



Policy and Procedure for Handling Complaints made against Hackney Carriage Drivers, Private Hire Drivers and Private Hire Operators ('the Policy')

1. The Policy provides a framework for Gedling Borough Council ('the Council') to investigate and take any necessary action following complaints made against any Gedling Borough licensed driver, vehicle owner and / or operator ('Licence Holder').
2. The objective of the Policy is to ensure that all complaints are dealt with in a consistently fair, open and transparent way. The Policy should be read in conjunction with the Council's Statement of Policy and Guidelines for the Licensing of Hackney Carriage, Private Hire Drivers and Private Hire Operators

Complaints

3. All complaints must be made in writing (on the Council's Complaint form or by letter) and contain:
 - the name, address and contact details (telephone / email) of the complainant;
 - the relationship with the Licence Holder (for instance, whether they are a passenger, a fellow Licence Holder, member of the public etc);
 - sufficient information about the driver / vehicle to enable the Council to correctly identify the Licence Holder;
 - the date, time, place and full details of the alleged incident giving rise to the complaint.
 - information about any other witness to the incident;
 - confirmation that their identity may not be disclosed to the Licence Holder;
 - the signature of the complainant.

The Council will only, in very exceptional circumstances, record or investigate any complaint which is not in writing, and the Complainant may be contacted for further information if all of the above is not included, or if the Investigating Officer requires further information.

4. The Council will not give personal information about the Complainant to the Licence Holder without the consent of the Complainant. However, in some cases it may not be possible to properly investigate the allegation without divulging information about the identity of the Complainant (for instance, if the Complainant is a known passenger of the Licence Holder and they are they only one who could have made the allegation). In this

case, the Council will be unable to pursue the matter further unless the Complainant consents to disclosure.

Investigation of Complaints

5. When a complaint as above is received, a Licensing Officer will be appointed to investigate the allegation ('the Investigating Officer'). This may include contacting the Complainant for further information and / or contacting any known witnesses.
6. If the allegation is that the Licence Holder has / may have committed a criminal offence then this will be investigated and a decision made in accordance with the Council's Prosecution Policy. This Complaints Policy will not apply unless and until the Council decides not to pursue a prosecution. Complainants should be made aware that, if their allegation alleges that there has been a criminal offence, and then they may be asked to attend court to give evidence in support of the Council's prosecution.
7. If the Investigating Officer considers that there is sufficient evidence to support the complaint then the Licence Holder will be informed of the allegation against them and any evidence which the Council has, either supporting or not supporting the allegation.
8. The Licence Holder will be asked to either confirm in writing whether or not they accept the allegation made against them.
9. If the Licence Holder accepts the allegation against them, this will be treated the same as a decision of the Investigating Officer to uphold an allegation and a stage 1, 2 or 3 letter sent as appropriate (see paragraph 16 below).
10. A Licence Holder who does not accept the allegation against them will be invited to an interview with the Investigating Officer to make oral representations as to why the complaint should be upheld. A minimum of 7 days' notice of the date of the interview will be given (and if that date is inconvenient the Licence Holder may contact the Investigating Officer to arrange a more convenient date within the following 14 days).
11. A Licence Holder may, if they wish, decide not to make oral representations but instead provide to the Council his statement putting forward their version of the events and any evidence they have to support this. The Investigating Officer will then make the decision on the papers before them. Licence Holders should be aware, however, that it may be to their advantage to attend for an interview so that the Investigating Officer can put to them any questions they have to help understand the Licence Holder's position.
12. Licence Holders will be provided with full information about the allegation against them and all evidence obtained by the Investigating Officer. The Licence Holder may, if they wish, bring with them to the interview a friend, colleague, family member or other such person to support them.

13. The Licence Holder will be expected to bring with them to the interview any evidence (for example, witness statements) that they have to challenge the allegation.

Decision following investigation

14. The interview will be informal in nature and no set procedure will be adhered to. However, it is expected that the Investigating Officer will ensure the Licence Holder is fully informed about, and fully understands, the allegation against them and any supporting evidence. The Licence Holder will be given every opportunity to explain why he does not believe the complaint should be upheld, and to present to the Investigating Officer any evidence they have to support the defence of the allegation.
15. Following the interview, or on receipt of all the papers from the Licence Holder if he decides not to make oral representations, the Investigating Officer will fully consider all the evidence, that which supports the Complainant and that which supports the Licence Holder, and will, with the Community Protection Manager, make a decision as to whether the complaint (on balance of probability) should be upheld or not upheld. The Investigating Officer, prior to making a decision, will carry out any further investigations necessary as a result of matters arising at the interview or on the papers.
16. As soon as possible after the interview / review of the papers and in any event within 14 days, the Investigating Officer will notify the Licence Holder of the decision. If the decision is to uphold the complaint then the Licence Holder will be informed about the right to appeal. The notification will explain the reasons that the complaint has been upheld / not upheld.
17. When a complaint is either admitted by the Licence Holder or upheld by the Council after investigation, it shall be recorded and have the consequences as follows.
 1. First complaint – Stage 1 warning letter
 2. Second complaint – Stage 2 warning letter
 3. Third complaint – Stage 3 letter notifying the Licence Holder that the matter is being reported to the Environment and Licensing Committee.

Appeal

18. The above procedure will usually be adhered to however, where the council receives a single or second more serious complaint then it reserves the right to refer the Licence Holder to the Environment & Licensing Committee at an earlier stage. This step will usually only be considered where, in the opinion of the Licensing Officer, the complaint/s make the Licence Holder to be not fit and proper.
19. Only drivers who are 'fit and proper' may be licensed. The Council takes the view that a driver about whom it receives 3 complaints which are upheld may not be judged to be fit and proper. The Committee will be

asked to assess whether, in light of the complaints, the driver is fit and proper, it has the following options

1. To revoke the licence if it assesses the Licence Holder to not be fit and proper.
2. To suspend the licence for a period if it considers the Licence Holder to be fit and proper but to have fallen below the required standard.
3. To give the Licence Holder a warning which will be recorded on his record.
4. To take no action.

The Licence Holder will be invited to attend Committee to explain why they consider that they are a fit and proper person to continue to hold a licence.

20. The Licence Holder may appeal against any decision by notifying the Community Protection Manager in writing, within 21 days of receipt of the decision notice that they wish to appeal. The Licence Holder should give full information about the reasons for their appeal and provide any additional evidence which they want to be considered.
21. The Licence Holder may decide to appeal because for instance:
 - they think the finding is unfair;
 - they have new evidence that was not available prior to the decision being made;
 - they consider that proper procedure was not followed;
 - any other reason.
22. Only in the most exceptional circumstances will the Licence Holder be given the opportunity to attend and make oral representations on appeal. The fact the Licence Holder chose not to make oral representation at the original investigation is not a reason for him to be able to make representations at the appeal stage
23. The Service Manager for Public Protection will reconsider all the information available at the time the original decision was made along with any information since and the reasons given by the Licence Holder in their letter of appeal. Once his decision is made he will notify the Licence Holder accordingly, giving reasons for his decision.
24. If the decision is to uphold the appeal (and dismiss the complaint) then the record of the complaint will be deleted from the Licence Holders records.

Complaint forms are available from the Licensing Office upon request.