



LICENSING COMMITTEE REPORT

Report Title	SAFETY AWARENESS COURSE
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	19 March 2013
Policy Document:	Private Hire Sanctions and Procedures
Directorate:	Customers and Communities

1. Purpose

1.1 The purpose of this report is to inform the Licensing Committee with regard to the proposed introduction of the Safety Awareness Course for drivers who have been acting illegally.

2. Recommendations

2.1 That the above course be introduced as an addition and also the introduction of a phased process of discipline / punishment towards Private Hire Drivers (PHD) who breached conditions and legislation in relation to plying for hire.

2.2 To delegate reasonable powers to the licensing enforcement officers to use their discretion as to when and under what circumstances the alternative action is taken.

3. Issues and Choices

3.1 Report Background

3.1.1 Operation Flag is an operation run to catch drivers illegally plying for hire, and has been run by the Licensing Team since 2008 and although it is regarded as an essential tool in the enforcement role, a great deal of time and effort is spent on the operation and also completing the back office paperwork to present to the court.

3.1.2 The paperwork is necessary to ensure a successful prosecution and unfortunately, due to recent court closures the process can take a long time before

the driver appears before the magistrates. Sanctions imposed on the drivers by the court can be a maximum of:

£2,500 for plying

£5,000 for No insurance

6 – 8 points endorsed on driving licence

3.1.3 To date all prosecutions undertaken by our own legal department have proved successful and the small number of 'not guilty' pleas entered has resulted in the magistrates reaching a 'guilty' verdict and a suitable penalty being imposed.

3.1.4 Costs to the Council have been awarded in most cases.

3.1.5 Once the defendant has been dealt with by the court he will be subject of a further report in order that he can appear before the Licensing Committee to ascertain whether he is a 'fit and proper person' to hold a Private Hire driver's licence.

3.1.6 As with all prosecutions they are time consuming and the licensing team are always looking for other means whereby drivers can be educated in addition to receiving a financial penalty.

3.1.7 Education is an alternative to prosecution.

3.1.8 Due to the current climate and the impact it can have on drivers, and length of time to go through the court system, a phased in process has been considered and piloted:

- The first offence of flagging would result in a caution and option to attend a course within approximately 6 weeks of the offence – the £200 serves primarily as recovery of costs to run the course – not the enforcement, and as secondary purpose it serves as a financial punishment to those who flaunted the legislation. Also, rather than just punished they are also educated and the information relayed at any induction about road safety is re-enforced and upgraded to ensure they understand the potential consequences of their actions.
- Second offence of flagging within a 5 year period, may be reported for prosecution and which may lead to sanctions mentioned in 3.1.2 above, including potential loss of DVLA licence
- Subsequently referred to Licensing Committee, potentially resulting in the loss of PHD licence.

3.1.9 This brings the council in line with other agencies e.g. the speed awareness course run by the police.

3.1.10 To progress this approach the Licensing Team introduced a course for a trial period to re-educate errant drivers, subject to a fixed fee, with the emphasis on the specific offences they are committing.

3.1.11 The fee was set initially having regard to the length of the course and the time spent by officers in preparation, this fee to be adjusted if the process was formally adopted at a later date.

3.1.12 The current Induction Course has a set fee of £350.00 rising to £370.00 from 1 April 2013, the course is a day's course with a knowledge test at the end of the session.

3.1.13 The Safety Awareness Course has a duration of 4 hours and although the suggestion was that a fee of £200.00 would cover the administration cost of the course, the committee may decide, that a higher fee could be justified in this case.

3.1.14 To be given the opportunity to take up the alternative sanction, driver's will have to accept that they are guilty of the offence and accept a 'caution'.

3.1.15 At the end of the course drivers would have to take a knowledge test accompanied with a test on their knowledge of the Highway Code.

3.1.16 Formally adopting the Safety Awareness Course would bring us in line with other enforcement agencies who already offer an additional option to prosecution.

3.1.17 If adopted, this course of action would reduce officer time spent in preparing files for court, with the added incentive of increasing revenue into the department.

3.1.18 Having completed the course and accepting a caution, any other breach of conditions, resulting in a caution within a 12 month period of having attended the course, may result in an appearance before the Licensing Committee. The 'flagging' offence would be introduced to show previous bad character.

3.1.19 A second offence of 'flagging' would result in an immediate report for prosecution and the evidence of previous caution would be produced as evidence at the proceedings.

3.1.20 The Pilot scheme has produced good results so far and those drivers attending the course have given good feedback with regard to its value.

3.1.21 The drivers invited to attend the course were those drivers currently being considered for prosecution to assess whether they were prepared to undergo additional training as an alternative to a court appearance.

3.1.22 All of those drivers took advantage of the invitation.

4.1 Choices (Options)

4.1.1. Confirm the formal adoption of the procedure outlined.

4.1.2 Recommend an alternative system of enforcement.

4.1.3 Reject the proposal and retain the system of prosecution for all 'flagging' offences.

5. Implications (including financial implications)

5.1 Policy (Private Hire Licensing)

Any changes would be incorporated within the current policy.

5.2 Resources and Risk

5.2.1 Resources will continue to be managed within the licensing budget.

5.2.2 Operation Flag is a joint operation involving the police and NBC, decisions on action to be taken following the detection of offences lies with NBC.

Points to be considered are:

- whether this would be a strong enough deterrent to prevent drivers re-offending.
- Whether it is good use of officer time. (A decision would need to be made as to whether it is run as a day or a half day course).
- Ensure, should they decline the offer, that drivers are inside the six month prosecution deadline. Those refusing the offer would be prosecuted.

5.3 Legal

5.3.1 The Local Government (Miscellaneous Provisions) Act 1976, allows the Local Authority to impose sanctions in respect of drivers licences for both Hackney carriages and Private Hire Vehicles, drivers and operators.

5.3.2 All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the Council's statutory obligations.

5.3.3 Human Rights Act 1998.

Article 1 of the first protocol stipulates:

Protection of property

Every natural and legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law.

The preceding provision shall not, however, in any way impair the right of the state to enforce such laws as it deemed necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Committee members ought to be aware that a person's Hackney driver's licence is a possession under article 1 of the first protocol.

Any decision to interfere with the enjoyment must be proportionate to the issues, which is fulfilling a legitimate aim.

5.4 Equality

5.4.1 An equality impact assessment has been undertaken there are no equality issues as all drivers will be offered the same opportunity to avoid prosecution.

5.4.2 By endorsing a formal process it will ensure that all licence holders are treated fairly.

5.4.3 In line with the Council's published equalities policy, we will use positive action in how we provide services

5.5 Consultees (Internal and External)

5.5.1. Legal

5.6. Background Papers

5.6.1. Local Government (Miscellaneous Provisions) Act 1976. (Relating to Hackney and Private Hire vehicles and drivers).

5.6.2. Taxis-Licensing Law and Practice – James Button.

Report Author: Philip Bayliss
Senior Licensing Officer
Ext 7099