

Immediate Suspension Consultation: Email Responses

Response From:	Response Details:	Officer Response:	Change to policy:
<p>Licensed driver</p>	<p>Dear Honourable Licensing Committee Members,</p> <p>On the 18th of January 2013 I was sent an email about a consultation of the powers an enforcement officer should have to suspend a license of a private hire driver.</p> <p>I am now going to put forward to yourselves the reasons why I think it is not feasible to suspend a drivers license immediately.</p> <ul style="list-style-type: none"> In the guidelines report attachment sent to me in point number 4.5 and 4.5.1 it says Legal implications, access to information and Call in. Then “No Implications”. How is this even possible? One of the most fundamental Laws in which the Crown Prosecution Service and HER MAJESTY’S COURT SERVICE is based upon is the presumption that the defendant is “INNOCENT UNTIL PROVEN GUILTY”. This principle requires that the 	<p>This is a misunderstanding of the Councils constitution by the resposdee. Such decisions are not subject to ‘call in’.</p> <p>The key issue is public safety. Serious consideration is given to the supporting evidence and decisions are reviewed by more senior</p>	

	<p>government to prove the guilt of a defendant and relieves the defendant of any burden to prove his or her innocence. Taking this basic right away from us a direct violation of the basic principles of Law and our human rights. So there are legal implications that really need to be considered here before suspending a driver.</p> <ul style="list-style-type: none"> Guidelines report 2.3 states that “a suspension or revocation did not take effect for 21 days”. However private hire badge number XXXX was stripped of his car stickers immediately for suspected plying for hire & was not allowed to work. 21 days later he was sent a letter that he is now suspended. Clear indication that enforcement officers have not been using their powers as they are 	<p>Officers and the Courts. (Please refer to Licensing Committee report of 13.8.13) Although not an ideal analogy, even in the criminal law restrictive personal constraints can be imposed prior to trial in the form of “The Bail Act”. Perhaps more importantly the legislation particularly enables this, putting public safety considerations first</p> <p>This is the subject of a separate information report.</p>	
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	<p>supposed to. Surely he should have been allowed to work.</p> <ul style="list-style-type: none"> I can understand it would be necessary to suspend a driver's licence immediately if he committed an act of indecency or a criminal offence. <p>However for the offence of plying for hire sometimes when picking up passengers it is quite easy to pick up the wrong passengers as there can be a lot of people concentrated in one area because of demand and the amount of noise being generated. The operator might have heard the wrong name over the phone and some people especially students might want to go to a similar destination i.e. Headingley. Taking all this evidence into consideration it is actually quite easy to pick up a non allocated fare without realising and then have your license suspended.</p> <ul style="list-style-type: none"> If an enforcement officer is going to suspend a driver it 	<p>There is some conflict with the response in respect of the first bullet point and this remark, but I think the travelling public would probably agree with the need to take such action in accordance with this part of the safety policy.</p> <p>It should not be "easy" to pick up the wrong person but the account of such possibilities are considered, roadside, at the point of test purchase or other activity.</p> <p>Officers do confer but the decision is taken by an</p>	
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	<p>should be signed off by two enforcement officers (as well as another senior officer at a later date) giving a written letter with signatures of the officers as to why the driver is being suspended immediately. Making sure of no alleged foul play in the powers vested in the enforcement officers and also knowing who is responsible if any evidence does come to light.</p> <ul style="list-style-type: none"> • Issue 17 of the recent news letter page 12 of 14 at the bottom of the page has stated “Please ensure that you carry spare bulbs with you to avoid being suspended or fined for any of your vehicle lights out”. Please could Leeds licensing and registration elucidate to us in the next upcoming newsletter all the different reasons they can come up with of suspending or revoking a driver’s license as I believe it a step too far to suspend someone if a tail light is out and head lights are not easy to 	<p>individual Officer within the terms of the Scheme of Delegation.</p> <p>I have not seen any evidence of such activity other than ‘rectification notices’ for individual bulbs not working. I think it is sound advice and would actively support a decision to suspend a vehicle if it had any of the following:-</p> <ul style="list-style-type: none"> • No head lights • No tail lights • No break lights • No indicator lights <p>Nobody wants a driver to lose money but the</p>	
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	<p>replace in the light of the night as some vehicles require complete removal of a headlight unit so the bulb can be replaced.</p> <ul style="list-style-type: none"> • It has also come to our attention that once the Law courts have given the necessary sentence for a driver and cleared the driver. Leeds licensing and registration have deliberately taken a long time to reinstate the driver's license. Particularly driver number XXXX who was convicted for the offence of plying for hire and no insurance and ordered to pay £265. (Approximately December 2010 and January 2011). It took Leeds Licensing & Registration another six months to decide whether or not to reinstate his PH license. We believe strict timescales should be put in place to stop this unnecessary and deliberate action. This power should solely be vested and exercised by HER MAJESTY'S COURT SERVICE. As no 	<p>greater issue is public safety.</p> <p>Policy dictates such periods and is a matter out of the scope of the Courts unless they direct a certain period of time.</p>	
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	<p>individual and no organisation is above The Law.</p> <ul style="list-style-type: none"> • Strict timescales should also be put into place to take the driver to court as it took Leeds Licensing and Registration almost 6 months to take driver XXXX to court from the date of the offence which was 5th of December, 2009. <p>I hope you have found all the comments helpful and will help you in making the enforcement of drivers plying for hire a more smoother affair</p>	<p>Please see preceding remarks in respect of this issue.</p>	
<p>Licensed driver</p>	<p>In the past it has been done often that a licence has been revoked immediately without any investigation from the department This effects the licensee to a great effect not being able to earn a living which is the only source of income for many who are Private Hire or Hackney carriage drivers and the case been put on the back burner It happens that a case is dropped after months and the licence re issued I suggest that a panel to be formed with independent assessors to</p>	<p>We are unaware of any such case.</p> <p>See previous responses.</p>	

	<p>look at any case of long term suspension This should not be done by a individual officer I hope this proposal is put forward into the consultation process</p>		
<p>Eurocabs</p>	<p>The present system of allowing VLE Officers to use their delegated powers to make decisions to suspend or revoke licences must be changed.</p> <p>This system is too reliant on the knowledge of the VLE Officers, Legal Officers and the honesty and integrity of the officers making the final decision.</p> <p>There have been cases recently and in the past where VLE officers have given incorrect advice or made incorrect decisions due to having lack of experience or knowledge, as the officers are generally ex-police officers with little or no working experience of the Taxi and Private Hire industry.</p> <p>The present system is unfair on the low to middle class members of both the Hackney carriage and Private Hire industry, as they will not have the money or will power to risk their hard</p>	<p>Officers are recruited in line with a formal policy.</p> <p>Refer to Licensing Committee decision of March 2012.</p>	

	<p>earned money by taking their complaint to the magistrate's court to appeal against a decision taken by VLE officers. All Taxi and Private Hire drivers do not claim benefits so the majority of drivers would not qualify for the reduction in the court fees needed to lodge an appeal.</p> <p>A Licensing Regulatory Panel is used by nearly all the Licensing Authorities in England and especially our neighbouring Councils must be put back in place to deal with all complaints ranging from Licence application refusals, Licence suspensions and revocation issues, complaints about the Licensing Department and its officers. Leeds City Council is one of the very few councils that give the enforcement department full powers under the delegated powers systems to make all suspension, revocation and licence application refusal decisions.</p> <p>This system gives everyone that feels aggrieved by a decision taken by the VLE Officers or the VLE Department the opportunity to have their voice heard without having to pay huge fees</p>	<p>Subject to previous report in March 2012.</p> <p>These arguments were fully explored by the Licensing Committee and determined to retain the working procedure</p>	
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	<p>to the magistrate's court. If the complainant or the accused is not satisfied with the Licensing Regulatory Panels decision then they still have the right to appeal to the Magistrates court. The case will be presented to the Magistrates by the enforcement officers as a "de novo" i.e. a complete fresh hearing with all the evidence presented to the magistrates including a report from the Licencing Regulatory Panel outlining their reasons for the decision taken. It is very rare and only in extreme cases where the Licensing Regulatory Panel chair or members are called to the Magistrates court to give evidence in a case.</p> <p>Some decisions that have led to court cases where incorrect decisions have been made by VLE Officers could have been avoided if they had been properly discussed and debated, e.g. the list of preferred/approved NVQ/VRQ training providers and refusal to accept certificates issued by other qualified, regulated and approved training providers. There are other cases and some are still pending.</p>	<p>Insufficient information to provide a response but in any event the issue seems to refer to a totally unrelated policy.</p>	
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	<p>The money being used to pay for these cases is from the Hackney Carriage and Private Hire Licence fee payers, and this money could be better used to promote a better understanding between the trades, the VLE and the Licencing Committee members by having a Licensing Regulatory Panel to deal with all the issues.</p> <p>This type of committee will enable all issues and policies to be properly discussed and debated before decisions are made that could have far reaching effect on the livelihood and wellbeing of many members of the Hackney Carriage and the Private Hire trade members their families and their children.</p> <p><u>THE LICENSING COMMITTEE</u> The present decision and policy making system is unfair and undemocratic and must be changed, policies are not being robustly consulted or robustly debated on before they are being approved and implemented on the Hackney carriage and Private Hire Companies.</p>	<p>It seems to be overlooked that the decisions made by Officers are entirely on the basis of policy or statutory requirements and that the policies have gone through a rigorous consultation and review program.</p> <p>Please refer to previous responses.</p>	
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	<p>The Licensing Committee need to be involved in the consultation and the debates to enable them to fully understand the issues and the impact of the policy or proposals being presented to them to make a decision.</p> <p>The previous policy of co-opting a trade representative, union representatives or any other member of the trades wanting to take part in any discussion or debate must be re-instated, and this should include the final day when the Licensing Committee are due to make the decision to approve or dis-approve a policy.</p> <p>The Licensing Committee members have very limited knowledge of the Taxi and Private Hire Industry and at present rely on the professionalism of the report, honesty and integrity of the VLE Officers and their policies or proposals.</p> <p>May be that councillors have full confidence in the professionalism, honesty and integrity of the VLE officers, if that is the case this can be termed as having blind faith. May be</p>	<p>It is felt that the following points are repeated and best handled by Members at Licensing Committee.</p>	
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	<p>they have excellent knowledge and experience of the taxi and private hire industry? I know this isn't true as one of the councillors after my presentation (certain members including the legal officers objected to me being allowed to speak which I found very odd!!) about WAV types on the 15th of January 2013 made a remark "this low volume and whole type approval don't make any sense to me" I admire the councillor for his honesty but the fact is that all the councillors should have been made aware of the different types of vehicles as they had just approved a policy on the vehicle conditions. What happens when people have this blind faith then they need to look no further than on our own doorstep, namely Sir Jimmy Saville, the Hillsborough disaster and the issues with Sir Norman Bettison.</p> <p>The questions that came to my mind on the 15th of January 2013 were, am I in meeting room with democratically elected councillors? Are these democratically elected councillors making policies in a democratic manner or in dictatorial manner? Were the policies to be decided not related</p>		
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	<p>to the Hackney Carriage trade hence councillors and legal officers objecting to me speaking? Or has there been an approved policy between the licensing committee, VLE and the Hackney Carriage and Private Hire trades to not allow anyone other than the councillors to speak.</p> <p>The system being used presently consists of VLE officers conducting meetings with trade representatives when THEY see fit, these are planned regularly but not held on a regular basis and only recently have minutes been taken of these meetings and given to trade members (Not in advance but at the meeting only). The outcome as seen by VLE Officers and the summary of any consultation is then used as a basis of the policy report presented to councillors for a decision.</p> <p>The information supplied for consultations is presented in a manner that VLE officers feel is appropriate to their views or agenda, which may be totally different to what has been discussed at the trade meetings and may be from within the</p>	<p>Notes are taken and circulated to the trade and appear on the Council's website. The minutes are agreed by the trade representatives, including the representatives from Eurocabs.</p>	
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	<p>consultation and has not been fully discussed and debated with the trades.</p> <p>So by denying any trade representatives the right to speak or air their opinions or concerns about any policy then the policy is being dictated to the trades by VLE and approved by the Licensing Committee. This policy would then be a flawed policy as a robust debate and a robust consultation on the actual proposed policy has not been carried. The councillors are not being given the full information about the pros and cons of each policy before they are being asked to make a decision.</p> <p>I hope my views will be given full considerations for this consultation on how decisions are made on policies, licence suspension and licence revocation.</p>		
City Cabs	<p>We have carefully read and considered the aforementioned Consultation document 'Guidance on Immediate Suspension and Revocation of Licences ', and in our opinion it takes into no account, if an</p>	<p>Many of the following remarks are distinctly similar to previous comments and I refer to the previous responses.</p>	

	<p>individual is innocent and effects of this it would have on the loss of income suffered as a result of suspension and not foregoing the stigma/negative publicity attached in the unlikely scenario of a vendetta, accusations of physical/sexual assault by individuals or even over zealous officials (too much power/control in one departments hand).</p> <p>You will appreciate, we cannot accept draconian regulations/measures for a few who may have allegedly committed or even accused of these heinous offences to the masses and then enforce this with a blanket policy whereby the effects would have an enormous impact on family lives of those effected.</p> <p>We are aware of real life situations whereby drunken revellers on a weekend have tried all sorts of tricks in the trade to get out of paying for their journey home, even as far as accusing the vulnerable driver, I am ashamed to say, of sexual assaults. This is the grim reality of the society we live in I'm afraid however, I am not against pursuing those who commit</p>		
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	<p>these heinous offenses once a proper judicial process has been followed.</p> <p>It is extremely worrying to see a great City of ours bring in dictatorial and somewhat knee jerk policies without considering the core values of our nation 'you are innocent until proven guilty' and should not be down to an individual/departments interpretation of someone's guilt.</p> <p>These are some of the questions, which we are still waiting for answers on;</p> <p>What happens when the individual is proven innocent?</p> <p>Will they be compensated by the City for losses incurred?</p> <p>Will they receive an apology for being found guilty by the officers/department without proper judicial processes?</p> <p>Does this not violate his human rights to a fair trial and not to be judged without proper representation?</p> <p>I think we could carry on with this</p>		
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	<p>forever in time.</p> <p>I hope common sense prevails and our opinions are taken seriously, we also hope we can work on this further before it's put to the Licensing Committee for approval.</p>		
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