



Derby City Council

**TAXI LICENSING AND APPEALS  
COMMITTEE  
6 December 2012**

# ITEM 8

Report of the Strategic Director of  
Neighbourhoods

## Enforcement of Licensed Vehicle Standards

### SUMMARY

- 1.1 At its last meeting on 4 October 2012, some members of the Committee questioned the current testing standards for licensed hackney carriages and private hire vehicles, the quality of testing, and the approach to enforcement. The Committee requested a report from officers at its next meeting on the enforcement of vehicle standards.
- 1.2 This report sets out the legal requirements in relation to enforcement of vehicle standards, together with the current policies and procedures approved by the Committee.

### RECOMMENDATION

- 2.1 To note the report, and
- 2.2 To request officers to bring further reports to this Committee on the National Inspection Standards and the updated Taxi Licensing Enforcement protocol.

### REASONS FOR RECOMMENDATION

- 3.1 A review of the Council's enforcement of vehicle standards shows that Derby is no more prescriptive than our benchmarking partners and the processes, policies and procedures we have in place help us to fulfil our duty in protecting the public.
- 3.2 Officers believe that a number of the existing processes, policies and procedures we have in place need to be reviewed and updated.

## SUPPORTING INFORMATION

4.1 At its last meeting, some members of the Committee raised concerns about the enforcement of vehicle standards for hackney carriages and private hire vehicles. In particular, these related to:

- i. Vehicle testing standards are too high
- ii. Testing stations being inconsistent in their testing
- iii. Supplementary testing manual (STM) is too onerous and unnecessary
- iv. Over-zealous enforcement by officers
- v. Vehicles being suspended for minor items
- vi. Vehicles being suspended but no defect found by the testing station

This report aims to set out the legal requirements relating to vehicle standards, together with the Council's policies and procedures relating to this area of enforcement. It will also identify the areas currently under review by licensing officers.

### 4.2 Legal Provisions

The purpose of hackney carriage and private hire vehicle (and driver) licensing is to protect the public who hire these vehicles. To this end, Licensing Authorities are given wide-ranging powers to ensure vehicle safety and comfort both before licensing a vehicle and during the licence period. Most of these powers are set out in the Local Government (Miscellaneous Provisions) Act 1976 (the Act).

- 4.3 In relation to the suitability of a vehicle (in terms of its design, size, etc.), licensing authorities can prescribe a vehicle specification and set licence conditions for both hackney carriages and private hire vehicles. In Derby, the Council has specifications for both types of vehicle, and all new vehicles are checked against these before any other examination takes place. The Council also has licence conditions for each of its licence types.
- 4.4 For routine examination of vehicles, the Act allows licensing authorities to require a vehicle to be presented for examination, at a time and place specified by the licensing authority, up to three times a year. This power is over and above the powers relating to 'spot checks' in Section 68 of the Act. In Derby, routine vehicle examinations are carried out annually when the vehicle is due for its licence renewal. However, many licensing authorities do use this power to require up to three examinations, often based around the age of the vehicle (i.e. older vehicles have more examinations).
- 4.5 These provisions also allow for inspection and testing of vehicles at the place where vehicles are normally kept when not in use, and the proprietor of the vehicle can be required to afford facilities for such inspection. However, this provision is not normally used in Derby.

- 4.6 In addition to this routine examination provision, the Act also confers a power on an authorised officer of the licensing authority (or a police officer) at all reasonable times to inspect and test, for the purpose of ascertaining their fitness, any licensed hackney carriage or private hire vehicle or its taximeter. If they are not satisfied as to the vehicle's fitness or the accuracy of a taximeter, the officer may require it to be presented for inspection (a 'spot check') at a specified place and, if considered necessary, suspend the vehicle's licence. This power is designed to enable authorities to test a vehicle's (or taximeter's) fitness between routine examinations, or respond to a complaint or other indicator of unfitness at any time. It is the use of this power that tends to cause most complaint from taxi drivers and proprietors because of the loss of work during suspension of the licence; its use is discussed further in paragraph 4.15.

#### 4.7 **Testing Stations**

The Council appoints 'approved testing stations' to carry out all vehicle examinations on its behalf; this includes both routine examinations and 'spot checks'. The Council's Enforcement Officers play no part in the examination of vehicles at testing stations. At present, the Council has seven approved testing stations, appointed by this committee, after a tendering exercise. It is the vehicle proprietor or driver who decides which testing station to use for routine examinations. For spot checks, the testing station used is allocated from a strict rota – a process introduced by this committee.

- 4.8 Using multiple testing stations, each with a number of vehicle examiners, creates the potential for variations in standards across the testing regime; the greater the number of testing stations, the more likely these variations are. In order to minimise this, the Licensing Enforcement Officers have two key roles at testing stations:
- i. The training of vehicle examiners. This is primarily in relation to the Council's recording and reporting processes and in the standards set out in the Supplementary Testing Manual (STM). The training is given to each examiner when a new testing station is appointed.
  - ii. The auditing of testing standards. This includes both the MOT test element and the STM and is applied to every examiner at every testing station. The aim is to ensure uniformity of approach and maintenance of high standards.

In undertaking this training and auditing, the officers do not intervene in the examination of any vehicle or overturn any decision made by an examiner. This is to ensure the independence of the testing station.

- 4.9 Where complaints are received about the standard of testing at a particular testing station, these will be investigated by the Licensing Enforcement Officers. Whilst efforts will be made to address any problems or training needs found, repeated problems may be reported to this committee with a view to the termination of a testing contract in extreme cases. Where a vehicle proprietor disagrees with the decision of a vehicle examiner at a testing station, they may use the appeals procedure set out in the Enforcement Protocol (see paragraph 4.13).

#### **4.10 Vehicle Examination Standards**

This routine vehicle examination (the 'full test') is based on standards defined by the licensing authority. In the case of most unitary authorities (including Derby), it incorporates an MOT test plus a range of supplementary items (see paragraph 4.11). The 'spot check' examination is a reduced test that covers only:

- i. The defect(s) listed on the suspension notice
- ii. The five key safety features (brakes, lights, steering, suspension and tyres)
- iii. Any other obvious defect noted by the examiner

#### **4.11 The Supplementary Testing Manual**

The table in Appendix 2 shows benchmarking results with other (similar) authorities in terms of the use of a STM; all have an STM incorporating very similar features. These additional testing requirements are common for hackney carriages and private hire vehicles because the MOT test is a minimum standard for vehicles in private use; vehicles used for hire to the public require assessment of additional factors affecting the safety or comfort of the public. This is recognised by the government and the Department for Transport have released recommended National Inspection Standards for Taxis. Licensing Officers are currently reviewing this document against Derby's STM with a view to reporting back to Committee in the New Year.

- 4.12 Derby's STM was last fully reviewed in approximately 2005. The review was undertaken by a group including representatives from the hackney carriage and private hire trades. The agreed, revised document was then circulated for consultation with the taxi trade before being approved by this Committee. Since 2005, Licensing Officers have continued to benchmark Derby's STM with those of partner authorities to ensure a consistent approach. However, officers recognise that the STM requires updating and this will be incorporated into the review against the National Inspection Standards.

#### **4.13 Enforcement**

The way in which officers conduct taxi enforcement activities is set out in the Council's Taxi Licensing Enforcement Protocol. This was originally drafted in 2004 and, following consultation with the taxi trade, was approved by this Committee in 2005. Officers have acted in accordance with the Protocol since that date. A copy of the Protocol is attached in Appendix 3.

- 4.14 The Protocol is an important document as it sets out the Council's approach to enforcement. Whilst it cannot cover every possible situation, it does cover a wide range of enforcement issues, including enforcement of vehicle standards. The particular area of contention is, and always has been, the suspension of a vehicle licence when the officer has reason to suspect that the vehicle may not be fit. Whilst the officer has some discretion in these circumstances, they will always have public safety as their principal concern. The Protocol attempts to define 'serious' defects in order to provide clarity for everyone involved but such judgements will always divide opinion. However, there is scope for reviewing and defining more clearly what constitutes a serious defect, and also setting out how authorised officers will conduct roadside inspections of vehicles. These items will also be incorporated into a review of the Licensing Enforcement Protocol in the New Year.
- 4.15 Suggestions that vehicle licences are suspended for minor defects are not supported by the evidence. Appendix 4 includes details of every licensed vehicle suspended over the last 6 months, together with the reasons for their suspension. It should be noted that out of a fleet of around 1160 licensed vehicles, 218 were subject to roadside inspection over this period. Out of these, 63 (less than 6 % of the entire fleet) were found to be unfit and had their licenses suspended. Of these 63, 17 were inspected as part of a joint exercise with the Police and/or VOSA and were subject to prohibitions by those organisations.
- 4.16 In the past (circa 10 years ago) vehicles referred for a spot check (by service of a notice) were required to attend the testing station immediately (where possible). This meant that the driver or proprietor was not given the chance to undertake any work to the vehicle prior to the examination. Since the vehicle inevitably failed the examination, the proprietor was required to pay a re-test fee. This resulted in complaints from the trade and this Committee agreed to change the procedure to allow the date, time and testing station to be nominated by the proprietor. Most vehicles attending for a spot check from that point have already received some form of repair. If a proprietor claims that no such repair has taken place and challenges the officer's original decision to suspend the licence, there is no way of verifying whether this is true. Such claims are rare, but in any event, it should be noted that if such a claim were made, there is no liability on the Council as the officer acted correctly in exercising their powers based on their judgement at the time.
- 4.17 Vehicle enforcement statistics have been regularly reported to this Committee since 2006 and Members have frequently voiced their concerns about poor vehicle standards. In 2010, this Committee requested that officers put in place regular joint enforcement exercises in an effort to address poor standards. Members have also introduced a policy of interviewing vehicle proprietors at Licensing Sub-Committee if their vehicles have had their licences suspended twice in any rolling 12 month period. In spite of this, recent enforcement exercises suggest that there has been no significant improvement in vehicle maintenance standards since 2006.
- 4.18 All enforcement activities (regardless of the enforcing agency) have, by their very nature, the capacity for causing disagreement between the enforcers and those subject to that enforcement. In relation to Licensing activities, the Council receives few complaints from members of the trade but where these are received they are fully investigated.

4.19 In summary, a review of the Council's vehicle standards enforcement has shown that:

- Derby is no more prescriptive or zealous than our benchmarking partners (in some cases significantly less so). The STM is not unnecessary, it is an important part of our toolkit for protecting the public; however, we need to review possible alternatives that may help to deliver a more consistent approach nationally.
- All of the current policies and procedures in use have been approved by this Committee, often following consultation
- Current enforcement actions are in accordance with the Enforcement Protocol; a revised version of this will be presented to Committee in the New Year
- Any changes to enforcement policy or vehicle standards will require consultation with stakeholders, including the general public

#### OTHER OPTIONS CONSIDERED

5.1 None.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Olu Idowu N/A N/A John Tomlinson
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<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Michael Kay 01332 641940 michael.kay@derby.gov.uk None Appendix 1 – Implications Appendix 2 – STM Benchmarking Results Appendix 3 – Taxi Licensing Enforcement Protocol Appendix 4 – Breakdown of Suspended Vehicles
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<b>IMPLICATIONS</b>
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**Financial and Value for Money**

1.1 None directly arising.

**Legal**

2.1 As set out in the report.

**Personnel**

3.1 None directly arising.

**Equalities Impact**

4.1 None directly arising.

**Health and Safety**

5.1 As set out in the report.

**Environmental Sustainability**

6.1 None directly arising.

**Asset Management**

7.1 None directly arising.

**Risk Management**

8.1 As set out in the report.

**Corporate objectives and priorities for change**

9.1 The information set out in this report supports the corporate priorities so the people of Derby **enjoy being safe and feeling safe** and the Council provides **good quality services that meet local needs**.

## Supplementary Testing Manual Benchmarking Results

Local Authority	Population	STM in place
Nottingham	306,700	Y
Coventry	312,800	Y
Oldham	224,900	Y
Southampton	239,700	Y
St Helens	175,300	Y
Barnsley	231,200	Y
Luton	203,200	Y **
Portsmouth	205,100	Y
Hull	263,900	Y
Bolton	276,800	Y
Leicester	329,900	Y
York	198,000	Y
Stockton on Tees	191,600	Y
Stoke on Trent	234,900	Y
Leeds	443,247	Y
Derby	248,700	Y

\*\* National Inspection Standards



## TAXI LICENSING ENFORCEMENT PROTOCOL

### 1. Introduction

- 1.1 The City Council's principal aim is to protect the public, and in particular those people who use hackney carriages and private hire vehicles. We will also seek to protect members of the taxi trade and others (e.g. other road users) as part of our work.
- 1.2 The purpose of this protocol is to provide guidance for both licence-holders and Council officers on how taxi licensing legislation and the Council's licence conditions will be applied within the Derby City Council area.
- 1.3 The City Council has a statutory duty to enforce the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 relating to the licensing of hackney carriage/private hire vehicles, drivers and operators. The Council also enforces licence conditions made under this legislation, and local Hackney Carriage Byelaws.

### 2. Enforcement Principles

- 2.1 This protocol should be read in conjunction with the Environmental Health and Trading Standards Division's Enforcement Policy, which sets out the Division's overall approach to enforcement issues. This is based on the principles set out in the Enforcement Concordat (agreed by the Government and local authorities); these are:
  - 2.1.1 **Proportionality** - any enforcement action the Council takes will be directly proportional to the risks to public safety and health identified or to the seriousness of any legal infringement
  - 2.1.2 **Consistency** - the Council will aim to ensure that enforcement decisions are always consistent and fair. They will relate where possible to accepted standards that will adequately protect members of the public using hackney carriages or private hire vehicles. We will promote a consistent approach by liaison and benchmarking with other licensing authorities and consulting licence-holders and other stakeholders on general policy issues.
  - 2.1.3 **Transparency** - Licence-holders (and new applicants for licenses) will be informed what the Council is expecting from them. Clear guidance on licensing requirements and copies of licence conditions will be provided to all applicants. Officers will adhere to the actions and procedures contained within this protocol
  - 2.1.4 **Targeting** - the Council will routinely check licensed vehicles, licensed drivers and Operator's premises/records to ensure that legal requirements and licence conditions are being met. Those drivers, vehicle proprietors and operators who regularly fail to meet the required standards and who therefore present a greater risk to public safety, will be checked more frequently than those who have a good record of compliance.
- 2.2 In carrying out its enforcement duties, the Council will adhere to the

requirements of the Police and Criminal Evidence Act Codes of Practice and the Regulation of Investigatory Powers Act 2000.

- 2.3 Some enforcement situations will require immediate action by the Enforcement Officers, such as the service of a legal notice to suspend a vehicle licence. Such notices will normally be served on the vehicle proprietor at the time of inspection. Every effort will be made to do this during normal office hours and at the proprietor's normal place of work. If this is not possible, the notice would be delivered to their home address. It is anticipated that such visits to licence-holders home addresses will only occur in exceptional circumstances, where other attempts at service have proved unsuccessful. Enforcement Officers may also need to contact drivers/proprietors at very short notice in respect of other enforcement issues. This may also require a visit to their taxi/private hire base or, in exceptional circumstances, to their home address.
- 2.4 Because of the 24-hour nature of taxi trade operations, enforcement activity may take place at any time of the day or night. It may involve routine checks by Council officers, surveillance operations (which may be covert) or exercises carried out in partnership with other enforcement agencies.
- 2.5 In carrying out their enforcement duties, officers will not victimise particular members of the trade. Officers will act as fairly and as courteously as possible.
- 2.6 The Council's Licensing Section will continue to consult with Hackney Carriage and Private Hire trade representatives on major policy issues including enforcement policy.

### **3. Enforcement Options**

- 3.1 In carrying out their enforcement duties, officers will use one or more of the following options:
  - 3.1.1 **Help and Advice** - Officers will seek to help members of the trade and the public by giving information, support and advice either in person or in writing. Officers in the Licensing Section have considerable experience and expertise and can give valuable advice on good practice and legal requirements.
  - 3.1.2 **Informal Action** - this will normally relate to minor infringements or vehicle defects where the officers are satisfied that an oral or written warning/request for action will be acted upon by the licence-holder. Such action would not be appropriate where the problem is more serious or where the licence-holder has a poor record of compliance.
  - 3.1.3 **Report to the Council's Licensing Committee** - this is likely to be used where there have been repeated breaches of licence conditions, or convictions, or inappropriate behaviour towards the public or Council officers. The Licensing Committee has the options of taking no further action, issuing a warning and suspending or revoking drivers' or operators' licenses.
  - 3.1.4 **Formal Caution** - this can be used where an offence has been committed but a prosecution would not serve the public interest. A caution will ensure a formal record of legal contraventions is made and can still be referred to court if similar

offences are committed in the future. The advice of Home Office Circular 59/1990 on formal cautions will be used and each case looked at on its merits.

- 3.1.5 **Prosecution** - this sanction will generally only be taken against persons who put public safety at risk by disregarding the law and/or licence conditions to a significant extent.

#### **4. The Role of Enforcement Officers in Vehicle Testing**

The scope of officers' enforcement duties in relation to the testing of licensed vehicles is detailed in Appendix C.

#### **5. Complaints Procedures**

- 5.1 All complaints received about licence-holders (or illegal/unlicensed activities) will be investigated in accordance with the Complaint Investigation Procedure set out in Appendix B.
- 5.2 Where a licence-holder or member of the public wishes to complain that a council licensing officer has acted outside the scope of this Policy they should, in the first instance, contact the Licensing Team Leader 01332 716268 or contact the Head of Environmental Health and Licensing on 01332 715214 or write to:

Environment and Regulatory Services  
Celtic House, Heritage Gate  
Friary Street  
Derby  
DE1 1QX

The Council also has a formal complaints procedure. Complaint forms are available from Pauline Campbell – Albion Street, Derby.

#### **6. Examples of Likely Enforcement Action**

- 6.1 In addition to the general enforcement principles set out in section 2, more detailed examples of likely enforcement actions are set out in Appendix A. The examples given do not cover all possible infringements or circumstances and deal only with the most commonly encountered problems.
- 6.2 The examples are intended to provide guidance rather than create rigid rules. On occasions the course of action taken by the Council's officers may vary from that suggested in the examples because of the particular circumstances. Each case must be determined on its merits.

### 1. Drivers' Licences

#### 1.1 Overcharging

Any complaint of overcharging will be investigated by Enforcement Officers in accordance with the Complaint Investigation Procedure (see Appendix B). Any action taken against the driver will depend upon the findings of the investigation. Evidence of deliberate overcharging may result in prosecution and/or referral to the licensing sub-committee with a view to the revocation of the licence.

#### 1.2 Plying for Hire (Private Hire Vehicle Drivers only)

Where there is evidence (usually from an enforcement exercise) that a Private Hire Vehicle driver has illegally 'plied for hire' (i.e. picked up and conveyed a passenger without a prior booking), the drivers will be reported for prosecution.

#### 1.3 Parking in a 'Prominent Position' (Private Hire Vehicle drivers only)

Case Law (previous legal cases) suggest that private hire vehicles parked in a 'prominent position' can be assumed to be plying for hire. Enforcement Officers who find this taking place will normally request the driver to move on, unless he can demonstrate that he/she is waiting for a specific customer who has pre-booked. If a driver is repeatedly found to be parked in a prominent position (more than twice) he will be reported for prosecution.

#### 1.4 Importuning for Hire (Hackney Carriage drivers only)

This offence involves a driver 'soliciting' for a fare. Any complaint about this will be investigated in accordance with the Complaints Investigation Procedure (Appendix B). If there is evidence of an offence, a driver would normally receive a written warning in the first instance. Subsequent offences involving the same driver would be reported for prosecution.

#### 1.5 Obstruction/Failing to Comply with a Reasonable Request by an Authorised Officer

Both offences, which can cover a wide range of circumstances, generally relate to deliberate attempts to prevent authorised officers from carrying out their duties. Depending upon the nature of the incident, action taken would range from a written warning to referral to the Licensing Sub-Committee and/or prosecution.

#### 1.6 Abusive/Aggressive/Violent behaviour

All incidents, whether to staff or members of the public, will be fully investigated. The City Council will not tolerate violent or aggressive behaviour towards members of the public or its employees. Whilst minor

incidents may result in a warning, more serious or repeated incidents will result in referral to the Licensing Sub-Committee with a view to the revocation of a driver's licence. All cases of violence towards Council officers will be reported to the Police.

1.7 Overcrowding a Hackney Carriage Stand, over-ranking  
Hackney Carriage drivers only.

This offence occurs when a hackney carriage joins on to the end of a stand/rank which is already full, thereby obstructing other parts of the highway. As an offence is likely to have been committed, Enforcement Officers will caution drivers prior to questioning them and request them to 'move on' if they 'over-rank'. They will also issue a written warning in the first instance. A second offence within a 12-month period may result in prosecution proceedings being initiated against the driver.

1.8 Failure to Wear a Badge

The licence 'badge' issued by the Council must be worn in a prominent position at all times whilst the driver is at work  
In particular:

- a) A licensed driver found working and not wearing a badge will be cautioned, see 1.7 above and asked to stop working until he has found it and is wearing it. He may be asked to show this badge to officers before he resumes work.
- b) If a licensed driver who is found working without his badge claims to have lost it, he will be asked not to work until he has obtained a new one.

In both cases the driver will be cautioned, see 1.7 above for the offence and a written warning issued. A second or subsequent incident(s) would normally be reported for prosecution.

- c) If a driver is wearing his badge, but not in a 'prominent position', he will be asked to re-position it. If the driver commits a second offence he would receive a written warning; further offences within a 12-month period would result in prosecution or referral to the Licensing Sub-Committee.

- d) Damaged/defaced badges

Where a badge appears to have been damaged, defaced or tampered with, the driver's details will be taken and the matter referred for further investigation. The driver will be required to obtain a new badge. Deliberate tampering with a badge may result in referral to the Licensing Sub-Committee.

1.9 Driving without a Licence

All incidents/complaints about unlicensed drivers of hackney carriages or

private hire vehicles will be fully investigated. Where evidence of an offence is obtained, prosecution proceedings will be initiated against the driver.

#### 1.10 Using a Mobile Phone whilst driving

Complaints by passengers of licensed drivers using a mobile phone whilst driving will be investigated by Enforcement Officers and, subject to the evidence provided, the matter will be referred to the Licensing Sub-committee for consideration.

## 2. Vehicle Licences

2.1 Legislation and Council Licence Conditions/Specifications require both hackney carriages and private hire vehicles to be 'fit for the purpose' in terms of design, construction, size, appearance etc and to be safe, clean and comfortable for passenger and driver use.

2.2 In addition to the annual licensing inspection, all hackney carriages and private hire vehicles may also be subject to routine checks by Enforcement Officers, to ensure that vehicles are being maintained to the required standard. In addition to this, other enforcement agencies such as the Police, Ministry of Transport and the DVLA may also carry out checks on licensed vehicles. The Council's licensing officers will usually be asked to participate in these exercises.

2.3 Where Enforcement Officers have reason to suspect that the condition of a vehicle has, or may have, fallen below the standard expected by the Council, they must take action to secure the required improvements. The nature and severity of any defects found will dictate the action taken and the officers will use their discretion having regard to balancing the need to protect the public the Council's principal aim and the impact upon the driver's/proprietor's business.

#### 2.4 Vehicle Defects

These will usually fall into one of three categories

##### a) Serious defects

These are defects that:

- Impact upon the safety of the vehicle for the passenger, driver or other road users
- May cause imminent failure of a system or component
- Render the vehicle in breach of road traffic legislation<sup>1</sup>

##### b) Non-serious defects

These are defects that cause the vehicle to fall below the Council's Standard, but are not sufficiently serious to warrant suspension of the vehicle licence. They may include minor mechanical defects or 'cosmetic' items.

c) Advisory Defects

These are relatively minor items that present no immediate or short-term risk to the safety or comfort of the vehicle. Some advisory defects will be indications of future or potential problems. Identifying these will enable a proprietor to address the item before it becomes a more serious problem.

When considering whether a mechanical defect is 'serious' the tests should have regard to the potential public safety consequences of total failure of that particular component and the likelihood of such a failure.

## 2.5 Enforcement Options

Where an Enforcement Officer has reason to suspect that a vehicle has, or may have) defects he will usually take the following action:

- a) Where there are serious defects a legal notice will be served (under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976, which:

- Suspends the vehicle licence
- Requires the vehicle to be submitted for a 'spot check' key safety features check at one of the Council's specified testing stations.

When this notice is served the vehicle cannot be used for public/private hire until it has been deemed 'fit' i.e. there are no serious defects, by a testing station.

Where examiners find only non-serious defects the suspension will be lifted, but the vehicle will be required to attend for a re-test within 7 days, to ensure that all defects are rectified.

Note: Whilst the cost of the initial spot check will be met by the Licensing Section, any re-test costs have to be met by the proprietor.

- b) Where only non-serious defects are noted by Enforcement Officers, a notice will be served that does **not** suspend the licence, but still requires the vehicle to attend a testing station for a spot check.

Alternatively, the Enforcement Officer may request the proprietor/driver to re-present the vehicle at Celtic House where the Licensing Section is based, for a further more detailed inspection by the Enforcement Officer prior to deciding whether a spot check is necessary.

- c) For advisory defects, the Enforcement Officer will give advice to the driver/proprietor on site, but no further inspection will be required. In

some cases the Enforcement Officer will make a 'diary note' to look at the vehicle at a time in the future to monitor the condition of the defect(s).

## 2.6 Appeals Procedure

Where a vehicle proprietor disagrees with the opinion of an examiner at a Specified Testing Station he should, after informing the testing station of his intention to appeal, contact the Taxi Licensing Section and request that another test of the same component as that in question, is arranged as soon as possible at another one of the Council's Specified Testing Stations. Full details of this procedure can be found in Appendix D.

## 2.7 Use of Unlicensed Vehicles

All complaints/reports of the use of unlicensed vehicles will be fully investigated. Where evidence of this offence is obtained, legal proceedings will be initiated against the driver/proprietor.

## 2.8 Accident Damage

All accident damage that affects the safety, comfort or appearance of a licensed vehicle must be reported to the Licensing Section within 72 hours of the incident. Failure to do this may result in immediate suspension of the licence pending a spot check and prosecution of the proprietor.

## 2.9 Inaccurate Taxi Meters

Enforcement Officers will investigate all circumstances where there is reason to believe that a taximeter is inaccurate. In most cases this will involve the Enforcement Officer being driven over the measured mile by the driver. Where there is any remaining doubt about the accuracy of the meter, the vehicle licence will be suspended and it will be sent for a spot check. Where a meter seal is found to be missing the vehicle licence will always be suspended and the vehicle sent for a 'spot check'.

## 2.10 Failure to display signs

This will be dealt with informally by Enforcement Officers, who will request proprietors to replace/re-fix any missing signs or stickers. Failure to comply with this request may result in suspension of the vehicle licence.

## 2.11 Advertising on Vehicles

If vehicles are found displaying unapproved advertising, or displaying advertising in unapproved positions, they will be asked to remove it as soon as possible. A warning letter will be sent by Enforcement Officers to confirm this breach of licence conditions. Repeated breaches or failure to comply with the request will result in referral to the Licensing Sub Committee.

## 2.12 Using an Uninsured Vehicle



Where Enforcement Officers have reason to believe that a vehicle used as a hackney carriage or private hire vehicle is/was uninsured they will carry out a full investigation. Where evidence of this offence is obtained the Council will initiate prosecution proceedings against the driver/proprietor. Any subsequent conviction will be reported to the Licensing Sub Committee with a view to action against the driver's licence.

### **3. Private Hire Operators Licences**

#### **3.1 Maintenance of Records**

Where Enforcement Officers find that records are not being kept in accordance with the licence condition requirements, they will in the first instance, give advice. Failure to improve the record keeping or a further breach will result in a written warning. Subsequent significant breaches will result in referral to the Licensing Sub Committee.

#### **3.2 Poor Health and Safety Standards**

If Licensing Enforcement Officers believe that the standard of health and safety for staff and customers at a private hire office, is poor, they will advise the proprietor of this. If standards do not improve they will request an authorised Health and Safety Officer from the Council to visit the premises.

#### **3.3 Failure to Attend at the Required Time**

Where, following a complaint from a customer, Enforcement Officers are satisfied that an operator has failed to attend a booking, the company will be issued with a written warning. Repeated failures to attend bookings will be referred to the Licensing Sub Committee for consideration of action against the Operator's licence

**TAXI LICENSING - COMPLAINT INVESTIGATION PROCEDURE**

1. Complaint received from public/Councillor/officer phone, letter, personal visit and entered onto complaint form.
2. Details of Complaint entered in record book/computer system.
3. Complaint form passed to Principal Licensing Officer (PLO).
4. PLO allocates complaint to Enforcement Officer.
5. Preliminary assessment:
  - a) Enforcement Officer contacts complainant to:
    - i) verify complaint details if necessary
    - ii) obtain details of driver/vehicle/operator involved if necessary
    - iii) obtain details of any witnesses to the incident if necessary
    - iv) advise on procedure


This contact may be by phone, email or letter.

- b) Enforcement Officer contacts other parties if necessary.
- c) Enforcement Officer evaluates whether complaint warrants full investigation e.g. is it justified, is there sufficient info, is it the Division's responsibility etc

If NO: Go to 10.

If YES: EO begins full investigation - Go to 6

6. Investigation. Enforcement Officer will:
  - a) interview driver/vehicle proprietor/operator complained about
  - b) examine relevant records and take copies where necessary
  - c) examine vehicle(s) if appropriate and take necessary action
  - d) interview any witnesses
  - e) discuss any legal issues with Legal Services
  - f) maintain notes/records of all actions
  - g) carry out any necessary observations or monitoring

7. Enforcement Officer will advise complainant of progress during the investigation, particularly of any anticipated delays or specific 'milestones'.
8. On completion of the investigation the Enforcement Officer will discuss the findings with the Principal Licensing Officer and agree a course of action. This will fall into one of the following categories:
- No action against the person complained about, e.g. due to a lack of evidence
  - Advice to the person complained about, e.g. how to prevent a recurrence of a minor problem
  - Warning – confirmed in writing
  - Referral to Licensing Sub Committee. The Sub Committee has powers to suspend or revoke driver and operator licences.
- Note:** The Enforcement Officer is authorised to suspend vehicle licences where serious defects are found
- Formal Caution
  - Prosecution - this action would need to be approved by the Director of Environment and Regulatory Services and Legal Services
- less serious
- 
- more serious
9. The Enforcement Officers will confirm the course of action **in writing** with the person complained about. A copy of the complaint and all relevant notes will be retained on file. The Enforcement Officers will update any computer records.
10. The Enforcement Officer will advise the complainant of the outcome of the investigation in writing.
11. The Enforcement Officer will pass the completed complaint record to the PLO for signing-off prior to filing.

## **ROLE OF ENFORCEMENT OFFICERS IN VEHICLE TESTING**

The following role is envisaged for Enforcement Officers in relation to the testing of licensed vehicles:

1. Training of Vehicle Examiners at Specified Testing Stations <sup>2</sup>.
2. Monitoring/auditing of testing standards in accordance with the Audit Plan <sup>3</sup>.
3. Providing advice to vehicle examiners on the interpretation of the Supplementary Testing Manual.
4. Maintain a regular dialogue with Testing Station proprietors and vehicle examiners to discuss vehicle testing issues.
5. Investigate incidents/complaints related to vehicle testing. These may be complaints from “the trade” about the testing station or complaints by the testing station about specific proprietors.
6. Monitoring compliance by the testing station with the terms and conditions of the testing contract.
7. Participate with Licensing Managers in an annual review of each station’s performance.

### **Notes:**

1. It is not the Enforcement Officers’ role to influence the outcome of any test/inspection being conducted by an examiner. It is their role to ensure that all tests are carried out to the standard required by the Council by auditing tests undertaken by examiners at Specified Testing Stations. Enforcement Officers will not intervene during any test unless requested to do so by an examiner; any concerns noted during the audit will only be brought to the examiner’s attention after the test has been completed
2. The training of vehicle examiners will principally apply to new staff at existing testing stations or when new testing stations are appointed to the “Specified” list. There may also be the need to carry out refresher training for examiners from time to time when a particular need is identified.

Each Specified Testing Station will identify in writing those examiners appointed to carry out vehicle examinations on behalf of the council. A register of all vehicle examiners will be kept by the Council. Only examiners named on this list will be approved to carry out testing for the Council. Examiners who repeatedly fail to carry out testing to the required standard will be removed from the list and testing stations will be required to nominate replacement examiners.

3. The Enforcement Officer will make routine visits to each specified testing station each week. The purpose of the visit will be to maintain a dialogue with proprietors and examiners about testing issues and resolve any issues that have arisen.

The Enforcement Officer will also carry out a periodic formal audit of testing at each testing station and prepare a report for consideration by the Licensing Managers and the proprietor.

## APPEALS PROCEDURE

1. The vehicle is tested at a specified Council testing station. Following the failure of the vehicle, the vehicle proprietor should query with the testing station manager or supervisor, any failure item(s) that he disagrees with, who will then provide a second opinion.
2. If still not satisfied, the vehicle proprietor must tell the testing station that he intends to appeal. The testing station will then ensure that the components in question are marked to prevent the possibility of replacement or tampering.
3. The vehicle proprietor then contacts the Taxi Licensing Section to request an appeal inspection. The Taxi Licensing Section will make arrangements to book a test at another specified testing station of the proprietor's choice. The vehicle proprietor will meet the cost of this test.
4. The vehicle is then subjected to testing by the second testing station. The decision of the second testing station will be binding on both the Council and the vehicle proprietor. Should the vehicle fail, and/or reveal any additional faults, the vehicle proprietor must rectify these, in addition to those identified in the first test. The vehicle proprietor will bear all the costs of any subsequent retests and work required.

### **Note:**

There must be **no** communication between testing stations regarding any particular vehicle whilst it is subject to the appeal process. Evidence of such communication may lead to the testing station concerned being called before the Licensing Sub Committee to account for its actions.