

To: General Purposes Licensing Committee

Date: 22 February 2012 **Item No:**

Report of: Head of Environmental Development

Title of Report: Amendments to the Policy on the Relevance of Warnings, Offences, Cautions and Convictions

Summary and Recommendations

Purpose of report: To seek approval from the Committee to the additions and amendments to the Policy on the Relevance of Warnings, Offences, Cautions and Convictions related to the licensing and enforcement of Hackney Carriage and Private Hire Drivers and Operators

Report Approved by:

Finance: Emma Burson

Legal: Daniel Smith

Policy Framework: A vibrant and sustainable economy

Recommendations:

Committee is recommended to:

- i) agree to the additions and amendments to the Policy on the Relevance of Warnings, Offences, Cautions and Convictions; and**
- ii) delegate authority to the Head of Environmental Development to make the necessary textual changes to the Policy on the Relevance of Warnings, Offences, Cautions, and Convictions put forward in this Report .**

INTRODUCTION

1. The current Policy on the Relevance of Offences, Cautions and Convictions, was approved by the General Purposes Licensing Committee at its meeting on 1st March 2011.
2. At that meeting, the Committee approved the review of the procedures, regulations, criteria and conditions of the Taxi Licensing function. The new Policy, combined with the new procedures, criteria and conditions has provided a transparent and robust document with which to regulate those applying for a licence and those who already hold a licence.
3. In carrying out this review, consideration was given to the volume and nature of complaints received by the Licensing Authority, the type of

enforcement actions undertaken by the Licensing Officers, the number of repetitive failures by various licence holders to adhere to the conditions and regulations pertaining to the licence held, and the matters that had been put before the Hackney Carriage and Private Hire Licensing Sub-Committee.

4. Amendments and additions have been made to the Policy in order to provide applicants and licence holders with clarity of the Authority's objectives, and further transparency as to the manner in which decisions are made.
5. No additions or amendments are sought that would alter the authority of the Policy. What is sought is Committee's approval to include items that are relevant to, and within the scope of, the Policy.
6. The revised Policy, appended, has already been reviewed by the Chair and Vice-Chair of the Committee on 6th January 2012, and is presented in accordance with their input.

BACKGROUND

7. As a Licensing Authority, we have a statutory power to licence vehicles and drivers who wish to provide Hackney Carriage and Private Hire services within Oxford. These powers are primarily provided under two Acts: the Town Police Clauses Act 1847, and the Local Government (Miscellaneous Provisions) Act 1976.
8. The following types of licence are issued by Oxford City Council: Hackney Carriage and Private Hire Drivers, Hackney Carriage and Private Hire Vehicles, Private Hire Operators.
9. When complaints are received, or enforcement actions taken, the Licensing Officers issue a Warning of a level appropriate to the incident.
10. Officers have discretion as to which level of Warning should apply to each case, and should a licence holder continue to fail to adhere to the conditions or regulation pertaining to his or her licence, the level of Warning is escalated.
11. Since the introduction of the current Policy, the number of cases put before the Hackney Carriage and Private Hire Licensing Sub-Committee has increased, and in turn those licence holders who have shown a propensity to ignore the conditions and regulation pertaining to their licence, have been dealt with accordingly.
12. However, it has become apparent that it has not been documented as to how the actions taken by Officers dovetail in to the workings of the Sub-Committee.
13. It is felt that the actions undertaken by officers can be illustrated within the Policy, so as to ensure that licence holders have a clear understanding as to the Warning Scheme adhered to by the Officers,

and how the accumulation of Warnings or how a single incident may lead to the licence holder appearing before the Sub-Committee due to concerns regarding his or her suitability to remain a “fit and proper” person.

14. Therefore it is proposed to include the enforcement work carried out by Officers in the Policy on the Relevance of Warnings, Offences, Cautions and Convictions.
15. When dealing with matters referred to the Licensing Authority by Thames Valley Police, it has been noted that the issues relating to persons released on Police Bail, or those charged with an offence, are not clarified within the current Policy, and therefore their inclusion is proposed.

AMENDMENTS TO THE POLICY ON THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS AND CONVICTIONS

16. In order to ensure this Authority has a modern, transparent and robust framework for carrying out enforcement actions and making decisions, the Committee is asked to give its approval to the following amendments and additions to the current Policy:
 - **Warnings:** The term “Warnings” has been introduced with a full definition of its meaning. Its use within this Policy will allow the Licensing Officers a wider scope within which to undertake appropriate measures. This will enable the Officers to put before the Hackney Carriage and Private Hire Licensing Sub-Committee those licence holders who accumulate Warnings in order to determine their suitability to hold a licence. The nature of why Warnings are issued is detailed within the revised Policy. The type of Warnings to be issued are:
 - Advisory Warning
 - First Level Warning
 - Second Level Warning
 - Final Warning
 - **Licensing Objectives:** Five objectives have been introduced that highlight the aims of the Licensing Authority (which precedes the introduction of a Taxi Licensing Policy), and set clear parameters and expectations as to what the Council expects from new applicants and existing licence holders. These objectives are:
 - Safety and health of drivers and the public
 - The promotion of a professional and respected Hackney Carriage and Private Hire trade
 - To prevent crime and disorder and to protect consumers
 - Improve the local environment, economy and quality of life
 - To promote the aims and vision of Oxford City Council and it's Partners

17. Further textual additions to the Relevance of Warnings, Offences, Cautions and Convictions, within the Policy are detailed below:
- **General Policy:** The introduction of Warnings issued by the Licensing Officers, in order to provide clarity that such evidence is part of the “suitability” criteria for existing licence holders.
 - **Driving & Traffic Offences:** A change to the requirement for new applicants who have had their DVLA licence revoked so that the Licensing Authority now may refuse an application until 24 months have passed since the DVLA licence is restored, rather than 24 months having passed before a licence to drive Hackney Carriage or Private Hire vehicles can be granted (as this allowed applicants to submit an application in the knowledge that the necessary time period would elapse during the application process).
 - **Plying For Hire:** The introduction of enforcement measures to be taken against Private Hire Operators who are found to be complicit with Private Hire Drivers who have been found to be plying for hire. Also included is a clearer definition of the offence in order to ensure transparency when enforcing such matters.
 - **Police Bail and Police Recommendation:** These two matters have been included within the Policy in order to provide transparency to licence holders, and informs licence holders that the Head of Environmental Development has delegated powers to suspend the licence of any person if satisfied on recommendation by the Police, that there are reasons to believe that the individual presents a threat to the safety and well-being of the public.
 - **Dishonesty:** This subject has been expanded upon in order to clearly highlight the need for applicants to inform the Licensing Authority of any endorsement penalty points, offences, cautions and convictions at the time of applying for a licence, and for existing licence holders to inform the Authority within 7 days of being issued with such matters.
18. All of the proposed amendments to the Policy have been highlighted in bold italic type for Members to easily identify at **Appendix One**.

FINANCIAL IMPLICATIONS

19. There are no financial implications attached to this report.

LEGAL IMPLICATIONS

20. There is no legal requirement for a licensing authority to set any policy on hackney carriage and private hire licensing. However, authorities may if they wish decide to set policies in order to assist in consistent decision making. Policies may guide but not bind the authority. Good policies are easy to follow and based on evidence not speculation.

RECOMMENDATIONS

21. Committee is recommended to:

- i) Agree to the additions and amendments to the Policy on the Relevance of Warnings, Offences, Cautions and Convictions; and
- ii) Delegate authority to the Head of Environmental Development to make the necessary textual changes to the Policy on the Relevance of the Warnings, Offences, Cautions and Convictions put forward in this Report.

Name and contact details of author: **Julian Alison**
Licensing Team Leader
(01865) 252381
jalison@oxford.gov.uk

Background papers:

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