

REPORT OF THE HEAD OF ENVIRONMENTAL SERVICES

PROPOSED PROCEDURE FOR DEALING WITH LATE DOCUMENTS

REASON FOR REPORT

1. Mid Devon District Council has an adopted policy and conditions setting out how hackney carriages and private hire operations are regulated. This report puts forward an additional element to this policy detailing a procedure for dealing with late documents.

RECOMMENDATIONS

1. That Members consider the proposal in this report and then resolve to adopt it.

RELATIONSHIP TO CORPORATE PLAN

1. None

FINANCIAL, LEGAL AND RISK ASSESSMENT IMPLICATIONS

Any financial, legal and/or risk assessment implications are set out below:

Financial	There are no financial implications for Mid Devon District Council that are not met from existing resources
Legal	Policies and procedures for hackney and private hire need to be lawful
Risk Assessment	Policies and procedures need to strike the balance between ensuring public safety as well as compliance from those regulated

CONSULTATION CARRIED OUT WITH:

1. Every driver, vehicle owner and operator licensed with Mid Devon District Council as the proposed process directly affects them.

1.0 CURRENT SITUATION AND CONSULTATION

- 1.1 At present Mid Devon District Council has no written procedure in place for dealing with hackney carriage / private hire reminders and subsequent late submission of required documents.
- 1.2 Currently, we send out reminder letters to drivers, proprietors and operators for any documents that are required and these are normally sent a minimum of 3 weeks in advance of the due date. These reminders will be for a number of documents, including (but not limited to):
- DBS (previously known as CRB check)
 - Medical certificate
 - DVLA licence
 - MOT
 - Insurance certificate
 - MDDC Taxi Test document
- 1.3 If the document is not supplied to us in time we send out a second reminder letter and will also sometimes phone the relevant person to make enquiries. This takes up staff time and more importantly, for all we know, means the driver / proprietor is potentially working illegally. Put simply, unless we have the document by the date it is due, we have no way of knowing they are insured / have a current MOT / are fit to the relevant medical standards etc.
- 1.4 The proposed procedure set out below for dealing with late documents was sent to all drivers, proprietors and operators as part of the April 2013 'Hackney and Private Hire Newsletter' and is attached as Annex 1. Within the newsletter we asked for comments on the proposal by Friday 31 May 2013. No comments were received.

2.0 PROPOSED CHANGES TO PROCESS

- 2.1 The proposed procedure will mean we only send one reminder letter, a minimum of one month in advance of the document being due. There would be no further reminders.
- 2.2 If for some genuine reason the relevant person is unable to provide us with the document in time, they can contact us in advance of the due date and an alternative date can be set by a member of the Licensing Team. There would have to be a very good reason for this delay and it will be dealt with on a case by case basis. This is to ensure that those with legitimate reasons for a delay are treated fairly.
- 2.3 If no contact is made with us prior the due date and the document has not been received in time, the relevant person will be called in for an interview. The interview is to establish the relevant facts and have them documented and put on record. It is thought this interview should occur within one or two days of the licensing team contacting the relevant person.
- 2.4 The information established at the interview will then be assessed / reviewed and a decision made on what action is to follow as a result of the document not being received in time. This will be done on a case by case basis and the action may range from doing nothing to referring the matter to a Licensing Sub-committee where the licence could potentially be revoked.

- 2.5 There are a number of issues to consider before deciding on a course of action and these can include:
- Person's attitude
 - Compliance history
 - Extent of lateness
 - Reasons for it being late
 - Severity of situation – as an example, had the driver's insurance been renewed in time, only for them not to give us a copy of the insurance certificate or had the driver been using the vehicle with no insurance at all.
- 2.6 Failure by the relevant person to attend an interview may result in the licensing team taking enforcement action. As an example, if the driver cannot show he or she is fit to group two medical standards the licence may be suspended. Likewise, if we have no evidence of a vehicle passing its MOT we may decide to suspend the vehicle licence.
- 2.7 The current system in place for renewals of licences will continue as normal. All licences are set to expire at the end of the month and we send out reminders to renew at the start of each month. These reminders inform the applicant of the required documents and they must supply them to us before the renewal is processed. Late renewals will only be processed if there is a very good reason for the delay. If the reason is not deemed to be good enough, a new application satisfying the requirements of our policy will be required.
- 2.8 The issue of what is an acceptable reason for submitting a late renewal application will be judged on a case by case basis but as an example, being in hospital while the renewal is due may be a valid reason but it is unlikely that simply forgetting will be.
- 3.0 **RECOMMENDATIONS**
- 3.1 That Members agree the procedure set out in this report. If members have any comments or suggestions these may be discussed and agreed at the meeting.
- 4.0 **TIMESCALE**
- 4.1 The agreed procedure will come in to affect from the start of September.

Contact for any more information	Mr Thomas Keating 01884 244617 Licensing Officer
File Reference	Licensing/Taxi Consultation 2012/ Report for late document procedure
Circulation of the Report	Regulatory Committee

Proposed Late Document Procedure

We currently have no defined system in place for dealing with late documents i.e. vehicle tests / MOTs / medicals / DBS checks etc. The majority of drivers / proprietors are very good at getting documents into us on time; however, some are not and we need to address this issue to ensure the system is fair on everyone. We cannot allow people to continue working when they are not compliant with our Policy or have not produced the necessary documents to show us they are working legally.

For this reason, we propose the following process set out below. We would appreciate any feedback you may have and we would like to stress to the majority of you who provide us with documents on time that we appreciate your efforts - this system is in no way designed to penalise or target you and we hope this is clear.

(1) We send you a reminder letter informing you of the document(s) due. We will aim to send reminders out at least one month in advance, at the start of each month. So, if insurance / MOT / DBS etc. is due in July, a reminder will be sent out at the start of June.

(2) If for any reason you cannot supply us with the document by the date it is due, you must phone the Licensing Team (before the due date) to tell us why. Assuming the reason satisfies the Licensing Officer (i.e. illness or unforeseen circumstances) an alternative date for the document can be set. This ensures those diligent drivers are not unfairly punished for exceptional circumstances.

(3) If a document is late without good reason (each case judged on its own merits) you will be called in for an interview with a member of the Licensing Team. This is to establish and document the reasons for it being late, giving you an opportunity to explain why we had not had it in time. All of this information is passed on to the Licensing Manager who can then decide how to proceed. This information is also kept on file to build a potential history of late documents.

The Licensing Manager will decide the course of action based on a number of factors, including (but not limited to) history of compliance / lateness of document / attitude of individual / reasons for document being late.

There are a number of potential forms of action including: No action / warning by letter / taken to committee / suspension of licence / revocation of licence.

The reminders for licence renewals will continue as always i.e. you will receive a letter and the relevant renewal documents at the start of the month the licence is due to expire. Late renewals will be dealt with in line with case law (Exeter City Council v Sandle, 2011), essentially meaning any late renewal received will not be processed unless the applicant has very good reasons for the delay. If there are not, a new application fulfilling the requirements of our Policy would be required.