 1 (protection of property)

- 1.14 All decisions taken under this policy will be taken in accordance with the Human Rights Act.

- 1.15 The impact of this policy on the local community of Watford, both positive and negative, has been considered.

2. General Policy

- 2.1 Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the Applicant would be required to:
- a) Remain free of conviction for an appropriate period as detailed below; and
 - b) Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the Applicant to produce such evidence).

Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

- 2.2 The standards and criteria set out in paragraphs 6 to 16 below are those that would normally be applied to applications and licences. The Council may depart from these

criteria; however it must only do so in wholly exceptional circumstances¹. The otherwise good character and driving record of the Applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3. Appeals

- 3.1 Any Applicant refused a driver's licence, or who has their licence suspended or revoked on the grounds that the Council is not satisfied they are a fit and proper person to hold such a licence has a right to appeal to the Magistrate's Court within 21 days of the notice of refusal [Local Government (Miscellaneous Provisions) Act 1976, s 77 (1)].
- 3.2 Any Applicant who is granted a driver's licence and who feels aggrieved by any of the conditions attached to that licence can similarly appeal to magistrates' court

4. Powers

- 4.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the Council to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or **any other reasonable cause**.
- 4.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the Council to take into account all convictions recorded against an Applicant or the holder of a Private Hire Vehicle or Hackney Carriage driver's licence, whether spent or not. Therefore the Council will have regard to all convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.
- 4.3 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the Council is required to ensure that an Applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Vehicle driver's licence and/or Private Hire Vehicle Operator's licence is a "fit and proper" person to hold such a licence. However, if an Applicant has any convictions, warnings, cautions or charges awaiting trial, the Council will look into:
- How relevant the offence(s) are to the licence being applied for
 - How serious the offence(s) were
 - When the offence(s) were committed
 - The date of the conviction, warning, caution etc.

¹ 'Wholly exceptional circumstances will be decided by discussion between the officer dealing with the matter, the Head of Community and Customer Service and the Chair of the Licensing Committee.

- The number of offences i.e. lots of minor offences
 - Circumstances of the individual concerned
 - Any sentence imposed by the court
 - Any comments made by the court or other information laid before the court
 - The Applicant's age at the time of offence / incident leading to the conviction, warning, caution etc.
 - Whether they form part of a pattern of offending
 - Any other character check considered reasonable (e.g. personal references)
 - Any other factors that might be relevant, for example:
 - The previous conduct of an existing or former licence holder,
 - Whether the Applicant has intentionally misled the Council or lied as part of the application process,
 - Information provided by other agencies / Council departments.
- 4.4 Existing holders of driver's licences are required to notify the Council in writing within 28 days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings. To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications or at any time during the period of the licence when the information may come to light.
- 4.5 Applicants can discuss what effect a caution / conviction may have on any application by contacting the Licensing Section for advice. It is in the Applicant's best interest to bring any relevant detail to the attention of the authority at an early stage. The time and effort involved in applying for a licence may be wasted if details come to light later which mean the application should be refused. It may also be useful to understand the possible impact of an impending conviction/caution on an existing licence.
- 4.6 The Council conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any Applicant for a driver's licence. Applicants applying for the grant or a renewal of a driver's licence will be required to obtain an enhanced disclosure at their expense.
- 4.7 The Council is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other licensing authorities, and information disclosed by the police. Examples of such information sources that may be used include social care information, benefits payments etc.
- 4.8 It is an offence for any person knowingly or recklessly to make a false statement or to omit any material particular in giving information required by the application for a licence. Where an Applicant has made a false statement or a false declaration or omission on their application for the grant or renewal of a licence, the licence will normally be refused. Further applications for licences will be refused for a period of one year from the date that the lie or omission came to light.

4.9 The lists of offences within this Policy are not exhaustive. The Council can consider any offences not detailed in this Policy when examining the fitness and propriety of an Applicant and those offences listed below under the headings of violence, indecency, dishonesty or driving offences should likewise not be taken as exhaustive lists of offences relevant to these categories.

5. Options when determining an application/licence

5.1 When determining an application or considering an existing licence the Council have the following options:

- approve the application or take no further action
- approve the application with a shorter than normal expiry date
- refuse the application/revoke the licence/suspend the licence
- commence enforcement action under the Council's Enforcement Policy.

5.2 The Authority recognises the different roles of drivers and operators and its responsibility to ensure that they are 'fit and proper' to hold such licences. For Applicants for driver's licences all of the following sections apply. Sections 11 and 12 do not apply to Applicants for private hire operators licences only.

5.3 Applicants who have prior convictions or driving endorsements may be invited to attend an interview with an officer where it is deemed reasonable to do so. In such cases they may be accompanied by a representative should they wish, and bring supporting evidence with them. The interviewing officer will record any mitigating circumstances. The fact that existing licensed drivers rely on their licence for their livelihood will not be seen as a mitigating factor.

5.4 A review of the interview will be arranged within three working days (wherever possible) with the Environmental Health and Licensing Section Head or the Head of Services, where the senior officer will review the application and the result of the interview (but not accept any new evidence) before making a determination.

6. Serious offences involving violence

6.1 Licensed drivers, and potentially private hire operators, have close regular contact with the public. A firm line is to be taken with those who have been found guilty for offences involving violence. An application will be refused or an existing licence revoked with immediate effect if the Applicant has been found guilty of an offence that involved the loss of life.

6.2 A licence will **not be granted**, or an existing licence **will be revoked with immediate effect**, where the Applicant has been found guilty of an offence such as:

- Murder
- Manslaughter

- Manslaughter or culpable homicide while driving
- Grievous bodily harm
- Violent disorder
- Riot
- Malicious wounding or grievous bodily harm which is racially aggravated
- Aggravated burglary
- Terrorism offences
- Any related offences (including attempted or conspiracy to commit offences) that are similar in gravity to those above.

6.3 Consideration may only be given to the granting / issuing of a licence if **at least 10** years have passed since (the longest period will apply):

Conviction or finding of guilt; or

The end of any prison sentence; and/or

period released 'on licence'²

For any offence shown below:

- Arson
- Actual bodily harm
- Robbery
- Possession of firearm
- Assault Police
- Any racially-aggravated offence against a person or property
- Affray
- Any related offences (including, attempting or conspiring to commit offences) that are similar in gravity to those above.

6.4 Any existing driver or operator found guilty or convicted of an offence listed above will have their licence revoked with immediate effect.

6.5 Consideration may only be given to the granting / issuing of a licence if at least 5 years have passed since (the longest period will apply):

Conviction or finding of guilt; or

The end of any prison sentence; and/or

period released 'on licence'

² Most prison sentences are for a fixed period and prisoners will generally be released at the half

way point of the sentence and will spend the remaining period of their sentence 'on licence'. Time spent 'on licence' in the community is supervised by probation.

For an offence shown below:

- Obstruction
- Criminal damage
- Resisting arrest
- Any other Public Order Act offence (harassment, alarm or distress, intentional harassment or fear of provocation of violence)
- Common assault
- Any related offences (including attempted or conspiracy to commit offences) that are similar in gravity to those above.

6.6 Any existing driver or operator found guilty or convicted of an offence listed above will have their licence revoked with immediate effect.

6.7 A licence will not be granted if an Applicant has been found guilty and/or convicted on two or more (separate) occasions for an offence of a violent nature.

7. Possession of a weapon

7.1 If an Applicant has been found guilty and/or convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

7.2 Depending on the circumstances of the offence, at least 3 years must have passed since conviction and/or finding of guilt, if the disposal is not custodial, or the completion of the sentence, before a licence is granted.

7.3 A licence will not be granted if an Applicant has been found guilty and/or convicted on two or more separate occasions for weapon related offences.

7.4 Any existing driver or operator found guilty or convicted of an offence listed above will have their licence revoked with immediate effect.

8. Sexual and indecency offences

8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the Council will take a strong line in relation to Applicants or existing licence holders who have been found guilty and/or convicted of sexual offences. Similarly licensed private hire operators will have access to information regarding the location and movements of these groups of people. All sexual and indecency offences should be considered as serious. Applicants who have been found guilty and/or convicted of sexual or indecency offences that involve a third party will not be granted a licence. Such offences include:

- Rape
- Assault by penetration

- Offences involving children or vulnerable adults
- Child Sexual Exploitation
- Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)
- Making obscene / indecent telephone calls
- Indecent exposure
- Any similar in gravity or related offences (including aiding abetting, attempting or conspiring to commit) offences which replace the above

8.2 Any existing driver or operator found guilty or convicted of an offence listed above will have their licence revoked with immediate effect.

8.3 In addition to the above the Council will not grant a licence to any Applicant who is currently on the Sex Offenders Register or any other similar register.

8.4 Applicants, drivers or operators who are notified to the council by any agency as having failed to report when required clear instances, evidence or suspicions of child sexual exploitation or human trafficking will be considered for refusal or revocation of a licence. A driver who has their licence revoked for reasons given in this section (8.4) will not be considered for a new licence for at least 5 years.

9. Dishonesty

9.1 A licensed driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Both drivers and operators may be privy to information regarding empty homes as taxis are often used as transport to airports etc. For these reasons, a serious view is taken of any conviction involving dishonesty.

9.2 A minimum period of 5 years free of conviction and/or finding of guilt will be required before an application for the grant / issue of a licence will be considered. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery

- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- fare overcharging
- any similar in gravity or related offences (including aiding abetting attempting or conspiring to commit) offences which replace the above

9.3 Any existing driver or operator found guilty or convicted of an offence listed above will have their licence revoked with immediate effect.

9.4 Applicants or existing licence holders that are found to have intentionally misled the Council, by way of omission or lie as part of the application process, will not be issued with a licence or will be revoked if the matter comes to light after the grant of a licence.

10. Alcohol and Drugs

10.1 A serious view is taken of any drug related offence. Taking drugs and driving poses an obvious risk to public safety, whilst Applicants who have convictions for the supply of drugs should also be treated with considerable concern. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered carefully.

10.2 It is recognised nationally that taxis can travel to any location at any time without raising suspicion so they are the ideal mode of transport for moving illegal items. An Applicant for an operator's licence who has been found guilty of and/or convicted in relation to the supply of illegal substances will be refused.

10.3 As licence holders are professional vocational drivers, a serious view is taken of findings of guilt and/or convictions for driving, or being in charge of a vehicle while exceeding the legal limit or under the influence of drink or drugs. More than one finding of guilt and/or conviction for these offences raises significant doubts as to the Applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence, following a drink drive disqualification, should elapse before an application will be considered. If there is any suggestion that the Applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed. Such a report will be at the Applicant's expense.

10.4 Because of the nature of a driver's involvement with the public, a licence will not be granted where the Applicant has been found guilty and/or convicted of an offence related to the supply of drugs regardless of the disposal.

10.5 A licence will not be granted where the Applicant has been found guilty and/or convicted of an offence or offences related to the possession of illegal / controlled drugs until at least 10 years have passed since conviction if the disposal is non-

custodial or the completion of any sentence and / or licence period, and only then after full consideration of the nature of the offence/s and the quantity / type of drugs involved.

- 10.6 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the Applicant was an addict then they would be required to show evidence of 5 years free from drug taking after detoxification treatment.
- 10.7 Any existing driver or operator found guilty or convicted of an offence related to the use, supply or any other illegal involvement with drugs or alcohol will have their licence revoked with immediate effect.

11. Driving offences involving the loss of life

11.1 A very serious view is to be taken of any Applicant for a driver's licence who has been found guilty and/or convicted of a driving offence that resulted in the loss of life. A licence will not be granted if an Applicant has been found guilty and/or convicted of:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar in gravity offences (including aiding abetting, attempting or conspiring to commit) offences which replace the above

11.2 Any existing driver or operator found guilty or convicted of an offence listed above will have their licence revoked with immediate effect.

12. Other traffic offences

12.1 Minor traffic offences come under the following categories: Construction and use offences, Miscellaneous offences, Motorway offences, Pedestrian crossings, Speed limits and Traffic direction and signs. These offences may not ordinarily merit refusal.

12.2 Major traffic offences, which are all offences not covered under the headings in the paragraph above, will give rise to serious doubts about the Applicant's suitability to be a driving professional. An Applicant with any such convictions will be required to show a period of at least one year free of such convictions. For Applicants with more than one offence this should normally be increased to two years.

- 12.3 In cases where the courts have imposed a disqualification in respect of the ordinary driving licence, the periods stated above should normally commence from the date of the restoration of the licence.
- 12.4 No driver will be allowed to hold a Hackney Carriage and / or Private Hire Driver or Operator Licence if they have 12 or more current points on their DVLA licence.
- 12.5 New applicants with 7 or more points on their DVLA drivers licence will be refused until endorsement(s) expire and the number of penalty points drops below this threshold.

13. Outstanding Charges or Summonses

- 13.1 If the Applicant is the subject of an outstanding charge or summons their application should be suspended until the matter is resolved.

14. Non-conviction information

- 14.1 The Council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information (or a complaint), the credibility of the witness / complainant and the licence holder will be taken into account.
- 14.2 If an applicant or existing driver or operator has been arrested for, or is on bail for or is charged with, but not convicted, with a serious offence in circumstances which suggest they could be a danger to the public, consideration should be given to refusing the application or revocation of any existing licence. Such offences would include violent and / or sexual offences.
- 14.3 In assessing what action to take, the safety of the travelling public must be the primary concern.

15. Licensing Offences

- 15.1 Some offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 3 years has passed since conviction.
- 15.2 Any existing driver or operator found guilty or convicted of such a taxi licensing offence will have their licence revoked.

16. Insurance Offences

- 16.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided the Applicant has been free of conviction for 3 years. However, strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.
- 16.2 At least three years should elapse (after the restoration of the DVLA driving licence following disqualification), before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.
- 16.3 A driver found guilty of such an offence will have their licence revoked and will not be permitted to hold a licence for a period of at least three years.
- 16.4 An operator found guilty of aiding and abetting, or otherwise assisting the driving of passengers whilst without insurance will have his Operator's Licence revoked immediately and will not be permitted to hold a licence for a period of at least three years.

17. Applicants with periods of residency outside the UK

- 17.1 If at any time an Applicant has spent six continuous months or more overseas the Council will expect to see evidence of a criminal record check from the country/countries visited covering the whole period spent overseas.
- 17.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those Applicants who have lived overseas. For EU nationals suitable checks should be available, for those countries for which checks are not available, one option is to require a certificate of good conduct authenticated by the relevant embassy. Where an Applicant cannot demonstrate that they were conviction free during periods abroad the authority the onus will be on the Applicant to provide proof of their fitness and propriety. Where they cannot the application will be refused.

18. Returning Drivers

- 18.1 Applicants who have previously been licensed will be required to re-sit the knowledge test and undertake the council's training requirements for new drivers if they have not held a driver's licence in Watford for a period in excess of 6 years.
- 18.2 Applicants who have previously been licensed will be required to undertake the council's training requirements for new drivers if they have not held a driver's licence for a period in excess of 3 years.

19. Conditional discharge

- 19.1 Applicants are required to notify the Council of any conditional discharge or absolute discharge and these will be considered on a case by case basis. A conditional discharge is a finding of guilt of that offence and the same guidelines for conviction of the offence will apply.
- 19.2 If an offence is committed during the period of a conditional discharge the courts may re-sentence an offender for the offence for which the conditional discharge was given. At this point the Council may consider that offence under this policy.

20 Summary

- 20.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an Applicant permanently from becoming licensed, in most cases, an Applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. If there is doubt about the suitability of an individual to be licensed, the Licensing Sub-Committee needs to be mindful of the need to protect the public and caution should be exercised.
- 20.2 While it is possible that an Applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an Applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.
- 20.3 Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.
- 20.4 A suspension or revocation of the licence of a driver normally takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that this is so and an explanation of why, the suspension or revocation takes effect when the notice is given to the driver. [s61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.]

PART A

Report to: Licensing Committee
Date of meeting: 15 September 2016
Report of: Head of Community and Customer Services
Title: Environmental Health and Licensing Compliance Policy

1.0 **Summary**

1.1 Environmental Health and Licensing is responsible for ensuring compliance with legislation relating to areas such as anti-social behaviour, environmental protection, housing, food safety, licensing and health and safety at work. The Council approves, and from time to time reviews policies on how the section should approach compliance and how legislation should be enforced in a proportionate and consistent manner. This report sets out a revised Compliance Policy for Members' consideration.

The Compliance Policy replaces the Environmental Services Enforcement Policy adopted on 14th July 2014.

2.0 **Recommendations**

2.1 That the Environmental Health and Licensing Compliance Policy set out at appendix 1 be adopted on 19th September 2016

That the policy be reviewed no later than July 2021

Contact Officer:

For further information on this report please contact: Jamie Mackenzie (Business Compliance Officer) on telephone extension: 8520 email: jamie.mackenzie@watford.gov.uk.

Report approved by:

Alan Gough, Head of Community and Customer Services

3.0 **Detailed proposal**

3.1 The Council is the primary enforcement body for a range of legislation which applies to:

- anti-social behaviour
- environmental protection and pollution
- statutory nuisances such as noise, vibration and light
- infectious diseases
- filthy and verminous premises
- littering, fly-tipping and other environmental crimes
- health and safety at work
- gambling
- alcohol, entertainment and late-night refreshment
- taxis and private hire vehicles
- street trading
- houses in multiple occupation
- charity collections
- food hygiene
- housing standards
- dog fouling and dangerous dogs
- drainage
- animal welfare
- pest control
- abandoned vehicles
- smoke-free legislation.

3.2 When exercising those functions the Council has the option to use a wide variety of powers including, but not limited to:

Inspections

Closures of commercial and private premises

Issuing legally binding notices

Interviewing people under caution

Issuing fixed penalty notices

Imposing other financial penalties

Withdrawing, amending or refusing permissions

Issuing formal cautions

Taking civil legal action or instituting criminal proceedings (prosecutions).

3.3 This council, and nearly all other councils, delegate these powers to council officers with the exception of review powers under the Licensing and Gambling Acts. The Compliance Policy sets out the limits and expectations of how the various powers are to be exercised by officers on the council's behalf.

- 3.4 When undertaking work to ensure compliance with regulations or legislation the council has responsibilities under the Regulators' Code to ensure that any efforts are risk based and proportionate. This responsibility includes having regard to the Code when determining any general policy or principles about the exercise of specified regulatory functions. Paragraph 6.2(d) of the Code says regulators should publish a policy showing their approach to compliance (Appendix 2).
- 3.5 Publication of the code and policy make it clear to everyone involved the operational parameters within which legal powers ought to be exercised. It also acts as a safeguard against abuse or over-zealous use of those powers. In addition, Regulators across Hertfordshire have also signed up to a voluntary Charter that sets out what businesses can expect in relation to compliance services (Appendix 3).

3.6 **Existing Enforcement Policy, New Compliance Policy and Rational for Change**

- 3.7 The existing Environmental Services Enforcement Policy was adopted on 14th August 2014 and now requires updating (Appendix 4)

Whilst the majority of the policy is retained in terms of the approach that officers are required to take when dealing with compliance issues, there are numerous additions to the policy.

There is nothing inherently wrong with the existing policy.

- 3.8 There has been no change to our policy objectives or general principles but the use of terms such as 'enforcement' or 'perpetrator' has been avoided in order that the policy more accurately reflects our approach to compliance.
Better regulation, including the Better Business for All Partnership in Hertfordshire, works on the principle that regulation should be a partnership between regulator and business or individual, driving down the cost of regulation and improving the chances that businesses and individuals comply for the right reasons and because they see the benefits of doing so.
- 3.9 Although the Compliance Policy reflects this approach it should be noted that the Council always retain the right to depart from the policy should circumstances require it. Such circumstances may be when the offences is so serious, for example loss of life, the offender is likely to flee or any other time if justifiable, reasonable and proportionate.
- 3.10 The aim of this policy remains to ensure that the council can show a robust and clear procedure that allows good businesses to grow, does not unnecessarily or disproportionately penalise any person who breaches regulations, and allows officers to take a risk based approach to ensuring compliance. Such a policy safeguards the authority as well as those who are required to improve or ensure compliance.

3.11 The main changes to the existing policy are as follows:

Change of corporate objectives. These have been updated to reflect the new corporate aims.

Change to legislation. There have been some legislative changes since 2014, for example the introduction of the Anti Social Behaviour and Crime Act 2014, replacing the Anti-Social Behaviour Act 2003. Legislative changes have been updated.

Certain housing matters can now be dealt with by way of the imposition of a financial penalty as an alternative to prosecution. Other alternatives to prosecution have been included in the new policy.

There have been updates to regulatory guidance and consideration of other consultative studies such as the ethical regulation of business published by the Better Regulation Delivery Office. In April 2016 the BRDO became the Regulatory Delivery Office.

Section 6.10 details the specific approach officers will take when dealing with licensing offences, notably, taxi or private hire licensing offences, as agreed with trade representatives at a series of workshops.

There has been a minor change to this section to remove the list of specific types of offence for which a two day suspension of a licence may be applied. This is because the list may be seen to contradict our current Guidelines on the Issue of Licences. The matter of specific offences is dealt with in great detail in the new proposed Guidelines on the Issue of Licences. The length of time of any suspension remains at a maximum of two days as previously agreed with both the trade and Members.

The final change to the licensing section covers the reporting and recording of intelligence that is necessary to ensure the safe-guarding of children and any other vulnerable passengers. These changes have been made following the audit of services requested by the Council and undertaken by the Shared Internal Audit Service between July and September 2015. This intelligence will be recorded as per standard recording protocols and may be used to inform future decisions as to the fitness and propriety of any driver or to highlight concerning patterns of behaviour.

3.12 **Public Consultation**

3.13 The Policy was open for public consultation between 15th July 2016 and 19th August 2016

3.14 As of 19th August 2016 no responses were received.

4.0 IMPLICATIONS

4.1 Financial

4.1.1 There are no financial implications arising from this report.

4.2 Legal Issues (Monitoring Officer)

4.2.1 The Head of Democracy and Governance comments that the compliance policy is one required by legislation as identified in the report. The draft policy and the report indicate that all relevant legal standards are being met. It is important to have an up-to-date and robust policy, as defence counsel are more likely to question in court a council's authority and rationale in bringing a prosecution. In the case of R v Glen Adaway (2004), the court held that consideration had to be given to the council's policy guidelines on prosecuting offences before criminal proceedings could be instituted. In London Borough of Wandsworth v Rashid (2009) the court found that it was for the local authority to decide when to prosecute even when other options were open to it, and the court should only stop a prosecution where there an abuse of that process. It is therefore important to have a policy to ensure those issues are addressed.

4.3 Equalities

4.3.1 This policy does not inherently discriminate and applies equally to all customers/service users who are considered within its scope or whom are affected by the actions of someone being considered. Systems of approval, monitoring and review are in place to ensure equality of application.

4.4 Potential Risks

Potential Risk	Likelihood	Impact	Overall score
Legal challenge to policy during a prosecution	2	3	6
Reputation	2	3	6

Appendices

Appendix 1 – draft Environmental Health and Licensing Compliance Policy 2016-2021

Appendix 2 – Regulators Code

Appendix 3 - Hertfordshire's Regulator's Charter

Appendix 4 - Current Environmental Health and Licensing Enforcement Policy 2014-2019

Background Papers

Consultation Responses

File Reference

Environmental Health and Licensing enforcement policies



WATFORD BOROUGH COUNCIL

Environmental Health and Licensing Services

COMPLIANCE POLICY 2016 – 2021

1. Introduction

- 1.1 This document provides detailed information on the approach, expectations and aims of officers from the environmental health and licensing services at Watford Borough Council when dealing with compliance issues.
- 1.2 Officers will work with members of the public and business to encourage compliance with legislation and regulations. The document details the reasoning behind this approach, the methods available to assist officers and customers, and the expected outcomes of this approach.
- 1.3 This document clearly explains what customers can expect from compliance teams and how customers can engage in the compliance process.
- 1.4 Watford Borough Council are committed to continuously improving our approach to regulation in line with guidance issued by:

Regulatory Delivery Office (part of the Government Department for Business,
Innovation and Skills),
<https://www.gov.uk/government/organisations/regulatory-delivery>

Hertfordshire Better Business For All partnership program (BBfA)
<http://www.hertfordshirelep.com/Better-Regulation.aspx>

and by following the Regulators Code,
<https://www.gov.uk/government/publications/regulators-code>

- 1.5 In particular, the document sets out our approach on how we encourage compliance with a range of legislation in the public interest, including but not limited to:
 - abandoned vehicles
 - alcohol, entertainment and late-night refreshment
 - animal welfare
 - anti-social behaviour
 - charity collections
 - dog fouling
 - drainage
 - environmental protection and pollution
 - filthy and verminous premises
 - food hygiene

- gambling
- health and safety at work
- houses in multiple occupation
- housing standards
- infectious diseases
- littering, fly-tipping and other environmental crimes
- pest control
- smoke-free legislation
- statutory nuisances such as noise, odours, vibration and light
- street trading
- taxis and private hire vehicles

1.3 By following this compliance policy the Council aims to facilitate the growth of Watford and to support the corporate aims of working in a bold and progressive way to:

- identify ways to manage the borough's housing needs
- champion smart growth and economic prosperity
- provide for our vulnerable and disadvantaged communities
- deliver a digital Watford to empower our community
- secure our own financial future

In day-to-day business we recognise the importance of three key areas in making us an effective organisation, in touch with our residents and delivering in a way that they expect. These are:

- effective two way engagement and communication
- sound management and high performance
- improving the town's environment.

1.4 In developing this policy we have had regard to:

- the Human Rights Act 1988
- the statutory Regulators' Code issued under the Regulatory and Effective Sanctions Act 2008 and
- the Code for Crown Prosecutors (see section 6)
- the Equalities Act 2010

1.5 All decisions will be fair, independent and objective. They will not be influenced by age, ethnicity, national origin, gender, religious or political belief, disabilities or sexual orientation. Due regard will be taken when dealing with juveniles or other vulnerable people. Decisions will not be affected by improper or undue pressure from any source, including councillors.

- 1.6 We are committed to accountable and proportionate practices with clear policies supported by effective procedures. We will ensure officers are competent, apply compliance measures consistently and proportionately through training, suitable qualifications, and experience. Officers will consolidate their knowledge and experience through attendance on training course, sharing best practice and keeping up to date with national guidance covering compliance.
- 1.7 We will have regard to evolving best practice in compliance and enforcement will take account of any relevant specialist guidance, for example the Better Regulation Delivery Office publication on ethical business regulation which can be found here:

<https://www.gov.uk/government/publications/ethical-business-regulation>

2 Approval, review and exercise of powers

- 2.1 We are consulting businesses and residents on this policy between 15 July and 19 August 2016 .
- 2.2 All enforcement powers are delegated to the Head of Service who in turn authorises officers on the basis of competency. The Section Head and Team Managers are authorised to issue a simple caution and, in the case of certain housing offences, the application for a Rent Repayment Order and/or issuing of a financial penalty as an alternative to prosecution. They, in consultation with the Legal Services Head of Service, may authorise a prosecution. In cases of doubt as to a particular course of action the Head of Service for Environmental Health and Licensing service shall make the final decision.
- 2.3 We will review our policies and procedures on a regular basis and in the light of changes in legislation, case-law or best practice.

3 Policy objectives

- 3.1 Our approach is intended to:
- protect individuals, the community and the environment from harm
 - change the behaviour of individuals and businesses who breach legislation
 - eliminate any financial gain or benefit from non-compliance
 - protect those affected by non-compliance
 - be responsive and consider what is appropriate in the particular circumstances
 - be proportionate to the nature of the offence and the harm caused
 - deter future non-compliance.

4 Key principles

4.1 Wherever possible our officers will adopt an approach of informal resolution. This will involve clearly identifying the nature of any actual or potential legislative breach and giving the party responsible for the breach the opportunity to remedy it. We recognise that this is not always possible in some one-off circumstances in which it may be difficult to identify repeated breaches. These may include for example (but not be limited to) offences such as dog-fouling, littering, or plying for hire where it is necessary, reasonable and proportionate.

4.2 Although each case shall be considered on its own facts and on its own merits, there are general principles set out in section 7 that apply to the way in which we approach every case.

4.3 *Standards*

We will always make clear when there is a legal requirement to be followed, and under which legislation it is required. We will always make clear the difference between legal requirements and recommended best practice.

4.3.1 All investigations will follow best professional practice and legal requirements. Where necessary as part of the investigation process (for example, where formal legal action is possible), the party responsible for the breach may be formally interviewed under the Police and Criminal Evidence Act 1984, be given the opportunity to establish a statutory defence, and have the opportunity to give an explanation or make any additional comments about the allegations. Evidence will be gathered and used in accordance with the Criminal Procedure and Investigations Act 1996 and not kept for longer than required under the Act's code of practice.

4.4 *Openness*

We recognise the need to maintain public confidence in our ability to protect and to regulate. This is achieved by promoting consistency, proportionality and accountability. We will also aim to work in order of priority and direct our work accordingly, using national risk assessment schemes, local intelligence and the priorities of the Council and its partners. We will clearly explain to those affected by breaches of legislation the action we take or why we are unable to take action. We will also make clear the difference between statutory requirements or advice, or guidance about what is desirable or good practice but not compulsory

4.4.1 Where action is necessary to comply with legislative requirements, it will be clearly explained as far as reasonably practicable in writing and verbally why the action is necessary and when it must be carried out by. We will discuss what is needed

before taking formal action, apart from when urgent action is required to protect public health, public safety or the environment, or evidence to support enforcement action would be otherwise lost.

4.4.2 We will publicise the results of prosecutions and simple cautions when it helpful to do so, although we will not publicise an individual's personal details when a simple caution has been accepted. If we receive information that may lead to formal legal action we will notify the source of that complaint as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk.

4.4.3 All parties concerned will be kept informed of progress during our investigations and any enforcement action. Confidentiality will be maintained and personal information only released in accordance with legal requirements or in accordance with the Data Protection Act 1998.

4.5 ***Helpfulness***

We believe that prevention is better than cure. We will offer information and advice to those whom we regulate and seek to secure compliance without bureaucracy and excessive cost. We will encourage individuals and businesses to put community, public health, public safety and the environment first. We will ensure that, wherever practicable, our compliance services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

4.5.1 When a breach has been identified that does not present an immediate risk to health, safety or the environment, we may arrange follow-up visits to allow the business owner or individual time to comply with their legal obligations. Where immediate action is not needed, we will consider agreeing an action plan to assist the business or individual to work towards compliance, and a time scale for the successful implementation and completion of this action plan.

4.6 ***Complaints***

Written explanation of any rights of appeal against formal legal action will be given at the time action is taken. We cannot advise on the merits or details of any appeal. Please see section 9 below about how to complain about the service we provide.

4.7 ***Proportionality***

We will balance action taken against risks and costs. Actions to achieve compliance will be proportionate to any risks to public health and safety, and the seriousness of any breach. Therefore, an informal warning is unlikely to be a suitable disposal for a significant infringement leading to serious injury just as a

prosecution is generally unsuitable for a minor administrative or technical oversight. Proportionate action also involves judging the extent to which individuals or businesses have gone to in order to comply with the law.

4.8 **Consistency**

Our officers will endeavour to take a similar approach in similar circumstances to achieve similar ends; consistency does not mean taking exactly the same approach concerning each breach. We will endeavour to be consistent in the advice we give, whether over time to the same business, or to different businesses.

- 4.8.1 We will participate in county-wide and regional compliance arrangements to encourage consistency amongst other regulators and to share best practice. Where an investigation reveals information that could lead to further investigation by other agencies, we will cooperate and coordinate with the relevant agency to maximise the effectiveness of our advice, assistance or formal legal action..
- 4.8.2 We participate in the Primary Authority scheme as part of the Regulatory Enforcement and Sanctions Act 2008, and follow any inspection plans issued by Primary Authorities as part of those arrangements. We will give notice of proposed legal action to relevant Primary Authorities before action is taken against organisations registered under the scheme, apart from specific urgent cases where this is not required.

5 **Compliance techniques**

We use a range of techniques to encourage and secure compliance with legal obligations, including:

- informal advisory visits and meetings
- mediation
- education, awareness-raising and advice
- formal training
- risk-based inspections
- proactive and reactive visits
- direct observation
- test baiting of vermin
- test purchasing
- sampling
- auditing.

We are committed to working proactively and positively to encourage risks to be managed and compliance achieved and we will consult service users on the best approach to doing this.

6 Bringing legal action

We will take account of different factors when considering the appropriate approach to achieve compliance, including:

- any actual or potential harm or loss to an individual
- the risk that non-compliance poses to public health, public safety or the environment
- the attitude of individuals or businesses to compliance, such as failing to follow previous advice or comply with statutory notices
- evidence of pre-meditation
- obstruction of officers
- national and local priorities for enforcement, including where the offence is widespread throughout the Borough but is not itself serious
- statutory guidance and codes of practise
- legal advice
- any commercial benefit accrued because of the non-compliance.

6.1 The following actions are available to us in the event of any contravention:

6.2 ***No further action, taking informal action or giving advice***

This may apply where an investigation reveals no offence has occurred or where the offending party makes a ready admission of the breach, takes immediate steps to remedy it presenting no risks to public safety, public health or the environment. No further action will be appropriate where the evidence is inadequate or where formal enforcement is inappropriate because the contravener is elderly, frail, has poor mental or serious ill health, and to pursue the case would be detrimental to their wellbeing. All persons involved will be advised as to why no further action is being taken

6.2.1 We may give verbal or written advice where we have a high degree of confidence the breach will be properly remedied or not repeated. We will clearly identify any contraventions of the law and give advice on how to correct them, including a reasonable deadline (agreed where possible) for when this should be completed. This will take into account the seriousness of the contravention and the implications for non-compliance.

6.3 Issuing warnings

We may give verbal or written warnings. The fact that a verbal warning has been given may be recorded in a case file for future reference. Written warnings are normally final, and failure to comply or repeated breaches of the same or a similar contravention are likely to result in an escalation in the approach to achieving compliance.

6.4 Offering a simple caution

Cautions will be considered in line with the Home Office guidance in circular 16/2008 with the consent of the person responsible for a breach and where a prosecution would otherwise be justified. Although an admission of guilt, a caution is not a sentence or a criminal conviction.

6.4.1 Before offering a simple caution, we must be satisfied that:

- there is sufficient evidence to prove the case before a court
- there has been a free and voluntary admission of guilt
- it must be in the public interest to use a simple caution to dispose of the offence
- the individual or business owner is over the age of 18.

6.4.2 We will also take into account whether the person responsible for a breach has received a simple caution within the previous two years.

6.4.3 The refusal of a person responsible for a breach to be cautioned, despite admitting their guilt, does not preclude a summons being issued for prosecution although a prosecution cannot be brought once a simple caution has been accepted for that offence. A failure to accept a caution may be material consideration when deciding whether to institute a prosecution.

6.5 Bringing a prosecution

Where circumstances warrant it, we will prosecute without giving any opportunity for the remedy of the situation and without any prior warning. Prosecutions will be considered where:

- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with legal duties
- there is a risk to community health and safety or of environmental damage as a consequence of the breach

- the breach was as a result of a deliberate, reckless or negligent act
- the approach of the individual or business through repeated breaches, persistent poor standards or ignoring formal advice and warnings warrants it .

6.5.1 Prosecutions will always be considered where:

- there has been a blatant disregard for the law
- there is a refusal to achieve minimum legal requirements
- the offence involves a risk to public health, safety or wellbeing, harm to the environment or where an unacceptable business advantage is gained
- the individual or business has failed to correct potential risks after being given a reasonable opportunity to do so.
- the offence involves failure to comply with a statutory notice
- evidence suggests the offence was premeditated
- there is a history of similar offences
- an officer was intentionally obstructed or deceived in the course of their duties
- any of the factors set out in paragraph 6 apply.

6.5.2 The decision to prosecute will take account of the evidential and public interest tests in the Code for Crown Prosecutors issued under the Prosecution of Offences Act 1985 by the Director of Public Prosecutions. These include:

- the seriousness of the offence. A prosecution is more likely to be required where an offence is more serious
- the level of culpability by the person responsible for a breach, such as their level of involvement; whether the offence was premeditated or planned; or if they have previous convictions or cautions;
- the age and state of mental or physical health of the person responsible for a breach
- the likelihood of the offence being continued, repeated or escalated;
- any remedial action taken by the person responsible for a breach, (although an offer to pay compensation to a victim or take similar action will never by itself preclude a prosecution)
- whether a prosecution is a proportionate response to the likely outcome.

6.5.3 We will not prosecute unless we are satisfied there is credible, admissible and reliable evidence that the offence has been committed by the individual or business and there is a realistic prospect of conviction.

6.5.4 Prosecutions will only be commenced if it is in the public interest to do so. Factors which may be taken into account in deciding whether a prosecution is in the public interest are those in paragraph set out in paragraph 6.5.2.

6.5.5 The courts often have a large discretion in the penalties they can impose, and many offences benefit from a statutory defence. We will not be generally deterred from bringing a prosecution when it is right to do so solely because the courts are likely to issue a nominal penalty following a conviction, or solely because the individual or business appears to have established a statutory defence as it is for the individual or business to demonstrate to the court why they should benefit from that defence.

6.5.6 We will always seek to recover our costs in investigating and prosecuting offences.

6.5.7 People should be able to rely on decisions taken by us. Normally, if we tell a defendant that there will not be a prosecution, or that the prosecution has been stopped, the case will not start again. Occasionally there are reasons why we will overturn a decision not to prosecute or to deal with the case by way of an out-of-court disposal or when it will restart the prosecution, particularly if the case is serious.

6.5.8 These reasons include:

- cases where a new look at the original decision shows that it was wrong and, in order to maintain confidence in the criminal justice system, a prosecution should be brought despite the earlier decision;
- cases which are stopped so that more evidence (which is likely to become available in the fairly near future) can be collected and prepared. In these cases, we will tell the defendant that the prosecution may well start again;
- cases which are stopped because of a lack of evidence but where more significant evidence is discovered later.

6.6 *Civil law remedies*

Where individuals or businesses have been found guilty on more than two occasions, or where it is considered to be more appropriate to restrain further breaches of the law, we will consider applying for an injunction.

6.6.1 We will also use our powers where appropriate to apply for orders under the Anti-Social Behaviour Act 2014 and similar legislation with our statutory partners in order to protect the community.

The following actions are only available to us in relation to certain specific contraventions:

6.7 *Seizure of goods or equipment*

Goods, equipment and documents may be seized under certain legislation relating to unsafe food, or sound equipment that, through its use, creates a statutory noise nuisance. We may also use powers under the Police and Criminal Evidence Act 1984 relating to the voluntary surrender of items in the course of an investigation.

6.8 *Issuing statutory notices*

We may serve notices under various legislation requiring specific actions to be taken or certain activities to cease. Notices may require activities to cease immediately where there is an imminent or immediate threat to health, safety, environmental damage or nuisance. In other circumstances notices will be issued with a reasonable time for compliance, agreed wherever possible with the recipient of the notice, taking into account the seriousness of the contravention, setting out the remedial actions need to comply with the notice, the implications of non-compliance and the appeal period for that notice. Notices will generally be issued if previous warnings or advice has been ignored.

6.8.1 All notices will be expressed in plain language, make clear the consequences of failing to comply, and include details of any applicable appeals procedure. All notices will be signed and served by appropriately authorised officers.

6.8.2 Failure to comply with certain notices will enable the Council to do the work instead, commonly referred to as “works in default “. We may issue these notices when all other attempts to secure compliance have been exhausted, and will give warning of our intention to issue a notice except where this is impractical in order to protect public health and safety or the environment. We will then charge the recipient of the notice for any costs incurred in carrying out the work, and this may lead to a charge being applied against the future sale of the property. The Council may still prosecute for not complying with the original statutory notice as well as carrying out the works.

6.9 *Alternatives to Prosecution*

6.9.1 Fixed penalty notices (FPN) are available as an alternative to prosecution for some offences. A recipient of an FPN does not accept criminal liability by paying the associated fine, which brings an end to the matter. Where the law allows FPNs to be issued, we may chose to administer those on a first occasion without issuing a warning. However, a failure to pay an FPN will result in an escalation of

enforcement action including prosecution for the original offence to preserve the integrity of the regulatory regime.

- 6.9.2 Failure to pay a FPN will be a material consideration in considering whether to institute a criminal prosecution.
- 6.9.3 For certain housing offences as set out in law, such as failure to comply with an improvement or overcrowding notice or operating an unlicensed House in Multiple Occupation (HMO), a financial penalty may be imposed as an alternative to prosecution. In such cases, a notice of intention to impose a financial penalty will be given setting out the amount of the proposed penalty, reasons for imposing it and information about the right to make written representation before a decision is made to issue a final penalty notice. Where a final penalty notice is issued, there will be a right of appeal to a First Tier Tribunal.

6.10 *Licensing decisions*

Many of the licences and permissions we issue contain powers to revoke, refuse, vary or review them in the event of non-compliance with obligations in those authorisations, or following a conviction for certain offences.

6.10.1 As a general rule and in line with this compliance policy we will take licensing decisions when all other approaches to assist compliance, short of cautions or prosecutions, have been exhausted. This may include suspending licences in the event of a breach, or refusing a licence when activities have been carried on without the requisite licence being in place. Whether we take a licensing decision before, after or as an alternative to a prosecution or caution will depend on the legal powers available to us and the risks presented by the situation. How we exercise our professional discretion in such cases will generally be guided by:

- whether the actions of the individual or business are so serious they ought to face trial in court
- the impact that a licensing decision will have in correcting any breach
- the impact that a licensing decision may have on the individual or business and the impact on their ability to continue operating their licensable activity
- the Council's Guidelines for the grant, suspension and revocation of Hackney Carriage Driver, Private Hire Driver and Operator Licences.

6.10.2 Licensing decisions and prosecutions serve different purposes – licensing decisions about hackney carriage drivers, for example, concern their fitness and propriety to hold a licence, whilst a prosecution serves the objectives outlined in section 6.5 above. Similarly, reviews under the Licensing Act 2003 and Gambling Act 2005 are

designed to be more corrective than punitive in nature, which should be a matter reserved for the courts.

6.10.3 Alongside the general compliance principles contained in this policy we have additional specific approaches agreed in relation to licensed hackney carriage and private hire drivers, proprietors and operators:

- Our investigation into intelligence reports and/or complaints will look for evidence to either prove or disprove alleged offences – this will usually include a discussion with the licence holder. On occasion, for the protection of the identity of a complainant in cases involving sensitive matters such as allegations of a sexual nature, it may not be right to discuss the details of the complaint with the licence holder directly in the first instance;
- We will not take account of a licence holder's previous history during the investigation process;
- If there is no evidence, or insufficient evidence, to prove the complaint a decision on further action shall be taken based on the nature and severity of the alleged offence and whether or not supporting evidence by way of previous reports, how many such reports and the source of the reports are available documenting the same or similar behaviour
- We will notify licence holders of complaints received against them whether proven or not so that they can be discussed if it is safe to do so;
- If an offence is proven, the offence shall be considered and action taken in accordance with the principles in this enforcement policy and/or the policy considerations contained within the Guidelines for the grant, suspension and revocation of hackney carriage and private hire drivers and operators licences;
- All proven complaints will be considered in future enforcement or licensing decisions.

6.10.4 For all proven offences licence holders will at least be informed of the offence and we will explain how to prevent further offences. Generally, where an offence is as a result of a complaint licence holders can expect to receive at least a formal written warning.

6.10.5 Licence holders who receive repeated written warnings or show a history of similar offences, proven or unproven, will be invited to attend a Case Review. This is a meeting with the Section Head for Environmental Health and Licensing Services to discuss a licence holder's conduct, to encourage behaviour change, to understand barriers to this and to clearly explain the consequences of continued non-compliance. A case review may result in the following actions although this is not an exhaustive list of options available:

- no further action
- further investigation

- written advice
- formal warning
- simple caution
- referral for prosecution
- suspension of licence
- recommendation to the Head of Service for revocation of licence

6.10.6 Where deemed appropriate we may suspend or revoke a licence. Where a suspension of the licence is deemed a proportionate response to the offence, the suspension will be for a maximum of two days. The licence holder's previous history will be taken into account when making this decision along with other factors such as the attitude of the licence holder, the impact of the offence etc.

Action may also be taken in accordance with the council's Guidelines for the grant, suspension and revocation of hackney carriage and private hire drivers and operators licences.

6.10.7 Except in cases where it appears that in the interests of public safety require it, no suspension or revocation of a licence will take effect until at least 21 days after the suspension notice has been served. During this time, the licence holder has the right to appeal against the suspension or revocation notice by applying to the magistrates' court.

6.10.8 Any driver, proprietor or operator who re-offends after suspension or a successful prosecution, or commits a first offence which gives sufficient cause for concern, will be referred to the Head of Service or Section Head for Environmental Health and Licensing Services. This referral may take place without the licence holder first attending a case review. This referral will allow for immediate consideration of the continued fitness and propriety of the licence holder. Any licence holder who is referred in this way will be given an opportunity to make written representations against any recommendation to revoke before a final decision is made.

6.10.9 In cases where it is appropriate, for example where an investigation or prosecution has been undertaken by another authority and guilt established, an officer may refer a licence holder directly to the Head of Service or Section Head for Environmental Health and Licensing Services.

6.10.10 Appeals against revocation or the refusal to renew a licence are made to the magistrates' court within 21 days of being notified of our decision.

6.11 ***Repayment of Monies***

We believe that people should not profit from their criminal behaviour. When people have been convicted of offences and it can be shown that they have made money from their criminal lifestyle, we may seek Confiscation Orders under the Proceeds of Crime Act 2002.

- 6.12 Where a landlord has committed certain housing offences (whether or not they have been convicted), a First Tier Tribunal has the power to make a Rent Payment Order (RRO) to require a landlord to repay back to the Council an amount of universal credit, including housing benefit, in respect of rent under the tenancy. Where the law allows, such as failure to comply with an improvement notice or prohibition order or operating an unlicensed HMO, we will first issue a notice of intention to apply for a RRO to the landlord, setting out the amount we are seeking to recover and giving a right to make written representation before a decision is made to apply for an RRO. Once we have considered any representations, then an application for a RRO can be made to the First Tier Tribunal.

7 Other policies

We are required to have enforcement policies setting out how we enforce food safety legislation, and the Health and Safety at Work etc Act 1974. Our statutory policy under the Licensing Act 2003 lays out our approach to enforcement action when licences under that legislation are reviewed. Our statutory policy under the Gambling Act 2005 sets out our approach to compliance and enforcement within gambling premises.

- 7.1 We have published minimum standards for tackling anti-social behaviour in conjunction with our partners.
- 7.2 This policy should be read in conjunction with those documents, and will take precedence in the event of any conflict.

8 Other enforcement partners

Some investigations will reveal offences that are solely or jointly enforced by other agencies. These can include other local authorities, the police, fire service, trading standards, Gambling Commission, HM Revenues & Customs, UK Border Agency, Health & Safety Executive or the Environment Agency.

- 8.1 Where two offences arise out of the same set of facts but are enforced by two agencies, we will agree on a case-by-case basis the most appropriate action as each agency may decide a different approach and/or disposal is justified.

8.2 We will share information with our enforcement agencies where legislation permits, in accordance with agreed protocols and in accordance with the Data Protection Act 1988.

9 Customer standards and Complaints (inc ombudsman)

For details of our customer standards about how you can expect us to treat you, please visit

https://www.watford.gov.uk/info/20016/the_council/119/customer_standards or ask one of our officers for a copy.

Comments are invited on this policy to:

EH Manager (Business)
Environmental Health
Watford Borough Council
Town Hall
Watford
Herts
WD17 3EX
Envhealth@watford.gov.uk



Department
for Business
Innovation & Skills

Better
Regulation
Delivery Office

Regulators' Code

April 2014

Foreword



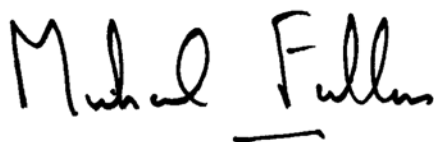
In the Autumn Statement 2012 Government announced that it would introduce a package of measures to improve the way regulation is delivered at the frontline such as the Focus on Enforcement review of appeals, the proposed Growth Duty for non-economic regulators and the Accountability for Regulator Impact measure.

This Government is committed to reducing regulatory burdens and supporting compliant business growth through the development of an open and constructive relationship between regulators and those they regulate. The Regulators' Code provides a flexible, principles based framework for regulatory delivery that supports and enables regulators to design their service and enforcement policies in a manner that best suits the needs of businesses and other regulated entities.

Our expectation is that by clarifying the provisions contained in the previous Regulators' Compliance Code, in a shorter and accessible format, regulators and those they regulate will have a clear understanding of the services that can be expected and will feel able to challenge if these are not being fulfilled.

Regulators within scope of the Regulators' Code are diverse but they share a common primary purpose – to regulate for the protection of the vulnerable, the environment, social or other objective. This Code does not detract from these core purposes but seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.

I believe the Regulators' Code will support a positive shift in how regulation is delivered by setting clear expectations and promising open dialogue. Ultimately this will give businesses greater confidence to invest and grow.

A handwritten signature in black ink that reads "Michael Fallon". The signature is written in a cursive style with a horizontal line underneath the name.

Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

Regulators' Code

This Code was laid before Parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act"). Regulators whose functions are specified by order under section 24(2) of the Act **must** have regard to the Code when developing policies and operational procedures that guide their regulatory activities. Regulators must equally have regard to the Code when setting standards or giving guidance which will guide the regulatory activities of other regulators. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow

1.1 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities¹ and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.

1.2 When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities², for example, by considering how they can best:

- understand and minimise negative economic impacts of their regulatory activities;
- minimising the costs of compliance for those they regulate;
- improve confidence in compliance for those they regulate, by providing greater certainty; and
- encourage and promote compliance.

1.3 Regulators should ensure that their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches.

1.4 Regulators should ensure that their officers understand the statutory principles of good regulation³ and of this Code, and how the regulator delivers its activities in accordance with them.

2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

2.1 Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.

¹ The term 'regulatory activities' refers to the whole range of regulatory options and interventions available to regulators.

² The terms 'business or businesses' is used throughout this document to refer to businesses and other regulated entities.

³ The statutory principles of good regulation can be viewed in Part 2 (21) on page 12: http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf.

- 2.2 In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

- 2.3 Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.
- 2.4 Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.
- 2.5 Regulators should make available to those they regulate, clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.
- 2.6 Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate⁴.

3. Regulators should base their regulatory activities on risk

- 3.1 Regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.
- 3.2 Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.
- 3.3 Regulators designing a risk assessment framework⁵, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.
- 3.4 Regulators, in making their assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.
- 3.5 Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

⁴ The Government will discuss with national regulators a common approach to surveys to support benchmarking of their performance.

⁵ The term 'risk assessment framework' encompasses any model, scheme, methodology or risk rating approach that is used to inform risk-based targeting of regulatory activities in relation to individual businesses or other regulated entities.

4. Regulators should share information about compliance and risk

- 4.1 Regulators should collectively follow the principle of “collect once, use many times” when requesting information from those they regulate.
- 4.2 When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.

5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply

- 5.1 Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.
- 5.2 Regulators should publish guidance, and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.
- 5.3 Regulators should have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.
- 5.4 Regulators should seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.
- 5.5 In responding to requests for advice, a regulator's primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.
- 5.6 Regulators should have mechanisms to work collaboratively to assist those regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.

6. Regulators should ensure that their approach to their regulatory activities is transparent

- 6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.
- 6.2 Regulators' published service standards should include clear information on:
 - a) how they communicate with those they regulate and how they can be contacted;
 - b) their approach to providing information, guidance and advice;
 - c) their approach to checks on compliance⁶, including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect;

⁶ Including inspections, audit, monitoring and sampling visits, and test purchases.

- d) their enforcement policy, explaining how they respond to non-compliance;
 - e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges; and
 - f) how to comment or complain about the service provided and routes to appeal.
- 6.3 Information published to meet the provisions of this Code should be easily accessible, including being available at a single point⁷ on the regulator's website that is clearly signposted, and it should be kept up to date.
- 6.4 Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.
- 6.5 Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.

⁷ This requirement may be satisfied by providing a single web page that includes links to information published elsewhere.

Monitoring the effectiveness of the Regulators' Code

The Government is committed to making sure the Regulators' Code is effective. To make sure that the Code is being used effectively, we want businesses, regulated bodies and citizens to challenge regulators who they believe are not acting in accordance with their published policies and standards. It is in the wider public interest that regulators are transparent and proportionate in their approaches to regulation.

The Government will monitor published policies and standards of regulators subject to the Regulators' Code, and will challenge regulators where there is evidence that policies and standards are not in line with the Code or are not followed.

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This publication is also available on our website at:
<https://www.gov.uk/government/publications/regulators-code>

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Hertfordshire Charter

Better Business for All Partnership Charter

This is a voluntary undertaking between Hertfordshire Regulatory Services and all local businesses, irrespective of size or resources.

Aim

To support a relationship between businesses and regulators built upon trust, understanding and a desire to improve together in terms of compliance with regulation and support of business growth.

Purpose

Hertfordshire Regulatory Services are committed to working with businesses to help them meet their statutory requirements and to prosper. This Charter sets out the actions and responsibilities of Hertfordshire Regulatory Services and businesses within Hertfordshire.

Regulatory Partners will:

- Support and promote the local economy by supporting local businesses
- Make it easy to seek advice
- Make information and advice easy to understand
- Explain the reason for their visit to businesses
- Carry out regulatory activity in a fair, helpful, transparent, proportionate and consistent way
- Be accountable

- Minimise the cost of compliance for businesses by ensuring that any action taken is proportionate to risk
- Coordinate services to minimise unnecessary overlaps and duplication
- Wherever possible reduce regulatory burden on businesses
- Consult with businesses through groups representing local businesses, when developing policies, plans and service standards
- Promote Better Business for All to businesses and consumers

The Federation of Small Businesses (FSB), Chambers' of Commerce (CoC) and Hertfordshire Local Enterprise Partnership (LEP) will encourage local businesses to:

- Seek advice from Hertfordshire Regulatory Services on matters of compliance
- Encourage other businesses to contact Hertfordshire Regulatory Services for advice
- Work with Hertfordshire Regulatory Services to achieve a satisfactory outcome and put problems right quickly
- Take part in publicity about positive experiences with regulators
- Be fair, helpful and transparent in dealing with Hertfordshire Regulatory Services staff
- Provide feedback to Hertfordshire Regulatory Services on improvements to the local regulatory system



**WELWYN
HATFIELD**
BOROUGH COUNCIL



St Albans
City & District Council

Hertfordshire
Local Enterprise Partnership

WATFORD & WEST HERTS
CHAMBER OF COMMERCE



acas



Stevenage
BOROUGH COUNCIL

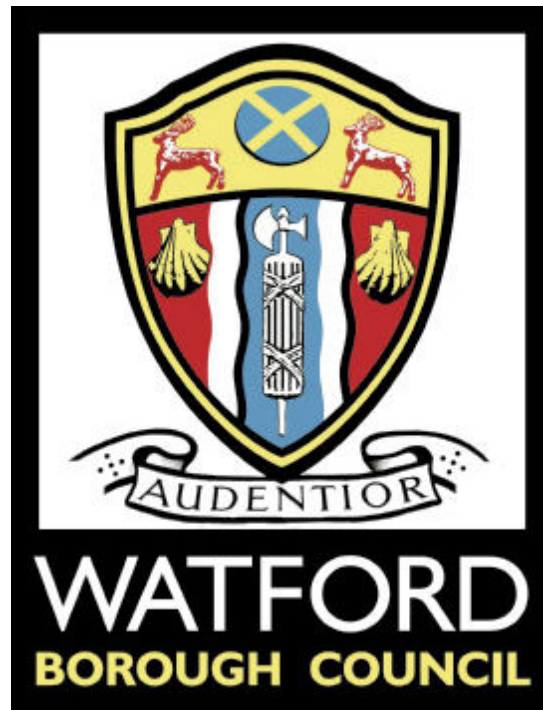


THREE RIVERS
DISTRICT COUNCIL



Federation of Small Businesses
The UK's Leading Business Organisation





COMMUNITY AND CUSTOMER SERVICES

Environmental Health and Licensing Service

ENFORCEMENT POLICY 2014 – 2019

Comments are invited on this policy to:

Head of Community and Customer Services
Watford Borough Council
Town Hall

1. Introduction

1.1 This document sets out what members of the public and businesses can expect from enforcement officers in the Environmental Health and Licensing team of Community and Customer Services at Watford Borough Council.

1.2 It sets out our approach on how we regulate and enforce a range of legislation in the public interest:

- abandoned vehicles
- alcohol, entertainment and late-night refreshment
- animal welfare
- anti-social behaviour
- charity collections
- dog fouling
- drainage
- environmental protection and pollution
- filthy and verminous premises
- food hygiene
- gambling
- health and safety at work
- houses in multiple occupation
- housing standards
- infectious diseases
- littering, fly-tipping and other environmental crimes
- pest control
- smoke-free legislation
- statutory nuisances such as noise, odours, vibration and light
- street trading
- taxis and private hire vehicles

1.3 We enforce a range of legislation in the public interest and to support the Council's corporate aims between 2014 and 2018 of creating a town to be proud of, where people will always choose to live, work and visit by

- making Watford a better place to live in
- to provide the strategic lead for Watford's sustainable economic growth
- promoting an active, cohesive and well-informed town
- operating the council effectively and efficiently

1.4 In developing this policy we have had regard to:

- the Human Rights Act 1988
- the statutory Regulators' Code issued under the Regulatory and Effective Sanctions Act 2008 and
- the Code for Crown Prosecutors (see section 6)
- the Equalities Act 2010

1.5 All enforcement decisions will be fair, independent and objective. They will not be influenced by age, ethnicity, national origin, gender, religious or political belief, disabilities or sexual orientation. Due regard will be taken when dealing with juveniles or other vulnerable people. Decisions will not be affected by improper or undue pressure from any source, including councillors.

1.6 We are committed to accountable and proportionate practices with clear policies supported by effective procedures. We will ensure enforcement officers are competent, apply enforcement measures consistently and proportionately through training, suitable qualifications, and experience. Officers will consolidate their knowledge and experience through continuing professional education

2 Approval, review and exercise of powers

2.1 We consulted businesses and residents on this policy between 27 June 2011 and 8 August 2011. It was adopted by the Licensing Committee on 15 June 2011,. It was reviewed by the Licensing Committee in July 2014 and the revisions contained in this version come into effect from 14 August 2014.

2.2 All enforcement powers are delegated to the Head of Community and Customer Services. The Environmental Health and Licensing Section Head and team managers may authorise the issue of a simple caution. They, in

consultation with the Legal Services Head Section, may authorise a prosecution. In cases of doubt as to a particular course of action the Head of Community and Customer Services shall make the final decision.

- 2.3 We will review our policies and procedures on a regular basis and in the light of changes in legislation, case-law or best practice.

3 Policy objectives

- 3.1 Our policies are intended to:

- protect individuals, the community and the environment from harm
- change the behaviour of perpetrators
- eliminate any financial gain or benefit from non-compliance
- protect those affected by non-compliance
- be responsive and consider what is appropriate in the particular circumstances
- be proportionate to the nature of the offence and the harm caused
- deter future non-compliance.

4 Key principles

- 4.1 Wherever possible our officers will adopt a policy of informal resolution. This will involve clearly identifying the nature of any actual or potential legislative breach and giving the perpetrator the opportunity to remedy it. We recognise that this is not always possible in some one-off circumstances in which it may be difficult to identify repeated breaches. These may include for example (but not be limited to) offences such as dog-fouling, littering, or plying for hire where it is necessary, reasonable and proportionate.

- 4.2 Although each case shall be considered on its own facts and on its own merits, there are general principles set out in section 7 that apply to the way in which we approach every case.

4.4 *Standards*

We will always make clear when there is a legal requirement to be followed, and under which legislation it is required. We will always make

clear the difference between legal requirements and recommended best practice.

- 4.4.1 All investigations will follow best professional practice and legal requirements. As part of the investigation process, perpetrators will wherever possible be formally interviewed under the Police and Criminal Evidence Act 1984, be given the opportunity to establish a statutory defence, and have the opportunity to give an explanation or make any additional comments about the allegations. Evidence will be gathered and used in accordance with the Criminal Procedure and Investigations Act 1996 and not kept for longer than required under the Act's code of practice.

4.5 ***Openness***

We recognise the need to maintain public confidence in our ability to protect and to regulate. This is achieved by promoting consistency, proportionality and accountability. We will also aim to work in order of priority and direct our work accordingly, using national risk assessment schemes, local intelligence and the priorities of the Council and its partners. We will clearly explain to those affected by breaches of legislation the action we take or why we are unable to take action. We will also make clear the difference between statutory requirements or advice, or guidance about what is desirable or good practice but not compulsory

- 4.5.1 Where enforcement action is required, it will be clearly explained as far as reasonably practicable in writing and verbally why the action is necessary and when it must be carried out by. We will discuss what is needed before taking formal action, apart from when urgent action is required to protect public health, public safety or the environment, or evidence to support enforcement action would be otherwise lost.
- 4.5.2 We will publicise the results of prosecutions and simple cautions when it helpful to do so, although we will not publicise an individual's personal details when a simple caution has been accepted. If we receive information that may lead to formal enforcement action we will notify the source of that complaint as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk.

4.5.3 All parties concerned will be kept informed of progress during our investigations and any enforcement action. Confidentiality will be maintained and personal information only released in accordance with legal requirements or in accordance with the Data Protection Act 1998.

4.6 ***Helpfulness***

We believe that prevention is better than cure. We will offer information and advice to those whom we regulate and seek to secure co-operation without bureaucracy and excessive cost. We will encourage individuals and businesses to put community, public health, public safety and the environment first. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

4.6.1 When a breach has been identified that does not present an immediate risk to health, safety or the environment, we may arrange follow-up visits to allow the perpetrator time to comply with their legal obligations. Where immediate action is not needed, we will consider agreeing a time-scale within which compliance, or steps towards compliance, should be met.

4.7 ***Complaints***

Written explanation of any rights of appeal against formal enforcement will be given at the time action is taken, where we are required to do so. We cannot advise on the merits or details of any appeal. Please see section 9 below about how to complain about the service we provide.

4.8 ***Proportionality***

We will balance enforcement action against risks and costs. Actions to achieve compliance will be proportionate to any risks to public health and safety, and the seriousness of any breach. Therefore, an informal warning is unlikely to be a suitable disposal for a significant infringement leading to serious injury just as a prosecution is generally unsuitable for a minor administrative or technical oversight. Proportionate action also involves judging the extent to which perpetrators have gone to in order to comply with the law.

4.9 **Consistency**

Our officers will endeavour to take a similar approach in similar circumstances to achieve similar ends; consistency does not mean taking exactly the same approach concerning each breach. We will endeavour to be consistent in the advice we give, whether over time to the same business, or to different businesses.

4.9.1 We will participate in county-wide and regional enforcement arrangements to share consistency amongst other regulators and enforcers. Where an investigation reveals facts of an offence enforced by other agencies, we will cooperate and coordinate with any relevant body to maximise the effectiveness of any enforcement.

4.9.2 We participate in the Primary Authority scheme as part of the Regulatory Enforcement and Sanctions Act 2008, and follow any inspection plans issued by Primary Authorities as part of those arrangements. We will give notice of proposed enforcement action to relevant Primary Authorities before action is taken against organisations registered under the scheme, apart from specific urgent cases where this is not required.

5 **Compliance techniques**

We use a range of techniques to secure compliance with legal obligations, including:

- informal advisory visits and meetings
- mediation
- education, awareness-raising and advice
- formal training
- risk-based inspections
- proactive and reactive visits
- direct observation
- test baiting of vermin
- test purchasing
- sampling
- auditing

6 **Bringing enforcement action**

We will take account of different factors when considering the appropriate enforcement response, including:

- any actual or potential harm or loss to an individual
- the risk that non-compliance poses to public health, public safety or the environment
- the perpetrator's attitude to compliance, such as failing to follow previous advice or comply with statutory notices
- evidence of pre-meditation
- obstruction of officers
- national and local priorities for enforcement, including where the offence is widespread throughout the Borough but is not itself serious
- statutory guidance and codes of practise
- legal advice
- any commercial benefit accrued because of the non-compliance.

6.1 The following actions are available to us in the event of any contravention:

6.2 *No further action, taking informal action or giving advice*

This may apply where an investigation reveals no offence has occurred or where the offending party makes a ready admission of the breach, takes immediate steps to remedy it presenting no risks to public safety, public health or the environment. No further action will be appropriate where the evidence is inadequate or where formal enforcement is inappropriate because the contravener is elderly, frail, has poor mental or serious ill health, and to pursue the case would be detrimental to their wellbeing. All persons involved will be advised as to why no further action is being taken

6.2.1 We may give verbal or written advice where we have a high degree of confidence the breach will be properly remedied or not repeated. We will clearly identify any contraventions of the law and give advice on how to correct them, including a reasonable deadline (agreed where possible) for when this should be completed. This will take into account the seriousness of the contravention and the implications for non-compliance.

6.3 *Issuing warnings*

We may give verbal or written warnings. The fact that a verbal warning has been given may be recorded in a case file for future reference. Written warnings are normally final, and failure to comply or repeated breaches of the same or a similar contravention are likely to result in an escalation to the next stage of enforcement action.

6.4 *Offering a simple caution*

Cautions will be considered in line with the Home Office guidance in circular 16/2008 with the perpetrators' consent and where a prosecution would otherwise be justified. Although an admission of guilt, a caution is not a sentence or a criminal conviction.

6.4.1 Before offering a simple caution, we must be satisfied that:

- there is sufficient evidence to prove the case before a court
- there has been a free and voluntary admission of guilt
- it must be in the public interest to use a simple caution to dispose of the offence
- the perpetrator must be over the age of 18.

6.4.2 We will also take into account whether the perpetrator has received a simple caution within the previous two years. We will also take account of previous simple cautions received within the previous two years when considering any other enforcement action in the following two years, during which period it may also be cited in court during any prosecution.

6.4.3 The refusal of a perpetrator to be cautioned, despite admitting their guilt, does not preclude a summons being issued for prosecution although a prosecution cannot be brought once a simple caution has been accepted for that offence. A failure to accept a caution may be material consideration when deciding whether to institute a prosecution.

6.5 *Bringing a prosecution*

Where circumstances warrant it, we will prosecute without any prior warning. Prosecutions will be considered where:

- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with legal duties
- there is a risk to community health and safety or of environmental damage as a consequence of the breach
- the breach was as a result of a deliberate, reckless or negligent act
- the perpetrator's approach through repeated breaches, persistent poor standards or ignoring formal advice and warnings warrants it

6.5.1 Prosecutions will always be considered where:

- there has been a blatant disregard for the law
- there is a refusal to achieve minimum legal requirements
- the offence involves a risk to public health, safety or wellbeing, harm to the environment or where an unacceptable business advantage is gained
- the perpetrator has failed to correct potential risks after being given a reasonable opportunity to do so.
- the offence involves failure to comply with a statutory notice
- evidence suggests the offence was premeditated
- there is a history of similar offences
- an officer was intentionally obstructed or deceived in the course of their duties
- any of the factors set out in paragraph 6 apply.

6.5.2 The decision to prosecute will take account of the evidential and public interest tests in the Code for Crown Prosecutors issued under the Prosecution of Offences Act 1985 by the Director of Public Prosecutions. These include:

- the seriousness of the offence. A prosecution is more likely to be required where an offence is more serious
- the level of culpability by the perpetrator, such as their level of involvement; whether the offence was premeditated or planned; or if they have previous convictions or cautions;
- the age and state of mental or physical health of the perpetrator
- the likelihood of the offence being continued, repeated or escalated;
- any remedial action taken by the alleged perpetrator, (although an offer to pay compensation to a victim or take similar action will never by itself preclude a prosecution)

- whether a prosecution is a proportionate response to the likely outcome, including the likely costs of pursuing a prosecution.
- 6.5.3 We will not prosecute unless we are satisfied there is credible, admissible and reliable evidence that the offence has been committed by the perpetrator and there is a realistic prospect of conviction.
- 6.5.4 Prosecutions will only be commenced if it is in the public interest to do so. Factors which may be taken into account in deciding whether a prosecution is in the public interest are those in paragraph set out in paragraph 6.5.2.
- 6.5.5 The courts often have a large discretion in the penalties they can impose, and many offences benefit from a statutory defence. We will not be generally deterred from bringing a prosecution when it is right to do so solely because the courts are likely to issue a nominal penalty following a conviction, or solely because the perpetrator appears to have established a statutory defence as it is for the perpetrator to demonstrate to the court why they should benefit from that defence.
- 6.5.6 We will always seek to recover our costs in investigating and prosecuting offences.
- 6.5.7 People should be able to rely on decisions taken by us. Normally, if we tell a defendant that there will not be a prosecution, or that the prosecution has been stopped, the case will not start again. Occasionally there are reasons why we will overturn a decision not to prosecute or to deal with the case by way of an out-of-court disposal or when it will restart the prosecution, particularly if the case is serious.
- 6.5.8 These reasons include:
- cases where a new look at the original decision shows that it was wrong and, in order to maintain confidence in the criminal justice system, a prosecution should be brought despite the earlier decision;
 - cases which are stopped so that more evidence (which is likely to become available in the fairly near future) can be collected and prepared. In these cases, we will tell the defendant that the prosecution may well start again;

- cases which are stopped because of a lack of evidence but where more significant evidence is discovered later.

6.6 *Civil law remedies*

Where perpetrators have been found guilty on more than two occasions, or where it is considered to be more appropriate to restrain further breaches of the law, we will consider applying for an injunction.

6.6.1 We will also use our powers where appropriate to apply for orders under the Anti-Social Behaviour Act 2013 and similar legislation with our statutory partners in order to protect the community.

6.2 The following actions are only available to us in relation to certain specific contraventions:

6.7 *Seizure of goods or equipment*

Goods, equipment and documents may be seized under certain legislation relating to unsafe food, or sound equipment being used for statutory noise nuisance. We may also use powers under the Police and Criminal Evidence Act 1984 relating to the voluntary surrender of items in the course of an investigation.

6.8 *Issuing statutory notices*

We may serve notices under various legislation requiring specific actions to be taken or certain activities to cease. Notices may require activities to cease immediately where there is an imminent or immediate threat to health, safety, environmental damage or nuisance. In other circumstances notices will be issued with a reasonable time for compliance, agreed wherever possible with the recipient of the notice, taking into account the seriousness of the contravention, setting out the remedial actions need to comply with the notice, the implications of non-compliance and the appeal period for that notice. Notices will generally be issued if previous warnings or advice has been ignored.

- 6.8.1 All notices will be expressed in plain language, make clear the consequences of failing to comply, and include details of any applicable appeals procedure. All notices will be signed and served by appropriately authorised officers.
- 6.8.2 Failure to comply with certain notices will enable the Council to do the work instead, commonly referred to as “works in default”. We may issue these notices when all other attempts to secure compliance have been exhausted, and will give warning of our intention to issue a notice except where this is impractical in order to protect public health and safety or the environment. We will then charge the recipient of the notice for any costs incurred in carrying out the work, and this may lead to a charge being applied against the future sale of the property. The Council may still prosecute for not complying with the original statutory notice as well as carrying out the works.

6.9 *Issuing a fixed penalty notice (FPN)*

Fixed penalty notices are available as an alternative to prosecution for some low-level environmental offences. A recipient of an FPN does not accept criminal liability by paying the associated fine, which brings an end to the matter. Where the law allows FPNs to be issued, we may choose to administer those on a first occasion without issuing a warning. However, a failure to pay an FPN will result in an escalation of enforcement action including prosecution for the original offence to preserve the integrity of the regulatory regime.

- 6.9.1 Failure to pay a FPN will be a material consideration in considering whether to institute a criminal prosecution.

6.10 *Licensing decisions*

Many of the licences and permissions we issue contain powers to revoke, refuse, vary or review them in the event of non-compliance with obligations in those authorisations, or following a conviction for certain offences.

6.10.1 As a general rule, we will take licensing decisions when all other enforcement powers short of cautions or prosecutions have been exhausted. This can include suspending licences in the event of a breach, or refusing a licence when activities have been carried on without the requisite licence being in place. Whether we take a licensing decision before, after or as an alternative to a prosecution or caution will depend on the legal powers available to us. How we exercise our professional discretion in such cases will generally be guided by:

- whether the perpetrator's actions are so serious they ought to face trial in court
- the impact that a licensing decision will have in correcting any breach
- the impact that a licensing decision may have on the perpetrators' ability to continue operating their licensable activity
- in some cases, licensing decisions and prosecutions serve different purposes – licensing decisions about hackney carriage drivers for example concern their fitness and propriety to hold a licence, whilst a prosecution serves the objectives outlined in section 6.5 above. Similarly, reviews under the Licensing Act 2003 and Gambling Act 2005 are designed to be more corrective than punitive in nature, which should be a matter reserved for the courts.

6.10.2 We have a specific policy in relation to hackney carriage and private hire vehicle drivers:

- our investigation into complaints will look for evidence to either prove or disprove alleged offences – this will always include a discussion with the driver
- we will not take account of a driver's previous history during the investigation process
- If there is no evidence, or insufficient evidence, to prove the complaint no further action shall be taken
- we will notify drivers of all complaints received against them whether proven or not so that they can be discussed
- if an offence is proven, the offence shall be considered and action taken in accordance with the principles in this enforcement policy
- all proven complaints will be considered in future enforcement or licensing decisions

6.10.3 For all proven offences drivers will at least be informed of the offence and we will explain how to prevent further offences. Generally, where a proven offence is as a result of a complaint drivers can expect to receive at least a formal written warning.

6.10.4 Proven serious offences by drivers concerning

- dishonesty
- breach of trust
- violence
- aggression
- putting a member of the public in danger, or
- putting a member of the public in an unsafe position

may result in the suspension of the driver's licence for a maximum of two days, or in prosecution. The driver's previous history will be taken into account when making this decision along with other factors such as the attitude of the driver, the impact of the offence etc.

6.10.5 Except in exceptional circumstances on the grounds of public safety, no suspension of a drivers licence will take effect until at least 21 days after the suspension notice has been served. During this time, the driver has the right to appeal against the suspension notice by applying to the magistrates' court.

6.10.6 Drivers who receive repeated written warnings or show a history of similar offences will be invited to attend a Case Review. This is a meeting with the Section Head for Environmental Health and Licensing to discuss their conduct.

6.10.7 Any driver who re-offends after suspension or a successful prosecution, or commits a very serious first offence, will be referred to the Head of Community and Customer Services. A Case Review can also recommend that a driver be considered by the Head of Community and Customer Services (after consultation with the Chair of the Licensing Committee) who will consider if the driver is still fit and proper to hold a licence, and if their licence should be revoked or (as the case may be) not renewed.

6.10.8 Appeals against revocation or the refusal to renew a licence are made to the magistrates' court within 21 days of being notified of our decision.

6.11 ***Confiscation of Assets***

We believe that people should not profit from their criminal behaviour. When people have been convicted of offences and it can be shown that they have made money from their criminal lifestyle, we may seek Confiscation Orders under the Proceeds of Crime Act 2002.

7 Other policies

We are required to have enforcement policies setting out how we enforce food safety legislation, and the Health and Safety at Work etc Act 1974. Our statutory policy under the Licensing Act 2003 lays out our approach to enforcement action when licences under that legislation are reviewed. Our statutory policy under the Gambling Act 2005 sets out our approach to compliance and enforcement within gambling premises.

7.1 We have published minimum standards for tackling anti-social behaviour in conjunction with our partners.

7.2 We have signed the Hertfordshire Licensing Enforcement Protocol with other statutory authorities concerning the Licensing Act 2003, and a Partnership Agreement with Hertfordshire Fire & Rescue Service. Copies of these documents are available on request.

7.3 This policy should be read in conjunction with those documents, and will take precedence in the event of any conflict.

8 Other enforcement partners

Some investigations will reveal offences that are solely or jointly enforced by other agencies. These can include other local authorities, the police, fire service, trading standards, Gambling Commission, HM Revenues & Customs, UK Border Agency, Health & Safety Executive or the Environment Agency.

8.1 Where two offences arise out of the same set of facts but are enforced by two agencies, we will agree on a case-by-case basis the most appropriate enforcement action as each agency may decide a different disposal is justified.

8.2 We will share information with our enforcement agencies where legislation permits, in accordance with agreed protocols and in accordance with the Data Protection Act 1988.

9 Customer standards and Complaints (inc ombudsman)

For details of our customer standards about how you can expect us to treat you, please visit <http://www.watford.gov.uk/ccm/content/strategic-services/customer-standards---putting-our-customers-first.en> or ask one of our officers for a copy

PART A

Report to: Licensing Committee
Date of meeting: 15th September 2016
Report of: Head of Community and Customer Services
Title: Update Report on Disability Access Improvements for Taxi and Private Hire Passengers

1.0 Summary

1.1 Watford Borough Council is responsible for licensing hackney carriages (taxis) and private hire vehicles and, as a public sector organisation, has, under the Equality Act 2010, a general duty to promote equalities. Similarly, providers of taxi and private hire vehicle services are under a specific duty to assist passengers with disabilities.

1.2 At Licensing Committee on 19th February 2016 it was determined that a total of 29 recommendations should be implemented to improve passenger access and to assist drivers in making a good provision for disabled travellers.

It was further determined that an update report should be presented to the committee in September 2016.

This is the update report.

1.3 Recommendations of the working party fell in to six distinct categories:
Income and fares
Vehicles
Ranks
Parking
Enforcement
Training

Improvements in each category were further divided in to those which could be implemented quickly and those which required further technical development. (See Appendix 1 – extract from committee report of 19 February 2016)

1.4 This update report seeks Members continued approval to progress the recommendations and asks Members to make any further recommendations or improvements as they see fit.

2.0 Recommendations

2.1 That the Licensing Committee note the current progress of the disability access improvement project

Contact Officer:

For further information on this report please contact: Jamie Mackenzie, (Business Compliance Officer), tel: 01923 278476 email: jamie.mackenzie@watford.gov.uk

Report approved by: Alan Gough, Head of Community and Customer Services

3.0 Detailed proposal

3.1 This report is a follow up to the report to committee on 19th February 2016 and gives detailed information on each of the 29 proposed actions.

3.2 The action plan formulated following the meeting of February (Appendix 2) gives time scales for the implementation of each recommendation. Members will see that all are on schedule and some have started ahead of schedule. A detailed breakdown of progress is given alongside each recommendation.

3.3 Where an action falls in to the category of immediate action, this does not mean immediate completion. Some actions are ongoing and the date for completion is given in the action plan.

3.4 All recommendations scheduled for completion by September 2016 have been implemented

3.5 Some actions requiring further technical development have been started. This is because the technical hurdles did not present as much of an issue as first thought. An example is the driver awards scheme which has not only been considered but was found to be viable and is now at an advanced stage of planning.

3.6 Some actions have resulted in new information concerning accessibility. For

example, the Equalities Impact Assessment Survey undertaken as part of the Tariff Review demonstrated that most respondents found the access at Watford Junction satisfactory or good (Appendix 3)

3.7 A copy of the information booklet available for passengers is attached as Appendix 4. Members will see that the whistle-blowing scheme is also mentioned in this booklet.

3.8 In general progress has been very good. Where delays have been encountered this has usually been when seeking the assistance of outside organisations, some of them large, undoubtedly with their own plans and projects to complete. So far these delays have not significantly hindered any aspect of the project and although they may lead to some re-assessment of timescales, officers remain confident that aims can be achieved.

4.0 Implications

4.1 Financial

4.1.1 There are no direct financial implications from this report. Any changes in policy/process/projects will be subject to a business case/financial implications assessment.

4.2 Legal Issues (Monitoring Officer)

4.2.1 Some of the recommendations require a change to the current Licensing Conditions.

4.3 Equalities

4.3.1 The purpose of this project is to improve the services for customers with disabilities in the context of our duties under the Equalities Act 2010. The report and appendix outline the consultation and analysis undertaken.

4.4 Potential Risks

Potential Risk	Likelihood	Impact	Overall score
No improvement in standards of service.	2	4	8
Lack of engagement and co-operation from other services/organisations	4	3	12

Reputational impact from limited improvements in levels of service	2	3	6
Failure to deliver against recommendations in agreed timescales	2	5	10

Appendices

Appendix 1 - Recommendations of Licensing Committee for improvement of services for taxi and private hire passengers

Appendix 2 - Improving Hackney Carriage and Private Hire services in Watford for disabled people.

Appendix 3 – Example of brochure text

Background Papers

None used

Recommendations of Licensing Committee for improvement of services for taxi and private hire passengers

	RECOMMENDATION	PROJECT LEAD	COMMENCEMENT DATE	PROPOSED COMPLETION DATE	PROGRESS UPDATE
IMMEDIATE ACTIONS	Include a business unit to emphasise better customer service leads to increased business	JM	01.03.2016	Completed	Business unit included in new driver training day commenced 15.12.2015. Pass rate of drivers at 85%
	At annual fare review explore fare structure - ensure not discriminating – Equalities impact Assessment to be undertaken.	JM and RB	01.06.16	Complete	<p>Initial EIA undertaken and shows need for survey in to travelling habits.</p> <p>Questions drafted for survey concerning impact of fare.</p> <p>Survey launched for four week consultation to close on 1st July The results of the Equalities Impact Survey shows the following:</p> <p>The survey shows that disabled passengers do not use taxis from ranks (hailed) very often.</p> <p>The survey has shown that the majority of journeys taken are between 1 and 3 miles where the tariff has already passed the initial short-distance increase. Therefore the impact is equal</p>

IMMEDIATE ACTIONS					<p>upon all travellers.</p> <p>The survey has high-lighted a general impression that the tariff is expensive. However, the impact of this is equal for all travellers.</p> <p>The detrimental impact on disabled travellers only is therefore likely to be very low.</p> <p>It is proposed that no change is made to the tariff for this year.</p> <p>Consultation closed and results integrated in decision on tariff for 2016-2017.</p> <p>No further representations on tariff.</p> <p>Decision is no change for this year.</p>
	The council to request Midland Trains carry out an Equalities Impact Assessment and to explore legal options if they fail to do so adequately	KB - pass to RB	01.03.2016	01.08.2016 Revised date 1.12.2016	<p>Kris Beuret has commenced this and is currently chasing. To pass over to WBC.</p> <p>Now have contact with new manager, Steve Helfet and have emailed to begin conversation on his return from holiday.</p>

					<p>Met with Steve Helfet who was very helpful in explaining what LM had done in terms of accessibility. There is an EIA in place for the station although this is general and not focused on taxi provision.</p> <p>Further discussion planned about general improvements in next two months.</p>
	Work with the NHS to ensure that plans for redevelopment reflect the needs of disabled users	JM	01.03.2016	01.04.2017	<p>Contacted planning, hospital and developers to arrange meeting to discuss. Project lead for Watford, Neil Farnsworth assisting. Have agreed new drop off and pick up at hospital to be discussed between the hospital and DW</p> <p>Leigh Hutchings to contact hospital to finalise. Leigh aware. Chased Leigh who was advised that should he get no response within ten days of 4th may to get back to me.</p> <p>Have chased Leigh who has still not heard from Tim Duggleby who made initial offer of drop off area. See next objective for further information.</p>

	Work with Watford General Hospital to check that companies providing licensed vehicles via courtesy line have sufficient accessible vehicles	JM	01.03.2016	Complete	<p>Contacted estates management, Wendy Docherty to discuss contract arrangements and provision.</p> <p>Alternative provision currently made by allowing other businesses to leave cards in the reception area.</p> <p>Have left multiple message for Wendy Docherty to call but again, no response as yet.</p> <p>Still no response but will visit in person.</p> <p>Email response received from Wendy Docherty stating that no changes are possible at this time. No further contact regarding freephone. Response sent highlighting importance of issue and copied in to a number of hospital staff. None have responded. Concerns have been raised and requested for further consideration when possible.</p>
	Conduct walkaround with BID Chief Executive to consider position of ranks in town centre	JM AS	01.04.2016	Completed	<p>Maria Manion ready to meet but BID formally begins 01.04.2016</p> <p>Conducted walkaround on 03.05.2016</p>

					Maria Manion to contact INTU to discuss possibility of taxi and private hire using the INTU car parks for pick up and drop off.
	To include hackney and PHV customer needs in current parking review. To determine new working protocols taking consideration of agreed locations known to be important for elderly and disabled passengers	AS	01.03.2016	01.03.2017	Included in parking review. Strategy signed off and involves a 5 year program.
	To continue dialogue with parking enforcement to allow for grace period of 10 minutes when dropping off or picking up especially at locations known to be important for elderly and disabled passengers	JM JB	01.04.2016	01.04.2017	Initial email sent to Parking Services Manager to discuss Follow up email sent and response received explaining that there could be no change to current enforcement but that CEO's were advised to act reasonably. To continue to discuss if issues arise.
	Planning and highways officers to attend quarterly	JM	01.07.2016	Completed	Next drop in session scheduled for July. Officers will be invited to attend.

	driver drop in sessions and to actively seek new parking and ranking opportunities in developments	JC, AS			July drop in cancelled due to consultation event. Next drop in scheduled for November.
	Engage with community leaders to help promote equalities especially in relation to discriminatory interpretation of religion	JM	01.03.2016	01.9.2016 Revised date 30.1.2017	Work with Kathryn Robson Preliminary enquiries made as to how this may work in practice.
	Carry out further mystery shopping survey	JM RB	01.09.2016	01.09.2017	Tender in 16/17 for 2017 delivery. Growth bid to be submitted. Meeting with Louise Jenkins of Guide Dogs UK who are introducing a test purchase scheme. Initial dates discussed for testing in Watford Initial date now set for 5 th October.
	Conduct regular programme of plying for hire/disability awareness testing using trained investigators to allow for formal	JM	01.03.2016	Completed	Operation scheduled for 24 th March 2016 Agree number of operations/annum. Next plying op scheduled for June 2016

	enforcement where necessary				Both operations successful in terms of detecting or proving no offence. Next op scheduled for 9 th September 2016 Ongoing Drivers invited to take part in operations
	Offer free training and advice to customer groups to help them to enforce their rights where the council cannot take legal action	JM	01.03.2016	31.03.2017	Disability Watford asked to provide list of centres, groups to approach to provide training to. ALO to support delivery of training. Also discussed with Guide Dogs UK who have expressed interest in this service.
	Review new driver training	JM	01.06.2016	01.12.2016	Review underway
	Refresh disability and equality awareness training for operators and make attendance a compulsory requirement prior to licence or re-licence	JM	01.08.2016	01.01.2017	Training written and ready to present. Awaiting confirmation of powers to make changes to licensing conditions. Legal advice being sought on contentious issues Conditions can be changed and approved by AG. Need to consult on any changes. Legal advice begin prepared by Jason McKenzie

					Specialist advice sought from Catherine Casserly of Cloisters Barristers, leading expert on Equalities Act 2010 Awaiting response
	Prepare guidance for customer including disabled people on best use of taxis and what to expect and what cannot be provided	JM	01.03.2016	01.07.2016 Revised date 01.10.2016 to coincide with introduction of use of Braille on drivers badges	Guidance drafted and complete. Sent to Comms for opinion and design on 18.04.2106 Example text attached to report.
ACTIONS REQUIRING TECHNICAL DEVELOPMENT	WBC to work with the trade and HCC to publicise and support contract applications	JM	01.05.2016	31.03.2017	HHC preparing to update framework imminently. Awaiting go ahead of dates to publicise to trade Have checked in with HCC and no change yet. Adrian Hardy advised by email Adrian Hardy now left and replaced by Trudie German. No change to procurement now planned

ACTIONS REQUIRING TECHNICAL DEVELOPME NT					until 2018 at earliest. Disappointing.
	WBC to work with HCC to simplify and make the contract process more applicant friendly	JM HH	01.09.2016	01.09.2017	Framework is a set process. However, may be possible to assist drivers in completing applications. Training and support proposal to be developed.
	Retain a mixed fleet but work towards a far higher proportion of purpose built HC and PHV with an aspirational target and clear timescale of 50% within three years. Conduct an audit of current wheelchair accessible vehicle provision. Update progress	AY	01.07.2016	01.07.2019	Consideration of some options informally discussed with AY
	Publicise the advantages of such vehicles and specialist features such as swivel seats, grab handles.	AY	01.07.2016	01.07.2019	No action to date
	Increase specification for saloon vehicles to include lower sill height, swivel seats and minimum rear	AY	01.07.2016	01.07.2019	No action to date

ACTIONS REQUIRING TECHNICAL DEVELOPME NT	space				
	Include Braille overlays to go inside the vehicle to provide plate details	JM/LH	01.04.2016	01.09.2016 Revised date 01.10.2016	Email sent to DW to ask for assistance in design of cards. Blank cards delivered to DW for them to test Braille machine. 22.04.2016 Successful test. Have ordered Braille tape machine to test further options Machine ordered and trials to begin Machine ready to use. Agreed to implement on 1 st October 2016
	Stipulate improved security systems to include CCTV at ranks and in vehicles. Work with trade to identify bulk purchasing options	JM/AY policy change	01.07.2016	01.07.2019	Identified local supplier (Watford based) who can provide CCTV in line with recommendations of the ICO To seek funding to complement driver CSE training and to see if this can go some way to part funding camera for those who attended training and support attempts to report suspicious activity Funding secured. Technical aspects of CCTV systems being explored. Will likely be implemented this financial year well ahead of initial estimate.

ACTIONS REQUIRING TECHNICAL DEVELOPME NT	Revisit the vehicle licensing conditions to consider introduction of better vehicle identification	AY	01.07.2016	01.07.2019	No action to date
	Investigate the cost and requirement for the use of talking meters by tariff review of June 2017	JM	01.06.2016	01.06.2017	Prices of single UK manufacturer obtained. To consult with trade at start of 2016 tariff review Funding allocated to trial three talking meters between 2016 and 2017
	Set up a whistle-blowing scheme distinct from formal complaint scheme	JM	01.04.2016	Completed	Website suitability confirmed. Draft form designed. Scheme live as of 3 rd August 2016.
	Revisit the formal complaints scheme to make it more user friendly	JM	01.04.2016	Completed	To undertake through website. Form live as of 3 rd August 2016.
	Use the whistle-blowing scheme to identify problems and introduce testing against those found to be discriminating	JM	01.04.2016	Completed	This is already in our general processes as part of standard enforcement.

	Explore introduction of 'Gold Driver' awards	JM	01.04.2016	Completed	<p>Emailed Chair of Hackney Carriage Association who is happy to work on such a scheme.</p> <p>Spoken to comms to plan scheme. Seeking sponsorship from trade bodies for prizes.</p> <p>WO to support as they do Best Bar None?</p> <p>Pubwatch have agreed sponsorship of passenger prizes. To seek support of private hire firms.</p> <p>Timescale of April 2017 to run scheme.</p>
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Improving Hackney Carriage and Private Hire Services in Watford for disabled people (and in so doing everyone else)

The Context

Throughout England as a whole licensed vehicle¹ numbers have risen by 9.3% with 12,400 additional drivers registered since 2013 and 58% of all hackneys carriages are wheelchair accessible – 100% in central London due to vehicle licensing conditions that have been in force for many years (the traditional ‘black cab’). This growth has been largely in private hire vehicles (PHV).

In Watford there has been a cap on the number of hackney carriage vehicles since 2012 leading to a drop in numbers to the current 301 hackneys and 126 PHV. Only 16-20% of the hackneys are wheelchair accessible and none of the PHV although this latter fact was challenged at the workshop. This is probably due to the confusion between hackneys and PHV exacerbated by the fact that most drivers in Watford are licensed for both types of vehicle.

34% of authorities require disability awareness training as a licensing requirement for hackneys and 29% for PHV drivers. In Watford disability awareness training covers both hackney and PHV drivers. All existing drivers have undertaken various training courses ranging from a full day course, NVQ study and more recently driver refresher training. Not all drivers have completed all three study courses but most have completed at least two. Refresher training is currently compulsory at every second badge renewal but the disability awareness element is only 25 minutes. Drivers of wheel chair vehicles are no longer required to take the DSA test and in any case although this is a good practical test of the mechanics of securing a wheelchair, it does not address most of the issues found in the mystery shopping study, particularly the customer service failings. All new drivers have a three hour session on disability awareness.

Stage 1: the Mystery Shopping Exercise

CTS Traffic and Transportation in partnership with Social Research Associates were appointed by Watford Borough Council (WBC) to undertake a licensed vehicle mystery shopper test purchase study. The Council were seeking research to aid in obtaining an overview of the general situation with respect to compliance with disability awareness training and legal requirements upon drivers with respect to their fair treatment of those travelling with disabilities.

The mystery shopping research was carried out during March and April 2015, with two tranches of 26 trips in total comprising a mix of disabilities including wheelchair users,

¹ For the sake of clarity, this report will refer to ‘licensed vehicles’ when meaning hackney carriage and private hire collectively, and to the specific type when referencing either specific type of vehicle. The term ‘taxi’ will be avoided as far as possible, although it has to be used in its colloquial form when communicating with the public, few of whom are aware of the detailed differences.

ambulant disabilities, deafness, blindness, learning difficulties and mental illness. The results showed a number of problems with only two out of 26 trips being completely satisfactory. On the other hand most drivers knew the routes and most charges were correct and there were also some very good examples of helpfulness in relation to customer care. The biggest problems related to travel by wheelchair users. There was an alarming record of poor or non-existent securing practice as well as reluctance by many drivers to carry wheelchair passengers. The same applied to people travelling with guide dogs. Communication skills are also lacking largely due to lack of appropriate knowledge, embarrassment or awkwardness rather than deliberate rudeness.

Stage 2 – Consultation

Following the distribution of the mystery shopping report, further consultation and research was carried out involving drivers and operators from the hackney and private hire trade, disabled licensed vehicle users and representatives of disability organisations, WBC Councillors and Officers. The workshops were facilitated by Kris Beuret OBE, Director of Social Research Associates and an independent expert on the use of licensed vehicles.

Timescale	Activity
October 2015	Workshop 1 – discussion of mystery shopping report and general background to problems for disabled licensed vehicle users
November 2015	Summary of Workshop 1, discussion followed by further research and consultation focusing on solutions
November 2015	Workshop 2 – discussion of suggestions for solutions
December 2015	Further research and consultation, draft report with recommendations circulated
February 2016	Workshop 3 – discussion of final draft report and recommendations
29 February 2016	Presentation to Councillors

Stage 3 – Report following consultation

1. Income and Fares

- Many drivers see disabled passengers as uneconomic due to factors such as additional loading time, less likely to tip and more likely to require short journeys. (In connection with the latter, in 2014 the fare structure was deliberately set to reduce instances of drivers refusing short journeys.)
- There is also the view that purpose build vehicles are more expensive to buy and maintain as well as fetching less on the second hand market.
- Local authority contract work which was a potential source of additional income was seen as hard to find out about and also difficult to win.

Suggested Solutions

- *There needed to be better awareness of the economic potential of good service to disabled passengers not just for individual trips but for groups, and local authority contract work.*

Recommendations

- 1.1 Include a business unit which would emphasise that better customer service leads to increased business
- 1.2 WBC to work with the trade to publicise and support contract applications
- 1.3 Work with Hertfordshire CC to simplify and make the contract process more applicant friendly
- 1.4 At the annual fare review in June, explore the fare structure – this is heavily front loaded compared to the average in other local authority areas - resulting in disadvantage to disabled people who are more likely to make short journeys.

2. Vehicles

- There were disagreements about vehicle livery and design.
- Even amongst disabled people there were different views about the characteristics of an accessible vehicle with some ambulant disabled passengers and some wheelchair users preferring to transfer to a saloon car.
- Another disagreement related to the identification of hackneys and PHVs especially for visually impaired people and those with learning difficulties who need very clear and unique colour and vehicle identification including on the grounds of personal safety.
- Another problem was the lack of talking meters and loops, especially in hackneys.
- In contrast drivers and to some extent Councillors felt that unique livery and vehicle stipulations would result in addition expense for drivers including lowering the resale price. The point was made that the main reason for the removal of livery was that by doing so drivers would be encouraged to regularly change their vehicles to ensure the fleet was maintained to a high standard. In areas where there is a livery it is often the case that cars are held on to for as long as possible.
- As regards identification of vehicles there was comment from the trade that there was a massive problem of illegal activity at night and at big events not just PHV picking up without pre-booking but also by completely unlicensed private drivers. Clearly disabled people and women were especially vulnerable to the associated risks. On the other hand previous WBC investigations had resulted in few infringements with most waiting vehicles proving a pre-booking to undercover police officers. This issue could be due to hackney drivers perceiving PHVs to be working without pre-booking when in fact they had been booked by customers prior to arrival albeit it very soon before via smart phones with customer locational identification.

Suggested Solutions

- *Do nothing – the current vehicle specifications were sufficient to identify HCs and PHVs.*
- *Introduce bespoke livery as in many other towns (e.g. Brighton)*
- *Make all hackneys wheelchair accessible*

- *Introduce requirements for enhanced features such as loops for those with hearing impairments and talking meters.*

Recommendations

- 2.1 Retain a mixed fleet but work towards a far larger proportion of purpose built hackney and private hire vehicles with an aspirational target and a clear timescale of at least 50% in the hackney fleet within three years. As part of this policy WBC should carry out an audit of current wheelchair accessible vehicle provision and update progress.
- 2.2 Publicise the advantages of such vehicles including swivel seats, grab handles, kneeling step as well as ramp features.
- 2.3 Up the specification for saloon hackneys and PHVs to include lower sill heights, swivel seats and minimum space in rear seats and boots.
- 2.4 Another cheap improvement which would support disabled users is braille overlays inside the car to go over the driver's plate.
- 2.5 For both hackneys and PHVs stipulate improved security systems both at ranks and to include CCTV in vehicles. Work with the trade to identify ways in which drivers may be able to bulk buy equipment and installation to significantly reduce costs.
- 2.6 Revisit the vehicle licence conditions to consider the introduction of more prominent licensed vehicle identification such as larger door signs or a specified colour (white or silver) and removable signs to enable resale on an economic basis. A larger number plate in a more prominent position would also aide recognition. The options should include technological solutions such as a Quick Response (QR) code system which would enable instant verification via mobile phones and App based checking.
- 2.7 Investigate the cost and requirement for the use of interface technology which plugs into the meter for introduction by the tariff review of June 2017.

3. Ranks

- There are a number of problems with the hackney ranks in Watford although not all of these are on the public highway and under the control of WBC or HCC. In particular at Watford Junction Station the layout results in difficulties for disabled people in gaining access to accessible vehicles at the main rank, often resulting in the need to cross the forecourt to a different location.
- Although not strictly a rank issue, dropping off locations are unsatisfactory especially for PHVs and for all licensed vehicles due to congestion in accessing the station area. In addition disabled people transferring from licensed vehicles to train or buses experience access difficulties and indeed the whole station layout needs to be reconsidered from the perspective of disabled users.
- At Watford General Hospital congestion makes picking up and dropping off licenced vehicle passengers at the reception difficult. Sometimes disabled passengers have to walk a long way from the reception area and often where parking is available, compromising the safe operation of ramps, swing seats, lower steps and general dangerous entry and exit of licensed vehicles.

- Another problem at the hospital is that the companies providing the courtesy phone at reception have very few accessible vehicles resulting in long waits for people who need them.
- Finally, although existing ranks may be in suitable general locations there are detailed problems of access from the wrong side for disabled passengers especially in terms of kerb heights and which side of the hackney or PHV dropping off point can be entered or exited.

Suggested Solutions

- *A redesign of the station in order to improve the problems of access and dropping off for licensed vehicle users but also users of other modes such as bus and walk.*
- *Unlike the station, plans are in hand to redevelop the hospital and the needs of licensed vehicle services are being taken into consideration in designs.*

Recommendations

- 3.1 WBC to request that Midland Trains carry out an Equalities Impact Assessment of the station including the forecourt and station interchange and to explore the legal options if they fail to do so adequately.
- 3.2 Work with the NHS and other stakeholders including licenced vehicle representatives to ensure that the plans for redevelopment at the hospital reflect the needs of disabled users.
- 3.3 Work with Watford General Hospital to check that companies providing licensed vehicles via the courtesy line have fleets with sufficient (estimated at 50%) accessible vehicles and to ensure that reception staff understand how to advise on alternatives when disabled people are waiting for longer than others.
- 3.4 Consider the positioning and location of other ranks in the town in the light of existing, recent and future developments. This should include a 'walk around' audit with planners, disabled people, licensed vehicle drivers and the Town Centre Manager. In addition, new developments should add hackney rank and PHV needs to the list of requirements.

4. Parking

- It is essential that local licensed vehicles can access popular destinations for both picking up and dropping off passengers. Whereas some passengers can walk short distances, disabled and frail passengers may experience considerable difficulties. This has been acknowledged by wider parking policy via the provision of disabled parking designations and the blue badge rules in general. However, local licensed vehicle drivers including at the workshops have given many examples of receiving tickets when picking up or dropping off disabled or frail elderly passengers.
- There is currently a full parking review taking place which includes rank provision.

Suggested Solutions

- *In recent years the Government have introduced a range of measures to address parking management and enforcement including limiting the use of CCTV 'spy cars' to*

enforce on-street parking and implementing a mandatory 10 minute 'grace period' at the end of paid for and free parking.

- *The Department for Transport have also launched a call for councils to trial a pilot scheme allowing a 25% discount on a fine for drivers losing a parking offence on appeal.*

Recommendation

- 4.1 WBC to include hackney and PHV customers' needs as part of the current parking review. This should include parking services and planning to engage on joint working with licensing to determine new working protocols taking consideration of agreed locations known to be important for elderly and disabled passengers.
- 4.2 WBC to continue dialogue between parking enforcement and hackney and PHV parking requirements for picking up and dropping off. In particular there should be agreement to build in the new 10 minute 'grace period' especially at agreed locations known to be important for elderly and disabled passengers.
- 4.3 Planning and highways officers to attend quarterly driver drop in sessions and to actively seek new parking and rank opportunities in new developments

5. Enforcement and discrimination

- It was accepted (including by drivers) that there was discrimination by some drivers. Explanations included the need for longer loading times, avoidance of dogs, social embarrassment, perceiving disabled passengers as less likely to tip, religious beliefs (examples from both Christian and Muslim) and on the part of just a few drivers outright dislike of disabled people.
- Another way in which discrimination occurred was because when disabled people phoned and requested a wheel chair accessible vehicle, they were identified as disabled and thus open to discrimination. There were examples of where this was happening although it was difficult to prove given that only a quarter of HCs and no PHVs were wheel chair accessible.

Suggested Solutions

- *The suggestion that there should be an extra charge for loading or starting the meter early was ruled illegal.*
- *Another idea was to set up a whistleblowing system for reporting discrimination which could then feed into a formal test exercise and action against drivers found to be not fit for purpose.*

Recommendations

- 5.1 Set up a whistleblowing scheme for both drivers and disabled people – this would be distinct from the formal complaints system which people are reluctant to use.
- 5.2 Revisit the formal complaints system to understand how to make it more user-friendly and provide feedback even when complaints are not formally progressed.

- 5.3 Use the information from the whistleblowing scheme to identify problems and patterns and use the analysis to introduce incognito testing exercises and action against those found to be discrimination.
- 5.4 Engage with community leaders to help promote equalities especially in relation to discriminatory interpretation of religion.
- 5.5 Carry out another mystery shopping survey following actions taken as a result of this consultation.
- 5.6 Conduct a program of regular plying for hire/disability awareness testing using trained investigators to allow for formal enforcement where appropriate.
- 5.7 Offer free training and advice to customer groups to help them to enforce their rights where the council cannot take legal action on their behalf.

6. Training

- The current training regime in Watford does not address many of the issues discussed at the workshops and needs to be more strategic and focused on both passenger and driver needs.

Suggested Solutions

- *Work with the licensed vehicle trade and disabled experts to introduce training for passengers and publicise in the form of a hard copy booklet and web based booklet plus dissemination via disabled organisations.*
- *Introduce a more relevant training system including refresher sessions.*

Recommendations

- 6.1 Review the current New Driver Training Day and Professional Driver Update course and amend as necessary. Explore the opportunity of certificating both courses to support a new CPC style qualification for drivers nationally. This to include staged progress with some face-to-face learning and also available electronically to enable drivers to study at ranks or in their spare time. A similar scheme has been piloted and Government are being asked to adopt such a qualification.
- 6.2 Explore introduction of annual 'Gold Driver' awards nominated by passengers.
- 6.3 Refresh disability and equality awareness training for operators and make attendance a compulsory requirement prior to licence or re-licence.
- 6.4 Prepare guidance for customers including disabled people about how to make best use of taxis including what to expect and what cannot be provided.

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This leaflet is to help you and explains what kind of service and assistance you can expect when travelling by taxi or minicab in Watford.

Type of vehicle you may hire

Each local council in England and Wales sets the standards for what type of vehicles can become licensed taxis or minicabs.

In Watford there is no requirement for all taxis to be of one design, such as a London style taxi. This is because some passengers find it easier to use a saloon car and a large vehicle can be difficult for them to access. In order to offer as much choice as possible, Watford currently allows a mixed fleet for taxi licensing.

However, under the Equality Act 2010, all drivers must make reasonable adjustments to the service they provide. This means they must have a helpful approach to offering their services and to make sure they do not put disabled people at a disadvantage or treat them differently to any other passenger.

For taxis and minicabs, reasonable adjustments may include:

- The driver guiding or helping you into the vehicle. This should include assisting you from your pick up point rather than the driver waiting in the vehicle or tooting a horn
- The driver approaching you at a rank to ask if you need assistance. This would not be classed as touting.
- The driver helping you to get out of the vehicle at your destination and giving guidance for where to go next. If you request further assistance in to a building or to the door of a building the driver should offer this.
- the taxi or minicab firm having a WBC recognised standard of Disability Awareness Training for drivers
- Not making any charge for loading or unloading a wheelchair – the meter should start when the journey starts
- Charging a lower rate for a larger vehicle if a passenger is unable to use a smaller car (for example, a wheelchair user)
- Charging a saloon car rate for a larger vehicle if a passenger has no choice in vehicle size (for example, where a person must travel seated in their wheelchair).

Assistance Dogs

Drivers of licensed taxis and minicabs must allow you to travel with any registered assistance dog free of charge. It is a criminal offence to refuse to carry an assistance dog and a driver can be prosecuted for refusing or for

charging extra to carry the dog. It is important that the dog can be identified as an assistance dog, so owners of assistance dogs should carry the dog's identification papers). In cases where a person is refused a journey it is the council who prosecutes the driver for a criminal offence.

A driver may be able to get an exemption certificate for carrying assistance dogs. Certificates are only issued on medical grounds and if a driver has an exemption certificate, it must be displayed in the vehicle. Drivers with exemption certificates do not have to carry assistance dogs.

Complaining about poor service from taxis and minicabs

We understand that making a complaint is not always easy to do. Some passengers feel that they may be prevented from travelling again if they complain about a driver or company.

However, it is important that any poor standards are reported so that we can improve service to all passengers.

You should make your complaint to Watford Borough Council licensing department who deal with taxi and minicab licensing within Watford. If you are unsure about where the vehicle was licensed, you can still call Watford and we will help you to identify the vehicle where possible.

Help for making a complaint

When you make a complaint about a taxi or minicab, you will need some of the following facts to trace the driver:

- The vehicle's registration number. This will be on the back and front of the car on the number plate.
- The taxi or minicab licence number which is on a small, rectangular shaped plate on the back of the car.
- The taxi drivers badge number – which you can get from their badge, by asking the driver or from the minicab firm.
- Take note of the details of the journey including the date, time, place/location of where the driver picked you up and dropped you off.

It is a condition of a driver's licence that they must offer passenger's a receipt after every journey. The receipt must contain the following details: Date; Fare they charged you; Driver's badge number

You should not have to ask for a receipt. If you do, you should report this to the licensing department. A driver's badge number is a four digit number and

should match with the number on his identification badge. If possible make sure the driver is giving the correct details.

From 1st October 2016 all badges will be printed to include a Braille overlay with the driver's number.

What can the council do?

The council is responsible for ensuring that businesses comply with the law. Where a business does not comply the council can take action by prosecuting offenders for criminal offences.

The council also has a general duty to ensure that businesses are treating people equally in line with the Equalities Act 2010. Most offences in the Equalities Act 2010 are not criminal offences. The one exception to this is the law concerning the carrying of assistance dogs.

Where the council can take action, we will. Where we are unable to take direct action, i.e. in civil matters, we will assist you to find support to take your case further if you want to do this.

Whistle-blowing Scheme

Because we understand that making a formal complaint can sometimes be a stressful experience, where customers would rather not do this, we have introduced a separate whistle-blowing scheme.

Making a complaint through the whistle-blowing scheme can be completely anonymous. Complaints received in this way will still be investigated as far as possible.

It may be that independent evidence is available that allows us to take action even when you do not provide a formal complaint. Even if we cannot take formal action, your reports help us to build a picture of the character and behaviour of drivers. This is essential when making future decisions about suitability for a licence.

To use the whistle-blowing scheme, go to www.watford.gov.uk and look for Taxi Licensing

Checklist

Use this checklist to make sure you are being treated fairly

No extended wait or purpose built vehicle sent unless you have requested this – do not put up with being told that a driver must be found to carry your assistance dog. All vehicles can do this.

No extra charge for a specialist vehicle – all customers should pay the same rate for the same vehicle.

Meter starts when the journey starts, not when you are being assisted in to the vehicle.

Driver has made sure you are safe and secure – this is his legal responsibility

Meter is starting from the correct rate – ask to see the tariff chart to make sure a higher rate is not being used

No soiling charge for an assistance dog that sheds some fur

When booking a minicab, ask for a quote from the company and do not agree a fare that is higher than the tariff would allow – this is especially important for wheelchair users who have to travel in a purpose built vehicle

Make sure you know which type of vehicle you are booking, hackney carriage or private hire vehicle (minicab).