

Hackney Carriage and Private Hire Licences

**Council procedures, information and
conditions**

West Dorset District Council

and

Weymouth and Portland Borough Council

Updated December 2016

Hackney carriages and private hire licences Council policies, information and conditions

Introduction

Purpose and scope

The purpose of this booklet is threefold:

- To clearly state the standards required in order to be issued with hackney carriage and private hire licences by the two councils
- To clearly state the law, conditions, and standards attached to the issue of a licence
- To provide helpful information to licence holders to assist them in their work

Part 1 explains how to submit applications for licences.

Part 2 sets out the law and conditions attached to licences.

Part 3 sets out helpful information for licence holders.

Applicants

Applicants for new, renewed, and transferred licences should read and follow the procedures set out in Part 1 carefully.

Failure to submit all the necessary documents may delay the consideration of an application.

Licence holders

All licence holders have been placed in a position of trust and have a responsibility to ensure the public are transported in a safe, comfortable and efficient manner. These responsibilities cover driver behaviour and vehicle and service reliability.

Part 2 sets out rules for licence holders that, if complied with, should ensure the above aims are achieved. All of the rules are legally binding on licence holders, and breach of those standards may result in prosecution and/or loss of licence.

It is important therefore that all licence holders make it their duty to know the conditions and law governing their profession.

All new licence holders are required to sign a declaration to confirm they have received this document and read and understood its contents.

Council Offices

Any correspondence should be addressed formally to the Business Licensing Manager, South Walks House, South Walks Road, Dorchester DT1 1UF.

Any person attending the Council Offices, or telephoning with enquiries, should ask for Licensing. Please telephone to confirm availability before attending the offices, an appointment will generally be required.

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PART 1

Council's policies with regard to the consideration of applications for hackney carriages, private hire vehicles, their drivers and operators

1. Introduction

- 1.1. Hackney Carriage Vehicles in the councils districts are licensed under conditions laid down in the Town Police Clauses Act 1847, the Public Health Act 1875, and the Local Government (Miscellaneous Provisions) Act 1976 Part II. In addition to the above, Hackney Carriage Drivers are also subject to the Local Government Act 1972 and Transport Act 1985.
- 1.2. Private Hire Vehicles and Private Hire Drivers in the councils districts are licensed under the conditions laid down in Part II of the Local Government (Miscellaneous Provisions) Act 1976.

2. Legislation

- 2.1. Where relevant, the source of the law is given in an abbreviated form, as follows:
- 2.2.

Town Police Clauses Act 1847	(TPCA)
Public Health Act 1875	(PHA)
Local Government Act 1972	(LGA)
Local Government (Miscellaneous Provisions) Act 1976	LGMPA)
Transport Act 1985	(TA)
Equalities Act 2010	(EA)

3. Licences required

- 3.1. There are 5 types of licences governing the hackney carriage and private hire trade:
- 3.2.
 - i. Hackney carriage vehicle licences
 - ii. Private hire vehicle licences
 - iii. Hackney carriage driver licences
 - iv. Private hire vehicle driver licences
 - v. Private hire vehicle operator licences
- 3.3. The main purpose of all the above licences is the protection of the public.

4. General law

4.1. Vehicle licences – valid for up to 1 year

- 4.1.1 Once a vehicle is licensed by one of the councils it can only be driven by a person who holds a current driver's licence issued by the same council. N.B. Removing the plate or covering it up when the vehicle is not working does not entitle an unlicensed driver to drive it.
- 4.1.2 A vehicle adapted to carry more than eight passengers which is used for hire and reward is a public service vehicle and consequently hackney carriages and private hire vehicles may have no more than eight passenger seats.
- 4.1.3 Private hire vehicles may not ply for hire anywhere or be hailed in a street. They may only respond to a booking following a pre-arranged contract, most commonly via the telephone. N.B. Any driver failing to comply with these restrictions would not only be breaking the law but may also be invalidating their insurance cover.
- 4.1.4 With the exception of licensed hackney carriages it is an offence for vehicles to park on a hackney rank. Hackney carriages may only ply for hire on a rank or in a street in the district in which they are licensed.
- 4.1.5 Hackney carriages, subject to restrictions (see Part 2, Paragraph 2.7) may respond to private hire bookings as well as plying for hire. N.B. A group of hackney carriage drivers accepting bookings do not require an operator's licence.
- 4.1.6 Hackney carriages wishing to work from ranks on railway property must obtain a permit from the designated station operator.

4.2. Drivers' licences – valid for up to 3 years

- 4.2.1 A driver licensed by a council may only drive for a licensed Private Hire Operator licensed by the same council. A current Hackney Carriage Driver's Licence is required to drive a Hackney Carriage Vehicle. A current Private Hire Driver's Licence is required to drive a Private Hire Vehicle. Driver's licences issued by a council are only valid to drive vehicles licensed by the same council.

4.3. Private hire operators' licences – valid for up to 5 years

- 4.3.1 A private hire operator may only operate vehicles and drivers licensed by the same council.
- 4.3.2 The private hire operator licence controls the standard of service supplied by the company, as opposed to the behaviour of drivers, or fitness of vehicles etc.
- 4.3.3 Private hire operator licences can only be issued by a council to an operating address within that council's area. N.B. Private hire drivers cannot accept direct bookings – they must be directed through an operator.

4.4. Taxi ranks

4.4.1 Taxi ranks may only be used by Hackney Carriage vehicles. N.B. Only the ranks situated in the area where licensed may be used. A list showing the current ranks with their location, number of taxis permitted and the duration of the rank is as follows:

Weymouth and Portland			
	Location	No of taxis	Duration
1.	Esplanade – opposite Johnstone Row	18	24 hour
2.	St Mary's Street – Opposite side entrance to the Guildhall.	3	24 hour
3.	St Thomas Street (Coburg Place)	2	24 hour
4.	St Mary's Street – below W H Smiths	3	17.30 to 05.00
5.	St Thomas Street – The Swan	5	11.00 to 05.00
6.	St Thomas Street – Retina	4	17.30 to 05.00
7.	St Thomas Street - Iceland	3	17.30 to 05.00
8.	The Town Bridge	4	23.30 to 05.00
9.	Castletown	1	24 hour
10.	The Station*	11	24 hour
* Permit required from designated station operator.			

West Dorset			
	Location	No of taxis	Duration
1	Charles Street, Dorchester	3	24 hour
2	Trinity Street, Dorchester	6	24 hour
3	Weymouth Avenue, Dorchester	1	24 hour
4	East Street, Bridport	4	24 hour
5	West Street, Bridport	6	24 hour
6	The Station, Sherborne	2	24 hour
7	Cheap Street, Sherborne	2	1800 – 2359
8	South Station, Dorchester*	6	24 hour
9	Bus stop at Museum, High West Street, Dorchester	6	2300 – 0500
10	Bus stop at Top of Town, High West Street, Dorchester	6	2300 – 0500
* Permit required from designated station operator.			

5. Application fees

5.1. Fees are charged for the following and current costs are available on application and on the council's website:

- i. Vehicle licence (HC & PH)
- ii. Driver licence (HC & PH)
- iii. Operator's licence (PH)
- iv. Internal and external plates
- v. Vehicle transfer
- vi. Disclosure and Barring Service Check
- vii. DVLA check
- viii. Knowledge Test
- ix. Replacement plate
- x. Replacement driver's badge

5.2. All applicants for any licence should note that the fees are payable on application and no refunds will be made unless the Business Licensing Manager determines otherwise.

5.3. These fees have been fixed in accordance with Section 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 Part II. In fixing these fees the Council is entitled by law to recover in the form of licensing fees all reasonable administrative, enforcement and other costs incurred in connection with the licensing, control and supervision of hackney carriage and private hire operation.

6. Driver's licences – processing an application

6.1. General

6.1.1 Before an application for a driver's licence can be considered the following must be undertaken/submitted:

- i. Duly completed application form
- ii. Enhanced Disclosure and Barring Service Check (application forms held by Licensing Services)
- iii. Current Driving Licence – (the DVLA database will be checked to confirm validity of licence and to ascertain any points/disqualifications)
- iv. Medical Examination Form, completed by the applicant's Medical Practice (Group 2 Medical Standards) (forms held by Licensing Services)
- v. One colour photograph of the same format as used for passports
- vii. A Driver Assessment/Improvement Scheme Certificate
- viii. Child Sex Exploitation/Safeguarding Certificate
- ix. The relevant fee

6.1.2 Applicants for driver licences must be 'fit and proper persons', who have held a full UK/EU driving licence for at least 12 months.

- 6.1.3 The test of what constitutes a 'fit and proper person' is not a straight forward one as each application must be considered on its own merits taking into account individual circumstances. The provisions of the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 apply to hackney and private hire drivers which means that the council can consider offences deemed spent under the Rehabilitation of Offenders Act 1974 should they deem them to be relevant. The possession of a criminal record would not automatically be a bar from being granted a licence. The Council's policy regarding such matters is annexed to this document (see Appendix A (1)).
- 6.1.4 At the end of the application process, the Council must be satisfied that an applicant is a 'fit and proper person' before a licence may be issued.
- 6.1.5 If the information provided by the applicant is inadequate, or raises doubts as to his/her fitness to the point that the Council remains unsure about an application, a licence may not be issued. In these cases applications will be referred to the Licensing Committee for consideration.
- 6.1.6 The onus is therefore on the applicant to provide whatever information, in addition to the items listed in paragraph 6.1.1, that he/she feels may help satisfy the Council of his/ her 'fitness'. For example this may include the provision of additional character references from previous employers.
- 6.1.7 Apart from the need to have held a full driving licence for at least 12 months there is no standard minimum or maximum age limit for drivers.
- 6.1.8 Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 as enacted states that an applicant for a taxi or private hire vehicle driver's licence must have held a full ordinary GB driving licence for at least 12 months in order to be granted a taxi or private hire vehicle driver's licence. This requirement has subsequently been amended since the 1976 Act was passed. The Driving Licences (Community Driving Licence) Regulations 1996 (SI 1996 No 1974) amended Sections 51 and 59 of the 1976 Act to allow full driving licences issued by EEA states to count towards the qualification requirements for the grant of taxi and private hire vehicle driver's licences. Licences issued by some other countries recognised by the DVLA may be accepted at the discretion of the council.

6.2 Application form

- 6.2.1 Every question on the form must be answered before it can be accepted. The appropriate fee must accompany each application.

6.3 Enhanced Disclosure and Barring Service form

- 6.3.1 The Council requires new applicants for hackney or private hire driver's licences to obtain **Enhanced Disclosures** (both Adult and Child barring lists will be required to be checked) from the Disclosure and Barring Service (DBS) before applications may be considered. Applicants for private hire operator's licences are required to obtain BASIC DISCLOSURES only (unless they also wish to become drivers).

- 6.3.2 The Police Act 1997 (Criminal Records) (Amendments) Regulations 2012 amend the Police Act 1997 (Criminal Records) Regulations 2002 and the Police Act 1997 (Criminal Records) (No.2) Regulations 2009 to enable an application for an enhanced criminal record certificate (including suitability information relating to both children and adults) to be made for the purpose of assessing the applicant's suitability to obtain or hold a taxi driver licence.
- 6.3.3 Subsequent Disclosures will be required at three yearly intervals and these must be paid for by the individual licence holders.
- 6.3.4 If applicants have obtained Enhanced Disclosures for other purposes and both the Child and Adult Barring Lists have been checked, the Council may accept the Disclosures for up to 6 months from the date of the search, subject to consultation with the initiating Registered Body.
- 6.3.5 Forms can be obtained from Business Licensing Services on payment of the appropriate fee. Cheques should be made payable to the relevant council. An Applicant's Guide to Completing the DBS Application Form will be issued which amongst other things indicates the documents required to prove identity. Completed forms should be brought in person to Business Licensing Services – an appointment will be required.
- 6.3.6 The original Disclosure Certificate will be issued to the applicant only – applicant will then need to present this to Licensing
- 6.3.7 If the applicant has subscribed to the DBS Update Services – this can be checked online. Details available at www.gov.uk/dbs-update-service .
- 6.3.8 **Overseas applicants:** The DBS provides information on how an individual can obtain a copy of their own certificate of good conduct or criminal record from a number of countries. This information can be found on the overseas page of their website or by phoning their overseas enquiry line – telephone number 08709 090811. The onus is on the applicant to provide details of their criminal record information. N.B. Any applicants who have lived/worked abroad within the last 5 years must obtain this documentation from the relevant country/countries.
- 6.3.9 It would be unusual for spent convictions to be taken into account when considering applications, but the Council does retain that discretion if it considers that it cannot do justice to the application without considering such convictions (Rehabilitation of Offenders Act 1974). See Appendix A(2) for further details
- 6.3.10 Confirmation of previous convictions may delay the consideration of an application and the Business Licensing Manager may decide that the Council's Licensing Committee, made up of elected Councillors, should consider the application (see paragraph 9). References may also be sought at that stage if it is considered appropriate to do so.

6.4 Current driving licence

- 6.4.1 Applicants must produce their original UK or EU licence when completing the application form. Photocopies will not be accepted.
- 6.4.2 DVLA records will be checked on initial application and subsequent checks will be required every three years. If a driving licence has endorsements, the application may be delayed, and the Licensing Manager may decide that the Council's Licensing Committee should consider the application (see paragraph 9).

6.5 Medical examination form

- 6.5.1 The medical examination form must be taken to the Medical Practice with whom the applicant is currently registered. The applicant must meet the DVLA's Group 2 Vocational drivers standard. N.B. C1 standards are applied to applicants suffering from diabetes and full details of the C1 criteria are available on request from Licensing Services or at www.gov.uk (Assessing fitness to drive – a guide for medical professionals).
- 6.5.2 Medical examinations are undertaken on initial application then every 8 years to age 45 then every 5 years to age 65, then annually from age 66 onwards. The Business Licensing Manager may decide to impose a shorter period between examinations in individual cases if he/she considers it appropriate. Applicants may typically be asked to have an additional medical examination if they are returning to work after a period of illness.
- 6.5.3 The Council will accept Group 2 standard DVLA medical forms from applicants who have obtained them for other purposes (eg if they have obtained them for coach driving, heavy goods vehicles etc) provided that the medical is less than 6 months old and accompanied by the signed declaration sheet of the Council's medical form to show that they are fit.

6.6 One passport sized coloured photograph

- 6.6.1 The photograph will be scanned in order to produce the driver's badge. It will then be placed in the Hackney Carriage/Private Hire Drivers' file as appropriate. All Licensing Services' records are retained for a period of six years with the exception of DBS results which are destroyed as soon as the information has been processed.

6.7 Local knowledge test

- 6.7.1 A local knowledge test is required of all new applicants who must gain a 75% pass rate. The applicant is questioned on significant roads, main housing estates, location of caravan sites and holiday parks, public houses, clubs, churches, hospitals, schools etc, together with a random selection of questions on the contents of this policy and the conditions.

6.7.2 These tests are carried out in order to ensure that applicants have a basic knowledge of the geography of the whole Borough/District and also of the Council's policy and conditions. The test has been devised to help safeguard the quality of the public service provided by hackney and private hire drivers and to promote their awareness of licensing conditions.

6.8 Driving assessment/improvement course

6.8.1 First time applicants must attend the Dorset County Council Driver Improvement scheme before a licence is issued. This is in recognition that vocational drivers are more at risk than other drivers. The Council therefore considers that licence holders should reach higher standards of driving than other road users.

6.8.2 The Council's training and assessment is carried out by qualified (Grade 6) Department of Transport Approved Driving Instructors (A.D.I.). The A.D.I. will meet the applicant or licence holder at any reasonable time or place, and the assessment may be carried out in the applicant's vehicle or the A.D.I.'s vehicle. The cost of the training and assessment is payable directly to the Approved Driving Instructor (A.D.I.). A list of local approved ADI can be obtained from the licensing office.

6.8.3 The driving assessment is normally required only for drivers wishing to become private hire and hackney carriage drivers for the first time. The Business Licensing Manager has the discretion to require licence holders to undergo further training if, during the period of a licence, a person's driving record indicates that additional training is required. In such circumstances, the Business Licensing Manager may suspend a licence until another driving assessment has been successfully completed by the licence holder.

6.9 Child Sexual Exploitation (CSE)/Safeguarding Training

Applicants to undertake CSE/Safeguarding Training and produce certificate, consideration will be given to previous CSE/Safeguarding training undertaken in the last 3 years on production of certificate.

6.10 Driver licence renewal

6.10.1 Responsibility for submitting renewal applications with the appropriate fee and a new coloured passport sized photograph before the expiry date of a licence rests solely with licence holders. Renewal reminders will be sent to licence holders but only as a courtesy service. The non- receipt of a reminder letter shall not be used as a defence for not submitting a renewal application.

7. Vehicle licences – processing an application

7.1 General

7.1.1 Before a hackney carriage vehicle or private hire vehicle licence can be issued an applicant must submit each of the following:-

- i) Duly completed application form which must be completed in full
- ii) A UK MOT test certificate (if applicable)
- iii) Vehicle registration document
- iv) The current and correct certificate of insurance for the vehicle indicating cover for private or public hire as appropriate. N.B. This must include a minimum of £2million public liability insurance to cover for accidents outside the vehicle
- v) A vehicle inspection pass certificate from the council's approved garage(s)
- vi) Meter Certificate (if applicable)
- vii) The appropriate fee

7.2 Type of vehicle

7.2.1 Applicants for first time or transfer of vehicle applications are generally issued only in respect of 4 door saloons, estates and MPV type vehicles. The vehicle must comply with the Road Vehicle (Construction and Use Regulations) 1986 (or any substantive re-enactment thereof with or without modifications) regarding seating for a minimum of 4 passengers with adequate provision for luggage space.

7.2.2 There are no restrictions on the colour of the vehicle or engine size but it must be of a hard top construction. Where one seat is provided for three passengers it must measure no less than 125.73cms (49.5 inches) across (between the interior fittings on either side.)

7.2.3 Vehicles such as estates and hatchbacks having no separate boot for luggage are to be fitted with a guard between the luggage space and the passenger seating to minimise injuries in the event of an accident.

7.2.4 By law the front windscreen must let at least 75% of light through and the front side windows must let at least 70% of light through.

7.2.5 The vehicle should be supplied with either a spare wheel, space saver or puncture repair sealant.

7.3 Age of vehicles

7.3.1 The Council will not issue first time applications for private hire and hackney carriage vehicles of more than 8 years of age.

7.3.2 A vehicle which reaches the 6 year mark whilst already licensed may continue beyond that age provided that renewal of the licence is continuous and that all the

vehicle standard checks are met. Vehicles of 6 years (N.B. 8 years of age for purpose built hackney vehicles) and older are required to have vehicle tests carried out every 6 months.

- 7.3.3 The age limits referred to in 7.3.1 and 7.3.2 may be waived in respect of vintage and specialist vehicles including some wheelchair accessible vehicles (WAV) which are in exceptional condition. The decision to approve the licensing of these types of vehicles remains in the control of the Business Licensing Manager.

7.4 Vehicle registration document

- 7.4.1 The Vehicle Registration Document must be submitted with the application form, showing the applicant as the registered keeper. N.B. If the vehicle has been recently purchased the relevant V5 slip from the vehicle registration document must be produced instead on the proviso that the full document will be submitted as soon as it is received.

7.5 MOT test certificate/vehicles tests

- 7.5.1 The law requires that licensed hackney carriage vehicles have an MOT when they are 12 months old and then annually. (Road Traffic Act 1988, Sect. 47 (3)).
- 7.5.2 A private hire vehicle is required to have an MOT once 3 years old as per privately owned vehicles.
- 7.5.2 Private hire and hackney vehicles are required to have a vehicle test, by the council's appointed agent, on initial application and then annually until they reach 6 years old. Vehicles over 6 years old require a vehicle test every 6 months.
- 7.5.3 In addition to the MOT and vehicle tests, vehicles are checked by Licensing Officers or their representative for overall cleanliness, the standard and appearance of bodywork and interior of the vehicle plus the condition of the plate and wheel trims. Once licensed, spot checks are also carried out from time to time to ensure that standards are being maintained.

7.6 Certificate of insurance

- 7.6.1 Applicants for private hire vehicles shall submit valid insurance certificates or cover notes confirming proper 'private hire' cover. N.B. If a cover note is produced the applicant will be required to submit evidence of full cover to Licensing Services upon expiry of the cover note.
- 7.6.2 Applicants for hackney carriages shall submit valid insurance certificates or cover notes confirming proper 'public hire' cover and also 'private hire' cover if such additional work is undertaken. N.B. If a cover note is produced the applicant will be required to submit evidence of full cover to Licensing Services upon expiry of the cover note.
- 7.6.3 Responsibility rests solely with a licence holder to ensure a current valid insurance

certificate is always in force throughout the licensing period. Once licensed, spot checks are carried out from time to time to ensure that the appropriate insurance cover is being maintained. Please note that part of the insurance cover should include £2m public liability cover. This is necessary as drivers have a 'duty of care' to their passengers and public liability cover will cover any accidents that occur outside the car whilst dealing with passengers.

7.7 Fire extinguisher and first aid equipment

7.7.1 A fire extinguisher meeting the current British standard is required to be provided within the vehicle. A first aid kit of such type and quantities adequate for the number of passengers carried shall also be carried in the vehicle.

7.8 Taxi-meters

7.8.1 Applicants for hackney carriages must arrange for a taxi- meter to be installed in their vehicle. The use of taxi- meters is discretionary in private hire vehicles.

7.8.2 The words "FOR HIRE" must not be displayed on a meter fitted in a private hire vehicle.

7.8.3 Every hackney carriage meter shall be set to record fares based on the relevant council's current approved hackney carriage table of fares.

7.8.4 An officer approved by the Council shall test and 'seal' meters in respect of first applications and on occasions when there is a change to the tariff.

7.8.5 The driver shall not tamper with or permit any person to tamper with any taxi-meter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.

7.8.6 The driver shall promptly, and in any case within 48 hours, notify Licensing Services whenever it has become necessary to make any alteration, adjustment, repair or replacement of the whole or any part of the taxi-meter fitted to the carriage so that it may be re-tested and sealed by an officer approved by the Council.

7.9 Roof signs and wording on vehicles

7.9.1 A vehicle submitted for a hackney carriage licence shall display a roof sign exhibiting the word "TAXI" and, if no separate sign is illuminated in the windscreen, "FOR HIRE". Lettering must be no less than 3.81cms (1.5 inches) in height and the sign must light up whenever the vehicle is available for hire.

7.9.2 Weymouth and Portland Borough Council do not permit roof signs to be used on private hire vehicles. West Dorset do permit roof signs on private hire vehicles but such signs must clearly state "Pre Booking Only" or similar words.

7.9.3 A vehicle submitted for a private hire licence shall not exhibit any sign or wording which consists of or includes the words "taxi", "cab" or "hire" or any word of a similar

meaning or appearance to any of those words.

- 7.9.4 The Council does not preclude vehicle licence holders from displaying general advertisements on their vehicles but any advertisement must conform to the Advertising Standards Agency code www.asa.org.uk. Artwork is to be produced to the relevant council for prior approval. N.B. The Council reserves the right to refuse the display of advertisements which are deemed inappropriate or offensive.

7.10 Security measures

- 7.10.1 The installation of CCTV in vehicles is encouraged by the Council in order to offer a form of protection to the driver. . Refer to Information Commissioner's Office for CCTV Code of Practice – www.ico.org.uk.

7.11 Vehicle licence renewals

- 7.11.1 Responsibility for submitting renewal applications with the appropriate fee, a Certificate of Insurance and MOT/ vehicle test certificate before the expiry date of a vehicle licence rests solely with licence holders. Any application not received by the expiry date will subsequently be treated as a first time application.
- 7.11.2 Renewal reminders will be sent to licence holders but only as a courtesy service. The non-receipt of a reminder letter shall not be used as a defence for not submitting a renewal application.

8. Private hire operator's licences – processing an application

8.1 General

- 8.1.1 An application for a private hire operator's licence must include:

- i) Duly completed application form
- ii) The fee
- iii) Basic criminal record disclosure certificate obtainable through Disclosure Scotland.

- 8.1.2 Applicants for a private hire operator's licence must be 'fit and proper persons' and the Business Licensing Manager may make such enquiries about an application as he/she thinks fit.

- 8.1.3 Applicants for a private hire operator's licence must contact the Planning Department for advice/permission before operating from the business address of their choice.

- 8.1.4 Applicants for a private hire operator's licence shall have a base within the relevant council's area from where bookings shall be accepted.

- 8.1.5 An Operator can only use vehicles licensed by the same council as the operators licence.

- 8.1.6 A private hire operator may use licensed vehicles not in his/her ownership.
- 8.1.7 Private hire operators must ensure that adequate public liability and employer's liability insurance are in place for all booking premises to which the public have access.
- 8.1.8 The operator shall at all times keep, in a form approved by the Council, a record of the registration number and private hire vehicle licence number of each private hire vehicle operated by him/her, together with the name and address of the private hire vehicle proprietor and the name, address and private hire driver's licence number of every driver of such vehicles, together with insurance and MOT details.
- 8.1.9 The operator shall at all times keep, in a form approved by the Council, a record of each journey undertaken by a private hire vehicle operated by him/her, details of the date, time and source of the booking, the name of the hirer, the place of commencement of journey and the name and registration number of the driver and vehicle respectively undertaking the journey. Records of hirings must be kept available for inspection for a period of 6 months from the date of entry.
- 8.1.10 When a particular vehicle ceases to be operated by him/ her, or a new vehicle commences to be operated by him/ her, the operator shall inform the Council in writing within 7 days of such fact.

8.2 Operator renewals

- 8.2.1 Responsibility for submitting a renewal application and the appropriate fee, before the expiry date of a licence, rests solely with licence holders.
- 8.2.2 Renewal reminders will be sent to licence holders but only as a courtesy service. The non-receipt of a reminder letter shall not be used as a defence for not submitting a renewal application.

9. Decision making process – all licences

9.1 General

- 9.1.1 The Business Licensing Manager has been delegated powers to consider every application received.
- 9.1.2 The majority of applications will therefore be considered by the Business Licensing Manager, although contentious applications may be referred to the Council's Licensing Sub Committee.
- 9.1.3 The Licensing Sub Committee will be summoned when the Council has to exercise some form of discretion before a decision can be made on an application.

9.2 Licensing Sub Committee

- 9.2.1 The Licensing Sub Committee is made up of elected Councillors and hears applications referred to it by the Business Licensing Manager.
- 9.2.2 It hears each application on its own merits and ensures that applicants have every opportunity to state their case, both verbally and in writing, before a decision is made.
- 9.2.3 Such hearings are conducted in accordance with the Rules of Natural Justice which ensure a fair hearing for every applicant.
- 9.2.4 An applicant may bring a legal representative, or any other person to speak on their behalf, to a Licensing Sub Committee hearing.

9.3 Refusal of licences – right of appeal

- 9.3.1 Any applicant refused a licence may appeal against the Council's decision within 21 days from the date of the Refusal Notice to the following Courts:
 - i) HC and PH Driver Licences - Magistrates
 - ii) Private Hire Vehicles Licences – Magistrates
 - iii) Private Hire Operators Licence – Magistrates
 - v) Renewal/suspension/revocation of HC Proprietor's Licence – Magistrates
 - vi) Refusal of initial grant of Hackney Carriage Proprietor's Licence - Crown Court**
- 9.3.2 All appeals to the Courts are by way of a complete re- hearing of the application.

Part 2

The law and guidelines relating to hackney carriage drivers and conditions attached to private hire drivers, licensed vehicles and operators

1. Introduction

- 1.1 Any licence holder contravening a condition of a licence or failing to comply with the law renders himself/herself liable to prosecution, suspension, revocation or refusal to renew his/her licence.
- 1.2 The fitness of private hire drivers, operators, hackney carriages and private hire vehicles are controlled by way of standard conditions which are attached to the licences and detailed in this part of the booklet.
- 1.3 The fitness of hackney carriage drivers is controlled by way of primary legislation and Council guidelines advising licence holders of procedures to follow to ensure compliance with that legislation. The main parts of the relevant law have been detailed in this part of the booklet, but licence holders are also bound by any other relevant laws not listed herein.
- 1.4 The Business Licensing Manager reserves the right to attach additional special conditions not listed herein to any licences in individual cases he/she considers appropriate.
- 1.5 If three complaints of a similar nature about a particular licence holder are received by the Business Licensing Manager and these can be substantiated, the licence holder will be required to appear in front of the Licensing Sub Committee so that the committee can give consideration to whether or not the individual is a fit and proper person to continue holding a licence.

2. The law and guidelines relating to hackney carriage drivers

- 2.1 A hackney carriage may only be driven by people in possession of a valid hackney carriage driver's licence. (Section 46 TPCA)
- 2.2 The responsibility for making renewal applications lies with the licence holder. (Section 53(1) LGMPA)
- 2.3 A hackney carriage driver shall remain a 'fit and proper person' throughout the period of the driver's licence. (Section 59(1) LGMPA)
- 2.4 The Council has set out some general rules as a guideline to the standards expected of a 'fit and proper person' to help define this part of the law. Non-compliance with the following sub-paragraphs i – xv may give 'reasonable cause' to suspend, revoke or refuse to renew a hackney carriage driver's licence. However, this short list is not absolute, and the Council may be given 'any other reasonable cause' not herewith listed to take that same action (Section 61(1)(b) LGMPA):

- i) A hackney carriage driver shall not be convicted of an offence involving dishonesty, indecency or violence.
- ii) A hackney carriage driver shall comply with all other paragraphs of this Section entitled 'The Law and Guidelines Relating to Hackney Carriage Drivers...', and to any other statutory requirements not listed in this booklet that are binding on hackney carriage drivers.
- iii) A hackney carriage driver shall always behave in a civil and orderly manner.
- iv) Medical examinations are undertaken on initial application then every 8 years to age 45 then every 5 years to age 65, then annually from age 66 onwards. The Business Licensing Manager may decide to impose a shorter period between examinations in individual cases if he/ she considers it appropriate. Applicants may typically be asked to have an additional medical examination if they are returning to work after a period of illness. The Council will accept Group 2 standard DVLA medical forms from applicants who have obtained them for other purposes (eg if they have obtained them for coach driving, heavy goods vehicles etc) provided that the medical is less than 6 months old and is accompanied by the signed declaration sheet of the Council's medical form to show applicant is fit.
- v) A hackney carriage driver shall always be of a clean and tidy appearance.
- vi) A hackney carriage driver shall inform the Council within 7 days in the event that he/she succumbs to a medical condition which would adversely affect his/her ability, however slight, to drive hackney carriages.
- vii) A hackney carriage driver shall remain a fit and proper person throughout the period of his/her licence, and shall inform the Business Licensing Manager in writing of any criminal or road traffic convictions, instant penalty notices, judgments or court cases pending against him/her, within 7 days of being notified of such offence/proceedings.
- viii) A hackney carriage driver shall notify the Council in writing of any change of address within 7 days of the change taking place.
- ix) A hackney carriage driver shall upon the expiry without renewal, revocation or suspension of the driver's licence forthwith return the licence and identification card to the Council.
- x) A hackney carriage driver who has been hired to be in attendance with his/her vehicle at an appointed time and place shall, unless delayed by some sufficient cause, punctually attend at that time and place.
- xi) A hackney carriage driver shall when requested by any passenger convey a reasonable quantity of luggage and afford reasonable assistance in loading

and unloading that luggage.

- xii) The driver of a hackney carriage shall not at any time smoke in his/her vehicle. The ban on smoking in workplaces (effective from 1st July 2007) includes hackney carriages, private hire vehicles and offices. This means that there must be no smoking whatsoever permitted by drivers or passengers in private hire or hackney carriage vehicles **at any time**.
 - xiii) The driver of a hackney carriage shall not at any time while driving on hire play any music without the express consent of the hirer.
 - xiv) A hackney carriage driver shall return any lost property left in the vehicle to Licensing Services or the police as soon as possible after discovering the property, or to the rightful owner if known.
 - xv) A hackney carriage driver when hired to drive to any particular destination shall, unless the passenger shall otherwise direct, proceed to that destination by the shortest available route. If this is not possible (e.g. roadworks) the driver must inform the hirer of the problem before commencement of the journey and the suggested alternative route.
- 2.5 No hackney carriage driver shall carry in a licensed hackney carriage a greater number of persons than is stated in the vehicle licence. (Section 51 TPCA). **N.B. A child of any age is considered to be one person.**
- 2.6 No hackney carriage driver, whilst standing on a hackney carriage rank, shall refuse, without reasonable excuse, to undertake a journey within the prescribed area i.e the borough or district at the request of a customer (Section 53 TPCA).
- 2.7 A hackney carriage driver using a hackney carriage for a private hire hiring within the council's area shall charge no more than the fare based on the Council's approved table of fares by means of a taxi-meter and the fare or charge shall be calculated at the point of pick-up (Section 67 LGMPA).
- 2.8 A hackney carriage driver shall not convey any other person other than with the consent of the hirer (Section 59 TPCA).
- 2.9 A hackney carriage driver shall not charge passengers separate fares unless:
- i) All passengers carried on the occasion in question booked their journey in advance;
 - ii) Each of those passengers consented when booking the journey to sharing the use of the vehicle on that occasion with others, on the basis that a separate fare would be payable by each passenger for their own journey (Section 11 TA).
- 2.10 No hackney carriage driver shall drive whilst intoxicated (Section 61 TPCA) or under the influence of drugs.

- 2.11 No hackney carriage driver shall drive in a reckless, dangerous or careless manner (Section 61 TPCA).
- 2.12 No hackney carriage driver shall hinder or obstruct the driver of any carriage from taking up a position on a hackney carriage rank (Section 64 TPCA).
- 2.13 The Council has approved the following rank procedures for drivers to follow to ensure that this part of the law (2.12 above) is not breached by licence holders. Non-compliance with the following sub-paragraphs i – v may give ‘reasonable cause’ to suspend, revoke or refuse to renew a hackney carriage driver’s licence, or to prosecute a driver under Section 64 of the TPCA (Section 61(1)(b) LGMPA).
- i) If a hackney carriage is the first vehicle on a hackney carriage rank the driver shall place the hackney carriage at the front of the rank so as to enable other drivers to station their vehicles in an orderly manner behind that first vehicle.
 - ii) If a hackney carriage is not the first vehicle on a hackney carriage rank the driver shall station the vehicle on the next available space unless the rank is full, in which case the driver shall remove his vehicle from the immediate vicinity of the rank and shall not wait in any parking place or on the street so as to be visible from the rank in any direction.
 - iii) On the departure of the first vehicle stationed on a rank any other driver of a hackney carriage on the rank shall immediately move forward one vehicle length in the same order as they are parked.
 - iv) A hackney carriage driver should direct any prospective customer to the first available vehicle on the rank, however, if the prospective customer prefers to use any other vehicle on the rank they are at liberty to do so and the driver should by way of courtesy inform the first driver on the rank.
- 2.14 No hackney carriage driver shall leave a hackney carriage unattended on a hackney carriage rank (Section 62 TPCA).
- 2.15 No hackney carriage driver shall tamper with any seal on any taxi-meter, or alter any taxi-meter with intent to mislead (Section 71(2) LGMPA).
- 2.16 No hackney carriage driver shall wilfully obstruct an authorised officer or constable acting in pursuance of the LGMPA 1976 or TPCA 1847 (Section 73 LGMPA).
- 2.17 A hackney carriage driver shall produce their hackney carriage driver’s licence (in the form of an identification card) to any authorised officer or constable if requested to do so, and such identification card shall always be on display in the vehicle (Section 53 LGMPA).

3. Conditions attached to private hire vehicle driver licences (section 51(2) LGMPA)

- 3.1 A private hire vehicle may only be driven by people in possession of a valid Private Hire Driver's Licence.
- 3.2 A private hire vehicle driver shall remain a 'fit and proper person' throughout the period of his/her licence, and shall inform the Licensing Manager in writing of any criminal or road traffic convictions, instant penalty notices, judgements or court cases pending against him/her, within 7 days of being notified of such offence/proceedings.
- 3.3 Medical examinations are undertaken on initial application then every 8 years to age 45 then every 5 years to age 65, then annually from age 66 onwards. The Business Licensing Manager may decide to impose a shorter period between examinations in individual cases if he/she considers it appropriate. Applicants may typically be asked to have an additional medical examination if they are returning to work after a period of illness. The Council will accept Group 2 standard DVLA medical forms from applicants who have obtained them for other purposes (eg if they have obtained them for coach driving, heavy goods vehicles etc) provided that the medical is less than 6 months old and is accompanied by the signed declaration sheet of the Council's medical form to show the applicant is fit.
- 3.4 A private hire vehicle driver shall inform the Council within 7 days in the event that he/she succumbs to a medical condition which would adversely affect his/her ability (however slight) to drive within the period between medical examinations.
- 3.5 The responsibility for making a renewal application lies with the licence holder.
- 3.6 A private hire driver shall not call out or otherwise try to encourage any person to hire their vehicle and shall not use the services of any other person for that purpose.
- 3.7 A private hire vehicle driver shall notify the Council in writing of any change of his/her address during the period of the licence within 7 days of such change taking place.
- 3.8 A private hire vehicle driver shall upon suspension, revocation or failure to renew the licence return the licence and badge to the Council when requested to do so.
- 3.9 A private hire vehicle driver shall display their internal licence on the windscreen within the vehicle where it may be seen by the passengers.
- 3.10 A private hire vehicle driver who has been hired to be in attendance with his/her vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend at that time and place.
- 3.11 A private hire vehicle driver when hired to drive to any particular destination shall, unless the passenger shall otherwise direct, proceed to that destination by the shortest available route. If this is not possible (e.g. roadworks) the driver must inform

the hirer of the problem before commencement of the journey and the suggested alternative route.

- 3.12 A private hire vehicle driver shall when requested by any passenger convey a reasonable quantity of luggage and offer reasonable assistance in loading and unloading that luggage.
- 3.13 A private hire vehicle driver shall always be of a clean and tidy appearance.
- 3.14 A private hire vehicle driver shall return any lost property left in their vehicle to Licensing Services at the Council Offices or to the police as soon as possible and in addition is to inform their private hire operator or return the property to the rightful owner if known.
- 3.15 A private hire vehicle driver shall comply with all other statutory requirements that are not listed in this booklet but that are binding on private hire vehicle drivers. The main sources of law are listed in Part 1 of this document but it should be noted that this list is not exhaustive.
- 3.16 A private hire vehicle driver shall always behave in a civil and orderly manner.
- 3.17 No private hire vehicle driver shall carry in a licensed private hire vehicle a greater number of persons than is stated in the vehicle licence. N.B. A child of any age is considered to be one person.
- 3.18 No private hire vehicle driver shall drive whilst intoxicated or under the influence of drugs.
- 3.19 The driver of a private hire vehicle shall not at any time smoke in his/her vehicle. The ban on smoking in workplaces (effective from 1st July 2007) includes hackney carriages, private hire vehicles and offices. This means that there will be no smoking whatsoever permitted by drivers or passengers in private hire or hackney carriage vehicles at any time.
- 3.20 No private hire vehicle driver shall drive in a reckless, dangerous or careless manner.
- 3.21 No private hire vehicle driver shall wilfully obstruct an authorised officer or constable acting in pursuance of the LGMPA.
- 3.22 A private hire vehicle driver shall wear their private hire identification card at all times when working.

4. Conditions attached to hackney carriage and private hire vehicle licences (sections 47(1) and 48(2) LGMPA)

- 4.1 All licensed vehicles shall be kept, throughout the period of a licence, to the standard required to pass the UK MOT test certificate and scrutiny of Licensing Services staff.
- 4.2 All licensed vehicles, throughout the period of a licence, shall hold a valid UK MOT Test Certificate and in the event of the expiry of such Certificate the vehicle shall not be used for hire until the vehicle has been re-inspected and been issued with a renewed Certificate.
- 4.3 The interior and external bodywork of a licensed vehicle shall always be kept in a clean and tidy condition. Wheel trims are to be fitted at all times except where wheels are fitted that do not require them.
- 4.4 Any damage to the bodywork of a licensed vehicle shall be reported to Licensing Services within 72 hours of such damage being sustained, and the vehicle shall be presented for inspection at a mutually convenient date and time.
- 4.5 There shall be provided in licensed vehicles at all times a suitable and efficient fire extinguisher and first aid kit carried in such a position to be readily available for immediate use in an emergency.
- 4.6 All hackney carriages shall have installed a taxi-meter set to record fares based on the Council's current approved table of fares and should not be capable of a tariff change once the vehicle has commenced its hire.
- 4.7 All installed taxi-meters (in both hackney carriages and private hire vehicles) shall be tested and sealed by an approved officer of the Council before they may be used.
- 4.8 A taxi-meter shall be 'sealed' at all times during the period of a vehicle licence.
- 4.9 All hackney carriages shall have displayed inside the carriage, in a conspicuous position, the current Council tariff card.
- 4.10 The appropriate plate identifying the vehicle as a private hire vehicle or hackney carriage shall be securely fixed to the external rear of the vehicle in a conspicuous position at all times. The smaller internal licence shall be fixed to a convenient place on the windscreen where it can be seen by the passenger(s). The plate number shall not wilfully or negligently be concealed from public view while the vehicle is hired.
- 4.11 The Council shall be notified in writing of any transfer of ownership of the vehicle within 14 days of the transfer taking place.
- 4.12 Vehicle licences shall be issued for a maximum period of one year and responsibility for making applications before the expiry date shall lie with the licence holder.
- 4.13 The vehicle licence and plate shall be returned to the Council immediately upon

cessation of operation or expiry without renewal, revocation or suspension of the licence. N.B. In the case of hackney carriages it is legitimate for the proprietor to sell the business, i.e. the car together with the plate attached to it - the two must not be separated.

- 4.14 The cost of a plate which is damaged or lost shall be paid to the appropriate council by the vehicle licence holder.
- 4.15 Applicants for hackney carriages shall submit valid insurance certificates or cover notes confirming proper 'public hire' cover and also 'private hire' cover if such additional work is undertaken. N.B. If a cover note is produced the applicant will be required to submit evidence of full cover to Licensing Services upon expiry of the cover note.
- 4.16 Responsibility rests solely with a licence holder to ensure a current valid insurance certificate is always in force throughout the licensing period. Once licensed, spot checks are carried out from time to time to ensure that the appropriate insurance cover is being maintained. Please note that part of the insurance cover should include public liability cover. This is necessary as drivers have a 'duty of care' to their passengers and public liability cover will cover any accidents that occur outside the car whilst dealing with passengers.
- 4.17 A hackney carriage when working shall always display a roof sign exhibiting the word "TAXI" and, if no separate sign is illuminated in the windscreen "FOR HIRE". Lettering must be no less than 3.81cms (1.5 inches) in height and the sign must light up whenever the vehicle is available for hire.
- 4.18 A private hire vehicle shall not exhibit any sign or wording which consists of or includes the words "TAXI", "HIRE" or 'CAB' or any word of similar meaning or appearance to any of those words. The words "FOR HIRE" must not be displayed on a meter fitted in a private hire vehicle.
- 4.19 No hackney carriage or private hire vehicle plate shall be transferred to another vehicle without first submitting the necessary vehicle application form and fee to Licensing Services.
- 4.20 It is a requirement of the Equalities Act 2010 that the driver must carry guide, hearing and certain assistance dog(s) accompanying disabled people and do so without extra charge. The dog must be allowed to remain with the passenger. Only drivers who hold a current exemption certificate issued by the council will be relieved of this duty.
- 4.21 No animals (other than those belonging to a fare paying passenger) are to be carried in a licensed vehicle.
- 4.22 A "hands free" kit must be provided in the vehicle if the driver wishes to use a mobile phone.

5. Conditions attached to private hire operator licences (section 55(3) LGMPA)

5.1 General

- 5.1.1 All licences will be issued for a period not exceeding 12 months. Application for renewal should be made before the expiry date unless previously revoked or suspended.
- 5.1.2 Apart from the specific conditions set out below, the grant of an operator's licence is subject to the relevant provisions of the LGMPA, and to any other special conditions attached to the licences as the Business Licensing Manager considers appropriate.
- 5.1.3 An operator shall only operate vehicles licensed by the same council that issued the operator's licence.
- 5.1.4 A licence holder shall first gain permission of the Council before he/she may change the premises used as the operator's base for the purpose of accepting bookings.

5.2 Records

- 5.2.1 An operator shall keep the following records, either in paper form or electronically, and the operator shall ensure that at the end of each day the required entries have been made:
 - i) The time and date of the booking
 - ii) The name of the hirer
 - iii) The time of pick up
 - iv) The point of pick up
 - v) The destination
 - vi) The licence number of the allocated vehicle
 - vii) The name of the driver of the vehicle
 - viii) Remarks (including details of sub contracts and also such details as the fare quoted at the time of booking if applicable)
- 5.2.2 All records must be kept for a period of 6 months following the date of the last entry.
- 5.2.3 The operator's records shall, on request, be inspected by an authorised officer of the Council or any Police Constable.

5.3 Standard of service

- 5.3.1 A private hire operator shall provide a prompt, efficient and reliable service to members of the public and for this purpose shall in particular:
 - i) Ensure that when a licensed vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall punctually attend at that time and place
 - ii) Keep clean and adequately heated, ventilated and lit any licensed premises

- to which the public have access for the purposes of making bookings;
- iii) Ensure that adequate public liability insurance is in place for all booking premises to which the public have access
 - iv) Ensure that any telephone or radio equipment provided is maintained in a sound condition
 - v) The ban on smoking in workplaces (effective from 1st July 2007) includes hackney carriages, private hire vehicles and offices. This means that there must be no smoking whatsoever permitted by drivers or passengers in private hire or hackney carriage vehicles **at any time** or in the offices.

5.4 Complaints

- 5.4.1 An operator shall immediately inform Licensing Services of any complaints received relating to the standard of service concerning his/her licensed company or business.

5.5 Convictions

- 5.5.1 An operator shall remain a 'fit and proper person' throughout the period of his/her licence and shall inform the Business Licensing Manager of any convictions imposed on him/her during the period of the licence.

6. Suspensions and revocations – all licences

- 6.1 Non-compliance with any parts of the law, or conditions as detailed in Part 2 of this booklet, or any other reasonable cause may render a licence liable to suspension or revocation.
- 6.2 The Business Licensing Manager may suspend and revoke licences in accordance with the law.
- 6.3 In view of the nature of suspensions, it would be normal practice for such notices to be issued by the Business Licensing Manager himself/herself. However, it would be more usual for consideration of cases that may result in the revocation of licences to be referred to the Licensing Sub Committee.
- 6.4 Appeals to the Courts against decisions to suspend and revoke licences do exist and in such instances licence holders would be informed of these rights at the appropriate time.

7. Seatbelt laws

- 7.1 Any passenger within a private hire vehicle or hackney carriage must wear their seatbelt (see Part 3 for regulations concerning children).
- 7.2 An important difference in the law is that Hackney carriage drivers are exempt from wearing their seatbelts when carrying passengers or when plying for hire within the Borough/District. Private hire drivers are exempt only when they have passengers in their vehicle. However, all drivers should be aware that in the event of an accident their insurance cover may be adversely affected if they choose not to wear their seatbelt.

Part 3

Helpful Information

1. Seat Belt Legislation

- 1.1 Three exceptions to the legislation for child restraints allow children of 3 years or over 135cms in height to travel in the rear and use an adult belt:
- in a taxi/private hire vehicle if the right child restraint is not available; or
 - for unexpected necessity over a short distance, if the right child restraint is not available; or
 - where two occupied child seats in the rear prevent a third child seat being fitted.
- 1.2 Children under 3 years may travel in the rear of a taxi unrestrained if no child restraint is available.
- 1.3 The driver is responsible for a child in a vehicle, adults (aged 14+) are responsible for themselves.
- 1.4 Refer to current Highway Code guidelines for more detailed information www.gov.uk/guidance/the-highway-code

2. Equalities Act 2010

2.1 Introduction

- 2.1.1 Legislation under the Disability Discrimination Act commenced on 4th December 2006 to ensure that disabled people have the right to be treated fairly and for reasonable adjustments to be made on public transport, including licensed hackney carriages and private hire vehicles. This has now been superseded by the Equalities Act 2010.
- 2.1.2 The legislation makes it unlawful for operators of transport vehicles (including Private Hire and Hackney Carriages) to discriminate against disabled people.
- 2.1.3 Under the Act, transport providers – including hackney carriage and private hire vehicle providers – are under a legal duty to take reasonable steps, depending on all the circumstances of the case, to make their services accessible to disabled people.

2.2 What is discrimination under the Equalities Act?

- 2.2.1 Under the Equalities Act it is unlawful to discriminate against a disabled person. Discrimination is defined as:

- refusing or deliberately not providing a service to a disabled person because they are disabled
- offering a service at a lower standard to a disabled person because of their disability
- offering a service on different terms to a disabled person because of their disability
- failing to make a reasonable adjustment for a disabled person

2.2.2 Further information can be found at
www.dft.gov.uk/pgr/regional/taxis/equality-act

Appendix A

General procedures when dealing with criminal record checks

The Council requires **all** new applicants for a private hire and hackney carriage driving licence to complete an enhanced disclosure form to be processed by the Disclosure and Barring Services (DBS). Enhanced checks are required due to the fact that, once licensed, drivers may regularly carry passengers who are under the age of 18 or “vulnerable” adults (eg. on school runs).

No prospective driver will be licensed by the Council without this check having been satisfactorily completed.

Forms are obtainable from Licensing Services on payment of the appropriate fee. Cheques should be made payable to the relevant council. An Applicant’s Guide to Completing the DBS Application Form will be issued which amongst other things indicates the documents required to prove identity. Completed forms should be brought in person to Licensing Services.

If applicants have obtained Enhanced Disclosures for other purposes, the Council will accept the disclosures for up to 6 months from the date of the search, subject to consultation with the initiating registered body.

When applicants come in to the office to complete their DBS check Licensing Officers will, on request, release the rest of the paperwork to them so that they can take their driving assessment, book a medical etc. if they wish to whilst they are awaiting their DBS check result. Anyone wishing to do this **must** be aware that this is totally at their own risk and that if they are not completely satisfied in their own mind that their DBS check will be satisfactory they should wait for the results before proceeding further.

He/she will also:

- a) Hand them a copy of the notes for guidance on the Rehabilitation of Offenders Act 1974 and point out to them that the Council has the discretion to consider both spent and unspent convictions when considering their application. N.B. The Council reserves the right to use this discretion if it considers that it cannot do justice to the application without considering such convictions (see Appendix B for guidelines).
- b) Explain to them that they will receive a copy of the disclosure results at their home address and the onus will therefore be on them to make contact with the Council at that stage in order to progress their application.

As the DBS check may not include details of motoring convictions a further check is also made through the Driver and Vehicle Licensing Agency. The information given by them will include endorsement / disqualification details.

N.B. Subsequent DBS & DVLA checks will be required at three yearly intervals once a driver is licensed.

Use of information

The fact that a person has a criminal record or is known to the police does not necessarily mean that he or she is unfit to hold a driver's licence. The Council will make a balanced judgement about a person's suitability taking into account only those offences which are considered relevant to the person's suitability to hold a licence. A person's suitability will be looked at as a whole in the light of all the information available.

In determining a person's suitability to hold a licence, it is worth considering the following. Criminal offences fall into one of nine categories:

- Offences of dishonesty
- Offences of violence (including sexual violence)
- Motoring offences
- Offences involving substance abuse (both alcohol and drugs)
- Offences that are contraventions of licensing laws or conditions
- Offences involving obscene materials
- Offences involving consensual but under-age sex
- Local authority offences, eg health and safety, food safety, trading standards, breach of planning and statutory nuisance notices etc.
- Offences of discrimination

All criminal offences fall into one of the above. When any of the licensed roles relating to hackney carriages and private hire vehicles are considered, it would be extremely difficult to argue, therefore, that any criminal conviction is irrelevant for those purposes.

In deciding the relevance of convictions, the council will bear in mind that offences which took place many years in the past may often have less relevance than recent offences. Similarly, a series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. In any event the importance of rehabilitation must be weighed against the need to protect the public. The nature of a person's convictions, and possible threat that they may pose to the public, will be balanced against the potential loss of livelihood if the application is refused.

In order to ensure consistent and fair treatment when determining whether or not criminal convictions render an applicant unsuitable to hold a licence, the council has drawn up detailed policy guidelines containing general criteria against which applications may be considered (See Appendix C).

N.B. Once a person has passed the necessary checks and become a licence holder they are required to be re-checked (at their own expense) every 3 years.

Overseas applicants

The DBS provides information on how an individual can obtain a copy of their own certificate of good conduct or criminal record from a number of countries. This information can be found on the overseas page of their website <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

For information about a country not listed applicants should contact that country's representative in the UK. Contact details can be found on the Foreign and Commonwealth Office website at <http://www.fco.gov.uk> or by telephoning 020 7008 1500.

Any person who is aggrieved by the Council's decision to refuse a driver's licence on the ground that he/she is not a fit and proper person to hold such a licence has a right of appeal to a Magistrates' Court.

Any information the DBS supply will be of a sensitive and personal nature. It is therefore used only in connection with the application which gave rise to the request for a check to be made. The Business Licensing Manager is responsible for ensuring that it is kept securely while the licensing process takes its course and that the information is not kept for longer than is necessary. An indication on the Council's own record that a check with the DBS has been carried out is made but does not refer to specific offences.

Once the retention period has elapsed, any disclosure information will be immediately destroyed by secure means, i.e. by shredding. While awaiting destruction, disclosure information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). No photocopy or other image of the disclosure will be kept or any copy or representation of the contents of the disclosure.

Appendix B

Guidelines relating to the relevance of convictions in determining applications for hackney carriages and private hire vehicle drivers' licences

General policy

Each case will be decided on its own merits.

A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for a set period of years according to the circumstances, before an application is entertained (see Appendix C) for appropriate rehabilitation periods). Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration will always be the protection of the public.

If a person commits another offence during his/her rehabilitation period, the rehabilitation period for the earlier offence is extended until the rehabilitation period for the subsequent offence has expired.

The following examples offer a general guide on the action to be taken where convictions are admitted.

Motoring offences:

Motoring offences are important in relation to someone who intends to earn their living driving the public or providing vehicles in which the public will be conveyed.

(a) Minor traffic offences

Convictions for minor traffic offences, eg. obstruction, waiting in a restricted street, speeding etc., should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire driver licence may be granted after its restoration but a warning will be issued as to future conduct.

(b) Major traffic offences

An isolated conviction for reckless driving or driving without due care and attention etc., will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence within the last two years will merit refusal and no further application will be considered until a period of 1 to 3 years free from convictions has elapsed.

Drunkenness and / or drugs:

(a) Drunkenness

(i) With motor vehicle

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink or failing to provide a specimen. An isolated incident should not necessarily debar an applicant but strict warnings will be given as to future behaviour. More than one conviction for these offences will raise grave doubts as to the applicant's fitness to hold a licence. At least 5 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is an alcoholic, a special medical examination must be arranged before the application is considered. If the applicant is found to be an alcoholic, a period of 5 years should elapse after treatment is complete before a further licence application is considered

(ii) Not in motor vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

(b) Drugs

An applicant with a conviction for a drug related offence will be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict. Offences involving substance abuse may indicate an inability to control the use of such substances, with a potentially highly detrimental effect upon passengers. Any tendency towards drinking and driving or towards abuse of controlled drugs, which may impair a driver's ability, will be viewed with extreme caution.

Indecency offences:

Any conviction in relation to obscene materials will be viewed with concern, although it is accepted that such convictions do not necessarily indicate violent tendencies.

Convictions obtained against people for having consensual sex with others under the age of consent, whether heterosexual or homosexual, are also a cause for concern. Although these do not involve violence, they do indicate a disregard for the law, and hackney carriages and private hire vehicles often carry under-age persons and unaccompanied passengers who could be vulnerable to such advances.

Applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, will be refused until they can show a substantial period (at least 5 years) free of such offences. More than one conviction of this kind will preclude

consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct will be issued.

Violence:

A driver with violent tendencies, whether it is aggression towards men or women or sexual aggression, may not be a suitable person to drive the public around, bearing in mind that, on occasion, the public can be difficult and un-cooperative, and, on other occasions, the driver will be dealing with people who are travelling on their own and may be extremely vulnerable for whatever reason.

As hackney carriage and private hire vehicle drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 5 years free of such convictions should be shown before an application is entertained and even then a strict warning will be administered.

Dishonesty:

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. For these reasons a serious view will be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction will be required before entertaining an application.

Local Authority offences, although not necessarily directly relevant to taxi licensing, will not be discounted lightly by decision-makers.

Discrimination:

Finally, offences of discrimination are a concern to all within our society, representing as they do a totally unacceptable treatment of certain sections of society. They will be taken extremely seriously and will have considerable impact upon a current or potential licensee.

Appendix C

Notes for guidance

The rehabilitation of offenders act 1974

Notes on disclosure of convictions

In 2002 the Rehabilitation of Offenders Act (Exceptions) (Amendment) Order 2002 (SI 2002/441) amended the provision of the Rehabilitation of Offenders Act 1974. **The effect of this amendment was to exclude hackney carriage drivers and private hire drivers from the effects of the 1974 Act, so that applicants for those licences are now required to disclose all convictions, including those that would previously have been regarded as spent under the 1974 Act.** If you are uncertain as to your obligation to disclose convictions, you are strongly advised to seek legal advice before completing an application for either of the above types of licence.

The Rehabilitation of Offenders Act 1974 (as amended in March 2014) sets out the period after which a conviction is regarded as “Spent” and which would not normally necessitate disclosure of that conviction unless you are applying to become either a hackney carriage driver or a private hire driver. These are set out in the following table:

Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the <u>end date</u> of the sentence (including the licence period).	Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the <u>end date</u> of the sentence (including the licence period).
Custodial sentence* of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years)	7 years	3½ years
Custodial sentence of over 6 months and up to and including 30 months (2 ½ years)	4 years	2 years
Custodial sentence of 6 months or less	2 years	18 months
Community order or youth rehabilitation order**	1 year	6 months

*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

**In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

The following table sets out the rehabilitation period for sentences which do not have “buffer periods” and for which the rehabilitation period runs from the date of conviction:

Sentence/disposal	Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).	Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).
Fine	1 year	6 months
Conditional discharge,	Period of the order	Period of the order
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order*	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Binding over order	Period of the order	Period of the order
Attendance centre order	Period of the order	Period of the order
Hospital order (with or without a restriction order)	Period of the order	Period of the order
Referral order	Not available for adults	Period of the order
Reparation order	Not available for adults	None

The rehabilitation period is reckoned from the date of the conviction in respect of which the sentence was imposed.