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**Taxis Committee – 27<sup>th</sup> April 2011**

**Report of the Director of Corporate Resources**

**Clarification of the Taxi Guidelines in relation to the penalty for a second conviction for the offence of ‘Plying For Hire’**

**Purpose of Report**

1. For the committee to give consideration to approving an appropriate time scale for the revocation/suspension of a private hire driver's licence following a second conviction for the offence of 'plying for hire'.

**Background**

2. The Guidelines to the Taxis Committee in respect of new licence applications and existing drivers/operators who have committed offences during the currency of their licences state the following in relation to the offence of plying for hire: -

Starting Point	Suspension for two months
Second Conviction	Could result in revocation.

3. Recently the committee have considered two cases where, in both matters, there was a nine years gap between the first and second conviction for plying for hire. The committee resolved in both cases that the private hire driver's licences should be revoked.
4. The two cases were subsequently appealed to the Magistrates' Court where the committee decision was upheld in one case and in the other case the magistrate's granted the appeal.
5. In the latter case the Magistrate's commented 'that they appreciated the need for the Guidelines and the committee had properly followed them, but they felt that the Guidelines themselves should make clear that the length of time between plying for hire convictions that would still be held against the drivers.' No costs were awarded against the council.
6. The case where the Magistrate's upheld the committee decision to revoke the private hire driver's licence was in turn appealed to Wolverhampton Crown Court

7. The judge in this case varied the committee decision to a one-month suspension from the 18<sup>th</sup> of February 2011 to the 17<sup>th</sup> of March 2011. This was on the understanding that he had taken into account that the driver had been suspended and unable to work from the 26<sup>th</sup> of July 2010 when the licensing section had served an immediate suspension notice pending the decision of the Taxic Committee. The judge then went on to say that he was concerned about the fact that there was no timescale relating to a second plying for hire conviction, which makes it difficult for an appellate Court to make a decision. No costs were awarded against the council.
8. Given the above two cases the committee may wish to consider the following proposals: -
  1. That the starting point for a second conviction for plying for hire would be revocation regardless of the time between the first and second conviction for plying for hire.
  2. That the starting point for a second conviction for plying for hire would be revocation where the time between the first and second conviction for plying for hire is less than 7 years.
  3. That the starting point for a second conviction for plying for hire would be six months suspension where there is more than 7 years between the first and second conviction for plying for hire.
9. Consultation on the above proposals was undertaken with the Taxi Focus Group at a meeting of the group on the 4<sup>th</sup> of April 2011. Their comments are as follows: -

The Dudley Taxi Alliance support points 2 and 3 as set in paragraph 8 of this report.

The Private Hire Association would submit the following alternative proposals for the committee's consideration: -

  - The starting point for a second conviction for plying for hire would be revocation where the time between the first and second conviction for plying for hire is less than 4 years.
  - The starting point for a second conviction for plying for hire would be 6-8 months suspension where the time between the first and second conviction for plying for hire is 4 years or more but less than 8 years.
  - The starting point for a second conviction for plying for hire would be 2 months suspension where the time between the first and second conviction for plying for hire is more than 8 years.
10. These proposals fall within the Council's responsibility for Taxi and Private Hire Licensing which has a direct link to the Council's key corporate priority that safety matters.

## **Finance**

11. There could be financial implications for the council, if in cases related to the issues contained in this report; the courts vary the committee's decisions and award costs against the council.

## **Law**

12. The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 govern the licensing of hackney carriage and private hire.

## **Equality Impact**

13. This report takes into account the Council's policy on equal opportunities.
14. The licensing of Private Hire and Hackney Carriage vehicles and drivers will impact on children and young people through their transportation in licensed vehicles.
15. There has been no consultation or involvement of children and young people in developing this report.

## **Recommendation**

16. That the committee consider the proposals contained in paragraphs 8 and 9 of this report.



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DIRECTOR OF CORPORATE RESOURCES

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## **List of Background Papers**