

APPENDIX B

Policy for Detecting Use of Illegal Drugs (including routine sampling)

Aim of the Policy

The Council views drug use, whether on a recreational basis or habitually, as completely incompatible with being a fit and proper person to be entrusted with the safe carriage of the general public as well as the dangers presented to other road users by licensed drivers.

This Policy therefore aims to establish procedures to allow for intelligence-led and routine drug testing of licensed drivers, and the testing of licensed drivers where a licence has been granted subject to random drug testing, with the intention of both detecting drivers who use illegal drugs and also deterring such persons from continuing to use drugs.

The Policy also supports the discretionary power for certain applicants for the grant of licences to drive taxis or private hire vehicles, and who have a criminal record involving drug-related offences, to be required to pass a drugs test at their own expense as one part of the application process.

Finally, the Policy also provides a discretionary power for applicants seeking to renew their licences to drive taxis or private hire vehicles, and who have been convicted during the currency of their licence of drug-related offences, to be required to pass a drugs test at their own expense as one part of the renewal application process.

The Council strongly encourages any person who uses illegal drugs to seek assistance from their GP or Drug Counselling agencies such as FRANK (<https://www.talktofrank.com/>), before reaching a point where their livelihood, their safety and the safety of others is put at risk from their drug use.

Applicability of Policy

1. Routine testing of Licenced Drivers

The Licensing Authority will randomly select between 5 and 10% of its licensed drivers for routine drug testing each year. Drivers who are randomly selected will be contacted and required to attend to submit a urine sample for testing within 48 hours of being contacted. Cases of missed sample appointments will be referred to the Public Protection Manager for consideration as to whether reasonable cause exists for the missed appointment. Failure to comply with a request to attend for testing may also result in the driver committing an offence of obstruction pursuant to Section 73(1) of the Local Government (Miscellaneous Provisions) Act 1976, and / or may result in the driver's licence being reviewed to ascertain whether the non-compliance gives rise to "reasonable cause" for the driver's licence to be revoked or suspended.

The urine analysis test must produce a negative (pass) result. If the initial screening test is positive (fail), then that sample will be required to be sent to the Councils' appointed toxicology testing laboratory for a confirmatory test which will determine exactly what substance(s) were taken and in what quantities. During this time the person who was tested may have any licence to drive taxi and private hire vehicles revoked with immediate effect on the grounds of public safety. In the event that the confirmatory analytical laboratory result is

below the level of quantification or consistent with declared medication then the person who has had their licence revoked may reapply for their licence.

The licensing authority will cover the cost of the drug testing where the drug testing is routine.

2. New Applicants with Drug-related conviction(s)

In the case of any applicant for a new taxi/private hire driver's licence who has any drug-related conviction or caution (whether for drug-driving, supply/intent/conspiracy to supply/production of drugs, possession of drugs or related to the possession of drugs) the Council's Relevance of Convictions Policy will be considered and the Public Protection Manager has discretion to require them as part of the application process to undergo at their own expense a drug test. This urine analysis test must produce a negative (pass) result. If a positive (fail) result is given, then further confirmatory testing of the urine sample must be carried out at the Councils' nominated toxicology company laboratory. For the avoidance of doubt, the provision of such a negative test result will be merely one aspect of the consideration process as to whether the applicant satisfies the "fit and proper person" test and shall not of itself prove determinative. The applicant will be required to pay the cost of the test and any subsequent confirmatory laboratory testing.

This discretionary procedure is intended to be used in a very limited number of cases as ordinarily the mere fact of drug convictions will in many cases be sufficient to justify recommending refusal of the application. The results of any discretionary test would be provided as part of a report to the Licensing and Community Safety Sub-committee who would determine the application.

3. Applicant for Renewal with recent Drug-related conviction(s)

In the case of any licensed driver seeking to renew their taxi/private hire driver's licence who has any drug-related conviction or caution (whether for drug-driving, supply/intent/conspiracy to supply/production of drugs, possession of drugs or related to the possession of drugs) the Council's Relevance of Conviction Policy will be considered and the Public Protection Manager has discretion to require them as part of the application process to undergo at their own expense a drug test. As with routine testing the applicant for renewal will be required to attend to submit a urine sample for testing within 48 hours of being contacted. This urine analysis test must produce a negative (pass) result. For the avoidance of doubt, the provision of such a negative test result will be merely one aspect of the consideration process as to whether the licence should be renewed and shall not of itself prove determinative.

Again, this discretionary procedure is intended to be used in a very limited number of cases as ordinarily the mere fact of drug convictions will be sufficient to give consideration to revoking or refusing to renew the licence.

If the initial screening test is positive (fail), then that sample will be required to be sent to the Councils' appointed toxicology testing laboratory for a confirmatory test which will determine exactly what substance was taken and in what quantities. The applicant will be required to pay the cost of the test and any subsequent laboratory confirmatory test. During this time the person who was tested positive may have any licence to drive taxi and private hire vehicles revoked with immediate effect on the grounds of public safety. In the event that the confirmatory analytical laboratory result is below the level of quantification or consistent with

declared medication then the person who has had their licence revoked may reapply for their licence.

4. Intelligence led Drug Testing

This would be based upon the Public Protection Manager being satisfied that credible reasoning exists to suspect that a licensed private hire / taxi driver may be using illegal drugs. Where the Public Protection Manager is so satisfied, the driver will be contacted in writing (email), and required to attend to submit a urine sample within 48 hours of being contacted. Failure to comply with such a requirement may result in the driver committing an offence of obstruction pursuant to Section 73(1) of the Local Government (Miscellaneous Provisions) Act 1976 and / or may result in the driver's licence being reviewed to ascertain whether the non-compliance gives rise to "reasonable cause" for the driver's licence to be revoked or suspended. The Public Protection Manager will have a discretion at all times to consider whether the driver had reasonable cause for not complying with the requirement and may, if they see fit, require the driver to attend for testing on an alternative date.

The urine analysis test must produce a negative (pass) result. If the initial screening test is positive (fail), then that sample will be required to be sent to the Councils' appointed toxicology testing laboratory for a confirmatory test which will determine exactly what substance was taken and in what quantities. During this time the person who was tested may have any licence to drive taxi and private hire vehicles revoked with immediate effect on the grounds of public safety. In the event that the confirmatory analytical laboratory result is below the level of quantification or consistent with declared medication then the person who has had their licence revoked may reapply for their licence.

The licensing authority will cover the cost of the drug testing where the drug testing is intelligence led.

5. Licence granted subject to a condition requiring random drug testing

There may be occasions where a licence is granted to a driver subject to a condition that a driver is subject to random drug testing for the duration of their licence or for a specified period of time less than the duration of their licence. For example, where the Licensing and Community Safety Sub-Committee is satisfied that despite a misuse of drugs incident in the past, an applicant/driver is sufficiently reformed so as to be fit and proper, but the Sub-Committee wish the driver to be subject to random drug tests to ensure the driver's suitability to be licensed does not change over time, through a return to misusing drugs, to protect the travelling public. The licensing authority will cover the cost of the drug testing where a licence is granted subject to a condition requiring random drug testing.

Drug Testing Procedure

Introduction

There are different methods of testing for drugs in the body. Testing for drug misuse depends on the collection of samples for analysis, which can be achieved by the use of a portable testing kit for preliminary screening or the sample can be sent to a toxicology laboratory for analysis.

The Council's nominated UKAS accredited toxicology company will supply portable screening kits for the initial test (initial testing may be undertaken by their representative or a specifically trained member of Council staff), and undertake any detailed analysis and confirmation of samples.

Drug Testing Collection Procedure

The person being tested will be informed of the requirement to be tested for drugs and the testing procedure will be explained to them.

The person being tested must attend the Council offices to submit a sample within 48 hours of being notified that they must be tested.

The person being tested is then required to sign a consent form regarding this impending test.

The person being tested provides a urine sample.

If it is ascertained that adulteration has occurred, then this will constitute an invalid sample which shall be reported to the Council.

If any person being tested refuses to provide a urine sample, they will be informed that such a refusal is a failure to comply with this Policy and, as such, will be reported to the Council which may result in their licence being suspended or revoked.

For portable test screening kits which provide an instant result, the person being tested may be required to provide information of any drug(s) and prescription or non-prescription medication taken (including dosage and frequency) if the sample is positive.

If the screening test is positive, then that sample will be required to be sent to the analytical laboratory for a confirmatory test which will determine exactly what substance was taken and in what quantities. During this time the person who was tested may have their licence to drive taxi and private hire vehicles revoked, and this may be with immediate effect on the grounds of public safety. In the case of a new applicant, no licence will be issued.

Once the laboratory test result is known a decision will be made as to whether to issue a licence. In the event that the analytical laboratory result is below the level of quantification or consistent with declared medication then the person who has had their licence revoked may reapply for their licence.

If the analytical laboratory result is positive a licence will not be issued to a new applicant.