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14 September 2020

New regulations came into effect on 4 April 2020 to allow Councils to hold meetings remotely via electronic means. As such, Council and Committee meetings will occur with appropriate Councillors participating via a remote video link, and public access via a live stream video through the [Mid Sussex District Council's YouTube channel](#).

Dear Councillor,

A meeting of **LICENSING COMMITTEE** will be held **VIA REMOTE VIDEO LINK** on **TUESDAY, 22ND SEPTEMBER, 2020 at 4.00 pm** when your attendance is requested.

Yours sincerely,  
KATHRYN HALL  
Chief Executive

#### **A G E N D A**

	<b>Pages</b>
1. Roll Call and Virtual Meetings explanation.	
2. To receive apologies for absence.	
3. To receive Declarations of Interest from Members in respect of any matter on the Agenda.	
4. To confirm the Minutes of the previous meeting held on 17 February 2020.	<b>3 - 6</b>
5. To consider any items that the Chairman agrees to take as urgent business.	
6. Amendments to the Hackney Carriage and Private Hire Licensing Policy as a Result of the DFT Statutory Guidance.	<b>7 - 136</b>
7. Questions pursuant to Council Procedure Rule 10.2 due notice of which has been given.	

To: **Members of Licensing Committee:** Councillors J Knight (Chair), Anthea Lea (Vice-Chair), G Allen, P Chapman, R Cromie, J Dabell, L Gibbs, I Gibson, J Henwood, C Laband, G Marsh, S Smith, N Walker, R Webb and N Webster

**Minutes of a meeting of Licensing Committee  
held on Monday, 17th February, 2020  
from 6.59 pm - 8.28 pm**

**Present:** J Knight (Chair)  
Anthea Lea (Vice-Chair)

G Allen	I Gibson	S Smith
P Chapman	J Henwood	N Walker
R Cromie	C Laband	R Webb
J Dabell	G Marsh	N Webster

**Absent:** Councillors L Gibbs

**Also Present:** Councillors

**1. TO RECEIVE APOLOGIES FOR ABSENCE.**

Apologies were received from Councillor Gibbs.

**2. TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.**

None.

**3. TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING HELD ON 1 JULY 2019.**

The Minutes of the meeting of the Committee held on 1 July 2019 were confirmed as a correct record and signed by the Chairman.

**4. TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.**

The Chairman informed the Committee that Paul Thornton, Senior Licensing Officer would be leaving the Council in April. The Chairman and several Members thanked him for his exemplary work, dedication and professionalism.

**5. DISCUSSION PAPER ON THE POTENTIAL CHANGES TO THE TAXI LICENSING POLICY FOLLOWING THE PROPOSED STATUTORY GUIDANCE.**

Jon Bryant, Licensing Officer introduced the report which seeks the Committee's views on the strategic direction for the proposed review of the Taxi and Private Hire Licensing Policy. He noted that there would be little change to the Draft Statutory Guidance that the Committee responded to in April 2019, and the guidance will be issued imminently.

Hackney Carriage and Private Hire Drivers:

The Licensing Officer highlighted that the Statutory Guidance will provide a definition for the “fit and proper” test and the Committee would ask “Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?” He noted that the proposed guidance also states that the applicant or licence holder should not be given the benefit of the doubt. Regarding the DBS update service, he confirmed that there is no compulsion for drivers to sign up to the service and the time frame for self-reporting for arrests, charges or convictions should be reduced from 7 days to 48 hours.

Members discussed the impact this may have on the workload of Licensing Sub Committee A. The Officer confirmed that each notification would be dealt with on a case by case basis and minor breaches could be dealt with using the penalty points system.

Following a Members question the Officer confirmed that applicants who had lived overseas for more than 3 months would have to obtain a letter of good conduct from their embassy or high commission. He noted that the police report would be certified and then translated by an authorised translator.

Members discussed the introduction of mandatory Safeguarding Awareness training. The Officer advised that the Council had previously run voluntary courses for existing drivers which had been well attended. The training had been free as it had been funded by WSCC. He confirmed that the view of Licensing Sub Committee A was for the training to be mandatory. He advised that trainers have been sourced to provide face to face training, WSCC and the Blue Lamp Trust at a potential cost of £25 per driver. The training would include safeguarding awareness, child sexual exploitation and modern slavery, vulnerable adults and disabilities including hidden disabilities to ensure drivers treat those with disabilities in a proper way. Members discussed adding a condition to a licence setting a date for the completion of mandatory training.

The Committee were advised that drivers are consulted on policy changes.

The Officer confirmed that the number of Hackney Carriages is capped at 154 and 20% are wheelchair assessable. He noted there would be a survey later this year for un met demand and proposals could be made to this Committee to raise or remove the cap.

#### CCTV in Licensed Vehicles:

The Officer confirmed that most vehicles currently do not have CCTV fitted. Where it has been fitted drivers must comply with the data regulations, the data is encrypted and stored securely. He noted that CCTV provided reassurance for passengers. It also provides reassurance and protection for drivers as he has had reports of people leaving without paying and robbery, CCTV may have helped to prevent this. He advised that the installation cost could be £500-600 dependent on the system, and most drivers hire the equipment from a company in Lewes. In response to a Members concern he advised that the hirer of the equipment would be the data controller and footage is only downloaded with the consent of a licensing officer. The Committee agreed that CCTV should not be mandatory due to the cost of installation.

#### Private Hire Vehicle Operators:

The Officer noted that the proposed guidance states that Private Hire Operators should demonstrate that all staff who have contact with the public do not pose a risk, they should keep a register of all staff and have a record of basic DBS checks. The

Committee were advised that most complaints are made to the operator and not the Licensing Team, and operators should advise the Team if driver is the subject of a complaint. He confirmed that these could be added as a condition to an operator's licence.

Members noted the sign posting of people to the Council to make complaints regarding Hackney Carriage and Private Hire Driver Licences. The Officer confirmed that complaints can only be investigated if information is received. The Officer highlighted that Drivers who hold a Public Carriage Vehicle Licence (PCV) do not have the same checks. If they have had their Private Hire licence revoked they can use a public service vehicle, a minibus, to take a PH booking. Members agreed that this should be stopped by adding a condition to a PHV operator's licence. They also agreed to include the licensing of stretch limousines in the revised policy.

#### Licensed Vehicle Emissions:

The Officer confirmed that the 10 year policy had removed the more polluting vehicles from the fleet as vehicles were more modern. The Committee were invited to look at other ways to improve air quality in the District. Members discussed the mandatory introduction of vehicles with stop/start technology, electric and hybrid vehicles and lowering the 10 year rule. However, some were concerned over the financial impact on people's livelihood as being a licenced driver may be their main source of income. A Member confirmed that the Environmental Health Team would be installing signs at locations to ask drivers to cut their engines whilst stationary. The Officer confirmed that a condition could be added to stop vehicles idling when waiting at the ranks.

Franca Currall, Solicitor to the Committee noted that there was currently little infrastructure, especially charging points for electric vehicles and technology is constantly changing. She noted the short range of current electric vehicles. The Committee were advised that she is part of a ECV project, and the government are providing funds to install ECV in council car parks. A report will be brought to the Committee on this matter at a later date.

The Chairman confirmed that more research is required before the Committee can make a decision.

#### Other Changes:

The Committee agreed to recommend that officers progress work to incorporate the following measures within the Council's Taxi and Private Hire Policy:

- a) the renewal of licences for one year for drivers 65+ on application from the drivers,
- b) include an "intended use policy" for hackney vehicles to maintain the number of taxis available for Mid Sussex residents use,
- c) extend the requirement for Private Hire Vehicles to display door signs to help the public identify vehicles,
- d) prevent the licensing of a vehicle which have been written off,
- e) wheelchair accessible vehicles must always carry the appropriate equipment to take wheelchairs,
- f) no minimum payments or additional charges for people paying by credit card,
- g) amend the no smoking condition to include vaping.

#### **RESOLVED**

The Committee agreed to recommend that officers progress work to incorporate the agreed measures within the Council's Taxi and Private Hire Policy.

## **6. LICENSING TEAM RESPONSIBILITIES.**

Paul Thornton, Senior Licensing Officer introduced the report which gave an update on the past years work of the Licensing Team. He noted that their remit covered areas concerning Animal Welfare to Camp Sites. The Committee were advised that Mid Sussex is one of the two councils in the county that have implemented the Animal Welfare Policy and other local authorities are using our policy to draft their own.

The Officer confirmed that since the implementation of the Animal Welfare Policy the Council has put information on the website to inform the public, and to sign post any unregistered people to the Council. He noted that the Licensing Team follow up any leads received. He confirmed that, in conjunction with other local authorities, a press release will be made in April announcing Lucy's Law, the law banning puppy farming.

Members discussed the licensing of riding establishments and livery yards. The Officer noted that responsibility for the operators of hire vehicles is a matter for DEFRA. He also confirmed that DEFRA have a report on livery yards but these are not yet licensed, and they are reviewing the home boarding/ day care of dogs as this is now more popular than kennels.

Members discussed street trading and how to control unlicensed street vendors to protect the public. Yvonne Leddy, Business Unit Leader for Environmental Health and Building Control commented that the Council will provide advice if contacted by event organisers and noted that they have more control over events when they are held on council owned land. The Senior Licensing Officer advised that event organisers should also liaise with the Police who can provide support if previous events have been blighted by street traders. The Police will then pass information onto the Licensing Team to progress onto prosecution if appropriate. He confirmed that the Team regularly provide advice on street trading. A Member highlighted the importance of Town and Parish Councils working closely with the Council environmental health and licensing department.

The Chairman commented that he has asked the Licensing Team to provide an update report with figures. He noted no more Members wished to speak so moved the Committee to the recommendation to note the report which was agreed unanimously.

### **RESOLVED**

The Committee noted the contents of the report.

## **7. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.2 DUE NOTICE OF WHICH HAS BEEN GIVEN.**

None.

The meeting finished at 8.28 pm

Chairman

## **AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY AS A RESULT OF THE DFT STATUTORY GUIDANCE.**

REPORT OF: Tom Clark, Head of Regulatory Services

Contact Officer: Jon Bryant, Senior Licensing Officer  
Email: jon.bryant@midsussex.gov.uk Tel: 01444 477076

Wards Affected: All

Key Decision No

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### **Purpose of Report**

1. To seek the Committee's endorsement of changes to the Hackney Carriage and Private Hire Licensing Policy as detailed in Appendix 1 before it goes out to public consultation on 5<sup>th</sup> October 2020 for 6 weeks. It is proposed that following consultation, it would be reviewed by the Scrutiny Committee before it is formally adopted by Council.

### **Recommendations**

- 2. The Committee is recommended to endorse the changes and amendments to the Hackney Carriage and Private Hire Licensing Policy at Appendix 1 before it is issued for public consultation.**
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### **Background**

3. The purpose of the Policy is to set out the terms and conditions that will apply to those seeking licences for the Hackney Carriage or Private hire trade, to protect the public and help ensure they receive a good service. The policy brings together all the various strands of the Council's existing conditions and practices.
4. Section 177 of the Policing and Crime Act 2017 enables the Secretary of State for Transport to issue Statutory Guidance on exercising Taxi and PHV licensing functions to protect children and vulnerable individuals from harm when using these services. The Licensing Committee responded to the Public Consultation on the Draft Statutory Guidance issued by the DfT in April 2019.
5. The DfT has now issued the Statutory Guidance document. The Guidance document recommends that these measures should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting these standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
6. Licensing authorities "must have regard" to the Statutory Guidance when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. "Having regard" is more than having a cursory glance at a document before arriving at a preconceived conclusion. The Guidance further states "*Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.*"

7. The proposed amendments address consideration of areas within the issued Statutory Guidance. The Current Taxi and Private Hire Policy already deals with a number of these areas but there are sections of the Policy and Driver, Vehicle and Operator conditions which need to be amended and updated to reflect the new Statutory Taxi and Private Hire Vehicle Standards. The Licensing Team has taken the opportunity to reword and update other sections of the policy to provide clarity and consistency for all users. Appendix 1 to this report contains the full wording.
8. When considering both the current and any future policy, the Council's role in safeguarding and protecting the travelling public cannot be understated, and that strong measures to improve standards in the trade should be built upon and not diluted.
9. A summary of the changes are as follows:
  - I. Policy Changes
    - a. **Duration of Licences** – There have been representations from older drivers (over 65) regarding 3 year licences. They have enquired about the possibility of being allowed to apply for a yearly licence. From age 65 drivers must have a yearly medical to remain licensed and some drivers feel that they may only want to continue for a further 1 or 2 years at that age.
    - b. **Changes in Licensing Policy** - Any changes in licensing requirements for drivers will be followed by a review of the licences already issued.
    - c. **Disclosure Barring Service (DBS) Update Service** – All drivers and Private Hire Operators will subscribe to the DBS Automatic Update Service and provide evidence of this subscription. DBS checks will be undertaken by the Licensing Team every 6 months on all drivers and Operators
    - d. **Common Law Police Disclosure/Referrals to the Police/DBS** – The Licensing Authority will maintain close links with the police to ensure effective and efficient information sharing procedures. Any decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult will be referred to the Police and DBS.
    - e. **Licensee Self Reporting** - Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.
    - f. **Sharing Licensing Information** - Applicants and licensees will be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.
    - g. **Complaints Against Licensees** – Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. Operators will be required to advise the authority when any

driver is subject to complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months.

- h. Overseas Applicants** - the Authority will seek criminal records information from overseas when an applicant has previously lived outside the UK for any period of more than three continuous months since the age of 18.
- i. Fit and Proper test** – The Authority will formerly adopt the guidance relating to the 'Fit and Proper' test that will be used in all decision making.
- j. Safeguarding Awareness Training** - Introduction of Mandatory Safeguarding awareness training. The training will also address County Lines issues. If a driver fails to complete it within a fixed time period, then their licence will be suspended until the safeguarding training is completed.
- k. Criminology Checks on Vehicle Proprietors** - It is important that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. The Authority will require a basic disclosure from the DBS and that a check is undertaken annually. An individual may apply directly for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC).
- l. In-vehicle visual and audio recording – CCTV** - All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues. The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. It will also provide protection for drivers from customers who may wish to harm them. The Consultation will seek views on vehicles will be required to have a Council approved CCTV system installed by October 2022
- m. Stretched Limousines** – The licensing of stretched limousines will be included in the Policy
- n. Criminology checks for Private Hire Vehicle Operators** – Operators who do not already supply an enhanced DBS certificate to the Council will be required to supply an annual basic disclosure annually. This check will also apply to all named directors of the company

**Booking and Dispatch Staff** – The Authority will, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept by the Operator. Operators will be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register.

Operators or applicants for a licence will be required to provide their policy on employing ex-offenders in roles that would be on the register as above

- o. **Operator records** – The licence conditions will be amended to ensure that more detailed information is taken in respect of each booking. This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement.
  - p. **Use of PCV licensed Drivers** – The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking will not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.
  - q. **Assessment of Previous Conditions** – Inclusion of exploitation and discrimination offences within the convictions policy.
  - r. **Intended Use policy for Hackney Vehicles** - Mid Sussex has a cap on the number of hackney carriage vehicles that will be licensed, this is set at 154. If vehicles are working remotely away from the District it reduces the availability of vehicles to the residents of Mid Sussex. There are also issues regarding ensuring the driver and vehicle compliance when they are away from the licensing district
  - s. **Write Offs** - The Authority will not license any vehicle which has previously been recorded as a write off. Potentially some write off vehicles can be repaired and returned to the road however it is difficult to ensure that any repairs have been completed to a professional standard.
  - t. **Vaping** – The current condition will be amended to confirm that drivers or passengers cannot vape in licensed vehicles
  - u. **Card Payments** - A condition will be added to the vehicle licence that when credit cards are accepted by a driver they cannot set a minimum card payment amount.
  - v. **Wheelchair Accessible Vehicle Licences** - A condition will be added to WAV licences that the vehicle must always carry the appropriate equipment to transport wheelchair passengers otherwise the vehicle licence will be suspended immediately.
  - w. **Private Hire Door Signs** – On 1st October 2022 Hackney vehicles will have to display door signs with the Mid Sussex Logo and licence number. To apply the same requirement for Private Hire vehicles. This will provide consistency across the fleet of vehicles, it would provide extra visibility and reassurance to the travelling public that they are getting into a locally licensed vehicle.
  - x. **Licensed Vehicle Emissions** – To consult on requiring all diesel and petrol licensed vehicles to be Euro 6 standard from 1<sup>st</sup> October 2022. Vehicles which do not comply with this standard will not be licensed.
  - y. **Mandatory Disability Awareness Training** – This will be introduced. If a driver fails to complete the training within a fixed time period, then the licence will be suspended until this training is completed.
10. A draft of the new Policy is attached to this report at Appendix 3 with the proposed amendments highlighted in red.

11. The amendments contained in Appendix 1 will be published for a 6 week consultation period starting on the 5<sup>th</sup> October 2020. The list of consultees includes the following:

- Local Licensing Authorities that border Mid Sussex District Council
- West Sussex County Council
- Elected Members of the Council
- The hackney carriage and private hire trade licensed by the Council
- Parish and Town Councils
- Sussex Police
- The Members of Parliament for the District
- Social Services Child Protection Office
- DVSA (Driver and Vehicle Standards Agency)
- Local Bus and Rail operators
- Organisations representing local businesses
- Members of the public via the Council's web site, the local libraries and help points
- Age UK
- Women's Institute
- Fawcett Society
- Local disability groups

### **Policy Context**

12. The Licensing Policy is produced pursuant to powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 as amended, which places a duty on the Council to carry out its licensing functions in respect of hackney carriage and private hire vehicles.

### **Financial Implications**

13. The Council keeps the fees and charges under review annually and aims to recover as much of the cost of regulating taxi and private hire licensing services as we are legally able, through fees and charges paid by applicants and licence holders. Any additional costs arising from implementing and enforcing this policy will, where possible, be met through changes to taxi and private hire licence fees and charges.

In terms of potential costs to the trade, drivers are already able to sign up to the DBS update service at a cost of £13 per annum. By signing up to the update service, this would negate the need for drivers to pay for a new DBS every 3 years at an approximate cost of £71.

According to the Task and Finish Group report, in vehicle CCTV systems can cost as little as a new set of tyres. Any costs associated with the taxi trade can be included in the Council's Fare Calculator to enable recovery through the Fare tariff. It is anticipated that there will be a 2 year lead in period. There are a number of drivers who have already installed CCTV in their vehicle.

There would be costs associated with the Safeguarding and Disability Awareness training; these are in the region of £25 for each course. These costs would be charged to the driver.

In terms of the replacement of vehicles to Euro 6 standard, the majority of vehicles already meet this standard and there will be an 18 month lead in period for implementation.

## **Risk Management Implications**

14. In accordance with the Council's Risk Management Strategy, consideration has been given to the potential risks associated with the recommendations set out in this report. Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence.

## **Equality and customer service implications**

15. The policy is intended to protect the public, including those who are vulnerable owing to their age or disability, and through our consultation with a range of stakeholders, including the police, we would seek to ensure we have got the balance right in this respect. Measures which improve safety and standards in the taxi and private hire trades would improve access to the service for customers from all groups and we will seek to ensure we have got the balance right in this respect. Details of stakeholders with whom we will consult are included in the draft policy.

## **Background Papers**

- Appendix 1 – Proposed Amendments
- Appendix 2 – Statutory Taxi and Private Hire Vehicle Standards
- Appendix 3 – Draft Policy with amendments included

## Proposed Taxi Licensing Policy Amendments

### 1. Duration of Driver and Operator Licence

The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

#### Proposed amendment to policy

All hackney carriage driver licences and private hire driver licences will be granted for 36 months from the date of issue. In cases where the licence holder is working under visa conditions attached to their passport the licence will only cover up to the expiry date on the visa. For first time applicants they will have the option to be licensed for one year or three years. This option is to allow new drivers a chance to decide whether the job is suitable for them.

Drivers may be granted a one year licence when the licensing authority thinks that it is appropriate in the specific circumstances of the request.

### 2. Changes in Licensing Policy

Any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. If requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.

#### Proposed addition to policy

Any changes to the licensing requirements will be followed by a review of the licences currently issued. If requirements are changed regarding vehicle specification or licence holders will need to undertake additional training, then reasonable time will be allowed for these changes to take place.

Where a more subjective change has been introduced, for example an amended policy on previous convictions, the licensing authority will consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, the licensing authorities will consider doing so.

### 3. **Disclosure Barring Service (DBS) Update Service**

Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.

The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.

#### Proposed addition to policy

All licensed drivers will be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months.

Should the check reveal that new information is available the DBS certificate will no longer be relied upon and a new DBS certificate will be requested.

### 4. **Common Law Police Disclosure/Referrals to the Police/DBS**

In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS/Police. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role

#### Proposed amendment to policy

That licensing authority will make a referral to the DBS/Police when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the 'harm test'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

### 5. **Licensee Self Reporting**

Licence holders should be required to notify the issuing authority within **48** hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the

offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so.

This must not however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.

A failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

#### Proposed amendment to Policy and Conditions

Existing holders of driver's licences are required to notify the licensing authority in writing within **48 hours** of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the licensing authority within **48 hours** of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the licensing authority as to the honesty of the licence holder and will be considered as part of any subsequent renewal applications or licence review.

### **6. Sharing Licensing Information**

Obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.

The Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.

#### Proposed amendment to Policy

All applicants are required to disclose if they have ever held a licence with any other Authority and additionally if they have ever had a licence refused, revoked or suspended by any other licencing authority. Where an applicant has made a false statement or a false declaration or omitted this information on their application for the grant or renewal of a licence, the licence will normally be refused. The Authority will check all new applicants against the National Revocation and Refusals Register.

### **7. Complaints Against Licensees**

Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.

Complaints regarding Private hire Drivers are generally made directly to their Operator rather than the Licensing Department

#### Proposed amendment to Policy

All Operators are required to keep a record of all complaints received. These records must be made available for inspection by the Licensing Officer on request.

Operators are required to advise the authority when any driver is subject to any complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months.

### **8 Overseas Applicants**

The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK.

#### Proposed amendment to Policy

Where an applicant has lived in any Country outside the UK for more than 3 months over the age of 18 they will be required to provide where possible criminal records information or a 'Certificate of Good Character' from overseas for each and every Country that they have resided in. This is to be able to properly assess risk and support the decision-making process.

### **9 Fit and Proper Test**

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee.

#### Proposed Amendment to Policy

The test used by the Authority when considering whether a licence holder is a 'Fit and Proper' Person is:

**Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?**

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. All decisions on the suitability of an applicant or licensee will be made on the balance of probability.

This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and will take into consideration conduct that has not resulted in a criminal conviction.

## **10 Safeguarding Awareness Training**

The taxi and private hire vehicle industry can play an important role in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

### Proposed amendment to Policy

All new applicants, current licensed drivers, and Operators where they are not also licensed as drivers, will attend Safeguarding Awareness training by an approved provider. This training must be undertaken with 12 months of being licensed or if currently licensed within 12 months of the introduction of this policy. Failure or refusal to attend this training will result in the licence being suspended until the training is satisfactorily completed. Drivers and Operators who have previously already attended this training need not re-attend.

## **11 Criminality Checks on Vehicle Proprietors**

As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

### Proposed amendment to Policy

Where vehicle proprietors are not currently licensed drivers they will be required to provide an annual basic disclosure certificate.

## **12 In-vehicle visual and audio recording – CCTV**

There is a potential risk to both driver and public safety when passengers travel in taxis and private hire vehicles. CCTV can provide additional deterrence to lower the risk and has investigative value when an incident occurs. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves.

#### Proposed Amendment to Policy

CCTV systems are to be installed in all licensed Hackney Carriage and Private Hire vehicles (other than Private Hire Vehicles issued with a plate exemption for executive and VIP work and are used solely for this purpose). The system must be approved by the Authority and be capable when required of audio recording. The Authority will become the Data Controller and will publish a Data Impact Statement and guidance to drivers. The CCTV system must be installed in vehicles by 1<sup>st</sup> October 2022.

### **13 Stretched Limousines**

The Authority is sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. They are not currently licensed and as such may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation.

#### Proposed Amendment to Policy

Stretch Limousines or similar vehicles which can carry less than 9 passengers used for transport to school proms or for adult bookings will be required to be licensed by the Authority. The driver and operator must hold the relevant private hire licences

### **14 Criminality checks for Private Hire Vehicle Operators**

Currently Private Hire Operators who are not also licensed drivers are required to provide a basic DBS Disclosure certificate every 3 years. The Authority will require this check to be completed annually.

Additionally, Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff. There is a person taking bookings (be it by phone or in person), the vehicle dispatcher who decides which driver to send to a user. These are positions that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults and the Authority should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public.

### Proposed Amendment to Policy

Operators will be required as a condition of granting an operator licence, to keep a register of all staff that will take bookings or dispatch vehicles. Operators will be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. Operators will have to provide their policy on employing ex-offenders in either of these roles.

## **15 Operator Records**

The licence conditions will be amended to ensure that more detailed information is taken in respect of each booking. This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement.

### Proposed Amendment to Policy

The Operator will be required to record the following information for each booking

- the name of the passenger;
- contact telephone number of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle dispatched;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

## **16 Use of PCV Licensed Drivers**

PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver.

### Proposed Amendment to Policy

The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be

permitted by private hire vehicle operator without the informed consent of the person making the booking.

## **17 Assessment of Previous Conditions**

The current convictions policy does not specifically cover Exploitation Offences or offences around discrimination.

### Proposed Amendment to Policy

#### **Exploitation**

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

#### **Discrimination**

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## **18 Intended Use Policy for Hackney Vehicles**

The nature of the Licensing Regime is that drivers and vehicles are licensed locally. When vehicles work remotely away from their Licensing District it causes issues regarding ensuring vehicle and driver compliance and can compromise public safety. Mid Sussex has a cap on the number of Hackney Vehicle Licences that it currently issues. Each Taxi that works remotely away from the district is one less vehicle for the public Mid Sussex to be able to use. There have been complaints regarding vehicles working regularly in other Districts.

### Proposed Amendment to Policy

A condition to be added to Hackney Vehicle Licences, that on renewal the vehicle proprietor will be asked two questions

- 1) Do you intend that the hackney carriage will be used to ply for hire within the area of Mid Sussex District Council?
- 2) Do you intend that the hackney carriage will be used entirely or predominantly for private hire outside the area of Mid Sussex District Council?

In order to obtain a licence, the answer to 1) will be yes and the answer to 2) will be no. If the vehicle is found to be operating in contravention to these replies, then consideration would be given to revoking the vehicle licence.

## **19 Written Off Vehicles**

There are a number of categories for vehicles that have been classed as being written off. These range from vehicles that cannot be repaired to vehicles which could potentially be repaired to a roadworthy condition. However, there are difficulties in establishing that any repairs have been completed to a professional standard.

Proposed Amendment to Policy

The Authority will not license any vehicle that has been classed a 'write off' in any category.

**20 Vaping**

Proposed Amendment to Policy

The current condition regarding no smoking in licensed vehicles will be amended to include vaping.

**21 Card Payments**

A number of drivers now take card payments however there have been reports that arbitrary limits have been placed on their acceptance. For example, a card payment will not be accepted for journeys that are under £10. This has led to instances of shorter journey being refused by drivers which can cause an unacceptable risk to the public especially late at night.

Proposed Amendment to Policy

A condition will be added to Vehicle Licences that when credit/debit cards are accepted as payment by a driver they cannot set a minimum card payment amount.

**22 Wheelchair Accessible Vehicle Licence**

There have been issues where Wheelchair Accessible Vehicles have not had the appropriate equipment available to transport wheelchair passengers.

Proposed Amendment

A condition will be added to specify that Wheelchair accessible vehicles must always have the appropriate equipment to carry wheelchair customers available and in working condition otherwise the vehicle licence will be immediately suspended.

**23 Private Hire Door Signs**

From the 1st October 2022 Hackney vehicles will have to display door signs with the Mid Sussex Logo and licence number. To provide consistency across the licensed fleet to apply the same requirement for Private Hire vehicles. It would also provide extra visibility and reassurance to the travelling public that they are getting into a locally licensed vehicle

### Proposed Amendment

From 1<sup>st</sup> October 2022 Private Hire Vehicles front doors must display the MSDC logo, with the words “Private Hire Vehicle, Advanced Booking Only” and the licence number.

## **24 Licensed Vehicle Emissions**

There is a drive towards reducing vehicle emissions and although the licensed trade only forms a small proportion of the current vehicle traffic they do travel a large number of miles each year.

The aim of Euro emissions standards is to reduce the levels of harmful exhaust emissions, chiefly:

- Nitrogen oxides (NO<sub>x</sub>)
- Carbon monoxide (CO)
- Hydrocarbons (HC)
- Particulate matter (PM)

These standards are having a positive effect, with the SMMT (Society of Motor Manufacturers and Traders), claiming: “It would take 50 new cars today to produce the same amount of pollutant emissions as one vehicle built in the 1970s.”

Because petrol and diesel engines produce different types of emissions they are subject to different standards. Diesel, for example, produces more particulate matter – or soot – leading to the introduction of diesel particulate filters (DPFs). The EU has pointed out, however, that NO<sub>x</sub> emissions from road transport “have not been reduced as much as expected...because emissions in ‘real-world’ driving conditions are often higher than those measured during the approval test (in particular for diesel vehicles)”.

The current Euro Standard for diesel vehicle emissions is Euro 6.

### Proposed Amendment

From 1<sup>st</sup> October 2022 all licensed diesel vehicles must be compliant with Euro 6 emissions standard and petrol vehicles with the Euro 4 standard.

## **25 Mandatory Disability Awareness Training**

Private Hire and Hackney Carriage drivers frequently encounter passengers with various disabilities and it is therefore considered necessary that all drivers are aware of the needs of disabled passengers. Disability awareness training benefits both the

customer and driver and the Council should make it a pre-condition for being granted a driver's licence.

The Equality Act 2010 focused on the needs of people with protected characteristics, which includes disabilities. Public bodies, including local authorities, have a lawful duty of regard to: eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.

The Department for Transport's Draft Accessibility Action Plan described refusals of assistance dogs by taxi and PHV drivers as "unacceptable and illegal", noting the serious impact of refusals on people's confidence and ability to live independently. The plan commits the UK Government to publish best practice guidance for licensing authorities, recommending that disability equality training be mandated in their licensing policies.

### Proposed Amendment

All new applicants and current licensed drivers are required to undertake recognised Disability Awareness and Equality Act training in relation to disabled and vulnerable passengers as part of their professional development. The Training will be organised by MSDC and delivered through a provider of their choice. This is to ensure that all drivers operate to a consistent standard and can provide a safe and suitable level of transport service to disabled and vulnerable passengers.

Disability awareness training for all new drivers must be undertaken within 12 months from the date of issue of the licence.

Existing MSDC licensed drivers that have not previously undergone recognised Disability awareness training must attend a session within 12 months from implementation of this revised policy.

Failure to attend this training during the timescales outlined above will result in the licence being suspended until the training has been successfully attended.

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Department  
for Transport

# Statutory Taxi & Private Hire Vehicle Standards

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# 1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
  - (b) is experiencing, or is at risk of, abuse or neglect, and
  - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

## Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

## 2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

### 3. Administering the Licensing Regime

#### Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

*“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”*

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

*“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”*

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

## Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

## Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

### Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

### Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

## 4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

### The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

## The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

### Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

### Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

### Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

## Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

## Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

### Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

### Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

### Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

## 5. Decision Making

### Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

### Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
  - any implications of the Human Rights Act should be considered.
  - the rules of natural justice should be observed.
  - decisions must be reasonable and proportionate.
  - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
  - decision makers must avoid bias (or even the appearance of bias) and predetermination.
  - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

### The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

### Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

**Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?**

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

### Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

## 6. Driver Licensing

### Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

### Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

### ‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

### Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

## 7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

### Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

### **In-vehicle visual and audio recording – CCTV**

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

### Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

## 8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

### Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license in individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

### Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

## Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

## Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

**as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.**

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

## 9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

### Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

### Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

### Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

## Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is ‘fit and proper’ to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

**Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.** Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department’s view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

### Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

### Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

### Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

### Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

### Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

### Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

## Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

## Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

## Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

## Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions <sup>1</sup>	Yes	Yes	Yes	Yes
Spent convictions <sup>2</sup>	No	Yes	Yes	Yes
Spent cautions <sup>1 &amp; 2</sup>	No	Yes	Yes	Yes
Additional police Information <sup>3</sup>	No	No	Yes	Yes
Barred list(s) Information <sup>4</sup>	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

## Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

## Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.



## MID SUSSEX DISTRICT COUNCIL

# HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

COMMENCES .....

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## **SECTION 1: AIMS AND OBJECTIVES OF THE POLICY**

### **1.0 Introduction**

1.1 Mid Sussex District Council's (the Council) statement of main purpose is: -

**'Working together for a Better Mid Sussex'**

The Council's Environmental Health Section has an essential role to play in achieving this aim, as its Licensing services seek to secure healthier and safer places for people to work and live. The Environmental Health Section's key objective is to: -

**'Proactively promote and enforce good environmental health, housing and licensing standards, in order to maximise the quality of life for those living in, working in, and visiting Mid Sussex'.**

The Council has a responsibility for licensing hackney carriages and private hire vehicles, drivers and operators within the District. The Hackney Carriage and Private Hire trade are vital when other means of public transport are not available, such as in the more rural areas of the District.

### **1.2 Purpose of the Policy**

The policy covers the licensing of:

- Hackney carriage vehicles (sometimes known as "taxis" in legislation) which are able to wait at ranks and pick up people in the street (ply for hire).
- Private hire vehicles, which can only be booked through an operating centre (pre- booked only) and who otherwise are not insured for their passengers.

### **1.3 Aims of the policy**

The Council's aim in licensing is to protect the public and to ensure the public have reasonable access to hackney carriage and private hire services. The main purpose is to prevent licences being given to or used by unsuitable people, taking into account their driving record, their mental and physical fitness to drive and their honesty, and to ensure that they are people who would not take advantage of their position as drivers to abuse or assault the public who use their vehicles.

The Council's powers are used to ensure that hackney carriage and private hire vehicles that operate within the District are safe and operate in compliance with National and European legislation.

This policy has taken into account the Guidance document provided by the Department of Transport -Taxi and Private Hire Vehicle Licensing: Best Practice Guidance October 2010, **together with the Statutory Taxi and Private Hire Vehicle Standards issued in July 2020.**

The Council recognises its duty with regard to Safeguarding and procedures are in place to ensure licences are only issued to fit and proper drivers.

## 1.4 Powers and Duties

This Statement of Licensing Policy has been produced pursuant to powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 as amended, which places a duty on the Council to carry out its licensing functions in respect of hackney carriage and private hire vehicles.

## 1.5 Objectives

The Council seeks to promote the following objectives:

- The protection of public health and safety;
- The establishment of a professional hackney carriage and private hire trade;
- Access to an efficient and effective public transport service; and
- The protection of the environment.

Through the licensing process the Council aims to regulate the hackney carriage and private hire trade in order to promote these objectives.

## 1.6 Status of the Policy

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out in 1.5 above.

Notwithstanding this policy and any other relevant Council policy, each licensing application or enforcement measure will be considered on its own merits. When it is necessary for the Council to depart from this policy, reasons will be given for so doing.

## **SECTION 2: CONSULTATION**

We have consulted with the following Statutory Bodies, companies and groups. All of their comments have been considered in finalising the Policy:

- *Local Authorities that border Mid Sussex District Council*
- *West Sussex County Council*
- *The Members of the Council*
- *The hackney carriage and private hire trade licensed by the Council*
- *Parish and Town Councils*
- *Sussex Police*
- *The Members of Parliament for the District*
- *Social Services Child Protection Office*
- *DVSA (Driver and Vehicle Standards Agency )*
- *Local Bus and Rail operators*
- *Organisations representing local businesses*
- *Members of the public via the Council's web site, the local libraries and help points*
- *Age UK*
- *Women's Institute*
- *Fawcett Society*
- *Local disability groups*

## **SECTION 3: IMPLEMENTATION**

- 3.0** This Policy will come in to force on the **Date to be confirmed** and remain in force for five years unless fundamental changes to it are required as a result of legislative changes.

## **SECTION 4: HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

### **4.1 Limitation of Numbers**

At present the Council limits the number of hackney carriages it licenses to 154. The number in Mid Sussex has been restricted since 2003.

### **4.2 Intended Use Policy for Hackney Vehicles**

The nature of the Licensing Regime is that drivers and vehicles are licensed locally. When vehicles work remotely away from their Licensing District it causes issues regarding ensuring vehicle and driver compliance and can compromise public safety. Mid Sussex has a cap on the number of Hackney Vehicle Licences that it currently issues. Each Taxi that works remotely away from the district is one less vehicle for the public Mid Sussex to be able to use.

A condition has been added to Hackney Vehicle Licences, that on renewal the vehicle proprietor will be asked two questions:

- 1) Do you intend that the hackney carriage will be used to ply for hire within the area of Mid Sussex District Council?
- 2) Do you intend that the hackney carriage will be used entirely or predominantly for private hire outside the area of Mid Sussex District Council?

In order to obtain a licence, the answer to 1) will be yes and the answer to 2) will be no.

If the vehicle is found to be operating in contravention to these replies, then consideration would be given to revoking the vehicle licence.

### **4.3 Criminality Checks on Vehicle Proprietors**

As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Where vehicle proprietors are not currently licensed drivers they will be required to provide an annual basic disclosure certificate.

### **4.4 Specifications and Conditions**

The Council has wide discretion over the types of vehicles that they can license as hackney carriage or private hire vehicles.

## Written Off Vehicles

There are a number of categories for vehicles that have been classed as being written off. These range from vehicles that cannot be repaired to vehicles which could potentially be repaired to a roadworthy condition. However, there are difficulties in establishing that any repairs have been completed to a professional standard.

The Authority will not license any vehicle that has been classed a 'write off' in any category.

Appendices 2, 3 and 4 set out the minimum standards which will apply in respect of all licensed vehicles.

## Livery

From 1<sup>st</sup> October 2022 the Council will require all licensed Hackney Carriage vehicles to be the colour white.

This would require that all Hackney carriage vehicles would be white and marked with the Mid Sussex District Council logo, and that, to distinguish them from private hire vehicles, the latter could not be white. The purpose of this proposal is to help protect the public. At present it is difficult for the public to distinguish between the two types of vehicles. If a member of the public inadvertently uses a private hire vehicle that has not been pre-booked the vehicle is not insured. The distinction would also help the Council in its role of enforcing licence conditions and identifying out of area licensed hackney vehicles operating in our district, an issue that the Hackney Carriage trade has often raised.

In order to provide reassurance to the public from 1<sup>st</sup> October 2022 Private Hire Vehicles will also be required to display signs with the Mid Sussex Logo, their licence number and the words "Private Hire Vehicle, Advanced Booking Only"

## Vehicle age restrictions

From 1<sup>st</sup> October 2017 the Council will not license any vehicle over 10 years of age from the date of initial DVLA registration.

Whilst it is recognised that all licensed vehicles require regular maintenance it is accepted that the older a vehicle the more wear and tear it will have and the frequency of maintenance needs to be increased. It is also recognised that newer cars have improved safety features. Restricting the licensable age allows for a more modern fleet with greater safety features and reduces the likelihood of badly maintained vehicles.

## 4.5 Vehicle Testing

All new vehicles and vehicles with up to 10,000 miles on the odometer will be presented to the Licensing Officer by prior appointment for examination.

All vehicles with more than 10,000 miles on the odometer and which are up to three years of age from the date of first registration will be subject to an annual vehicle fitness test.

All vehicles aged from 3 years will be subject to two fitness tests a year (at 6 monthly intervals).

The test must take place at a testing station approved by the Council. These requirements are in addition to a MOT which we require for all licensed vehicles over 12 months old.

These tests are required to ensure that any vehicles licensed to carry members of the public are safe and comfortable.

#### **4.6 Transfer of Vehicle Licences**

A proprietor of a licensed hackney carriage or private hire vehicle may transfer their interest in the vehicle to another person. Under Section 49 of the Local Government (Miscellaneous Provisions) Act 1976, they must ensure that the Council is notified of the new proprietor's name and address within 14 days. The application to transfer ownership will also provide the V5 with the new owners details shown as the registered keeper.

Whilst there can be joint proprietary interest in a vehicle licence, vehicle proprietors should be aware that the vehicle 'plate' belongs to the Council at all times. The licence is not the property of an individual and so the licence cannot be transferred separately from the vehicle. Therefore, it must be transferred immediately to the new owner of the vehicle. However, if the MSDC Licensing Department is not fully satisfied with all aspects of the transfer, including DVLA checks or a failure to comply with any other aspect required in the MSDC Hackney Carriage and Private Hire (Taxi) Licensing Policy (see below), the 'plate' transfer may be suspended, withheld or cancelled.

#### **4.7 Signage and Advertising**

To help identify vehicles that are licensed by the Council both hackney carriage and private hire vehicles are required to display a plate at the rear of the vehicle and also in the windscreen.

All Private Hire Vehicles must carry signage on the side of the vehicle, to a design approved by the Council, to indicate that they must be pre-booked. The signage may be magnetic or a transfer. The purpose is to clearly distinguish private hire vehicles to prevent a customer inadvertently travelling in a vehicle which has not been pre-booked and which is not insured to carry them.

All signage must comply with conditions specified in Appendices 2 and 3.

#### **4.8 Exemption from display of private hire plate**

There are exemptions from carrying or displaying a licence plate if a vehicle is used exclusively for a wedding ceremony or funeral.

Plate exemption is for vehicles providing a discreet service to corporate and VIP clients. Where vehicles are also undertaking normal private hire work or engaging in a school contract then they will display both the internal and external plate, display the required door signs and the driver will wear their driver badge.

The display of the external identification plate on a licensed vehicle and a driver's badge is important in terms of public safety and reassurance. They indicate to the travelling public that prior to being licensed both the vehicle and the driver have been subjected to checks to ensure their (the public's) safety. The visible licence number of the vehicle and driver affords members of the public and other persons such as the

Police traceability via the local licensing authority. The plate exemption must be applied for on an annual basis on the anniversary of the renewal of the vehicle licence. Operators/drivers should not automatically assume that when licensing a new vehicle to replace an existing plate exempted vehicle or renewing an existing plate that the plate exemption will continue.

The application for Plate Exemption must be made in writing and a certificate of exemption may be granted before the plate may be removed from the rear of the vehicle. The plate must be carried in the vehicle at all times along with the exemption certificate. All other signs must be removed in these circumstances. The driver's identity badge must be carried in the vehicle and produced on demand.

If the plate exemption is found to be misused then consideration will be given to the exemption for that vehicle being removed.

#### **4.9 Use of CCTV**

Following the publication of the Statutory Taxi and Private Hire Vehicle Standards CCTV systems are to be installed in all licensed Hackney Carriage and Private Hire vehicles (other than Private Hire Vehicles issued with a plate exemption for executive and VIP work and are used solely for this purpose).

The system must be approved by the Authority and be capable when required of audio recording under certain circumstances. The Authority will become the Data Controller and will publish a Data Impact Statement and guidance to drivers. The CCTV system must be installed in vehicles by 1<sup>st</sup> October 2022.

#### **4.10 Licensed Vehicle Emissions**

There is a drive towards reducing vehicle emissions and although the licensed trade only forms a small proportion of the current vehicle traffic they do travel a large number of miles each year.

The aim of Euro emissions standards is to reduce the levels of harmful exhaust emissions, chiefly:

- Nitrogen oxides (NO<sub>x</sub>)
- Carbon monoxide (CO)
- Hydrocarbons (HC)
- Particulate matter (PM)

These standards are having a positive effect, with the SMMT (Society of Motor Manufacturers and Traders), claiming: "It would take 50 new cars today to produce the same amount of pollutant emissions as one vehicle built in the 1970s."

Because petrol and diesel engines produce different types of emissions they are subject to different standards. Diesel, for example, produces more particulate matter – or soot – leading to the introduction of diesel particulate filters (DPFs). The EU has pointed out, however, that NO<sub>x</sub> emissions from road transport "have not been reduced as much as expected...because emissions in 'real-world' driving conditions are often higher than those measured during the approval test (in particular for diesel vehicles)".

The current Euro Standard for diesel vehicle emissions is Euro 6.

From 1st October 2022 all licensed diesel vehicles must be compliant with Euro 6 emissions standard and petrol vehicles with the Euro 4 standard. No new licences will be issued or transferred to vehicles which do not comply with this standard

#### **4.11 Grant and Renewal of Licences**

From the 1<sup>st</sup> October 2015 all hackney carriage driver licences and private hire driver licences will be granted for 36 months from the date of issue. In cases where the licence holder is working under visa conditions attached to their passport the licence will only cover up to the expiry date on the visa. For first time applicants they will have the option to be licensed for one year or three years. This option is to allow new drivers a chance to decide whether the job is suitable for them.

All current Hackney Carriage and Private Hire drivers renewing between 1<sup>st</sup> October 2015 and 30<sup>th</sup> September 2016 will have the option to renew for one year or three years. Generally all renewals after that will be for three years.

Existing licenced Drivers may be granted a one year licence when the licensing authority thinks that it is appropriate in the specific circumstances of the request, for example drivers subject to yearly medicals due to their age.

It is the responsibility of the existing driver to ensure their licence is renewed. Application forms, appropriate fees and supporting documentation must be submitted at least 14 days prior to the expiry of the previous licence.

#### **4.12 Stretched Limousines**

The Authority is sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. They are not currently licensed and as such may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation

Stretch Limousines or similar vehicles which can carry less than 9 passengers used for transport to school proms or for adult bookings will be required to be licensed by the Authority. The driver and operator must hold the relevant private hire licences

### **SECTION 5: DRIVERS**

#### **5.1 Parallel Procedures**

The statutory and practical criteria and qualifications for a private hire driver are in most respects identical to those for a hackney carriage driver. The following sections will therefore apply equally to both private hire and hackney carriage drivers. Appendices 5 and 6 specify the conditions.

#### **5.2 Dual Licences**

The Council will issue separate licences for private hire and hackney carriage drivers. The driver is required to complete both application forms.

### **5.3 Age and Experience**

A licence to drive a hackney carriage or private hire vehicle will not be granted to a person who is under 18 years of age and has not held a full driving DVLA licence for a period of 12 months or longer.

### **5.4 Driver Test**

Hackney carriage and private hire drivers need to have a good working knowledge of the district.

The Council expects persons applying to become hackney carriage and private hire drivers to be a 'fit and proper person'. This will include the ability to provide a quality service to the public. In order to maintain standards the Council will take steps to determine applicants' fitness. The applicants will be required to undertake the following tests to demonstrate their knowledge of:

- Knowing the local area
- The Hackney Carriage and Private Hire Licensing Law
- Road Traffic Legislation

Where an applicant takes the Council's knowledge test, any attempt at cheating in that test is likely to result in their application being refused. Cheating in this context may include, but is not limited to, copying another applicant's answers, disruptive behaviour during the test, utilising any non-permitted papers or devices, or otherwise trying to gain an unfair or improper advantage

### **5.5 Driving Proficiency**

All new drivers must complete successfully a taxi driving assessment to an equivalent standard required by the Driving Standards Agency (DSA).

An additional assessment is required for drivers of wheelchair accessible vehicles. These assessments show that their driving skills are at a nationally acceptable level.

There are a number of companies and private individuals authorised to conduct Taxi Driver assessments.

In order to establish consistency for all applicants, the Council will only accept assessments to a standard set by the DSA and conducted by assessors who are DSA authorised.

The Council reserve the right to make such enquiries as necessary in order to satisfy themselves about the competence of the examiner and the standard of the test conducted.

Therefore, applicants will be required to provide details of their test to the Council.

### **5.6 Medical Examination**

A medical examination by a GP or another Doctor at the practice where the applicant is registered is required to assess an applicant's fitness to drive a licensed vehicle before a licence may be granted. A DVLA Group 2 standard of medical fitness for professional drivers is required.

The form requesting a medical examination for presentation to the GP is within the application pack. The applicant will be responsible for paying the fee for the examination to the relevant GP surgery. On completion of the medical examination, a confidential report will be submitted to the Licensing Office. Existing licence holders over the age of 45 will be required to produce a medical certificate every 5 years. Existing drivers over 65 must be examined annually.

Applicants and licence holders must notify the Council as soon as it is practicable of any deterioration in their health that may affect their ability to drive a licensed vehicle and/or their suitability to be a licensed driver. The Council will take a serious view of any licence holder continuing to drive if that driver is aware of, or as a licensed driver should be aware of, any health problems that could endanger the lives of their passengers.

Where the Council is not satisfied as to the medical fitness of an applicant, it will require the applicant to undergo and pay for a further medical examination, at an appropriate medical facility. This will be conducted by either the applicant's GP or other qualified medical practitioner with access to the applicant's full medical records to certify in writing that the applicant meets the relevant standard to act as a licensed driver. Where there remains any doubt about the fitness of any applicant or licence holder the Council will review the medical evidence and, if necessary, put further questions to the relevant medical practitioner (such costs to be borne by the applicant or licence holder), before making any final decision about the application.

## **5.7 Disclosure Barring Service (DBS)**

As part of the application process all applicants for a driver's licence are required to disclose on the application form all convictions regardless of whether they would be regarded as spent under the Rehabilitation of Offenders Act 1974 as Amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

The failure to disclose a conviction may result in the immediate suspension of the licence pending investigation.

The Council is an approved Disclosure Barring Service (DBS) body; therefore checks are carried out through the Council and applicants will be charged the appropriate fee for any application for Disclosure.

An Enhanced DBS check of Criminal Convictions will be carried out by the Council every 6 months using the DBS Update Service. All licensed drivers will be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months.

Should the check reveal that new information is available the DBS certificate will no longer be relied upon and a new DBS certificate will be requested. The Council can also request another disclosure at any time if a further check is considered necessary. The requirement to subscribe to the Update service will commence with the introduction of this policy and as a driver renews their DBS they will be required to show evidence that they have subscribed to the Update service.

The Council will not divulge personal information disclosed by undertaking the DBS checks to any third party. The applicant for a licence will receive a separate disclosure report from the DBS which will be sent to their home address. The Council will not receive a copy of the report.

The Update Service allows the applicant to pay a subscription fee direct to the Disclosure and Barring Service, in return for ongoing monitoring of the official records for information relating to the applicant. Subscribers will be able to give employers and licensing authorities permission to carry out a status check, in order to verify whether an original DBS certificate remains valid, even if it is several years later.

The applicant must have subscribed within 19 days of the issue of the last certificate. If the subscription lapses, or if the police records show new information since the certificate was issued, we will not be able to obtain a status check, and the applicant will need to apply for a new disclosure certificate.

## **5.8 Common Law Police Disclosure/Referrals to the Police/DBS**

In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS/Police. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role

The Licensing Authority will make a referral to the DBS/Police when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the 'harm test'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

If the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

## **5.9 DVLA checks**

Since the abolition of the Driving Licence paper counterpart the Licensing Department have been unable to easily check current driving endorsements that may have accrued.

From January 2017 Local Authorities will no longer be able to request an extended mandate for an extract of an applicant's driving history. The DVLA does provide a free service to check a driver's current endorsements. It is proposed this to be adopted for all new and current drivers so the Licensing Authority can ensure drivers remain 'fit and proper' persons.

Applicants are encouraged to make use of the DVLA's free online Shared Driving Licence Service to enable the Council to check their driving licence record. This service can be found at [www.gov.uk/view-driving-licence](http://www.gov.uk/view-driving-licence).

Checks may also be made by the Council, requiring the applicant or licensed driver to provide a shared DVLA driving licence code at other times. This will either be where the Council believes an applicant or licence holder has been convicted of an offence

not previously declared, there has been a delay in the application process and the Council wish to ensure they have updated details before determining an application or, as part of periodic compliance checks of licensed drivers.

If an applicant is unable to, or chooses not to, use the free Shared Driving Licence Service, he/she will be required to give written consent to the Council to apply to the DVLA for their driver record. The applicant must pay the reasonable administrative fees of the Council as well as those of the DVLA. Utilising this service will result in delays in the Council processing an application.

Existing licensed drivers will be expected, and conditioned, to provide a shared driving licence code upon the request of the Council during the course of a 3 year licence where the Council deem it appropriate to check that a driver has not received any endorsements that have not been disclosed to the Council.

### **5.10 Immigration - Right to Work Check**

There is a legal responsibility imposed on the Council by the Immigration Act 2016 to ensure that right to work checks on drivers and operator licence holders are completed.

The Council must comply with the legal requirement not to issue a licence to someone who is disqualified from holding the licence by reason of their immigration status. This duty is discharged by requiring the applicant to submit one of a number of prescribed documents which show that the applicant has permission to be in the UK and undertake work as an operator or PHV or taxi driver.

All initial applicants for a hackney carriage drivers licence, private hire driver's licence or Operator Licence will be required to demonstrate that they have the right to live and work in the United Kingdom. We will follow the advice given by the UK Border Agency following the implementation of the Immigration Act 2016. Once the check has been completed satisfactorily it will not normally need to be repeated. A licence will not be granted to an applicant who is not entitled to work in the UK. It shall be incumbent upon an applicant to produce such official documentation as to demonstrate such an entitlement. This requirement shall apply equally to British, EEA and non-EEA nationals. No assumptions will be made about a person's right to work in the UK or their immigration status on the basis of their nationality, ethnic or national origin, accent, the colour of their skin, or the length of time they have been resident in the UK.

For those drivers and applicants who have time-limited permission to be in the UK, the check must be repeated at each subsequent application to renew or extend the licence until such time as the applicant demonstrates that they are entitled to remain indefinitely in the UK. A licence will only be granted for the duration of the validity of the Visa or permission.

### **5.11 Fit and proper – False or misleading information**

An applicant may not be considered to be a fit and proper person to hold a licence if there is any evidence that the he/she has been dishonest in making the application or it can be evidenced that they or an existing licence holder has misled, or attempted to mislead, the Council (officers or elected members of the licensing committee) during any part of the application process or with the administration of the licence throughout its duration.

### **5.12 Relevance of Convictions and Cautions**

Please refer to Appendix 8 for the list of relevant convictions and the criteria for the grounds for refusal to issue or renew a licence. This is also the criteria used by the Council to consider whether or not to suspend or revoke a driver's licence.

In assessing whether an applicant is a fit and proper person to hold a licence, the Council will consider each case on its merits. They will take account of cautions and convictions, but only in so far as they are relevant to an application for a licence. Upon receipt of a DBS check, officers acting under delegated powers will assess whether any cautions or convictions are capable of having relevance to the issue of whether or not an applicant is a fit and proper person to hold a licence.

The Council will have regard to the type and age of the offence and the age of the applicant when the offence occurred, when considering their relevance to an application. The Council will also consider the seriousness of a convicted offence as indicated by the penalty or sentence that was imposed.

The Officers may refer applications to the Licensing Sub-Committee where the applicant's records includes one or more of the following-

- Drunkenness
- Sexual offences
- Violence

### **5.13 Application Procedure and Considerations of Applications**

Please refer to Appendix 10 for the Taxi Licensing Charter.

The Council will consider each application on its own merits once the required completed application and ancillary documents are received.

### **5.14 Conditions of Licence.**

These are set out in Appendices 5 and 6 and are necessary and appropriate for all licensed drivers.

### **5.15 English Language Proficiency Test**

New Applicants

- a. All new applicants for a Hackney or Private Hire Drivers Licence will be required to undergo a proficiency test to demonstrate their ability to communicate effectively in the English Language.
- b. The test will be conducted in a form approved by Mid Sussex District Council.

- c. An outline of the test requirements can be found at appendix (10)

#### Current Drivers

- d. Current drivers appearing before the Licensing Committee may be required to take the aforementioned test should the Committee consider that the driver's spoken English is inadequate. Each case will be considered on its merits.

#### Exemptions

- e. This test will apply to all applicants, including those who may be expected to speak English as a first language by virtue of their country of birth. However, it is proposed to exempt a candidate from any adopted English test requirement if they can demonstrate that they have previously passed a relevant English language qualification at a suitable level, such as:
- a GCSE, GCE O-level or GCE A-level issued by a recognised examining body in the UK (grade C or higher)
  - an NVQ, City & Guilds, or similar vocational qualification (level 2 or higher) issued by a recognised examining body in the UK
  - an equivalent qualification to either of the above, issued by a recognised examining body in an English-speaking country other than the UK
  - a TOEFL, IELTS or ESOL qualification at CEFR level B2 (or equivalent)

### **5.16 National Register of Taxi Licence Refusals and Revocations.**

The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3). This allows licensing authorities to share details of individuals who have had a hackney carriage or private hire licence revoked. All applications for a new licence or licence renewal will automatically be checked on NR3. Any information received as a result of an NR3 search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.

### **5.17 Safeguarding Awareness Training**

The taxi and private hire vehicle industry can play an important role in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

All new applicants, current licensed drivers, and Operators where they are not also licensed as drivers, will attend Safeguarding Awareness training by an approved provider. This training must be undertaken within 12 months of being first licensed or if currently licensed within 12 months of the introduction of this policy. Failure or refusal to attend this training will result in the licence being suspended until the training is satisfactorily completed. Drivers and Operators who have previously already attended this training need not re-attend.

## 5.18 Mandatory Disability Awareness Training

Private Hire and Hackney Carriage drivers frequently encounter passengers with various disabilities and it is therefore considered necessary that all drivers are aware of the needs of disabled passengers. Disability awareness training benefits both the customer and driver and the Council should make it a pre-condition for being granted a driver's licence.

The Equality Act 2010 focused on the needs of people with protected characteristics, which includes disabilities. Public bodies, including local authorities, have a lawful duty of regard to: eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.

The Department for Transport's Draft Accessibility Action Plan described refusals of assistance dogs by taxi and PHV drivers as "unacceptable and illegal", noting the serious impact of refusals on people's confidence and ability to live independently. The plan commits the UK Government to publish best practice guidance for licensing authorities, recommending that disability equality training be mandated in their licensing policies.

All new applicants and current licensed drivers are required to undertake recognised Disability Awareness and Equality Act training in relation to disabled and vulnerable passengers as part of their professional development. The Training will be organised by MSDC and delivered through a provider of their choice. This is to ensure that all drivers operate to a consistent standard and can provide a safe and suitable level of transport service to disabled and vulnerable passengers.

Disability awareness training for all new drivers must be undertaken within 12 months from the date of issue of the licence. Existing MSDC licensed drivers that have not previously undergone recognised Disability awareness training must attend a session within 12 months from implementation of this revised policy.

Failure to attend this training during the timescales outlined above will result in the licence being suspended until the training has been successfully attended.

## **SECTION 6: PRIVATE HIRE OPERATORS**

### **6.1 Requirements**

Any person who operates a private hire service (who is not also a hackney carriage proprietor who permits hackney carriages to be used for private hire) must apply to the Council for a private hire operator's licence.

A private hire operator must ensure that licensed private hire vehicles are driven only by licensed private hire drivers.

All new applications will be subject to the following checks:

- A fit and proper person to hold an operator's licence by undertaking a DBS check. In the case of a limited company all directors or persons controlling the company will be DBS checked. In the case of a partnership, all partners will be checked.

- Status of office accommodation e.g. planning permission.

## **6.2 Conditions**

The Council has the power to impose such conditions on an operator's licence as it considers necessary. The conditions are set out in Appendix 7.

## **6.3 Insurance**

The operator is required to produce evidence, upon request by an authorised officer of the Council or a Police Officer, that there is a certificate of motor insurance, which covers every private hire vehicle they operate. The operator is also required to have public liability insurance for their base premises.

## **6.4 Licence Duration**

Under the Deregulation Act, which takes effect from the 1<sup>st</sup> October 2015, an operator's licence will be issued for duration of 5 years. .

For new Private Hire Operators they will have the option to licence for one or five years. This one year option allows the operator an opportunity to develop their business. Thereafter on renewal they will be licensed for five years.

It is the licence holder's responsibility to ensure that their operator's licence is renewed.

## **6.5 Address from which the Operator may operate**

Upon the grant of an operator's licence, the Council will specify the address from which the operator may operate. The operator must notify the Council in writing of any changes to their address during the period of the licence, prior to changing the address. A business cannot legally operate from an address not specified on its licence.

## **6.6 Bases Outside Mid Sussex District Council Area.**

The Council will not grant a Private Hire Operator Licence for an operator with an operating base that is outside Mid Sussex District Council's area. This is to ensure that proper regulation and enforcement measures may be taken.

## **6.7 Criminality checks for Private Hire Vehicle Operators**

Private Hire Operators who are not also licensed drivers are required to provide a basic DBS Disclosure certificate annually.

Additionally, Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff. There is a person taking bookings (be it by phone or in person), the vehicle dispatcher who decides which driver to send to a user. These are positions that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults and the Authority should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public.

Operators are required as a condition of granting an operator licence, to keep a register of all staff that will take bookings or dispatch vehicles. Operators are required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. Operators will have to provide their policy on employing ex-offenders in either of these roles.

#### **6.8 Use of PCV Licensed Drivers**

PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver.

The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted by private hire vehicle operator without the informed consent of the person making the booking.

#### **6.9 Complaints Against Licensees**

Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.

Complaints regarding Private hire Drivers are generally made directly to their Operator rather than the Licensing Department

All Operators are required to keep a record of all complaints received. These records must be made available for inspection by the Licensing Officer on request.

Operators are required to advise the authority when any driver is subject to any complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months.

### **SECTION 7: DISCIPLINARY AND ENFORCEMENT MEASURES**

#### **7.1 Enforcement**

The Council's role in the licensing of all drivers, owners and operators of licensed vehicles is to ensure high standards are achieved and this will be done in a consistent and open manner. The standards are defined in legislation, the licence conditions and codes of practice.

The Council will operate a consistent but firm disciplinary and enforcement regime. The Council believes this is the best way of ensuring it undertakes its role of ensuring public safety. The Council will seek to balance the promotion of public safety with the needs of the taxi trade and the individuals working within it. Therefore the Council will only intervene where it is necessary and proportionate to do so, having regard to the objectives set out in section 1.5 of this policy.

Where necessary, enforcement action will be taken in accordance with the principles of the Enforcement Concordat and the Council's Enforcement Policy for Environmental Health. To this end the key principles of consistency, transparency and proportionality will be maintained. Mid Sussex District Council's Environmental Health Enforcement Policy can be viewed at [www.midsussex.gov.uk](http://www.midsussex.gov.uk)

As part of its role to ensure public safety, the Council will, in liaison with the police, DVSA and other relevant agencies, undertake roadside spot-checks of licensed vehicles and their drivers.

To promote the licensing objectives the Licensing Authority will share information with other enforcement agencies such as UK Border agency, DVSA, Inland Revenue, Police, Trading Standards, Customs and Excise and Benefit Agencies. Information will also be shared with internal departments within the Council, such as Parking Services, Revenue and Benefits and Planning Sections.

When undertaking its enforcement role the Council may liaise with other public bodies such as other Local Authorities and the Police.

## **7.2 Disciplinary Hearings**

Any disciplinary matters that could result in the revocation or suspension of a licence will be referred to the Licensing Sub-Committee, who will decide the appropriate action. In exceptional cases Officers may need to revoke or suspend a licence if a Committee cannot be convened at short notice. There is a right of appeal to the Magistrates Court on all disciplinary decisions made by the Licensing Committee.

## **7.3 Scope of Council Powers**

The Council may take any of the steps outlined below upon receipt of evidence that an offence or breach of the conditions has been committed in respect of any of the licences it issues:

- prosecution;
- revocation of the licence;
- suspension of the licence;
- add conditions to an existing licence;
- issuing of warnings or cautions.

## **7.4 Prosecution**

In accordance with the Environmental Health Enforcement Policy the Council may prosecute licence holders in the following circumstances:

- where the allegation is of a serious nature or is a repeated offence;
- where the Council proposes to caution the licence holder, but the offence is not admitted, nor a caution accepted.

## **7.5 Revocation**

Where a licence holder has been convicted of a serious criminal offence the Licensing Sub-Committee may revoke or suspend the licence.

## 7.6 Suspension

### a) Vehicles

Hackney carriage vehicles and private hire vehicles must be kept in a safe condition, suitable for the purpose of carrying passengers. Where it is found that a vehicle is not being properly maintained and has defects that may put the public safety at risk then the Council will serve a stop notice on the proprietor of the vehicle. The use of the vehicle will remain prohibited until the defects have been remedied and the vehicle has been inspected by the authorised vehicle fitness centres and has been passed as fit for use as a hackney carriage or private hire vehicle. The testing of the vehicles will be at the proprietor's expense.

### b) Drivers

The Council may exercise its discretion to suspend a driver's licence. The decision to suspend a driver's licence can be made under delegated powers in exceptional circumstances when it is believed the offence is serious enough that the public safety concerns outweigh the individual's right to work.

The Councillors at a Licensing Sub-Committee hearing may also exercise their discretion to suspend a driver's licence.

#### ➤ Add Conditions to an Existing Licence.

The Licensing Sub – Committee following a hearing may decide that it is appropriate to add to a driver's licence further conditions to their existing licence.

#### ➤ Issuing of Warnings and Cautions

This is a method of addressing less serious offences. The Council will issue warnings and cautions as are appropriate based on all the circumstances.

Cautions may be issued in the following circumstances;

- There is sufficient evidence to justify a prosecution;
- The licence holder admits their guilt;
- The licence holder agrees to be cautioned.

Warnings will be issued by an officer acting under delegated powers or as requested by the Licensing Sub-Committee.

## 7.7 The Council have introduced a Penalty Points Scheme for drivers and operators.

The aim of the penalty point scheme is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanours and to act as a record of driver's behaviour and conduct so as to ascertain whether they are a fit and proper person. It does not prejudice the council's ability to take other actions.

The primary objective of the penalty points scheme is to improve the levels of compliance and help improve the standards, safety and protection of the travelling public.

**7.8** Mid Sussex District Council have approved the implementation of a Taxi and Private Hire Driver Code of Conduct. The Code of Conduct will come into effect from 1 April 2019.

The Code of Conduct is designed to remind all drivers of their responsibilities whilst operating as a licensed driver and to ensure a professional level of service is provided to the travelling public

Any breaches of the Code of Conduct can be dealt with under the penalty point scheme. Breaches of the code would attract 4 penalty points.

It does not prejudice the Council's ability to take other actions.

The primary objective is to help improve the standards, safety and protection of the travelling public.

## **SECTION 8: DELEGATED POWERS**

### **8.1 Licensing Committee**

The Licensing Committee is responsible for the management of the licensing regime in the district under the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Sub Committee will hear all applications and disciplinary matters referred to it by the Licensing Team.

The Council's Business Unit Leader for Environmental Health Services has delegated responsibility, in so far as it relates to hackney carriage or private hire, in respect of the licensing and registration functions of the Council listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) for-

- Deciding applications for authorisations, dispensations, exemptions, licences or certificates of approval;
- Serving notices and taking consequential action;
- Issuing simple cautions;
- Instructing the Council's Legal Services to commence legal proceedings;
- Authorising officers to exercise statutory functions (including powers of entry and obtaining warrants);
- Granting, suspending, refusing or revoking licences;
- Instigating prosecution wherever appropriate.

## **SECTION 9: FARES**

### **9.1 Prescribed Rates (only applies to Hackney Carriage)**

A hackney carriage driver must not charge more than the fare rate prescribed by the Council. However there are no provisions within the legislation or this policy, which prevent the driver of a hackney carriage or private hire vehicle from charging less than the fare shown on the meter. In addition to the normal fare, a fuel surcharge rate may be agreed by the Council to enable drivers to charge more when fuel prices exceed a given level.

## **9.2 Table of Fares (only applies to Hackney Carriage)**

A table showing the correct prescribed fares must be displayed in each vehicle so that all hirers are able to see it.

## **9.3 Review of the Prescribed Fares (only applies to Hackney Carriage)**

Fare rates will be reviewed by the Council annually if requested by the Mid Sussex Hackney Carriage Association.

## **9.4 Receipts**

If requested by a passenger, a driver must provide them with a written receipt for the fare paid.

## **SECTION 10: OUR COMMITMENT TO EQUALITY**

**10.1** The Equalities Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons based on race, gender, disability, age, sexuality (lesbian, gay, bisexual), transgender, pregnancy, religion or belief.

**10.2** The Council is committed to ensuring that it is delivering services in a non-discriminating way and that equality is at the heart of service provision throughout the Authority. The Council recognises that discrimination and exclusion can occur for many reasons including but not confined to race, language, age, gender, disability and poverty and is fully committed to overcoming such exclusion and discrimination.

**10.3** In carrying out its duties the Council will have due regard for the need:

- To eliminate unlawful discrimination
- To promote equality of opportunity and good relations between people, including those in the groups protected by the Equality Act 2010 and listed in 10.1.

**10.4** This policy has been subject to an equality impact assessment. In formulating this policy we have in particular had regard to the need to provide for disabled people and to protect vulnerable groups. To that end 20% of hackney carriage vehicles are currently wheelchair accessible and the unmet demand survey undertaken in (date) indicates that this is sufficient to meet current needs. The conditions relating to licensed vehicles, operators and drivers are intended to protect all passengers, and especially those who are most vulnerable.

## **10.5 Assistance Dogs**

All licensed drivers are under a legal duty to carry guide, hearing and any other assistance dogs in their vehicles without any additional charge to the passenger. A licensed driver may only refuse to do so where they have a medical exemption. A medical exemption may only be granted by the licensing authority where the licensed driver has provided detailed medical evidence that shows a medical condition will be aggravated by exposure to dogs. If the medical exemption is granted, the licensed driver will be issued with an exemption certificate and a notice of exemption. The notice must be displayed in the vehicle by fixing it in a prominent position facing outwards on the dashboard.

**Glossary of Terms**

- 'Licensed Vehicle ' means both a Hackney Carriage and Private Hire Vehicle
- 'Hackney Carriage' means a vehicle licensed for standing or applying for hire
- 'Private Hire Vehicle' means a licensed vehicle constructed or adapted to seat fewer than 9 passengers and which can only carry those passengers who have pre-booked.
- 'Private Hire Vehicle Operator' means a person licensed to make provision for bookings for a private hire vehicle
- 'Certificate of Compliance' means a certificate confirming that a licensed vehicle has passed the Council's vehicle test
- 'Stop Notice' means a notice prohibiting further use of a licensed vehicle until such time as a defect has been remedied to the satisfaction of the Council
- 'Defect Notice' means a notice identifying a defect to a licensed vehicle which must be remedied to the satisfaction of the Council (issued under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976)
- 'Faresmeter' means a device for calculating the fare to be charged in respect of any journey in a hackney carriage or private hire vehicle
- 'Delegated Powers' means the scheme of delegated powers as referred to in the Council's Constitution
- 'The Guidance ' means The Department for Transport- Taxi and Private Hire Vehicle Licensing: Best Practice Guidance October 2010

## MID SUSSEX DISTRICT COUNCIL

### Conditions relating to the issue of this Private Hire Vehicle Licence.

**NOTE: - These conditions are to be read in conjunction with The Local Government (Miscellaneous Provisions) Act 1976 and any other relevant legislation.**

**All Private Hire Vehicles will be right hand drive. From 1 October 2017 Private Hire vehicles of 10 years of age or over may not be licensed.**

**From 1 October 2022 they may not be white in colour and rear door panels must display the MSDC logo, with the words “Private Hire Vehicle, Advanced Booking Only” and the licence number.**

**From 1<sup>st</sup> October 2022 all newly licensed diesel vehicles must be compliant with Euro 6 emissions standard and petrol vehicles with the Euro 4 standard.**

1. Any seats or seating over and above the number for which this vehicle is licensed shall be removed before the vehicle is used to carry passengers for hire or reward.
2. The private hire licence plate provided by the Council for display outside the vehicle must be firmly fixed in a prominent position on the rear exterior surface below the rear window. The plate is to be kept clean and legible at all times.
3. The private hire licence plate provided by the Council for display inside the vehicle must be fixed to the front windscreen of the vehicle in a position where it may be conveniently read by passengers travelling in the vehicle.
4. The proprietor shall ensure that any person driving the vehicle to which this licence relates is the holder of a current private hire driver's licence issued by Mid Sussex District Council.
5. The Proprietor shall ensure that any person employed by him/her or permitted by him/her to use the vehicle as a private hire vehicle is fully conversant with the conditions of his/her driver's licence.
6. The proprietor shall ensure that the driver only carries passengers who have pre-booked their journey(s) via the holder of the Operator's Licence.
7. The proprietor must ensure that the vehicle is capable of satisfying the Council's mechanical and structural inspection at any time during the period for which the licence is in force.
8. Any authorised officer of the Council or any Police Officer shall have power at all reasonable times to inspect and test any private hire vehicle. If not satisfied as to its fitness, the officer may require the vehicle to be further inspected at the testing station approved by the Council. If the vehicle fails to meet the necessary requirements the licence will be suspended until such time as the requirements are met. If the authorised officer or Police Officer is not so satisfied before the expiration of a two month period the licence shall be deemed to have been revoked.

9. A first aid kit and fire extinguisher must be carried on the vehicle at all times and be readily accessible to the driver.  
The First Aid Kit must be a Travel First Aid Kit which complies with BS 8599. The fire extinguisher must comply with BS EN 3 and should be fitted with a gauge indicating the level of contents. The First Aid Kit and the Fire Extinguisher shall be clearly marked with a permanent marker with the licence number of the vehicle.
10. The proprietor or driver shall not carry or permit to be carried in the vehicle any greater number of passengers than the number of persons specified in this licence.
11. The proprietor shall report to the Council as soon as reasonably practicable and in any case within 72 hours of the occurrence thereof, any accident to the vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein.
12. The proprietor shall deposit a copy of the vehicle licence issued by the Council with the private hire operator for whom the vehicle is being used during the time it is so used for that operator.
13. The proprietor shall notify the Council in writing of any change in his/her address within 7 days of such change.
14. The licence holder will, within **48 HOURS**, disclose to the Council in writing details of any conviction; including any fixed penalty notice (endorsable or non endorsable), any Criminal Behaviour Order or any High Court or County Court judgement recorded against their name during the period of the licence, and any Police Caution. In addition the licence holder will inform the Council within seven days, of any arrest or interview under caution as a suspect.
15. The proprietor must notify the Council of any change of operator he/she may make.
16. The proprietor or driver shall not tout or solicit on a road or public place any person to hire or be carried for hire in any private hire vehicle. The proprietor shall not cause or procure any other person to tout or solicit on a road or public place any person to hire or be carried for hire in any private hire vehicle.
17. The driver will not park a Private Hire Vehicle on the highway in company with other licensed Private Hire Vehicles unless it is engaged in collecting or delivering pre booked passengers.
18. The driver will not park a Private Hire Vehicle near to or be in sight of a Hackney Carriage Rank, a Railway Station or a Bus Station unless engaged in the collection or delivery of a pre booked passenger.
19. Private hire vehicles may display a roof sign subject to the following conditions:
  - (a)The roof sign may not exceed a size of 46 cm in width and 16 cm in height.
  - (b)The roof sign must include the words "advance bookings only" in letters not less than 2.5cm in height display to front and rear.
  - (c)The name of the company or trading name and/or telephone number may appear on the sign. The size of the lettering shall not exceed a ratio of 1.5 to 1 in relation to the size of the words "advance booking only".
  - (d)All lettering displayed on the sign must be black and all words printed in the same font style and same degree of boldness.

- (e) The words taxi, cab or hire must not appear on the sign, even if it forms part of the company name.
  - (f) If the sign is capable of illumination it shall not be so illuminated until the vehicle is stationary having arrived at a destination for a pre-booking.
- 20 Vehicles must carry signage on the side of the vehicle to a design agreed with the Council to indicate that they must be pre-booked.
- 21 The company name and telephone number may be displayed in the rear windscreen in letters and figures not exceeding 5cm in height. Such letters and figures shall not be illuminated. The words taxi, cab or hire must not appear even if it forms part of the company name.
- 22 The company or trading name and telephone number may be displayed on the external surface of the two front doors:
- (a) The words “advance booking only” must be included in lettering no less than 5cms in height in close proximity to any other wording.
  - (b) The company name or trade name and/or telephone number in lettering no greater than 16cm in height.
  - (c) All wording must be printed in the same font style and same degree of boldness and in a contrasting colour to the background. The words taxi, cab or hire must not appear on the sign even if it forms part of the company name.

When advertisements other than those mentioned as above are displayed on the vehicle then:

- (a) Those advertisements shall be of a permanent nature and
  - (b) Before the advertisements can be displayed on the vehicle prior approval must be sought from the authorised Officer.
  - (c) There shall be displayed the words “Private Hire Vehicle” on the surface of the vehicle in letters no less than 5cm in height and not exceeding 16cm in height. This shall be by prior approval by the authorised Officer.
- 23 No other advertisement save as mentioned in conditions 15, 16, 17, 18 or 19 above may be displayed on the vehicle.
- 24 Where a vehicle displays any sign permitted by these conditions there shall be displayed in the vehicle, in a position where it may be read by passengers, a notice bearing the following wording:  
**WARNING – YOU MUST HAVE PRE-BOOKED THIS VEHICLE. IT IS AN OFFENCE FOR THE DRIVER TO PICK UP PASSENGERS WITHOUT A PRE-BOOKING HAVING BEEN MADE. IN THE EVENT OF A COMPLAINT PLEASE CONTACT:- HACKNEY CARRIAGE/PRIVATE HIRE LICENSING OFFICER, MID SUSSEX DISTRICT COUNCIL TEL 01444 477335**
25. A vehicle will not be deemed suitable for licensing as a private hire vehicle unless:
- (a) It has at least four doors of which three are readily accessible by the passengers.
  - (b) It is capable of comfortably seating its passengers in addition to the driver and for that purpose:-  
the rear seat of the vehicle shall measure at least 122cm (48”) ( to allow 16” per person) at its widest part and the headroom from the centre of the back seat to the roof lining shall measure at least 86cm (34”); and
  - (c) Provision is made for the carriage of luggage that is commensurate with the number of persons that the vehicle is conveying.

- (d) It is fitted with a seat belt for each passenger seat to conform to the current British Standards.
  - (e) The steering wheel is located on the right side of the vehicle (off side).
  - (f) The engine capacity shall not be less than 1290cc. The Council will licence electric, hybrid or similar vehicles providing they are of such design as to be able to undertake a full range of journeys, whilst carrying the maximum licensed number of passengers and associated luggage
  - (g) On reaching the first anniversary of the date of first registration (as shown on DVLA V5 Registration Document) the vehicle becomes subject to annual MOT testing.
26. The proprietor shall ensure that no material alteration or change in the specification, design, condition, appearance or use of the vehicle is made without the approval of the Council at any time whilst the licence is in force.
27. The vehicle and all its fittings and equipment must at all times when the vehicle is in use or available for hire be kept in a safe, tidy and clean condition, maintained in satisfactory mechanical order, body condition and overall appearance and must comply with all relevant statutory requirements. In particular the exterior of the vehicle shall:-
- be free from dents and damage to body parts and trim;
  - be free of areas of rust and/or damaged paintwork;
  - have all factory fitted bumpers and body mouldings in place and be in good order and repair; and
- the interior of the vehicle shall:-
- be free from stains, tears, cuts and/or cigarette burns;
  - have all door and window mechanisms in good working order and the boot and luggage space must be kept clear for use by the passengers with certain exemptions (e.g. spare wheel and jack).
28. A vehicle must not carry any child below the age of twelve years in the front of the vehicle other than in accordance with the Road Traffic Act 1988 and subsequent regulations.
29. All new vehicles and vehicles with up to 10000 miles on the odometer will be presented to the Licensing Officer by prior appointment for examination.
- All vehicles with more than 10000 miles on the odometer and which are up to three years of age from date of first registration will be subject to an annual fitness test.
- All vehicles aged from 3 years will be subject to two fitness tests a year (at 6 monthly intervals).
- The test must take place at a testing station approved by the Council. These requirements are in addition to a MOT which we require for all licensed vehicles over 12 months old. These tests are required to ensure that any vehicles licensed to carry members of the public are safe and comfortable
30. A copy of the current insurance certificate or cover note must be carried in the vehicle at all times. The certificate or cover note must state the names of all drivers entitled to drive the vehicle. Should proof of insurance cover not be available or the driver at the time is not shown on the insurance document then the vehicle licence will be immediately suspended.
31. **CCTV systems are to be installed in all licensed Hackney Carriage and Private Hire vehicles (other than Private Hire Vehicles issued with a plate exemption for executive**

and VIP work and are used solely for this purpose). The system must be approved by the Authority and be capable when required of audio recording. The Authority will become the Data Controller and will publish a Data Impact Statement and guidance to drivers. The CCTV system must be installed in vehicles by 1<sup>st</sup> October 2022.

- 32 Where a taxi meter is fitted to the vehicle the taximeter and all the fittings shall be fitted to the carriage with seals or other appliances so that it is not practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances. The meter shall be an approved calendar meter and be sealed and calibrated by a company authorised by the Council.
- 33 A tariff card showing the current rates of fare must be displayed inside the vehicle in such a position that it can be read by fare paying passengers.
- 34 Where the licensed vehicle is a wheelchair accessible vehicle that is fitted with a lift, that lift must be thoroughly examined every six months and a certificate as to its fitness be produced.
- 35 Where a vehicle is to be powered by LPG (Liquefied Petroleum Gas), before the vehicle is fitted with an LPG Tank, the vehicle must be inspected by the Council's licensing officer, to establish that the position of the tank will not reduce the luggage capacity of the vehicle. All work to a licensed vehicle must be carried out by a qualified LPG Association approved installer, who must hold a valid certificate as an LPG Approved Installer. Proof of registration on the [www.drivelpg.co.uk](http://www.drivelpg.co.uk) website must be produced by the vehicle proprietor to the Council once an installation is complete.
- 36 Licensed vehicles may be fitted with Dark tinted Windows (Manufacturers standard fit) All vehicles are to comply with the Road Vehicle (Construction and Use) Regulations 1986 Regulation 32 (10).
- 37 No licensed vehicle may tow any trailer unless evidence of valid insurance to cover such use for hire and reward has been produced to the Licensing Authority. The vehicle licence plate giving the licence number must be clearly displayed on the rear of any trailer used, this sign being in addition to that on the rear of the vehicle. The contents of such trailer must be secured and covered in a proper manner so as to be water tight. Any trailer used must comply with regulations in all aspects and where required the driver must hold the appropriate towing licence as issued by the Driving Standards Agency.
38. No Vehicle will be granted a licence if it is already licensed in another district.
39. Vaping will not be allowed in the vehicle under any circumstances.

## MID SUSSEX DISTRICT COUNCIL

### Conditions relating to the issue of a Hackney Carriage Vehicle Licence

**NOTE: - These conditions are to be read in conjunction with the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976, the Transport Act 1985, the current bye-laws in force within the district and any other relevant legislation.**

**All Hackney Carriages shall be right hand drive vehicles.**

**From 1 October 2017 Hackney Carriages of 10 years of age or over may not be licensed.**

**From 1 October 2022 they shall be white in colour and rear door panels must display the MSDC logo, with the words “licensed Taxi” and licence number.**

**From 1<sup>st</sup> October 2022 all newly licensed diesel vehicles must be compliant with Euro 6 emissions standard and petrol vehicles with the Euro 4 standard.**

1. Any seats or seating over and above the number for which the vehicle is licensed shall be removed before the vehicle is used to carry passengers for hire or reward.
2. All hackney carriages (other than a London type taxi) shall be fitted with an illuminated roof sign showing the word TAXI in letters approximately 50mm - 150 mm high. The company name and telephone number may also be shown. The sign should be displayed transversely on or above the roof of the vehicle. The roof sign shall be wired to the taximeter so as to enable it to be extinguished during the carrying of a fare for which the meter is in operation.

Company or trading name and telephone number may be displayed on the external surface of the two rear doors. The letters may not exceed 16cm in height.

3. The proprietor must fit the external plate supplied by the Council in a prominent position below the rear window on the rear exterior surface of the vehicle. The plate is to be kept clean and legible at all times.
4. The proprietor must fit the internal plate supplied by the Council inside the front windscreen in a prominent position so that it is clearly visible to passengers being carried.
5. The proprietor must ensure that any person driving the vehicle to which this licence relates is the holder of a current hackney drivers licence issued by Mid Sussex District Council.
6. The proprietor must ensure that any person employed by him/her or permitted by him/her to use the vehicle as a hackney carriage is fully conversant with the current bye-laws in force in the district (Copies of the bye-laws are available on request).

7. The proprietor must ensure that the vehicle is capable of satisfying the Council's mechanical and structural inspection at any time during the period for which the licence is in force.
8. Any authorised officer of the Council or any Police Officer will have powers at all reasonable times to inspect and test any hackney carriage or taximeter. If he/she is not satisfied as to the fitness of either or both he may require the vehicle or meter to be further inspected at the testing station approved by the Council. If the vehicle or taximeters fail to meet the necessary requirements the licence will be suspended until such time as the requirements are met. If the authorised officer or Police Officer is not satisfied as to the road worthiness of a vehicle before the expiration of a two month period the licence will be deemed to have been revoked.
9. A first aid kit and fire extinguisher must be carried on the vehicle at all times and be readily accessible to the driver.

The First Aid Kit must be a Travel First Aid Kit which complies with BS 8599. The fire extinguisher must comply with BS EN 3 and should be fitted with a gauge indicating the level of contents. The First Aid Kit and the Fire Extinguisher shall be clearly marked with a permanent marker with the licence number of the vehicle.

10. The proprietor or driver of the hackney carriage must not carry or permit to be carried more passengers than the number of passengers specified in this licence.
11. The taximeter will be placed in a position that all letters and figures on the face/display are plainly visible at all times to passengers being conveyed in the vehicle, and for that purpose the letters and figures must be capable of being suitably illuminated during any period of hiring.
12. The taximeter and all the fittings shall be fitted to the carriage with seals or other appliances so that it is not practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances. The meter shall be an approved calendar meter and be sealed and calibrated by a company authorised by the Council.
13. The licence holder will, within **48 HOURS**, disclose to the Council in writing details of any conviction; including any fixed penalty notice (endorsable or non endorsable), any Criminal Behaviour Order or any High Court or County Court judgement recorded against their name during the period of the licence, and any Police Caution. In addition the licence holder will inform the Council within seven days, of any arrest or interview under caution as a suspect.
14. A vehicle will not be deemed suitable for licensing as a hackney carriage vehicle unless:-
  - (a) It has at least four doors of which three are readily accessible by the passengers unless a London style cab.
  - (b) It is capable of comfortably seating at least four passengers in addition to the driver and for that purpose.
    - the rear seat of the vehicle shall measure at least 122cm (48") (to allow 16 " per person) at its widest part and the headroom from
    - the centre of the back seat to the roof lining shall measure at least 86cm (34"); and
  - (c) Provision is made for the carriage of luggage that is commensurate with the number of persons that the vehicle is conveying.

- (d) It is fitted with a seat belt for each passenger seat to conform to the current British Standards.
  - (e) The steering wheel is located on the right side of the vehicle (off side)
  - (f) The engine capacity shall not be less than 1290cc. The Council will licence electric, hybrid or similar vehicles providing they are of such design as to be able to undertake a full range of journeys, whilst carrying the maximum licensed number of passengers and associated luggage
  - (g) On reaching the first anniversary of the date of first registration (as shown on DVLA V5 Registration Document) the vehicle becomes subject to annual MOT testing.
15. The proprietor must ensure that no material alteration or change in the specification, design, condition, appearance or use of the vehicle is made without the approval of the Council at any time whilst the licence is in force.
16. The vehicle and all its fittings and equipment must at all times when the vehicle is in use or available for hire be kept in a safe, tidy and clean condition, maintained in satisfactory mechanical order, body condition and overall appearance and must comply with all relevant statutory requirements.
- In particular the exterior of the vehicle must:-
- be free from dents and damage to body parts and trim;
  - be free of areas of rust and/or damaged paintwork;
  - have all factory fitted bumpers and body mouldings in place and be in good order and repair, and
- The interior of the vehicle must:-
- be free from stains, tears, cuts and/or cigarette burns;
  - have all door and window mechanisms in good working order and the boot and luggage space must be kept clear for use by the passengers with certain exemptions (e.g. spare wheel and jack).
17. A vehicle must not carry any child below the age of twelve years in the front of the vehicle other than in accordance with the Road Traffic Act 1988 and subsequent regulations.
18. When advertisements other than those mentioned in Condition 2 above are displayed on the vehicle then:
- (a) those advertisements must be of a permanent nature and
  - (b) before the advertisements can be displayed on the vehicle prior approval must be sought from the authorised Officer.
  - (c) the words "Taxi" must be displayed on the surface of the vehicle in letters not exceeding 16cm in height. This shall be by prior approval by the authorised Officer.
19. All new vehicles and vehicles with up to 10000 miles on the odometer will be presented to the Licensing Officer by prior appointment for examination.

All vehicles with more than 10000 miles on the odometer and which are up to three years of age from date of first registration will be subject to an annual fitness test.

All vehicles aged from 3 years will be subject to two fitness tests a year (at 6 monthly intervals)

The test must take place at a testing station approved by the Council. These requirements are in addition to a MOT which we require for all licensed vehicles over

- 12 months old. These tests are required to ensure that any vehicles licensed to carry members of the public are safe and comfortable
20. The proprietor must ensure that a copy of the current fare table supplied by the Council is exhibited inside the carriage in such a position that it can be read by fare paying passengers.
  - 21 The proprietor must report to the Council as soon as reasonably practicable and in any case within 72 hours of the occurrence thereof, any accident to the vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein.
  - 22 A copy of the current insurance certificate or cover note must be carried in the vehicle at all times. The certificate or cover note must state the names of all drivers entitled to drive the vehicle.
  - 23 Should proof of insurance cover not be available or the driver at the time is not shown on the insurance document then the vehicle licence will be immediately suspended.
  - 24 CCTV systems are to be installed in all licensed Hackney Carriage and Private Hire vehicles (other than Private Hire Vehicles issued with a plate exemption for executive and VIP work and are used solely for this purpose). The system must be approved by the Authority and be capable when required of audio recording. The Authority will become the Data Controller and will publish a Data Impact Statement and guidance to drivers. The CCTV system must be installed in vehicles by 1<sup>st</sup> October 2022.
  - 25 A licence for a wheelchair accessible vehicle cannot be used for a vehicle which is not wheelchair accessible.
  - 26 Where a wheelchair accessible vehicle is fitted with a lift, that lift must be thoroughly examined every six months and a certificate as to its fitness be produced.
  - 27 Where a vehicle is to be powered by LPG (Liquefied Petroleum Gas) before the vehicle is fitted with an LPG Tank, the vehicle must be inspected by the Council's licensing officer, to establish that the position of the tank will not reduce the luggage capacity of the vehicle. All work to a licensed vehicle must be carried out by a qualified LPG Association approved installer, who must hold a valid certificate as an LPG Approved Installer. Proof of registration on the [www.drivelpg.co.uk](http://www.drivelpg.co.uk) website must be produced by the vehicle proprietor to the Council once installation is complete.
  - 28 Licensed vehicles may be fitted with Dark Tinted Windows (Manufacturers standard fit). All vehicles are to comply with the Road Vehicle (Construction and Use) Regulations 1986 Regulation 32 (10).
  - 29 No licensed vehicle may tow any trailer unless evidence of valid insurance to cover such use for hire and reward has been produced to the Licensing Authority. The vehicle licence plate giving the licence number must be clearly displayed on the rear of any trailer used, this sign being in addition to that on the rear of the vehicle. The contents of such trailer must be secured and covered in a proper manner so as to be water tight. Any trailer used must comply with regulations in all aspects and where required the driver must hold the appropriate towing licence as issued by the Driving Standards Agency.
  30. No Vehicle will be granted a licence if it is already licensed in another district

31. Vaping will not be allowed in the vehicle under any circumstances.
32. Where credit/debit cards are accepted as payment by a driver they cannot set a minimum card payment amount.
33. Wheelchair accessible vehicles must always have the appropriate equipment to carry wheelchair customers available and in working condition otherwise the vehicle licence will be immediately suspended.

## Appendix 4

### HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE FITNESS INSPECTION SCHEDULE

#### **The following vehicles will be subject to Fitness Testing:**

All vehicles with more than 10,000 miles on the odometer and which are up to three years of age from date of first registration will be subject to an annual fitness test.

All vehicles aged from 3 years will be subject to two fitness tests a year (at 6 monthly intervals).

Upon presentation for inspection, the exterior of the vehicle should be clean so that rust damage, dents and scratches can be clearly identified. Vehicle interiors should also be clean and tidy and free of accumulations of litter and rubbish. Exterior faults should be marked on the Inspection Schedule Sheet.

The vehicle is to be tested to a standard higher than that for a standard Department of Transport Test and testers' attention is drawn to items in the testers' manual that are advisory.

**If in the testers' opinion any items or vehicle defects affects the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein, the items or item should be noted on the inspection schedule and the vehicle failed. Should it be considered by the tester that the vehicle is unsafe to be used to carry members of the public the tester is requested to inform the Council's Licensing Team on 01444 477344 immediately.**

#### **(a) EXTERIOR – Rust, Dents and Scratches.**

##### **(i) Rust**

Any vehicle presented should be free from any significant areas of visible rusting. Although minor blemishes should not constitute a failure, the following general criteria should be followed:

Any vehicle with more than three rust patches of more than 3cms in diameter or a single rust patch of more than 20 sq.cms should be failed.

##### **(ii) Dents**

Any vehicle with minor dents on three or more panels where such dents are more than 5 cms in diameter length or a single dent of more than 20cms in diameter/length should be failed.

##### **(iii) Scratches**

Any vehicle with unrepaired scratches down to bare metal on three or more panels, of 5cms in length, or a single scratch of more than 20cms in length, should be failed.

##### **(iv) Paintwork**

All panels on the vehicle must be painted in colours consistent with the general colour scheme of the vehicle: panels with unmatched colours or in primer should be deemed as "failures".

**(b) INTERIOR**

**(i) Seats**

All seats, including the driver's, must be free from unrepaired cuts, tears or cigarette burns, except of very minor nature. Any repairs must have been carried out in a professional and neat manner.

**(ii) Carpets/Floor Covering**

All carpets and floor covering must be complete and free from cuts, tears or serious staining.

The driver's foot well must be clear and free of any obstructions (e.g. microphone, cash bag, torch etc.).

**(iii) Headlining and other Trim**

All interior trim, including headlining, must be clean, complete, properly fitted and free from serious cuts, tears or major soiling.

**(iv) Window Operation**

All passengers, excepting those occupying a middle seat, must be able to open adjacent windows without difficulty

**(v) Tinted Windows**

The windscreen and the front side windows to either side of the driver's head must not be tinted to a degree that exceeds the limits as laid out in the Road Vehicles (Construction and Use) Regulations 1986, as amended.

**(c) Boot/Luggage Compartment**

When presented for inspection, the boot/luggage compartment should be empty, except for a full size spare wheel, essential tools and first aid kit. The compartment should be clean and any coverings free from major cuts, tears and other damage.

**(d) Taxi Meter**

All hackney carriages must be fitted with a calendar taxi-meter calibrated to the current rate of hire charges.

**(e) Roof Signs**

All vehicles that normally display a roof sign capable of illumination must be presented for the test with that sign in place and in working order. All signs that are capable of being illuminated must illuminate and in the case of a Hackney Carriage the sign must be wired to the taximeter so as to enable it to be extinguished while the meter is in operation. Vehicles with meters/signs not complying shall be failed.

**(f) Auxiliary Electrical Equipment**

All auxiliary electrical equipment fitted to the vehicle (e.g. roof box, radio, aerials etc.) must be securely wired into the vehicle's electrical system and fused where appropriate.

All auxiliary wiring passing through the vehicle's bodywork must be adequately insulated (preferably through a grommetted hole). All auxiliary wiring must be kept away from fuel lines.

**(g) Fire Extinguisher /First Aid Kit**

All vehicles must carry a fire extinguisher and first aid kit. The First Aid Kit must be a Travel First Aid Kit which complies with BS 8599. The fire extinguisher must comply with BS EN 3 and should be fitted with a gauge indicating the level of contents.

The First Aid Kit and the Fire Extinguisher shall be clearly marked with a permanent marker with the licence number of the vehicle.

**(h) Mirrors**

All vehicles must be fitted with off-side AND nearside door or wing mirrors in addition to an interior mirror.

**(i) Spare Wheel**

A spare wheel must be carried on the vehicle and the tyre must be legal. Where the manufacturer does not supply a vehicle with a spare wheel a manufacturer supplied and approved Emergency Tyre Repair Kit may be carried in lieu of a spare wheel and must be used in accordance with the manufacturer's instructions. Where a vehicle has had an LPG conversion and the space provided for the spare wheel is used to locate the gas tank then an Emergency Tyre Repair Kit may be carried in lieu of a spare wheel. All components of the Emergency Tyre Repair Kit must be within its use by date if applicable.

**(j) Seat Belts**

All vehicles must be fitted with front and rear seat belts.

**(k) Provisions applicable to Designated Wheelchair Accessible Vehicles**

When presented for examination all designated wheelchair accessible vehicles will have all the required straps in a good state of repair with no cuts or fraying of the fabric. Any winch will be in working order and the ramp must be able to be safely deployed.

**Proprietors are particularly reminded that:-**

- (1) They should arrange for their vehicles to be inspected as soon as possible prior to the current fitness certificate expiry date. However in line with M.O.T. tests the Fitness test can be carried out not more than one month before the old certificate expires, the expiry date on the new certificate can be entered as 12 months from the expiry date on the old certificate. To take advantage of this extension to the expiry date, you must show your current certificate to the tester before he/she issues the new one.
- (2) Apart from new vehicles mentioned at 3 below all vehicles over one year old being tested for a hackney carriage certificate and a private hire licence must first have a current MOT certificate.
- (3) The Contractor will be carrying out inspection work only. Under no circumstances will any repair work be undertaken. The Contractor's inspection will not only cover the mechanical condition of the vehicle but also its interior and exterior condition and appearance. All vehicles must obtain a Certificate of Fitness. The certificate will be issued from X upon vehicles being passed as fit to be licensed.

The inspection fee must be paid when the vehicle is presented for inspection. A receipt will be given.

- (4) No application for either a hackney carriage or private hire vehicle licence will be considered without a Certificate of Fitness. The Certificate of Fitness is valid only for the duration as specified on the certificate.

**Appeal procedures for vehicles failing the Council's fitness test**

Where a vehicle fails the fitness test the vehicle proprietor has a right of appeal.

The proprietor must inform the Licensing Officer in writing within seven days of the original test, that an appeal test is required. The appeal test will be conditional that the vehicle shall have covered no more than 250 miles and that no repairs or adjustments are made to the item(s) or system(s) which are subject of the appeal.

An Inspector from the DVSA will conduct the appeal test at the Council's current vehicle testing station.

The vehicle proprietor along with his/her engineer, the tester who failed the vehicle and the owner or a representative of the testing station will be given the opportunity to attend the appeal test.

**The adjudication of the appeal Inspector will be final.**

NB Proprietors are reminded that a fee will be charged if an appointment is broken or cancelled with less than 48 hours notice.  
In your own interests please ensure that your vehicle is in a clean and roadworthy condition before making the appointment for a test.

**The above testing is in addition to the requirements for normal MOT Certificates. However, if required X will issue a VT20 Ministry of Transport Certificate for a reduced fee if requested at the time of the Council Test. (Council is currently tendering for Fitness Testing Stations)**

## MID SUSSEX DISTRICT COUNCIL

### Conditions relating to Private Hire Drivers' Licences

1. Private Hire driver's licences shall be in force for a period of 12/36 (delete as appropriate) months unless suspended or revoked.
2. Each person issued with a driver's licence will be issued with a badge in such form as prescribed by Mid Sussex District Council and when acting as the driver of a licensed vehicle must wear the badge in such position and manner as to be plainly and distinctly visible. The badge must be worn on the person. An additional driver's badge issued by Mid Sussex District Council must be displayed on the interior surface of the front windscreen of the vehicle visible to passengers.
3. The driver must at all times be clean and respectable in his/her dress and person, not dressing in a manner likely to embarrass or offend passengers. Appropriate footwear must be worn during the period of hire and whilst the vehicle is in motion. The drivers must behave in a civil and orderly manner and take all reasonable precautions to ensure the safety of the passengers carried in or getting in or out of the vehicle. The driver must ensure that when driving a licensed vehicle that the vehicle is clean and tidy at all times and that the Private Hire plate is clean and legible.
4. The driver, when hired to drive to any particular destination will, subject to any directions given by the passenger, proceed to that destination by the shortest possible route.
5. The driver will not allow there to be carried in the front of the vehicle:
  - a) any child below the age of 12 years.
  - b) more than one person above that age.
6. The driver will not permit to be conveyed in the vehicle a greater number of persons than that prescribed in the licence and on the licence plate for the vehicle.
7. Drivers must not smoke tobacco or any other smoking mixture in the vehicle. **No person may vape in the vehicle.**
8. Drivers must not eat or drink whilst carrying passengers.
9. A driver will not whilst hired carry any person or persons other than the hirer or hirers.
10. The driver must notify the Council in writing as soon as possible and in any event within 14 days of any illness or injury affecting his fitness to drive.
11. The driver will upon the expiry (without immediate renewal) revocation or suspension of the licence immediately return to the Council the driver's badge issued to him/her by the Council when the licence was granted.
12. The driver will notify the Council in writing of any change of his/her address during the period of the licence within seven days of such change taking place.
13. (a) The driver must immediately after the termination of any hiring of the vehicle or as soon as practicable thereafter search the vehicle for any property which may have been accidentally left behind by the passenger.

- (b) If any property accidentally left in a vehicle by any passengers is found by or handed to the driver he shall deliver it to the custody of the police within 24 hours.
14. The driver of a private hire vehicle will, if he/she is aware that the vehicle has been hired to be in attendance at an appointed time and place or he/she has otherwise been instructed by the operator or proprietor of the vehicle to be in attendance at an appointed time and place, punctually attend at that time and place, unless delayed or prevented by sufficient cause.
  15. The licence holder will, within **48 HOURS**, disclose to the Council in writing details of any conviction; including any fixed penalty notice (endorsable or non endorsable), any Criminal Behaviour Order or any High Court or County Court judgement recorded against their name during the period of the licence, and any Police Caution. In addition the licence holder will inform the Council within seven days, of any arrest or interview under caution as a suspect.
  16. The licensee will allow the carriage of a disabled passenger's assistance animal (e.g. guide or hearing dog) allowing it to remain with the passenger in the vehicle, and shall not make any additional charge for so doing.
  17. Any animal belonging to or in the custody of any passenger, which in the driver's discretion (other than animals referred to in 16), may be carried, should only be carried in such a way as to avoid any distraction to the driver.
  18. Drivers must not use a mobile telephone handset or radio communication device whilst the vehicle is moving unless it is capable of hands free operation. Other communication devices may be used if the vehicle is stationary and parked on a highway.
  19. A copy of the Private Hire Vehicle and Private Hire Drivers licence must be deposited with the operator for the duration of their employment.
  20. The driver will ensure that a copy of the current insurance certificate or cover note is carried in the vehicle at all times.
  21. The driver will not park a Private Hire Vehicle on the highway in company with other licensed Private Hire Vehicles unless it is engaged in collecting or delivering pre booked passengers.
  22. The driver will not park a Private Hire Vehicle near to or be in sight of a Hackney Carriage Rank, a Railway Station or a Bus Station unless engaged in the collection or delivery of a pre booked passenger.
  23. English Language Proficiency Test

#### New Applicants

All new applicants for a Hackney or Private Hire Drivers Licence will be required to undergo a proficiency test to demonstrate their ability to communicate effectively in the English Language.

The test will be conducted in a form approved by Mid Sussex District Council.

An outline of the test requirements can be found at appendix (10)

#### Current Drivers

Current drivers appearing before the Licensing Committee may be required to take the aforementioned test should the Committee consider that the driver's spoken English is inadequate. Each case will be considered on its merits.

### Exemptions

This test will apply to all applicants, including those who may be expected to speak English as a first language by virtue of their country of birth. However, it is proposed to exempt a candidate from any adopted English test requirement if they can demonstrate that they have previously passed a relevant English language qualification at a suitable level, such as:

- a GCSE, GCE O-level or GCE A-level issued by a recognised examining body in the UK (grade C or higher)
- an NVQ, City & Guilds, or similar vocational qualification (level 2 or higher) issued by a recognised examining body in the UK
- an equivalent qualification to either of the above, issued by a recognised examining body in an English-speaking country other than the UK
- a TOEFL, IELTS or ESOL qualification at CEFR level B2 (or equivalent)

## MID SUSSEX DISTRICT COUNCIL

### Conditions relating to Hackney Carriage Drivers' Licences

1. A Hackney Carriage driver's licence will be in force for a period of 12/36 (delete as appropriate) months unless suspended or revoked.
2. Each person issued with a driver's licence will be issued with a badge in such form as prescribed by Mid Sussex District Council and when acting as the driver of a licensed vehicle must wear the badge in such position and manner as to be plainly and distinctly visible. The badge must be worn on the person. An additional driver's badge issued by Mid Sussex District Council must be displayed on the interior surface of the front windscreen of the vehicle visible to passengers.
3. The driver must at all times be clean and respectable in his/her dress and person, not dressing in a manner likely to embarrass or offend passengers. Appropriate footwear must be worn during the period of hire and whilst the vehicle is in motion. The driver must behave in a civil and orderly manner and take all reasonable precautions to ensure the safety of persons carried in or getting into or out of the vehicle. The driver must ensure that when driving the licensed vehicle that the vehicle is clean and tidy and that the Hackney plate is clean and legible at all times.
4. The driver, when hired to drive to any particular destination must, subject to any directions given by the passenger, proceed to that destination by the shortest possible route.
5. The driver should not allow there to be carried in the front of the vehicle:
  - a) any child below the age of 12 years.
  - b) more than one person above that age.
6. The driver will not permit to be conveyed in the vehicle a greater number of persons than that prescribed in the licence and on the licence plate for the vehicle.
7. Drivers must not smoke tobacco or any other smoking mixture in the vehicle. **No person will be permitted to vape in a licensed vehicle.**
8. Drivers must not eat or drink whilst carrying passengers.
9. A driver will not whilst hired carry any person or persons other than the hirer or hirers.
10. The driver must notify the Council in writing as soon as possible and in any event within 14 days of any illness or injury affecting his fitness to drive.
11. The driver will upon the expiry (without immediate renewal) revocation or suspension of the licence immediately return to the Council the driver's badge issued to him/her by the Council when the licence was granted.
12. The driver must notify the Council in writing of any change of his/her address during the period of the licence within seven days of such change-taking place.

13. (a) The driver will immediately at the completion of any hiring of the vehicle or as soon as practicable search the vehicle for any property which may have been accidentally left by a passenger.  
  
(b) If any property accidentally left in a vehicle by any passenger is found by or handed to the driver he/she shall deliver it to the custody of the police within 24 hours.
14. The driver of a hackney carriage vehicle will, if he/she is aware that the vehicle has been hired to be in attendance at an appointed time and place or he/she has otherwise been instructed by the operator or proprietor of the vehicle to be in attendance at an appointed time and place, punctually attend at that time and place, unless delayed or prevented by sufficient cause.
15. The licence holder will, within **48 HOURS**, disclose to the Council in writing details of any conviction; including any fixed penalty notice (endorsable or non endorsable), any Criminal Behaviour Order or any High Court or County Court judgement recorded against their name during the period of the licence, and any Police Caution. In addition the licence holder will inform the Council within seven days, of any arrest or interview under caution as a suspect.
16. The licensee must allow the carriage of a disabled passenger's assistance animal (e.g. guide or hearing dog) allowing it to remain with the passenger in the vehicle, and shall not make any additional charge for so doing.
17. Any animal belonging to or in the custody of any passenger, which in the driver's discretion (other than animals referred to in 16), may be carried, should only be transported in such a way as to avoid any distraction to the driver.
18. Drivers must not use a mobile telephone handset or radio communication device whilst the vehicle is moving unless it is capable of hands free operation. Other communication devices may be used if the vehicle is stationary and parked on a highway.
19. The driver will ensure that a copy of the current insurance certificate or cover note is carried in the vehicle at all times.

## MID SUSSEX DISTRICT COUNCIL

### Conditions relating to Private Hire Vehicle Operators' Licences

The premises relating to this licence must be within the boundaries of the Mid Sussex District Council and must have a dedicated land line telephone number(s) that is specific to that address.

Where an operator is also licensed with another authority and has Private Hire Vehicles working in the Mid Sussex District Council area then the operator shall ensure that those vehicles comply with condition 8 of this licence.

1. The holder of this licence will keep a clearly legible record of the particulars of any private hire vehicle operated by him/her under the licence, pursuant to Section 56(3) of the Local Government (Miscellaneous Provisions) Act 1976, and contain the following particulars, namely :-
  - Make and type of vehicle
  - Registration No.
  - Owner
  - PHV Licence No.
  
2. The holder of this licence will keep a clearly legible record of every booking of a private hire vehicle invited or accepted, pursuant to Section 56(2) of The Local Government (Miscellaneous Provisions) Act 1976, and contain the following particulars, namely:-
  - Date and time of hiring
  - Location of pick-up point and destination
  - Name of hirer
  - Name of driver
  - Vehicle
  - Contact telephone number of the passenger;
  - The name of any individual that responded to the booking request;
  - The name of any individual that dispatched the vehicle.
  - If the booking was undertaken at the request of another operator, the name of that operator
  - If the booking was passed to another operator to fulfil, the name of that operator and confirmation that the customer was informed that the booking will not be completed by a Mid Sussex District Licensed driver and vehicle.
  
3. All records kept by the operator must be retained by him/her for at least twelve months and be readily available for inspection by any authorised officer of the Council or constable at any time.
  
4. Operators who maintain computerised records will be required to give access to these records to licensing officers upon request in order that the licensing officers can carry out their enforcement duties. Operators will be required to provide adequate instruction to licensing officers in order to enable the officers to interrogate computerised records and gather information they require.
  
5. The Operator may not operate more vehicles than the number for which this licence has been issued.

6. This licence authorises the holder to operate private hire vehicles only. It does not give the holder or any other person authority to operate from any premises unless any requisite planning permission has been obtained.
7. This licence must be returned to the Council on suspension, revocation or expiry.
8. A private hire operator will not permit vehicles operated by him/her to be stationed on the highway together unless they are actually at that moment in use for the purpose of carrying passengers for which a hire has been agreed. If it is necessary for a single private hire vehicle to wait on a road (other than awaiting a pre-booked passenger) it may not stand near or within sight of a hackney carriage rank, a railway station, or a bus or coach station.
9. The holder of this licence is responsible for ensuring that all vehicles operated by him/her are licensed by the Council under Section 48 of the 1976 Act.
10. The holder of this licence is responsible for ensuring that all drivers employed by him/her or driving vehicles operated by him/her are licensed by the Council under Section 51 of the 1976 Act.
11. The holder of this licence is responsible for ensuring that there is in force in relation to all vehicles operated by him/her a policy of insurance or such security as complies with the requirements of the relevant law applicable in Great Britain. A copy of all valid insurance certificates will be held by the operator.
12. This licence must be produced for inspection if requested by any authorised officer of the Council or any constable.
13. The licence holder(s) will, within seven days, disclose to the Council in writing details of any conviction; including any fixed penalty notice (endorsable or non endorsable), any Criminal Behaviour Order or any High Court or County Court judgement recorded against their name during the period of the licence, and any Police Caution. In addition the licence holder(s) will inform the Council within seven days, of any arrest or interview under caution as a suspect.
14. The holder of this licence must notify the Council of any changes relating to the licence this includes company name, ownership, telephone numbers and premises.
15. When the operator accepts a booking he/she will unless prevented by some reasonable cause ensure that a licensed private hire vehicle attends at the appointed time and place. The vehicle and driver despatched shall both be licensed by Mid Sussex District Council. When the operator accepts a booking he/she shall immediately prior to the commencement of the journey enter all details of the hiring in the form prescribed at 2 above.
16. The operator will retain a copy of the private hire vehicle and private hire driver licences issued by the Council all the time they are controlled or employed by the operator. The operator will notify the council of any changes as and when they occur.
17. The operator will notify the Council of any vehicle and driver which is taken out of his employ as and when they occur.

18. Operators that provide waiting facilities for the public should ensure the following:
  - a. Any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting; are kept clean, adequately heated, ventilated and lit
  - b. ensure that any waiting area provided by the operator has adequate seating facilities;
  - c. appropriate public liability insurance must be taken out for premises that are open to the public (e.g. taxi waiting rooms) and the appropriate certificate of insurance should be provided for examination when required by Council Officers'
19. Operators are required to keep a register of all staff that will take bookings or dispatch vehicles. Operators are also required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders.
20. Operators will have to provide a policy on employing ex-offenders in either of these roles.
21. All Operators are required to keep a record of all complaints received. These records must be made available for inspection by the Licensing Officer on request.

Operators are required to advise the authority when any driver is subject to any complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months.
22. The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted by private hire vehicle operator without the informed consent of the person making the booking.
23. The operator will not:-
  - a) Tout or solicit on a road or other public place any person to hire or be carried for hire in any private hire vehicle; OR
  - b) Cause or procure any other person to tout or solicit on a road or other public place any person to hire or be carried for hire in any private hire vehicle.

## Appendix 8

### CONSIDERATION OF GROUNDS FOR REFUSAL TO ISSUE OR RENEW, OR TO SUSPEND OR REVOKE A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE.

Section 51 of Local Government (Miscellaneous Provisions) Act 1976 states that a district council shall not grant a licence to drive a private hire vehicle unless they are satisfied that the applicant is a fit and proper person, in addition to being medically fit and being the holder of a suitable driver licence. Section 59 states likewise in respect of a hackney driver licence.

Each case must be decided on its merits. All applicants must be checked by the police on initial application and then every third year on renewal. Authority for this is given under Section 47 of Road Traffic Act 1991.

Consideration must be given to the Rehabilitation of Offenders Act 1974 as reformed by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and the Human Rights Act 1998. The rehabilitation period depends on the sentence for the original offence. Some sentences carry fixed rehabilitation periods. The main ones are:-

Prison sentence :more than 30 months up to and including, 48 months	7 years from the end of the sentence (including time on licence)
Prison sentence : more than 6 months up to, and including, 30 months	4 years from the end of the sentence (including time on licence)
Prison sentence : 6 months or less	2 Years from the end of the sentence (including time on licence)
Probation Order	12 months from the end of the order
Community Order	12 months from the end of the order *
Fine	1 year from the date of conviction
Conditional Discharge Order	The last day on which the order has effect.
Compensation	Once the compensation is paid in full.
Absolute Discharge	No rehabilitation period

\*Where the order does not specify the last day on which the order is to take effect, the rehabilitation period is 2 years from the date of conviction

Note: Suspended sentences count as if the term of imprisonment had been served.

A sentence of more than 48 month can never be spent.

#### Servicemen:

Same as in civilian life.

## Convictions Policy

### 1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the licensing authority when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That a person is a fit and proper person
  - That the person does not pose a threat to the public
  - That the public are safeguarded from dishonest person
  - The safeguarding of children, young persons and vulnerable adults
- 1.3 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for drivers' licences
  - Existing licensed drivers whose licences are being reviewed or renewed
  - Licensing Officers
  - Members of the licensing sub-committee ('sub-committee')
  - Magistrates and Judges hearing appeals against the licensing authority's decisions
- 1.4 Where Officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the licensing sub-committee. Whilst officers and the sub-committee will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the sub-committee may depart from the guidelines.
- 1.5 For renewal applications and current licence holders the guidance will not be applied retrospectively. However the policy will be applied if any additional convictions are incurred or brought to the attention of the licensing authority that would call into question a person's suitability to hold a licence.
- 1.6 There is no judicially approved test of fitness and propriety. **Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee.**

**The test used by the Authority when considering whether a licence holder is a 'Fit and Proper' Person is:**

**Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?**

**If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. All decisions on the suitability of an applicant or licensee will be made on the balance of probability.**

This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and will take into consideration conduct that has not resulted in a criminal conviction.

- 1.7 The Council will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an applicant or licence holder, the licensing authority will take into consideration the following factors:
- Criminality
  - Number of endorsed DVLA driving licence penalty points
  - The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
  - The previous licensing history of existing / former licence holders.

In addition, the licensing authority will also consider further information from sources such as, but not limited to, the Police (including abduction notices), Children and Adult Safeguarding Boards, Multi Agency Safeguarding Hub, Immigration Service, Social Services other licensing authorities, other departments within the Council, and other statutory agencies.

- 1.8 As licensed drivers often carry unaccompanied and vulnerable passengers, the licensing authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. A licensed PHV or taxi driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern, The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully. As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public.
- 1.9 The licensing authority reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.
- 1.10 In this policy, the word "applicant" refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are the subject of periodic auditing or having their licence reviewed by the council as part of the policy implementation process. It also includes existing licence holders who are being considered by the licensing authority by virtue of offending activity having recently come to light.

- 1.11 In this policy, the word “conviction” is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.

## **2. General Policy**

- 2.1 Whilst the committee may consider that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, it would normally be expected that the applicant would be required to:
- Remain free of conviction for an appropriate period as detailed below; and
  - Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).
- (Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).
- 2.2 The standards and criteria set out below are those that would normally be applied to applications and licences. Each case will be considered on its own merits, and the licensing authority may depart from these criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant of licence holder will not ordinarily be considered as exceptional circumstances.
- 2.3 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 2.4 Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].

## **3 Pre-requisites to making an application**

- 3.1 It is the policy of the licensing authority that every application for a licence to drive a Hackney Carriage and/or Private Hire Vehicle must be accompanied by satisfactory evidence of the following matters (and that applications that are incomplete will not be deemed to have been made until such time as they are completed) -
- That the applicant has the right to live and work in the country
  - An enhanced criminal record check and evidence that they are not on a child and/or vulnerable adult barring list
  - A certificate of their current medical fitness [to Group 2 standard]
  - That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive together with a check of any current driving endorsements held by the driver
  - That the applicant has successfully completed of an advanced driving assessment (DSA Test)
  - That the applicant has provided two personal references
  - That the applicant has passed a local knowledge test

- That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for
- (For persons who seek to be authorised to drive a wheelchair accessible vehicle) that the applicant has the ability to safely load and secure wheelchair users in a wheelchair accessible vehicle whilst in their chair.

3.2 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK.

Where an applicant has lived in any Country outside the UK for more than 3 months over the age of 18 they will be required to provide where possible criminal records information or a 'Certificate of Good Character' from overseas for **each and every** Country that they have resided in. This is to be able to properly assess risk and support the decision-making process.

#### 4. Appeals

4.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal (Local Government Miscellaneous Provisions Act 1976, s 77 (1)).

4.2 Any applicant refused an operator licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

4.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

#### 5. Powers

5.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

5.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern

of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

- 5.3 In this policy the term “disqualification” refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

## 6. Consideration of disclosed criminal history

- 6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers’ licence and/or private hire vehicle operator’s licence is a ‘fit and proper’ person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant’s age at the time of conviction.
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant for example:
  - The previous conduct of an existing or former licence holder,
  - Whether the applicant has intentionally misled the council or lied as part of the application process,
  - Information provided by other agencies/council departments

- 6.2 In this policy ‘from date sentence has ended’ is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term ‘since completion of sentence’ is to be construed in a similar way.

- 6.3 Existing holders of driver’s licences are required to notify the licensing authority in writing within **48 HOURS** of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the licensing authority within **48 HOURS** of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the licensing authority as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.

- 6.4 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (Section 57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 6.5 Any offences or behaviour not expressly covered by this Policy may still be taken into account.
- 6.6 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 6.7 Admission of guilt is required before a Police caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.
- 6.8 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing officer in confidence for advice.

## **7. Options when determining an application/licence**

- 7.1 When determining an application or reviewing an existing licence in relation to convictions or other relevant information the licensing authority have the following options:
- grant the licence or take no further action
  - grant the licence with additional conditions
  - refuse, revoke, or suspend the licence
  - issue a warning
- 7.2 If a current licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

## **8. Serious offences involving violence**

- 8.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 8.2 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving
  - Terrorism offences

- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

8.3 A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the below offences and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault
- Violent disorder
- Resisting arrest
- Any racially-aggravated offence against a person or property
- Affray
- Any offence that may be categorised as domestic violence
- Any offence that may be categorised as stalking
- Harassment, alarm or distress, intentional harassment or fear of provocation of violence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

8.4 A licence will not normally be granted until at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

8.5 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

## 9. **Exploitation**

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, unless there are exceptional circumstances a licence will not normally be granted. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

## 10 Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## 11. Offences involving a weapon

11.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

11.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 7 years (or at least 7 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

## 12. Sexual and indecency offences

12.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the licensing authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused a licence.

12.2 An application will normally be refused where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc.
- Indecent exposure
- Soliciting (kerb crawling)
- Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

12.3 In addition to the above the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register.

### **13. Dishonesty**

- 13.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.
- 13.2 In general, a minimum period of 7 years free of conviction or at least 7 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:
- theft
  - burglary
  - fraud
  - benefit fraud
  - handling or receiving stolen goods
  - forgery
  - conspiracy to defraud
  - obtaining money or property by deception
  - other deception
  - taking a vehicle without consent
  - and any similar offences
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 13.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.
- 13.4 Applicants or existing licence holders that are found to have intentionally misled the licensing authority, or lied as part of the application or renewal process, will not be issued with a licence.

### **14. Drugs**

- 14.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.
- 14.2 A licence will not normally be granted where the applicant has an isolated conviction for an offence related to the supply of drugs and has not been free of conviction for 10 years.
- 14.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

- 14.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 14.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.
- 14.6 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

## **15. Driving offences involving the loss of life**

- 15.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Causing death by dangerous driving
  - Causing death by careless driving whilst under the influence of drink or drugs
  - Causing death by driving: unlicensed, disqualified or uninsured drivers
  - or any similar offences

## **16. Drink driving/driving under the influence of drugs/using a mobile phone whilst driving**

- 16.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. Normally at least 5 years after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed. If an applicant has more than one conviction for driving or being in charge of a vehicle while under the influence of drink or drugs the application should normally be refused.
- 16.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:
- are much less aware of what's happening on the road around them
  - fail to see road signs
  - fail to maintain proper lane position and steady speed

- are more likely to 'tailgate' the vehicle in front
- react more slowly, take longer to brake and longer to stop
- are more likely to enter unsafe gaps in traffic
- feel more stressed and frustrated.

16.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

16.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

## **17. Other Motoring Offences**

17.1 There are many motoring offences which attract penalty points and fines. Some of these are not necessarily a bar from an applicant being granted a licence or an existing driver retaining a licence.

17.2 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 5 years.

17.3 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.

17.4 In this policy, the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

17.5 In "totting up" cases where disqualification is considered by the Court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the licensing authority is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply. An applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

## **18. Licensing Offences**

18.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 5 years has passed since .

18.2 A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

## **19. Insurance offences**

19.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour.

19.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.

19.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his operators' licence revoked immediately and be prevented from holding a licence for at least three years.

19.4 Where a specific offence is not mentioned, a suitable period will be determined by reference to offences described. The licensing authority reserves the right to refuse a licence where there are aggravating circumstances, even where these guidelines would otherwise indicate that a licence might be granted.

## **20.0 Outstanding charges or summonses**

20.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

20.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

## **21. Non-conviction information**

21.1 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration may be given to refusing the application or revoking an existing licence.

21.2 The licensing authority will take into account intelligence it receives which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take following the

receipt of information), the credibility of the witness / complainant and the licence holder will be taken into account.

- 21.3 In assessing the action to take, public safety will be the paramount concern. Decisions will be taken on balance of probability.

## **22. Once a licence has been granted**

- 22.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

- 22.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

- 22.3 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the operator.

## **23 Licences issued by other licensing authorities**

- 23.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

- 23.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

## **24 Summary**

- 24.1 To summarise, a criminal history in itself will not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

- 24.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

- 24.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be

considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

**PROCEDURE AT THE HEARING BEFORE THE  
TAXI LICENSING SUB-COMMITTEE**

1. The Chairman will open the hearing and will introduce the members of the Sub-Committee and officers present.
2. The Chairman will then ask the Applicant and/or his /her representative to introduce himself/herself/themselves.
3. The Chairman shall then explain the procedure which will be followed at the hearing.
4. The Licensing Officer will present his/her report to the Sub Committee and call any witnesses he/she may have. The Chairman will invite members of the Sub Committee and Applicant/Driver/Representative to ask questions of the officer and any witnesses.
5. The Chairman shall invite the Applicant/Representative to present their case and to call any witnesses on behalf of the Applicant.
6. The Chairman will invite members of the Sub-Committee to put questions to the Applicant and/or witnesses
7. The Chairman shall invite the parties to respond to any points of clarification they require and give further information.
8. The Chairman will invite the Applicant and/or his/her Representative to sum up and confirm they have said all they wish to.
9. After hearing the representations the Chairman will require all parties to withdraw from the room in order to make its determination.
10. Once the hearing is reconvened the Chairman shall inform the parties of the Sub Committee's decision and where possible to give the reasons as to their decision. The Chairman will then inform the Applicant that they will receive the decision in writing from the Licensing Solicitor and their full information about the person's right of appeal to the Magistrates Court.

**ENGLISH LANGUAGE PROFICIENCY TEST  
AS APPROVED BY MID SUSSEX DISTRICT COUNCIL**

1. The Versant English Test, offered by Pearson Education, is taken by telephone and provides a near-instant, objective result, assessing the applicants skills in vocabulary, sentence construction, fluency and pronunciation, as well as providing an overall score. Each of these sections is marked on a scale of 20 to 80, and is calculated immediately after the test, which lasts for around 15 minutes, is completed. During the test the applicant carries out a number of spoken tasks, comprising:
  - reading sentences from a printed sheet,
  - repeating sentences played over the phone,
  - answering simple questions asked over the phone,
  - reconstructing sentences from multiple segments read to the candidate,
  - answering open questions (speaking for 20-30 secs) asked over the phone.
  
2. The test produces a score within a given range, which correlates to certain language proficiency levels. The levels also correlate to the Common European Framework of Reference for languages (CEFR), which allows the results to be accurately compared against other language-based qualifications. For the purposes of driver licensing, it is believed that candidates should have language proficiency equivalent to the threshold of levels B1 and B2 of the CEFR scale (an overall score on the Versant test of 55/80 or higher). Drivers will therefore be required to achieve this score to demonstrate their competence and be granted a licence. Level B2 is defined by CEFR as follows:

*Can understand the main ideas of complex text on both concrete and abstract topics, including technical discussions in his/her field of specialisation. Can interact with a degree of fluency and spontaneity that makes regular interaction with native speakers quite possible without strain for either party. Can produce clear, detailed text on a wide range of subjects and explain a viewpoint on a topical issue giving the advantages and disadvantages of various options.*
  
3. There will be a cost for the test, details of which can be found separately on the council website. Tests will be supervised and taken at the Council's offices, following an identification check, so as to ensure that tests are not taken by a person other than the candidate.
  
4. These arrangements may be changed upon review of the Taxi Licensing policy or at any time the Council decides to be appropriate.

## Mid Sussex District Council Taxi and Private Hire Licensing, Penalty Points Scheme

### Introduction

Hackney Carriage and Private Hire Operators, Drivers and Vehicles are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Council's Byelaws and the Rules, Regulations and Conditions set by the Licensing Committee.

The aim of the penalty point scheme is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanours and to act as a record of driver's behaviour and conduct so as to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other actions.

### How will it work?

If Operators, Drivers or Proprietors of Vehicles commit an offence or breach rules, regulations or conditions of a licence, the persons involved are asked to attend the Council offices for an interview. Once investigations are completed, letters are sent out detailing the outcome and a permanent record kept on the persons' file. The outcome may result in no further action being taken, penalty points being awarded, a formal warning, referral to the Licensing Committee and/or prosecution.

Penalty Points will remain current for 24 months from the date the penalty points are issued. The period is on a roll forward basis, so as to allow any older points to be considered as spent and, therefore, excluded from the running total recorded against any individual licensee.

Points issued to either the proprietor of a vehicle or a driver will be confirmed in writing, normally within 10 working days from the discovery of the contravention.

Where a licensee accumulates 12 penalty points in any 24 month period, the matter will be referred to the Council's Licensing Committee for it to consider whether the driver is a fit and proper person. The Committee may then suspend or revoke a licence, or issue a warning to the Licensee, depending upon the circumstances. Periods of suspension of a licence by the Committee will be dependent on the nature of the breaches of the legislation/conditions and the compliance history of the individual. Suspension periods will normally vary between 7 to 31 days.

Disputes regarding the issuing of penalty points by Officers will be referred to the Licensing Committee. They will have discretion to award a greater number of points than displayed on the tariff, if the complaint is upheld. Drivers must appeal any points issued by Officers to the Licensing Committee within 21 days.

The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations.

If points are issued to a proprietor/driver for a matter which is also a criminal offence, e.g. bald tyres, no badge, those person(s) will not then be the subject of a prosecution by the Council

	<b>Details of the misconduct</b>	<b>Points Applicable</b>	<b>Driver</b>	<b>Vehicle Owner or Operator</b>
1	Providing false or misleading information on a licence application form. Failing to provide relevant information or the relevant fee (including dishonoured cheques)	6-12	✓	✓
2	Failure to notify, in writing, the Council of a change of address within 7 calendar days	3	✓	✓
3	Refusal to accept hiring without reasonable cause e.g. drunk or rude customer (this may also be referred to the Taxi Licensing Sub-Committee)	3-12	✓	
4	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6	✓	
5	Plying for hire by a Private hire driver	12	✓	
6	Using an unlicensed vehicle or a vehicle without insurance	12		✓
7	Failure to produce relevant documents with timescale when requested by an Authorised Officer	4	✓	✓
8	Unsatisfactory condition of a vehicle, interior or exterior (as per vehicle licence conditions)	4	✓	✓
9	Private hire vehicle – No door signs displayed	3	✓	
10	Failure to undergo the Vehicle Fitness Test on time	12		✓
11	Failure to provide proof of insurance cover when requested or to have a current copy in the vehicle at all times	6	✓	
12	Failure to produce Hackney Carriage or Private Hire vehicle for testing when required	4		✓
13	Using a vehicle subject to a suspension order issued by an Authorised Officer or a police officer	12	✓	✓
14	Using a vehicle for which the licence has been suspended or revoked	12	✓	✓
15	Failure to report, within 72 hours, any accident or damage to a licensed vehicle which would cause the vehicle to breach licence conditions	4	✓	✓
16	Carrying more passengers than stated on the vehicle licence	6	✓	
17	Failure to display external/internal licence or plate	4	✓	
18	Carrying an offensive weapon in the vehicle	12	✓	
19	Failure to notify transfer of Private Hire or Hackney Carriage vehicle licence	4		✓

	<b>Offence/Breach of Condition</b>	<b>Points Applicable</b>	<b>Driver</b>	<b>Vehicle Owner or Operator</b>
20	Failure to carry a fire extinguisher	4	✓	✓
21	Failure to carry a first aid kit	4	✓	✓
22	Displaying unauthorised or inappropriate sited signs or advertisements in or on the vehicle	3		✓
23	Failure to use an authorised roof light	3	✓	
24	Failure to maintain records in a suitable form of the commence and cessation of work of each driver, each day	4		✓
25	Failure to produce on request records of drivers' work activity	4		✓
26	Using a non-approved or non-calibrated taximeter (HC)	6	✓	✓
27	Obstruction of an authorised officer or police officer	12	✓	✓
28	Evidence of smoking in vehicle	3	✓	
29	Drivers must not eat or drink whilst carrying passengers	3	✓	
30	Displaying any feature on a private hire vehicle that may suggest that it is a taxi (Private Hire)	6		✓
31	Using a vehicle, the appearance of which suggests that it is a Taxi	6		✓
32	Failure to carry an assistance dog without the requisite medical exemption certificate	12	✓	
33	Driver not holding a current DVLA licence	12	✓	✓
34	Failure to wear the issued driver's badge	3	✓	
35	Failure to notify, in writing, a change in medical circumstances	6	✓	
36	Unsatisfactory appearance of driver (as per driver licence conditions)	3	✓	
37	Failure to observe rank discipline (HC)	3	✓	
38	Failure to maintain proper records of private hire vehicles and drivers	6		✓
39	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced	6		✓
40	Misleading use of the words 'Taxi' on advertising materials	3		✓
41	Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspensions of such licence	4		✓

	<b>Offence/Breach of Condition</b>	<b>Points Applicable</b>	<b>Driver</b>	<b>Vehicle Owner or Operator</b>
42	Failure to notify the Council in writing of any motoring or criminal conviction/s within 7 days, or conviction/s or caution/s during period of current licence	6	✓	✓
43	Failure to behave in a civil and orderly manner (may be referred to Taxi Licensing Sub-Committee)	1-12	✓	✓
44	Failure to display a correct tariff card (HC)	3	✓	✓
45	Failure to carry legal spare wheel and tools or other approved run flat device	4	✓	✓
46	Failure to attend punctually at an appointed time and place without sufficient cause	4	✓	✓
47	A licensed vehicle with a defective tyre/s	4 per tyre	✓	✓
48	Failure to submit licence renewal application, including documents, on time and attendance at a vehicle inspection	6	✓	✓
49	Failure to comply with any other driver and vehicle licence condition	3	✓	✓
50	Waiting or stopping on double yellow lines, or stop on private land (without the owner's permission) unless requested by a paying customer	3	✓	
51	Driving whilst using a non-hands free mobile phone	12	✓	
52	Leaving a vehicle unattended on Taxi rank	3	✓	
53	Private hire vehicle parking on a Hackney Rank or within line of sight of a Hackney Rank or Railway Station when not picking up or dropping off passenger	3	✓	
54	Not having a current MOT Test Certificate	12	✓	✓
55	Breach of Driver Code of Conduct	4	✓	

## CODE OF GOOD CONDUCT

**This Code should be read in conjunction with the other statutory and policy requirements set out in this document. Ordinarily, but without prejudice to any other disciplinary procedures detailed in this Policy, breaches of the Code of Good Conduct can be dealt with by use of the Penalty Points System contained with the Licensing Enforcement Policy of the Council.**

### **1. Responsibility of the hackney carriage and private hire trade**

Licence holders shall endeavour to promote the image of the Hackney Carriage and Private Hire trade by

- (a) Complying with this Code of Good Conduct;
- (b) Complying with all the conditions of their licence, byelaws and the Authority's Hackney Carriage and Private Hire Licensing Policy;
- (c) Behaving in a civil, orderly, non-discriminatory and responsible manner at all times.

By accepting their licence, the holder is deemed to have accepted the above terms and conditions.

### **2. Responsibility to Passengers**

Licence holders shall:

- (a) maintain their/your vehicle(s) in a safe and satisfactory condition at all times;
- (b) Keep their/your vehicles clean and suitable for hire to the public at all times;
- (c) Attend punctually when undertaking pre-booked hires;
- (d) Assist, where necessary, passengers into and out of the vehicle;
- (e) Provide reasonable assistance to passengers with their luggage.
- (f) Take all reasonable steps to assist disabled passengers

### **3. Responsibility to Residents**

- (a) not sound the vehicle's horn illegally between 11:30pm and 7:00am or from a stationary vehicle (except when another road user poses a danger);
- (b) keep the volume of music being played within the vehicle to a minimum;
- (c) switch off the engine if required to wait; and
- (d) take whatever additional action is necessary to avoid disturbance to residents, which might arise from the conduct of your business.

### **4. Responsibility at Ranks**

Hackney Carriage Licence holders shall;

- (a) rank in an orderly manner and proceed along the rank in order and promptly;
- (b) remain in attendance of their vehicle;
- (c) not allow the music being played within the vehicle to cause a disturbance to residents and businesses;
- (d) take whatever action is necessary to avoid disturbance to residents and businesses in the area that may arise from the conduct of your business;
- (e) not to sound the vehicle's horn from a stationary vehicle whilst sitting waiting at the taxi rank. This includes using the horn to request other drivers to move up the rank.

- (f) Where a rank feeder system is in place at Railway Stations proceed at all times to the rear of the feeder route and to join the main rank only via the feeder system,

## **5 General**

Drivers shall:-

- (a) pay attention to personal hygiene and dress so as to present a professional image to the public; non-tailored shorts and flip-flops or loose sandals are not to be worn; Footwear should fit around the heel of the foot
- (b) be polite, helpful and fair to passengers;
- (c) drive with care and due consideration for other road users and pedestrians;
- (d) obey all Traffic Regulation Orders and directions at all times;
- (e) undertake a visual check on the vehicle before starting their shift and in particular ensure the lights of the vehicle are working and to check the condition of the tyres;
- (f) not consume alcohol immediately before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle;
- (g) not drive whilst having misused legal or taken illegal drugs;
- (h) fulfil their responsibility to ensure that adequate rest periods are taken during and after the working day;
- (i) not eat in the vehicle in the presence of passengers; and
- (j) respect Officers and Council members of staff at the Authority offices and elsewhere during the normal course of their duties;

### **PLEASE NOTE:**

**The Council shall take a very serious view of any driver being found to have had any alcohol or having misused any drugs whilst in charge of a licensed vehicle.**

## MID SUSSEX TAXI AND PRIVATE HIRE SERVICE CHARTER

### INTRODUCTION

The aim of local authority licensing of the Taxi and Private Hire Vehicle trades is to protect the public. Mid Sussex District Council wants to ensure that the public should have reasonable access to Taxi and Private Hire services, because of the part they play in local transport provision.

There is a need for a balanced approach in licensing to ensure Public Safety, against restrictive conditions that impose unnecessary costs on current and prospective entrants to the trade. Mid Sussex District Council believes that working in partnership is the best way to achieve this balance.

Our Charter details the responsibilities of Mid Sussex District Council as the Licensing Authority, and the drivers as frontline service providers.

### MSDC - STANDARDS OF SERVICE

#### 1. Processing Applications:

It is the responsibility of the licence holder to be aware of the expiry date of their licences and to ensure that all necessary paperwork is sent to us in good time for the renewal process. We will send a reminder (5 weeks before) to the applicant when a licence is due for renewal.

We require the return of all completed paperwork and the fee with at least 14 days notice. If these timescales are followed, we guarantee the new licence will be processed before the expiry date of your old licence. If we do not receive the paperwork within this time frame, we cannot guarantee the licence being ready in time. You will be unable to work if your licence has expired.

#### 2. Plating:

Plating of Hackney Carriage and Private Hire vehicles will take place on Friday mornings between 10:00 and 12:00. Paperwork for replacement plates must be with us by midday on Monday to guarantee your vehicle being included on a Friday of that same week.

In circumstances where companies who supply temporary replacement vehicles cannot always make it on Fridays separate arrangements will be made to plate the temporary vehicle.

### 3. General level of service:

Whenever you contact us you can expect to be treated with courtesy and consideration, and to have your confidentiality respected.

We will endeavour to:

- Answer your telephone call within 6 rings during normal office hours. If we are unable to deal with your query directly we will put you in touch with someone who can.
- Return your voicemail messages by the end of the next working day and, if necessary, follow up with a full answer to your enquiry within 10 working days.
- Action 95% of all service requests within 5 working days.
- Reply to your letter within 10 working days, or acknowledge your letter within 3 working days explaining why more time is needed.
- Acknowledge e-mails by the end of the next working day and respond in full within 10 working days.

### 4. Enforcement

The Environmental Health Enforcement Concordat endeavours to ensure the safety and well-being of residents & visitors when using Hackney Carriages and Private Hire vehicles that have been licensed by Mid Sussex District Council.

The Licensing Team undertake spot checks throughout the district, often in conjunction with the Police & Vehicle Inspectorate.

These checks could lead to the suspension of licences due to serious breaches of licensing conditions and offences under Road Traffic Statutes.

### 5. Applications

To apply for a Hackney or Private Hire Licence, we supply a driver application pack. All forms included in the pack are available to print off on our website at: <http://www.midsussex.gov.uk>

or

you can contact our Customer Contact Centre on 01444 477335 to request that a pack be sent to you.

### 6. Complaints

Complaints about the conduct or behaviour of Private Hire Operator/ Licensed Driver or condition of a Hackney Carriage or Private Hire Vehicle licensed by Mid Sussex District Council, should be made in writing.

Details of the incident, including time and date, and the vehicle or driver's details can be submitted using MSDC's complaints eform, post or email.

Disciplinary matters arising from complaints will be put before the Licensing Committee to determine sanctions.

## **CONTACT US**

Where: Mid Sussex District Council is located at:  
Oaklands  
Oaklands Road  
Haywards Heath  
West Sussex, RH16 1SS.

When: Our opening hours are:  
Monday to Thursday 8.45 a.m. – 5.15 p.m.  
Friday 8.45 a.m. – 4.15 p.m.

Email: [taxilicensing@midsussex.gov.uk](mailto:taxilicensing@midsussex.gov.uk)

### Useful telephone numbers:

Main reception: 01444 458166  
Contact Centre Number: 01444 477335

## **Licensed Hackney Drivers, Private Hire Drivers & Private Hire Operators – Standards of service**

The Licensed Hackney Drivers, Private Hire Drivers & Private Hire Operators as frontline service providers have a responsibility to comply with the licence conditions from Mid Sussex District Council to ensure the public safety of all of their passengers.

The vehicles and drivers are subject to stringent tests and conditions, enforced by the Licensing Team, before they are able to obtain a licence. These include a driver knowledge test; vehicle fitness testing on application and renewal; medical fitness checks, Disclosure Barring Service checks (3 yearly) DVLA checks and DSA driving test.

The Private Hire Operators will ensure:

1. Compliance with the Private Hire Operators Licence obtained from Mid Sussex District Council;
2. That their Drivers are customer focussed;
3. That vehicles used by their company are fit for purpose, maintained and clean at all times;
4. That they actively deal with and resolve complaints received from the public.

Licensed Hackney Drivers and Private Hire Drivers will ensure that:

1. They comply with the Hackney Carriage or Private Hire Drivers' Licence obtained from Mid Sussex District Council;
2. They ensure their vehicle/s are fit for purpose, maintained and clean at all times;
3. They are customer focussed.

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