



PLANNING AND PUBLIC PROTECTION SERVICE

Procedure for the Revocation or Suspension of a
 Private Hire or Hackney Carriage licence

Author/Custodian:	Ian Millington
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Agreed by:	Emlyn Jones, Head of Planning & Public Protection
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1. Purpose

To ensure consistency of administering and enforcing the Hackney Carriage and Private Hire legislation and the safety of the travelling public throughout the County of Denbighshire. This procedure aims to provide practical guidelines for to follow when information/complaints have been received from interested parties on alleged conduct/inappropriate behaviour of an existing licensed driver and to ensure legislation is adhered to.

2. Related Documents

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) Act 1976 (“LGMPA76”)

Taxi Licensing Conditions and Policy booklet

3. Officer Delegations

The Licensing Committee have delegated to the Head of Service who has subsequently authorised the following officers to carry out the functions detailed below.

DELEGATIONS	
Function	Officer
Revocation of licence	In consultation with Legal Services, the Head of Service or Built Environment & Public Protection Manager
Suspension of licence	Business Manager or Built Environment & Public Protection Manager
Points policy	Licensing Officers
Written warnings	Licensing Officers
Prosecution	Business Manager or Built Environment & Public Protection Manager
Simple caution	Business Manager or Built Environment & Public Protection Manager
Reinstatement	Business Manager or Built Environment & Public Protection Manager
Informal Advice / Guidance	Licensing Officers
No action	Licensing Officers

4. Legislation

Section 61 of the LGMPA 76 give a local authority powers to suspend or revoke a drivers' licence issued under section 51 of the LGMPA or section 46 of the Town

Police Clauses Act 1847, or refuse to renew a drivers' licence on any of the following grounds:

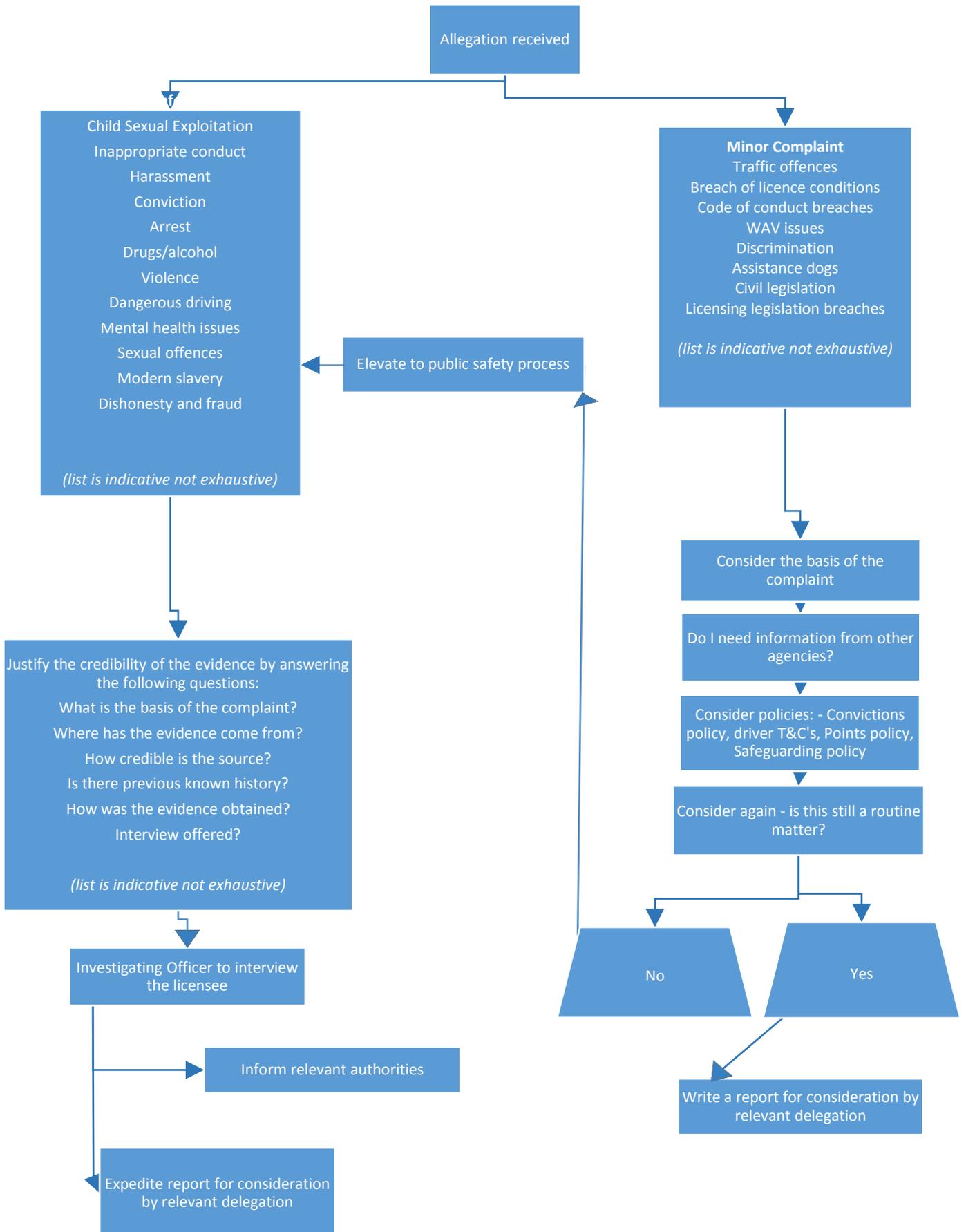
- That he has since the grant of the licence
 - o Been convicted of an offence involving dishonesty, indecency or violence; or
 - o Been convicted of an offence under or has failed to comply with the provisions of the act of 1846 or the LGMPA 76; or
- Any other reasonable cause.

5. Process

- I. Information is received from partners/interested parties on the conduct of an existing driver or a conviction as detailed in section 4 above.
- II. The officer will assess whether the allegation is an issue of public safety or a more minor complaint. A list of examples can be found on the flowchart.
- III. Where an allegation or information is received about a licensed driver, and is of such a nature that a real and reasonable concern is raised in terms of public safety, or crime and disorder, about the suitability of a licensed driver to continue to hold a Local Authority driver licence, then consideration should be given to immediate revocation of that licence. Circumstances where such an action should be considered include;
 - committed a serious offence (such as outlined in the flowchart at Section 6 below)
 - are alleged to have committed a serious offence
 - are in breach of the requirements placed upon that type of licence within primary legislation
 - are in conflict with a significant part of the Council's safety policy, or
 - where there is intelligence provided which raises a significant concern and it is necessary to immediately remove that potential risk.
- IV. If it is a matter of public safety the officer should justify the credibility of the evidence by answering the following questions;
 - What is the basis of the complaint?
 - Where has the evidence come from?
 - How credible is the source?
 - Is there previous known history?
 - How was the evidence obtained?
 - Interview offered?
- V. The officer should interview the licensee without undue delay. Consideration as to the public safety aspect should be a factor in arranging any interview.

- VI. The relevant authorities should be informed; Police, Social Services, Other Local Authorities etc.
- VII. Officers should consider other relevant policies, procedures and documents e.g. convictions policy, driver T&C's, Points policy, safeguarding policy
- VIII. After gathering information, officers should, after discussing with line managers, consider again – is this still a routine matter?
- IX. If yes, continue with written report for consideration by relevant delegation
- X. If no, elevate to public safety process.
- XI. Decision
- XII. Inform other relevant authorities

6. Process Flowchart



7. Decisions

Officers will take the appropriate action under the scheme of delegation.

In all circumstances the guidance in Appendix 1 will be considered throughout the process.

The licensee will be provided with written confirmation of the decision and the reasons for reaching that decision.

Licensing Committee Members and other relevant authorities will be given written confirmation of actions taken.

The table below lists the possible outcomes.

PENALTIES	
No Further Action	There is insufficient evidence to substantiate the allegations made.
Simple Caution	A formal caution given as an alternative to prosecution – if the Driver accepts the wrong doing. Retain a copy on the Driver's file.
Written Warning	A formal written warning on the Driver's file about the offending behaviour.
Penalty Points	In accordance with current Penalty Points Policy
Suspension	For an appropriate period to be determined on each case.
Revocation	Where there is sufficient evidence to believe that the licensed driver is no longer a fit and proper person to hold a licence.

8. Right of Appeal

A person aggrieved by the Council's decision has rights of appeal to the Magistrates Court within 21 days.

9. Reinstatement

Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 enables a decision to suspend or revoke a Hackney Carriage / Private Hire drivers licence to take immediate effect should the council believe it to be necessary in the interests of public safety. This means the driver cannot continue to drive Hackney Carriage / Private Hire vehicles during the appeal period.

If, within 21 days, information comes to light which demonstrates that a driver is indeed fit and proper the authority may reinstate a previously revoked licence. A 'fast track' procedure will be adopted to re-licence those drivers who have had their licence revoked but have subsequently been found to be fit and proper. In these cases, the driver will supply the council with a new application form but there will be no subsequent application fee. All pre-check enquiries (DBS, medical etc.) would stand and the dates they were previously due to expire would be valid, as would the licence itself.

10. Review of Procedure

This procedure will be reviewed by the licensing section and section manager on an annual basis or sooner if changes to legislation are made

Appendix 1 - GUIDANCE ON IMMEDIATE SUSPENSION AND REVOCATION

Legislation

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or 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 of this Act; or
- (b) Any other reasonable cause.

Section 61(2) goes on to provide that a suspension or revocation normally takes effect at the end of the period of 21 days beginning on the day on which notice is given to the driver but;

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 the statement that this is so and an explanation why then the suspension or revocation takes immediate effect when the notice is given.

These provisions (setting out when the decision takes effect) were inserted by the Road Safety Act 2006.

Guidance on decision making – Suspensions and Revocations generally

Section 61 requires the licensing authority to make a finding on the balance of probabilities that that the grounds set out in the legislation are made out.

In Section 61(1)(a)(i) the offence in question must involve dishonesty, indecency or violence. Dishonesty, indecency or violence must be part of the commission of the criminal offence for this subsection to apply but it is not necessary for the offence to be one of dishonesty, indecency or violence.

Section 61(1)(b) allows suspension or revocation (or refusal to renew) for any other reasonable cause. No further definition is given of reasonable cause within the legislation and ultimately the question is a matter for the discretion of the decision maker.

Guidance is given in a number of cases from which the following principles can be drawn.

- The decision maker is entitled to take into account hearsay evidence. *McCool v Rushcliffe Borough Council (1998)*
- The fact that no criminal case is pursued against the driver is a relevant factor that can be outweighed by other evidence. *McCool v Rushcliffe Borough Council (1998)*
- The burden of proof is on the applicant to establish that he is a fit and proper person to hold the licence. *R v Maidstone Crown Court ex parte Olson (1992)*
- Once the driver has established a case that he is a fit and proper person, the evidential burden shifts to the Local Authority to rebut the case put forward by the driver. Rebuttal does not require the decision maker to prove that a person is not a fit and proper person and nor does pursuing that argument amount to double jeopardy.
- They would not have good reason to question or doubt the applicant's case if the evidence amounts to assertions shown to be ill founded gossip or rumour or for any other evidence which a reasonable and fair minded decision maker acting in good faith with proper regard to the interests of the public and the applicant would not think it right to rely on. *McCool v Rushcliffe Borough Council (1998)*

The discretion under this Section is wide and is not restricted to convictions for criminal offences nor is proof required to the criminal standard.

The taxi licensing regime is clearly and expressly in place to protect members of the public travelling in taxi and private hire vehicles. Consideration may be given to applying the following test - "*Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any other person I care for or any vulnerable person I know, to get into a vehicle with this person alone?*"

There are issues which undermine that protection which amount to criminal offences in their own right but there are other issues which have significance for the protection of the travelling public where a criminal offence might not have been committed or proved.

Immediate suspension or revocation

Both standard and immediate suspensions require the decision maker to consider the same matters, i.e. whether there has been a relevant conviction or "any other reasonable cause".

As suspension or revocation can only take immediate effect in the interests of public safety there must be an additional consideration. That means the decision maker

should consider whether there is a clear connection between the incidents alleged and the safety of the travelling public which justifies taking this additional step.

However there are no further limits or restrictions on the decision maker's exercise of judgment or discretion providing a proper judgment is made weighing up the evidence available.

There is no requirement in the legislation limiting this power to cases where there has been a conviction for a criminal offence nor that any alleged incident or offence is 'serious'.

The decision must be taken in the interests of public safety and should be fair, reasonable, proportionate and in accordance with human rights and natural justice principles.

The Council has a published Conviction Policy relating to those with criminal convictions. The council will have regard to that policy when considering whether an offence, allegation or complaint should be considered as warranting immediate suspension in the public interest. This will be judged against all the circumstances of the case, including any admissions or denials made and any other relevant evidence.

Examples of situations where immediate suspension or revocation might be warranted include:

- Allegations of violence against a passenger or person wishing to travel.
- Allegations of indecency including sexual assault and rape against a passenger or person wishing to travel.
- Allegations of safeguarding nature
- Allegations that the driver is unfit to drive as a result of being under the influence of drugs or alcohol.
- Admitted sexual contact with a passenger in the vehicle
- Allegations of dishonesty relating to use of the vehicle such as attempting to pervert the course of justice in relation to a road traffic accident, fraudulent use of tax or insurance documentation, knowingly driving an uninsured vehicle to convey members of the travelling public (e.g. plying for hire).
- Allegations of dangerous driving or driving without due care and attention thereby endangering the safety of passengers and other road users.

Each case must be decided on its own facts and any examples given in this guidance are only illustrative. Each case must be considered on its own merits and the powers should be exercised in a consistent and reasonable manner having regard to the facts of the case and the risk posed to the public.

Any decision to suspend or revoke a licence should never be taken lightly. However, the licensing system is designed to protect the public and it would be wrong not to suspend or revoke where such course of action is clearly appropriate on the facts of an individual case. If there is any doubt whatsoever as to the driver's suitability to hold a licence as a fit and proper person serious consideration must be given to refusal, revocation or suspension.