



**BOROUGH OF HYNDBURN**  
**HOME OF THE ACCRINGTON PALS**

**Taxi and Private Hire Licensing Policy**

**Revised October 2023**

This policy sets out the manner in which applications for hackney carriage and private hire licences will be considered by Hyndburn Borough Council, 'The Council'.

## **1.0 Background**

- 1.1 Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside normal hours of operation such as in the evenings or on Sundays), and/or for those with mobility difficulties.

- 1.2 The aim of licensing the hackney carriage and private hire trade is, primarily, to protect the public as well as to ensure that the public have reasonable access to these services, because of the part they play in local transport provision.

It is important that the Council's hackney carriage and private hire licensing powers are used to ensure that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required

- 1.3 This guidance sets out what is considered to be best practice in terms of hackney carriage and private hire licensing. It does not seek to cover the whole range of possible licensing requirements. It seeks to concentrate only on those issues which are significant.

## **2.0 Statutory Guidance and Legislation**

- 2.1 The Department For Transport (DFT) has national responsibility for hackney carriage and private hire legislation in England and Wales.

- 2.2 In producing this policy the Department For Transport (DFT) Statutory Taxi and Private Hire Vehicle Standards document which was published in 2020 to assist local authorities with the regulation of the hackney carriage and private hire trades has been considered. The DFT Statutory Guidance was directed at local authorities in England and Wales to and whilst there was recognition, within the document, that it is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, the DFT have set out within the document that:-

'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.'**

- 2.3 In October 2017 Hyndburn Borough Council adopted in the full the Institute of Licensing Guidance on Determining the suitability of applicants in the private hire and hackney carriage trade and that will be incorporated into this policy.
- 2.4 This document also takes account of the legislative basis of the Council's taxi licensing powers, contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended, the requirements of the Immigration Act 2016 and the requirements made under Sections 165 and 167 of the Equality Act 2010.

**SI 2017/107 - The Equality Act 2010 (Commencement No. 12) Order 2017**

This Order brings into force on the 6th April 2017 sections 165 and 167 (in so far as they are not already in force) of the Equality Act 2010 (c.15).

Section 165 imposes duties on the driver of a designated taxi and the driver of a designated private hire vehicle ("a designated vehicle"), to carry passengers who are either wheelchair users or wheelchair users accompanying passengers, so as to enable wheelchair users to access and exit designated vehicles.

Section 165 also creates a new criminal offence if the driver of a designated vehicle fails to comply with the duties specified in section 165.

Section 166 provides that the driver of a designated vehicle is exempted from the duties imposed by section 165 if a licensing authority issues the driver with an exemption certificate which is in force and the prescribed notice of the exemption is exhibited in the designated vehicle in the prescribed manner.

Section 166 also provides that a taxi or private hire vehicle is "designated" if it appears on a list maintained under section 167.

Section 167 provides that for the purposes of section 165, a licensing authority may maintain a list of vehicles which are either taxis or private hire vehicles and conform to such accessibility requirements as the licensing authority thinks fit. This authority intends to maintain a list of such vehicles

**3.0 Powers and duties**

- 3.1 This statement of licensing policy is written pursuant to the powers conferred by the Town Police Clause Act 1847 and Local

Government (Miscellaneous Provisions) Act 1976, as amended, which places on Hyndburn Borough Council ('the Council') the duty to carry out its licensing functions in respect of hackney carriages and private hire vehicles and drivers.

- 3.2 The aim of the licensing process is to regulate the hackney carriage and private hire trade in order to promote well-run and responsible businesses that display sensitivity to the wishes and needs of the general public

#### **4.0 Policy Status**

- 4.1 In exercising its discretion in carrying out regulatory functions, the Council will have regard to this policy document alongside the adopted policy on Determining the suitability of applicants and licensees in the hackney carriage and private hire trade available at appendix 1 to this policy
- 4.2 Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from its policy, clear and compelling reasons will be given for so doing.
- 4.3 This policy (and associated work procedures) will provide those Council Officers who are required to administer the licensing function with appropriate guidelines within which to act. The Council may need to consider applications outside the policy.
- 4.4 The document is not intended to be a full and/or authoritative statement of the law or its associated guidance and does not in any way constitute legal advice. The relevant statutory provisions will take precedence.

## **OPENING HOURS OF LICENSING OFFICE**

<b>Telephone lines Monday-Thursday</b>	<b>1100 - 1600</b>
<b>Friday</b>	<b>0900 - 1430</b>

# **Notes for the Guidance of Applicants For Hackney Carriage and Private Hire Drivers Licences**

Applicants for Hackney Carriage or Private Hire Drivers licences are required to have held for a minimum of one year a full driving licence issued in the UK at the date of application, the European Community (EC) or one of the other countries in the European Economic Area (EEA).

All non-UK licence holders will still be required to provide a copy of their EC/EEA driving licence with their application.

All applicants for hackney carriage and private hire drivers' licences will be subject to an online DVLA check in relation to any points or disqualifications on their licence.

Application forms for hackney carriage and private hire drivers licences can be downloaded at [www.hyndburnbc.gov.uk](http://www.hyndburnbc.gov.uk), and submitted electronically to the licensing department. The appropriate fee will be payable at that time.

A link will then be sent for all new applicants so that they can complete an enhanced DBS check.

All existing and new drivers will be required to join the DBS online update service and a DBS check will be carried out by licensing officers every 6 months.

All applicants will be required to provide a full medical certificate in the prescribed form, issued by a general practitioner on first application and every 3 years thereafter (dated within 2 months of application) Once a driver reaches the age of 65 he/she will be required to provide a full medical certificate annually.

All medical checks must be carried out by:-

- the applicant's own GP;
- someone from the GP practice to which the applicant is registered; or
- an agent appointed by the GP;

full access to the applicant's medical records must be available to the GP carrying out the check at all times and the medical records must be taken into account when carrying out the medical examination

No licence will be granted until **all** required documents have been received and satisfactory DBS results have come back to us. Please note all application processes must be completed within 6 months of the date of issue of the DBS certificate or a new certificate will be required.

If a person applying for an enhanced disclosure has not lived in the UK for five years or more, then an equivalent DBS check (certificate of good conduct duly authenticated) will need to be completed by the UK Embassy for the country in which the applicant has previously been living.

If an applicant has been living or working outside of the UK for a continuous period of 3 months or more before an application is submitted they will be required to provide a certificate of good character from the country they have been living or working in.

Your right to work in the UK will be checked as part of your licence application. This could include the licensing authority checking your immigration status with the Home Office. We may share information with the Home Office. You must therefore provide a document or document combination that is stipulated as being suitable for this check. The list of documents is set out on our website

<https://www.hyndburnbc.gov.uk/download-package/proof-of-right-to-work/>

You must provide the original document(s), such as your passport or biometric residence permit, as indicated in the published guidance, so that the check can take place. The document(s) will be copied and the copy retained by the licensing authority. The original document will be returned to you. Your application will not be considered valid until all the necessary information and original document(s) have been produced and the relevant fee has been paid.

If there are restrictions on the length of time you may work in the UK, your licence will not be issued for any longer than this period. In such circumstances the check will be repeated each time you apply to renew or extend your licence. If, during this period, you are disqualified from holding a licence because you have not complied with the UK's immigration laws, your licence will lapse and you must return it to the licensing authority. Failure to do so is a criminal offence.

All new applicants will be required to pass a local knowledge test. The test will be based on topographical knowledge of the local area and knowledge of the local Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing. There will be a fee payable for the test in advance. If you fail the test you will not be issued with a licence. However you will be able to re sit the test until such time as you can pass it. All re sits will be charged at the original test rate.

All drivers will be required to be able to speak English in order to converse to a reasonable standard with their customers. All new applicants will be subject to an assessment. If the applicant fails the assessment he/she will be required to complete a college course which will be prescribed by the Council. If it becomes clear to licensing officers that an existing driver is having problems understanding and speaking English he/she will be required to attend a course at a local college in order to meet the standards required.

Applicants are required to attend training on Safeguarding, Child Sexual Exploitation, Disability Awareness and County lines issues, and any other matter which may become relevant. This training will be delivered via Microsoft Teams, so access to a computer or smart phone etc. will be required.

All existing drivers will be required to complete online training on Safeguarding, Child Sexual Exploitation, Disability Awareness and County Lines within 6 months of this policy coming into force. The Council will provide drivers with details of the training provider.

## **Disclosure and Barring Service**

Details of convictions or cautions for any offence whether driving offences (including fixed penalty notices) or any other offence must be declared as part of your application. If you have convictions your application will be considered in accordance with the Council's Policy; Determining the Suitability of Applicants and licensees in the Hackney Carriage and Private Hire trade, and may be refused.

The applicant will be asked to detail, on the application form, any convictions, cautions or fixed penalties which have been recorded against them. By the provision of the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment)Order 2002, applications by prospective Hackney Carriage and Private Hire Drivers must detail all convictions regardless of when they occurred, as the 'spent' convictions provisions do not apply to these occupations. The subsequent check to the Disclosure and Barring Service (DBS) will serve to confirm the information provided. You must not rely on that check to provide the correct information, as any application which does not supply the complete information at the outset may be considered to be incomplete and a view may be taken that a deliberate attempt has been made to conceal convictions which have not been declared. It is a criminal offence to make a false declaration to obtain a Licence. The applicant will be required to sign up to the online DBS update service so that 6 monthly checks can be carried out on drivers and annual checks for any other licence holder.

All information relating to previous convictions etc will be treated in confidence by the Council (subject to it being required for legal proceedings or for the purpose of any legal obligation imposed on the Council) and will only be taken into account in relation to the application in question. Hyndburn Borough Council, as a Licensing Authority, is empowered in law to check with the Disclosure and Barring Service for the existence and content of any criminal record held in the name of an applicant. Information received will be kept in strict confidence subject to the above qualification while the application process takes its course and will be retained for no longer than is necessary. The disclosure of a criminal record or other information will not debar any applicant from obtaining a licence unless the Council considers that the conviction renders him or her unsuitable. In making this decision, the Council will consider the nature of the offence, how long ago and at what age it was committed and any other factors which may be relevant.

Any applicant refused a Licence on the grounds that he/she is not a fit and proper person to hold such a licence has the right of appeal to a Magistrates' Court.

Each case will be determined on its own merits, however the overriding consideration will be the protection of the public.

A copy of the Council's Policy; Determining the Suitability of Applicants and Licensees in the Hackney Carriage and Private Hire Trade is appended to this policy and is available at [\[insert link\]](#)

The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have a hackney carriage or private hire drivers licence revoked or on application one refuse. This is necessary for the performance of the task carried out in the public interest or in the exercise of official authority vested in the licensing authority - that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV drivers licence.

Therefore:

- Where a hackney carriage, private hire or joint drivers licence is suspended, revoked, or on application refused, the authority will automatically record their decision on NR3
- All applications for a new licence or a licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. 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.

The information recorded on NR3 will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date the decision is effective

Information will be retained on NR3 for a period of 15 years

Possible inclusion on the NR3 register is a mandatory part of applying for/being granted a hackney carriage, private hire or joint drivers licence. The authority has a published approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it. You can read that policy at [www.hyndburnbc.gov.uk/download-package/national-register-of-hackney-carriage-and-private-hire-driver-revoactions-nr3-policy/](http://www.hyndburnbc.gov.uk/download-package/national-register-of-hackney-carriage-and-private-hire-driver-revoactions-nr3-policy/)

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authorities statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that NR3 data will be transferred out of the United Kingdom.



If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under GDPR, you can do so to the authorities Data Protection Officer at [foi@hyndburnbc.gov.uk](mailto:foi@hyndburnbc.gov.uk). This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complain>.

**IT IS AN OFFENCE FOR A PERSON TO DRIVE A LICENSED HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE UNLESS AND UNTIL A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE IS GRANTED. IT IS AN OFFENCE FOR THE PROPRIETOR OF A LICENSED HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE TO EMPLOY ANY PERSON TO DRIVE SUCH A VEHICLE WHO IS NOT THE HOLDER OF A CURRENT HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE**

# **BYELAWS MADE IN RESPECT OF HACKNEY CARRIAGE DRIVERS**

Made under Section 68 of the Town Police Clauses Act 1847, and Section 171 of the Public Health Act 1875, by the Council of the Borough of Hyndburn with respect to hackney carriages in the Borough of Hyndburn.

## **1. Interpretation**

Throughout these byelaws “the Council” means the Council of the Borough of Hyndburn and “the district” means the Borough of Hyndburn.

## **2. Licence Plate**

The proprietor or driver of a hackney carriage shall:-

- (a) not wilfully or negligently cause or suffer any licence plate issued by the Council to be concealed from public view while the carriage is standing or plying for hire;
- (b) not cause or permit the carriage to stand or ply for hire with any such plate so defaced that any figure or material particular is illegible.

## **3. Condition and Furnishings of Hackney Carriages**

The proprietor of a hackney carriage shall:-

- (a) provide sufficient means by which any person in the carriage may communicate with the driver;
- (b) cause the roof or covering to be kept water-tight;
- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
- (d) cause the seats to be properly cushioned or covered;
- (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
- (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
- (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
- (h) provide and maintain in the vehicle at all times when it is in use or available for hire, a suitable and efficient fire extinguisher and a suitable first aid kit containing appropriate first aid dressings and appliances, such equipment to

be carried in such a position in the vehicle as to be readily visible and available for immediate use in an emergency.

#### **4. Use of Taximeter**

- (a) The driver of a hackney carriage shall make use of the taximeter as follows:-
- (i) as soon as the hirer commences his journey the driver shall bring the machinery of the taximeter into action by moving the key, flag or other device, so that the word "HIRED" is legible on the face on the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;
  - (ii) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness this being the time between half-an-hour after sunset to half an hour before sunrise and also at any other time at the request of the hirer.
- (b) The driver shall not cause the fare recorded on the taximeter to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare unless credit is to be given.

#### **5. Interference with equipment**

The driver of a hackney carriage shall not tamper with or permit any person to tamper with, any taximeter with which the vehicle is provided, with the fittings thereof, or with the seals affixed thereto, nor with any other equipment attached to or forming part of the vehicle.

#### **6. Advertisements etc.**

- (a) The driver of a hackney carriage shall not place or suffer to be placed any printed, written or other matter by way of advertisement on any part of the vehicle except with the written consent of the Council.

#### **7. Use of Stands**

The driver of a hackney carriage shall, when plying for hire in any street and not actually hired;

- (a) proceed with reasonable speed to one of the stands appointed by the Council;
- (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
- (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;

- (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.

## **8. Importuning**

A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.

## **9. Conduct of Driver**

The driver shall:-

- (a) at all times behave in a civil and orderly manner and take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by him;
- (b) not without the express consent of the hirer \*smoke, drink or eat in the vehicle;
- (c) not without the express consent of the hirer play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle;
- (d) at no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the vehicle which he is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.

**\*N.B. It is now an offence to smoke or to allow any person to smoke in a licensed vehicle at any time. All vehicles must display no smoking signs**

**\*This includes any types of E Cigarette.**

## **10. Prompt Attendance**

The driver of a hackney carriage shall, if he is aware that the vehicle has been hired to be in attendance at any appointed time and place or he 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.

## **11. Passengers**

- (a) The driver shall not convey or permit to be conveyed in a hackney carriage a greater number of persons than that prescribed in the licence for the

vehicle, provided however that for this purpose two children below the age of ten years may be counted as one person insofar as the rear seating only is concerned;

(b) The driver shall not allow there to be conveyed in the front of a hackney carriage:-

- (i) any child below the age of ten years; or
- (ii) more than one person above that age.

## **12. Driver's badge**

The driver's badge provided by the Council shall be worn by the driver of a hackney carriage in such position and manner as to be plainly visible.

## **13. Assistance with luggage**

The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the vehicle:-

- (a) convey a reasonable quantity of luggage;
- (b) afford reasonable assistance in loading and unloading;
- (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such a person.

## **14. Lost Property**

The driver of a hackney carriage shall:-

- (a) immediately after the termination of any hiring or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left therein;
- (b) if any property accidentally left therein by any person who may have been conveyed in the vehicle be found by or handed to him carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to a police station within the district where he should report it to the officer in charge of the station.

## **15. Copy of Byelaws**

The driver shall at all times when driving a hackney carriage carry with him a copy of these byelaws and shall make them available for inspection by the hirer or any other passenger on request.

## **16. Written receipts**

The driver shall, if requested by the hirer of a hackney carriage provide him with a written receipt for the fare paid.

## **17. Animals**

- (a) The driver shall not convey in a hackney carriage any animal belonging to or in the custody of himself or the proprietor or operator of the vehicle. Any animals belonging to or in the custody of any passenger which is conveyed in the vehicle shall only be conveyed in the rear of the vehicle
- (b) The driver of a hackney carriage shall, when requested by any person hiring or seeking to hire the carriage, carry a guide dog accompanying a visually handicapped passenger.

**\*N.B. Guide dogs are trained to travel in the passenger foot well and at the request of the handler this should be permitted.**

## **18. Rates or Fares**

The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed for the time being by the Council, the rate or fare being calculated by distance unless the hirer expresses at the commencement of the hiring his desire to engage by time. Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter save for any extra charges detailed in the fare table which it may not be possible to record on the face of the taximeter.

## **19. Statement of Fares**

- (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the Council in the form issued by the Council to be exhibited inside the carriage;
- (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

## **20. Penalties**

Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding one hundred pounds and in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction thereof.

**\*These matters do not constitute part of the Byelaws, however they are added to allow for changes in legislation and requirements.**

# **REQUIREMENTS**

## **LICENSED HACKNEY CARRIAGE DRIVERS**

- NOTE:**
- (1) Failure to adhere to this Code may result in suspension or revocation of the licence pursuant to Section 61(1)(b) of the Local government (Miscellaneous Provisions) Act, 1976.
  - (2) This Code is equally applicable when the hackney carriage is being used for private hire purposes.
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### **1. Contracts for Private Hire**

Where a Hackney Carriage vehicle is hired pursuant to a telephone call to a booking office linked by radio to the vehicle, the contract of hire shall be deemed to be made with the person or body operating the booking office, and shall not be set into operation until the hirer has commenced his journey.

### **2. Use of Taximeter/Table of Fares**

It is an offence for any hackney carriage driver to charge more than the metered rate for journeys within the Borough. Any driver found doing this may face revocation of his/her drivers licence or prosecution. The meter must be set at the point of pick up.

The driver may at his/her discretion require the payment of an agreed sum in advance of the journey. A receipt will be given and the amount will be set against the metered fare.

### **4. Child Seats/Seatbelts**

Rear facing baby seats **MUST NOT** be used in a seat protected by a frontal air-bag unless the air-bag has been deactivated manually or automatically.

It is impracticable to expect the right child seat or booster to be available in a taxi unless carers have brought one with them. Therefore, there is a qualified exception so that if child restraints are not available in a licensed taxi or licensed private hire vehicle.

- under 3s may travel unrestrained but in the rear only;
- those 3 years and above must use an adult belt in the rear seat only.

Remember that a child up to 135cms in a front seat of **ANY** vehicle must use the correct child seat or booster

**The driver of the vehicle is responsible for seat belt wearing by children under 14 years** (except in taxis with fixed partitions)

## **6. Animals**

(1) The Licensee shall at all times carry guide/hearing/assistance dogs, free of charge, unless he has a proven medical condition that would preclude such action and is in receipt of a Notice of Exemption issued by the Council, in accordance with section 169 Equality Act 2010

(2) The Licensee has a responsibility to ensure that their company/employer is aware of such a medical condition when they are first employed.

**\*N.B. Guide dogs are trained to travel in the passenger foot well and at the request of the handler this should be permitted.**

## **7. Change of Address**

The licensee shall notify the Council in writing of any change of his address during the period of the licence within seven days of such change taking place.

## **8. Convictions, Cautions or Arrest**

Licence holders are required to notify us 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 will result in a review by us as to whether the licence holder is fit to continue to hold a licence. This will not however automatically mean that a licence will 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.

In all other instances, the licensee shall within seven days disclose to the Council in writing details of any conviction, caution or fixed penalty imposed on him during the period of the licence.

## **9. Health**

The licensee shall inform the Licensing Manager without delay about the onset or worsening of any health condition likely to cause him to be a source of danger to the public when driving either now or in the future. Examples are giddiness, fainting, blackouts, epilepsy, strokes, multiple sclerosis, Parkinson's disease, heart disease, angina, 'coronaries', high blood pressure, arthritis, disorder of vision, mental illness, alcoholism, drug-taking, and loss of a limb or use of a limb. **THIS LIST DOES NOT INCLUDE ALL THE DISABILITIES THAT MUST BE REPORTED. THESE ARE EXAMPLES ONLY.**



Temporary conditions, other than recurrent ones, not expected to last more than three months need not be reported. Drivers who are in doubt about whether or not their health condition is one which should be reported should consult their doctor.

## **10. Suspension or Revocation of Licence**

a) The breach by the licensee of any provision of this code or the byelaws may be treated by the Council as reasonable cause for the suspension or revocation of the licence under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act, 1976.

Section 52 of the Road Safety Act 2006 has introduced 2 new sections into Section 61 as follows:-

Sub-section 2A provides that a suspension or revocation will take effect 21 days after the driver has received notification of the decision to suspend or revoke his licence. The day on which he receives notification will be day one.

Sub-section 2B provides that if the Council believe that it would be in the interest of public safety to suspend or revoke the licence with immediate effect it may do so provided that the usual decision notice given to the driver states that the licence is suspended or revoked immediately and explains why.

## **11. Return of Licence and Badge**

In the event of the suspension or revocation of a licence the Licensee shall forthwith upon receiving written notice, return the licence and the driver's Identity badge which may have been issued to him to the Licensing Office and such badge shall likewise be returned on the expiry of the licence without immediate renewal.

## **12. Variation of Policy**

The Council may at any time during the period of the licence or upon renewal thereof vary in its discretion any provision of this policy.

## **13. Production of Driving Licence and Insurance**

The licensee shall, within 7 days of receiving written notice requiring him to do so, produce to the Licensing Office his current DVLA Driving Licence and insurance for inspection.

# **CONDITIONS ATTACHED TO A PRIVATE HIRE DRIVERS LICENCE**

## **1. Conduct of Driver**

The driver shall:

- (a) afford all reasonable assistance with passengers' luggage.
- (b) at all times be clean and respectable in his dress and person and behave in a civil and orderly manner.
- (c) take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by him.
- (d) not without the express consent of the hirer drink or eat in the vehicle.
- (e) not without the express consent of the hirer play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
- (f) at no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the vehicle which he is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.
- (g) If the driver must use a telephone to take business calls whilst a customer is in his vehicle, the call must always be hands free and must be kept to an absolute minimum. Prolonged conversations whilst driving could affect concentration and put the passenger and other road users at risk.

**NB. It is an offence to smoke in any licensed vehicle at any time. The Council does not permit the use of E Cigarettes in a licensed vehicle at any time.**

## **2. Seatbelts/Child Seats**

Rear facing baby seats **MUST NOT** be used in a seat protected by a frontal air-bag unless the air-bag has been deactivated manually or automatically.

It is impracticable to expect the right child seat or booster to be available in a taxi unless carers have brought one with them. Therefore, there is a qualified exception so that if child restraints are not available in a licensed taxi or licensed private hire vehicle.

- under 3s may travel unrestrained but in the rear only;
- those 3 years and above must use an adult belt in the rear seat only.

Remember that a child up to 135cms in a front seat of **ANY** vehicle must use the correct child seat or booster

**The driver of the vehicle is responsible for seat belt wearing by children under 14 years** (except in taxis with fixed partitions)

### **3. Written Receipts**

The driver shall if requested by the hirer of a private hire vehicle provide him with a written receipt for the fare paid.

### **4. Animals**

The Licensee shall not convey in a Private Hire vehicle any animal belonging to or in the custody of himself or the proprietor or operator of the vehicle.

The Licensee shall at all times carry guide/hearing/assistance dogs, free of charge, unless he has a proven medical condition that would preclude such action and is in receipt of a Notice of Exemption issued by the authority, in accordance with section 169 Equality Act 2010 The Licensee has a responsibility to ensure that their company/employer is aware of such a medical condition when they are first employed.

### **5. Prompt Attendance**

The driver of a private hire vehicle shall, if he is aware that the vehicle has been hired to be in attendance at an appointed time and place or he 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 appointed time and place.

### **6. Shortest Route**

The driver of a private hire vehicle when hired to drive to any particular destination shall, subject to directions given by the hirer, proceed to that destination by the shortest available route.

### **7. Fare to be Demanded**

The driver shall not demand (from any hirer of a private hire vehicle) a fare in excess of any previously agreed for that hiring between hirer and the operator or, if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare, the fare shown on the face of the taximeter

### **8. Deposit of Licence**

If the driver is permitted or employed to drive a private hire vehicle of which the proprietor is someone other than himself, he shall before commencing to drive that vehicle deposit a copy of his private hire drivers licence with that proprietor for retention by the proprietor until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of the proprietor.

## **9. Change of Address**

The driver shall notify the Licensing Office in writing of any change of his address during the period of the licence within seven days of such change taking place.

## **10. Convictions and Cautions**

Licence holders are required to notify us 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 will result in a review by us as to whether the licence holder is fit to continue to hold a licence. This will not however automatically mean that a licence will 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.

In all other instances, the licensee shall within seven days disclose to the Council in writing details of any conviction, caution or fixed penalty imposed on him during the period of the licence.

## **11. Suspension/Revocation**

- (a) The breach by the licensee of any provision of these conditions may be treated by the Council as reasonable cause for the suspension or revocation of the licence under Section 61 of the Local Government (Miscellaneous Provisions) Act, 1976. Section 52 of the Road Safety Act 2006 has introduced 2 new sections into Section 61 as follows:-

Sub-section 2A provides that a suspension or revocation will take effect 21 days after the driver has received notification of the decision to suspend or revoke his licence. The day on which he receives notification will be day one.

Sub-section 2B provides that if the Council believe that it would be in the interest of public safety to suspend or revoke the licence with immediate effect it may do so provided that the usual decision notice given to the driver states that the licence is suspended or revoked immediately and explains why.

## **12. Return of Licence and Badge**

In the event of the suspension or revocation of a licence the Licensee shall forthwith upon receiving written notice, return the licence and the driver's Identity badge which may have been issued to him to the Licensing Office and such badge shall likewise be returned on the expiry of the licence without immediate renewal

## **13. Health**

The licensee shall inform the Licensing Manager without delay about the onset or worsening of any health condition likely to cause him to be a source of danger to the public when driving either now or in the future. Examples are giddiness, fainting, blackouts, epilepsy, strokes, multiple sclerosis, Parkinson's disease, heart disease,

angina, 'coronaries', high blood pressure, arthritis, disorder of vision, mental illness, alcoholism, drug-taking, and loss of a limb or use of a limb. **THIS LIST DOES NOT INCLUDE ALL THE DISABILITIES THAT MUST BE REPORTED. THESE ARE EXAMPLES ONLY.**

Temporary conditions, other than recurrent ones, not expected to last more than three months need not be reported. Drivers who are in doubt about whether or not their health condition is one which should be reported should consult their doctor.

#### **14. Production of Driving Licence & Insurance**

The licensee shall, within 7 days of receiving written notice requiring him to do so, produce to the Licensing office his current Driving Licence & insurance for inspection

#### **15. Variation of Policy**

The Council may at any time during the period of the licence or upon renewal thereof vary in its discretion any provision of this policy.

## **Notes for the Guidance of Applicants For Hackney Carriage & Private Hire Vehicle Licences**

Application forms for licences can be downloaded at [www.hyndburnbc.gov.uk](http://www.hyndburnbc.gov.uk).

An applicant who is not already a licensed driver with this Council will be subject to a Basic Disclosure and Barring Services check. You will be required to join the DBS update service and an annual check will be carried out on your DBS status.

**Spent Convictions**: Under the provisions of the Rehabilitation of Offenders Act 1974 you are not obliged to disclose any offences resulting in one of the sentences shown in the left-hand column below if the corresponding period in the right-hand column has elapsed. **(It should be noted however that spent convictions, when revealed by other checks that the Council is permitted to undertake, may be taken into account if they are considered relevant in determining whether an applicant is a fit and proper person to hold a private hire or hackney carriage vehicle licence.)**

### **REHABILITATION PERIODS**

<b>Sentence</b>	<b>Rehabilitation period Age 18 or over when convicted from end of sentence including licence period</b>	<b>Rehabilitation period Age under 18 when convicted from the end of sentence including rehabilitation period</b>
Community order or youth rehabilitation order*	Total length of order plus 1 year	Total length of order plus 6 months

Prison sentence or detention in a young offender institution for 6 months or less	Total length of sentence (including licence period) plus 2 years	Total length of sentence (including licence period) plus 18 months
Prison sentences of over 6 months, and up to and including 30 months	Total length of sentence (including licence period) plus 4 years	Total length of sentence (including licence period) plus 2 years
Prison sentences or detention in a young offender institution for over 30 months and up to 48 months	Total length of sentence (including licence period) plus 7 years	Total length of sentence (including licence period) plus 3.5 years.
Imprisonment or detention in a young offender institution for over 48 months (4 years) or a public protection sentence	Never spent	Never spent
Fines (even if subsequently imprisoned for fine default)***	1 Year	6 months
Absolute discharge	spent immediately	spent immediately
Simple caution/youth caution**	spent immediately	Spent immediately
Conditional caution/youth conditional caution	3 months or when caution ceases to have effect if earlier	3 months or when caution ceases to have effect if earlier
Absolute discharge	Spent immediately	Spent immediately
Bind over	At the end of the order	At the end of the order
Conditional discharge order	At the end of the order	At the end of the order
Compensation order****	When paid in full	When paid in full
Attendance centre order	At the end of the order	At the end of the order
Care order	When order ceases to have effect	When order ceases to have effect
Confiscation order	When order ceases to have effect	When order ceases to have effect
Forfeiture order	When order ceases to have effect	When order ceases to have effect
Hospital order	When order ceases to have effect	When order ceases to have effect
Referral order	At the end of the order	At the end of the order
Relevant order****	When order ceases to have effect	When order ceases to have effect
Reparation order	Spent immediately	Spent immediately
Disqualifications	When order ceases to have effect	When order cease to have effect

Endorsements	5 years	2.5 years
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\*A community order or youth rehabilitation order which has no specified end date has a default rehabilitation period of two years from date of conviction or from the time the disposal is administered. If the order is subsequently changed, this will not affect the rehabilitation period. The rehabilitation period is not halved if the person was under 18 when convicted. The changes made to the rehabilitation of Offenders Act 1974 by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 provided for all subsequent community orders to have an end date.

\*\*Youth caution replaces the disposals – reprimands and final warnings which were abolished in April 2013

\*\*\*The rehabilitation period of a fine applies even if the person is subsequently imprisoned for default of the fine. Fines arising from fixed penalty notices and penalty notices for disorder (PND) are not covered by the Act as they do not form part of an individual's criminal record so they do not have a rehabilitation period.

\*\*\*\*It is important that individuals obtain proof of payment of the compensation order from the court and keep this document to prove it has been paid in full. This evidence may be required before a basic disclosure can be issued by Disclosure Scotland

\*\*\*\*\*A relevant order (e.g. restraining order or sexual offences prevention order (SOPO) which has no specified end date has a default rehabilitation period of two years from the date of conviction or from the time the disposal is administered

## Vehicle Testing

Before a vehicle licence can be issued the vehicle must be mechanically tested and inspected by the Council's nominated garage. This process is referred to as "the Engineer's Report" or "Certificate of Compliance".

The licence of any vehicle which fails its inspection will be automatically suspended until such time as the vehicle has been re-examined and the necessary pass certificates obtained.

Vehicles up to the age of 2 years when tested will be issued with a 12 month licence. Any car over **2 years of age** will be required to pass the Council's vehicle examination test **twice yearly**. When a vehicle reaches **15 years of age** it will be subject to the Council's vehicle examination test **three times per year** and it will only be issued each time with a 4 month licence. With the exception of electric or hybrid vehicles which will be issued with a 6 months licence for the lifetime of the vehicle.

There is currently no upper age limit to which a vehicle can remain licensed, however a vehicle must be under the age of 15 when first presented for licensing.

Vehicles cannot be licensed simultaneously for both public hire (hackney) and private hire.

Vehicles which are licensed by another local authority will not be licensed by this (Hyndburn Borough Council) authority.

Applicants for private hire vehicle licences, who intend to operate independently, must obtain a private hire operator's licence, and any necessary planning permission from the Council's Planning Department, before such vehicle licence can be issued. In all other cases the applicant must inform the licensing department on the application which private hire company he will be working for. The Council must be informed of any change of operator within 48 hours. Failure to do so could lead to suspension or revocation of the vehicle licence. Operator checks will be periodically carried out to ensure that the information provided is accurate

All vehicles shall have an appropriate "Type Approval" which is either a European Community Whole Vehicle type approval (ECWVTA) or UK Low Volume Type Approval (UKLVTA) Vehicles shall not have been altered since that approval was granted. A Single Vehicle Type approval (SVA) may be accepted for wheelchair accessible vehicles. On 29<sup>th</sup> April 2009 the SVA was replaced by Individual Vehicle Approval (IVA).

Vehicles presented for licensing, and while in use, shall comply with the Road Vehicles (Construction and Use) Regulations 1986 and any subsequent amendment or re-enactment thereof.

Licensed vehicles which have M type approval (European Community Whole Vehicle Type Approval) and have been modified or have been subject to any alterations since manufacture will be considered for licensing provided that they are presented with:

(i) United Kingdom Low Volume / Small Series Type Approval for Passengers Cars; or

(ii) United Kingdom Single Vehicle Type Approval: or

(iii) A 'status' certificate which certifies the seating arrangement to the strength and anchorage positional requirements of 76/115/EEC for M1 loading mounted to a steel plate. The certificate will include the following

- Signature, printed name and declaration of the engineer who fitted the seats and seat belt to state that they were fitted in the approved manner to meet M1 standards
- Date the fitting of the seating arrangement took place.
- The registration and chassis number of the vehicle to which the certificate applies.
- Mileage of the vehicle when the conversion was certified.
- The additional information to the Status certificate must be on letter headed paper and include the proprietor of the business.



From 1<sup>st</sup> July 2013 motor vehicles which have N type approval (European Community Whole Vehicle Type Approval) will not be considered unless they are presented with United Kingdom Low Volume / Small Series Type Approval for Passenger Cars.

Vehicles should have no damage affecting the structural safety of the vehicle. The authority **will not** licence any vehicle that has been a Category C (S) insurance 'write off'.

Sufficient means shall be provided by which any person in the vehicle may communicate with the driver.

When submitting applications for Hackney Carriage/Private Hire vehicle licences, the application should be accompanied by the following documentation: -

- (a) Registration document in name of applicant.
- (b) Current certificate of insurance. (Photocopies not acceptable)
- (c) Authority test certificate
- (d) Appropriate fee
- (e) Appropriate type approval

**Insurance policies** – If insurance is not produced at the time of licence renewal or when requested by the Licensing Section, the vehicle licence will be immediately suspended to ensure public safety. A copy of the certificate of motor insurance must be carried in the vehicle at all times that the vehicle is available for hire or hired.

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

**HACKNEY CARRIAGE VEHICLE LICENCES**

**CONDITIONS ATTACHED TO A HACKNEY CARRIAGE VEHICLE LICENCE**

**1. Specification and Maintenance of Vehicle**

The vehicle must have at least four doors, all of which are capable of being opened from the inside.

The vehicle must be capable of carrying not less than four passengers but not more than eight.

The vehicle shall be of right-hand drive manufacture and not converted as such.

Any vehicle that is to be converted to Liquid Petroleum Gas (LPG) must be with the express permission of the Council. Only a garage authorised to do so may carry out the conversion. A Certificate of Compliance is to be obtained immediately after any such conversion and presented to the licensing department for inspection. All conversions must be carried out by a Department for Transport (DFT) approved centre and all conversions must be certified in writing by the approved centre that has carried out the conversion.

Any vehicle that is presented for licensing and has already been converted to LPG, must have been converted at a DFT approved centre and any such conversion must be certified in writing by the approved centre that has carried out the conversion.

There must be sufficient space between the seat cushions and the lowest part of the roof to safely accommodate the driver and passengers in reasonable comfort. Eighty six centimeters is the minimum requirement.

There must be sufficient space between the front and back seats to safely accommodate the driver and passengers in reasonable comfort. There must be at least eighteen centimeters between the back of the front seat and the front of the next row of rear seats.

The seat provided for each passenger must have a minimum width of 405 millimeters (16 inches) measured across its narrowest parts.

All passenger seats shall be provided with a lap and diagonal 3 point seat belt which comply with the strength requirements specified in European Directive 76/115 EC (as amended by Directive 96/38 EC) and Regulations 46 and 47 of the Road Vehicle (Construction and Use) Regulations 1986, whether or not those Directives or Regulations apply to that particular seat or the vehicle.

The boot/luggage compartment should be empty except for spare wheel, fire extinguisher, essential tools and first aid kit, (to comply with Health and Safety (First

Aid) Regs 1981). The compartment should be clean and any covering free from major cuts, tears or other damage or staining.

The vehicle glass is to be kept clear of all obstructions.

Hackney carriage vehicles should be capable of carrying one average size piece of luggage per passenger carried. The driver must make provisions to ensure that the luggage can be carried safely and securely, whilst still allowing room for the passengers to travel in comfort

The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) shall be fully complied with.

All new hackney carriage vehicles must be;-

a "London" type hackney carriage, or a suitable wheelchair accessible vehicle, approved by the Council.

The vehicle shall have four road wheels of uniform standard, size and style, which conform to construction and use regulations.

If the vehicle has been manufactured with a spare wheel well, the vehicle must be equipped with a spare wheel, a wheel brace and a jack.

Space-saver spare wheels will be accepted, but only if fitted as standard equipment to the vehicle by the vehicle manufacturer.

In all other cases, the spare wheel must be a standard road wheel that conforms to construction and use regulations and is of the same standard and size as the existing road wheels.

A vehicle presented for examination and test with a space saver spare wheel in use as a road wheel will fail the test.

If the vehicle has been manufactured without a spare wheel well /cage, the requirement to carry a spare wheel will not apply. In such cases:

The vehicle may be fitted with a full set of 'run flat' tyres, or

If a vehicle is not fitted with 'run flat' tyres, an inflation kit which includes a puncture sealant must be provided which is in a serviceable condition.

In the event of the need arising for the fitting of a space saver tyre or the use of a run flat tyre or an inflation kit, then the appropriate remedial action to replace with 'new', as per original specification, must be undertaken upon completion of the journey".

The Proprietor shall permit an authorised officer of the Council or a Police Officer to inspect and test the vehicle or any taximeter affixed to such vehicle at all reasonable times. If the officer is not satisfied as to the fitness of the

Hackney Carriage or as to the accuracy of the taximeter, he shall be able to direct the vehicle to the Council's nominated inspection/testing centre immediately for further examination. If further inspection and testing is required, the licence shall then be suspended until such time as the officer is satisfied with the vehicle. The plate shall, on suspension of the licence, be handed to the officer but will be returned upon reinstatement of the licence. However, if the officer is not so satisfied as to the fitness or condition of the vehicle within a period of two months, the licence shall be revoked.

## **2. Insurance**

At all times, the Proprietor shall, during the currency of the vehicle licence, keep in force in relation to the user of the Hackney Carriage, a policy of insurance which covers third party liability both in respect of physical injury or death and in respect of damage to personal belongings. A copy of the appropriate insurance certificate should be carried in the vehicle at all times that the vehicle is available for hire or hired, and made available for inspection by an authorised officer on request.

## **3 Alteration of Vehicle**

No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Council at any time while the licence is in force.

## **4. Interior Markings**

The proprietor shall cause to be clearly marked and maintained inside the vehicle in such a position as to be visible at all times to persons conveyed therein the licence number and the number of passengers prescribed in the licence as well of the details and photograph of the driver.

## **5. Signs, Notices etc.**

The display of signs on Hackney Carriages shall be restricted to the roof. A roof sign must be fitted and must be capable of illumination and be illuminated at all times when (and only when) the vehicle is available for hire.

Advertising on any glasswork on a hackney carriage or private hire vehicle is prohibited

The Hyndburn Borough Council licence plate must be permanently displayed on the outside rear of the vehicle, either immediately above or below the bumper without obstructing the registration plate. The plate must be displayed on the vehicle at all times whether the vehicle is plying for hire or not.

The licence plate is the property of the Council, to whom it must be returned within seven days if the licence is ever suspended, revoked or not renewed for any reason.

A licensed vehicle must display a Council issued self-adhesive sticker in both rear passenger windows stating 'if you have any comments regarding this vehicle or driver please contact the licensing office on 01254 380616.

All wheelchair accessible hackney carriage vehicles must display the nationally recognised wheelchair accessible sign in at least two prominent positions visible from the outside of the vehicle.

## **8. Convictions and Cautions**

Licence holders are required to notify us 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 will result in a review by us as to whether the licence holder is fit to continue to hold a licence. This will not however automatically mean that a licence will 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.

In all other instances, the licensee shall within seven days disclose to the Council in writing details of any conviction, caution or fixed penalty imposed on him during the period of the licence.

## **9. Deposit of Drivers' Licences and Keeping of Records**

If the proprietor permits or employs any other person to drive the vehicle, he shall before that person commences to drive the vehicle cause the driver to deliver to him a copy of his hackney carriage driver's licence for retention until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.

The proprietor of the vehicle shall keep a complete and accurate record of the name of the person driving the vehicle at any time. This information must be kept for a period of six months and produced upon request to an authorised officer or constable.

## **10. Change of Vehicle Owner.**

If a proprietor transfers his/her interest in a vehicle to somebody else he/she must immediately give notice of the transfer in writing on the prescribed form to the licensing section, giving the name and address of the transferee. In no circumstances may the vehicle be used by the new owner until a new licence has been issued to that person and all documentation completed and any necessary fee paid. (Local Government (Miscellaneous Provisions) Act 1976, s 49

## **11. Accidents**

If the vehicle is involved in an accident it must be reported to the licensing authority and an accident form completed within 72 hours. Replacement vehicles will have the original plate transferred to them. When the original vehicle has been repaired and tested the plate will be transferred back to it.

## **12. Video/DVD**

There should be no DVD or Video systems operated in the vehicle for the entertainment of passengers or the driver. If these are fitted as standard they must be disconnected. (This is to ensure there is no distraction for the driver and to avoid the risk of unsuitable DVDs or videos being shown)

Without prejudice to the above mentioned provisions, the Proprietor on receipt of any notice in writing from the Council, shall present the Hackney Carriage for inspection and testing by or on behalf of the Council within such period and at such a place as specified by the Council. The separate occasions of inspection and testing shall not exceed three in number in any one period of twelve months.

## **13. Windows**

There will be no tinted windows allowed in licensed vehicles except where the windows are fitted as standard during the initial manufacture of the vehicle

# **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

## **PRIVATE HIRE VEHICLE LICENCES**

### **CONDITIONS ATTACHED TO A PRIVATE HIRE VEHICLE LICENCE**

#### **1. Specification and Maintenance of Vehicle**

The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) shall be fully complied with.

The vehicle must have at least four doors, all of which are capable of being opened from the inside.

The vehicle must be capable of carrying not less than four passengers but not more than eight.

The vehicle shall be of right-hand drive manufacture and not converted as such.

Any vehicle that is to be converted to Liquid Petroleum Gas (LPG) must be with the express permission of the Council. Only a garage authorised to do so may carry out the conversion. A Certificate of Compliance is to be obtained immediately after

any such conversion and presented to the licensing department for inspection. All conversions must be carried out by a DFT approved centre and all conversions must be certified in writing by the approved centre that has carried out the conversion.

Any vehicle that is presented for licensing and has already been converted to LPG, must have been converted at a DFT approved centre and any such conversion must be certified in writing by the approved centre that has carried out the conversion.

All passenger seats shall be provided with a lap and diagonal 3 point seat belt which comply with the strength requirements specified in European Directive 76/115 EC (as amended by Directive 96/38 EC) and Regulations 46 and 47 of the Road Vehicle (Construction and Use) Regulations 1986, whether or not those Directives or Regulations apply to that particular seat or the vehicle.

The boot/luggage compartment should be empty except for spare wheel, fire extinguisher, essential tools and first aid kit, (to comply with Health and Safety (First Aid) Regs 1981). The compartment should be clean and any covering free from major cuts, tears or other damage or staining.

There must be sufficient space between the seat cushions and the lowest part of the roof to safely accommodate the driver and passengers in reasonable comfort. Eighty six centimeters is the minimum requirement.

There must be sufficient space between the front and back seats to safely accommodate the driver and passengers in reasonable comfort. There must be at least eighteen centimeters between the back of the front seat and the front of the next row of rear seats.

The seat provided for each passenger must have a minimum width of 405 millimeters (16 inches) measured across it's narrowest parts.

The vehicle glass is to be kept clear of all obstructions

Tinted windows will not be acceptable in any licensed vehicle unless it is fitted as standard at manufacture.

## **2. Alteration of Vehicle**

No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Council at any time while the licence is in force.

## **3. Identification Plate/Signs**

On licensed vehicles there shall be displayed only on the two rear passenger doors a sign bearing the name and telephone number of the firm from which the vehicle is being operated at that time. This sign must be approved by the Council for that firm. The font size must be such that the sign can be read from a distance of 20 metres (about 5 car lengths) in good daylight by a person with "normal" eyesight or by a person wearing their usual glasses or contact lenses. The door signs must only

include one company name that is the name of the private hire company in question and not any names which are incorporated.

The dimensions and colour of these signs will be approved by the Council before applying them to the vehicle.

Minibuses may display the names and telephone number of the firm. This sign must be approved by the Council for that firm. The font size must be such that the sign can be read from a distance of 20 metres (about 5 car lengths) in good daylight by a person with "normal" eyesight or by a person wearing their usual glasses or contact lenses.

The dimensions and colour of these signs will need to be approved by the Council before applying them to the vehicle.

On all Private Hire Vehicles there shall be displayed two door signs supplied by the Council which must be, be self-adhesive non removable, issued and approved by the Council. The sign will state 'Private Hire Vehicle Insurance invalid unless you pre-book this vehicle with a Private Hire firm'. On saloon type vehicles these signs will be displayed on both front doors (middle of the panel). On multi-purpose vehicles and minibuses they will be displayed on both front doors. The insurance sticker will also display the vehicle number

A licensed vehicle must display a Council issued self- adhesive sticker in both rear passenger windows stating 'If you have any comments regarding this vehicle or driver please contact the licensing office on 01254 388111

The Council will permit additional signage on vehicle bonnets as this will not distract attention from the mandatory signage.

The dimensions and colour of these signs will need to be approved by the Council before applying them to the vehicle.

The plates identifying the vehicle as a private hire vehicle are required to be exhibited on the vehicle pursuant to section 48(6) of the Local Government (Miscellaneous Provisions) Act 1976 one shall be securely fixed to the rear of the vehicle in a conspicuous position and in such manner as to be easily removable by an authorised officer of the Council or a constable. The plate should never be removed from the vehicle whilst it remains licensed by this Council.

Private hire vehicles are not permitted to have a top sign fitted at any time.

#### **4. Exemptions form displaying signage**

Exemptions from displaying licence plates and / or Council door signs will only be given to vehicles which are primarily used, i.e. 95% for executive hire and/or corporate contracts.

Executive hire would be work purely carried out for companies, collecting clients etc. from hotels, business premises, airports, train stations etc. Executive hire would also



be any work where a vehicle has been hired by the hirer for a period of not less than 24 hours e.g. chauffeur service.

Operators or vehicle owners wishing to be exempt from displaying licence plates and / or Council door signs must submit their proposals in writing to the Council. The proposals must include the types of vehicles to be used and the type of executive or corporate contract work to be carried out.

Evidence must be provided on initial application for exemption, of at least three months records of existing account work and thereafter every six months evidence will be required, that the exempt vehicle is still being used for 95% executive hire and/or corporate contracts. If the evidence isn't provided the exemption will be removed. The evidence must prove that your vehicle is generally used almost exclusively (i.e. up to 95%) for account work and not used for any other booked work.

It is not intended that all private hire vehicles should have access to this exemption. It is only considered appropriate to consider

issue of exemption notices where the following requirements are met:

- The vehicle to be exempted is of high quality both in terms of brand and condition.
- Vehicles will normally be the accepted luxury brands such as Mercedes Benz, BMW, Jaguar, Rolls Royce, Bentley and Lexus. The highest specification executive type cars from other manufacturers may also be considered. The Licensing Manager will determine in each case whether these two conditions have been met
- Vehicles will display a disc, issued by the Council, in the front windscreen.
- The vehicle must have no visible defects, dents or blemishes to the external bodywork or internal trim.

## **5. Interior Markings**

The proprietor shall cause to be clearly marked and maintained inside the vehicle in such a position as to be visible at all times to persons conveyed therein the licence number and the number of passengers prescribed in the licence as well as the details and a photograph of the driver

## **6. Change of Address**

The proprietor shall notify the Council in writing of any change of his address during the period of the licence within seven days of such change taking place.

## **7. Convictions, Cautions or Arrest**

Licence holders are required to notify us 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. (or, if the proprietor is a company or partnership, on any of the directors or partners) during the period of the licence. An arrest for any of the offences within this scope will result in a review by us as to whether the licence holder is fit to continue to hold a licence. This will not however automatically mean that a licence will 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.

In all other instances, the licensee shall within seven days disclose to the Council in writing details of any conviction, caution or fixed penalty imposed on him during the period of the licence (or, if the proprietor is a company or partnership, on any of the directors or partners) during the period of the licence.

## **8. Deposit of Drivers' Licences and Keeping of Records**

If the proprietor permits or employs any other person to drive the vehicle as a private hire vehicle, he shall before that person commences to drive the vehicle cause the driver to deliver to him a copy of his/her private hire driver's licence for retention until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.

The proprietor of the vehicle shall keep a complete and accurate record of the name of the person driving the vehicle at any time. This information must be kept for a period of six months and produced upon request to an authorised officer or constable.

## **9. Insurance**

At all times, the Proprietor shall, during the currency of the vehicle licence, keep in force in relation to the user of the private hire vehicle a policy of insurance which covers third party liability both in respect of physical injury or death and in respect of damage to personal belongings. A copy of this certificate should be carried in the vehicle and made available for inspection by an authorised officer on request.

## **10. Accidents**

If the vehicle is involved in an accident it must be reported to the licensing authority and an accident form completed within 72 hours. Replacement vehicles will have the original plate transferred to them. When the original vehicle has been repaired and tested the plate will be transferred back to it.

## **11. Video/DVD**

There should be no DVD or Video systems operated in the vehicle for the entertainment of passengers or the driver. If these are fitted as standard they must be disconnected. (This is to ensure there is no distraction for the driver and to avoid the risk of unsuitable DVDs or videos being shown)

Without prejudice to the above mentioned provisions, the Proprietor on receipt of any notice in writing from the Council, shall present the Hackney Carriage for inspection and testing by or on behalf of the Council within such period and at such a place as specified by the Council. The separate occasions of inspection and testing shall not exceed three in number in any one period of twelve months.

## 12. Windows

There will be no tinted windows allowed in licensed vehicles except where the windows are fitted as standard during the initial manufacture of the vehicle.

## Notes for the Guidance of Applicants For Private Hire Operators Licences

Application forms for operators' licences can be downloaded at [www.hyndburnbc.gov.uk](http://www.hyndburnbc.gov.uk).

An applicant who intends to operate private hire vehicles from premises must obtain any necessary planning permission before any licence can be issued.

An applicant wishing to operate a private hire vehicle from domestic premises may require planning permission from the Council's Planning Department before undertaking such an activity and before any licence can be issued.

Applicants for private hire operators' licences cannot use the same (or similar) name as any private hire firm currently operating within the district or any name previously used within the district and registered by the operator at Companies House.

An applicant who is not already a licensed driver with this Council will be subject to a Basic Criminal Record Disclosure. A disclosure will be required from each partner or director of the company. All applicants will be required to join the online DBS update service and a DBS check will be required annually.

### **Spent Convictions:**

Under the provisions of the Rehabilitation of Offenders Act 1974 you are not obliged to disclose any offences resulting in one of the sentences shown in the left-hand column below if the corresponding period in the right-hand column has elapsed. **(It should be noted however that spent convictions, if revealed by any checks that the Council is permitted to carry out, may be taken into account if they are considered relevant in determining whether an applicant is a fit and proper person to hold a private hire operator's licence.)**

## REHABILITATION PERIODS

Sentence	Rehabilitation period Age 18 or over when convicted from end of sentence including licence period	Rehabilitation period Age under 18 when convicted from the end of sentence including rehabilitation period
Community order or youth rehabilitation order*	Total length of order plus 1 year	Total length of order plus 6 months

Prison sentence or detention in a young offender institution for 6 months or less	Total length of sentence (including licence period) plus 2 years	Total length of sentence (including licence period) plus 18 months
Prison sentences of over 6 months, and up to and including 30 months	Total length of sentence (including licence period) plus 4 years	Total length of sentence (including licence period) plus 2 years
Prison sentences or detention in a young offender institution for over 30 months and up to 48 months	Total length of sentence (including licence period) plus 7 years	Total length of sentence (including licence period) plus 3.5 years.
Imprisonment or detention in a young offender institution for over 48 months (4 years) or a public protection sentence	Never spent	Never spent
Fines (even if subsequently imprisoned for fine default)***	1 Year	6 months
Absolute discharge	spent immediately	spent immediately
Simple caution/youth caution**	spent immediately	Spent immediately
Conditional caution/youth conditional caution	3 months or when caution ceases to have effect if earlier	3 months or when caution ceases to have effect if earlier
Absolute discharge	Spent immediately	Spent immediately
Bind over	At the end of the order	At the end of the order
Conditional discharge order	At the end of the order	At the end of the order
Compensation order****	When paid in full	When paid in full
Attendance centre order	At the end of the order	At the end of the order
Care order	When order ceases to have effect	When order ceases to have effect
Confiscation order	When order ceases to have effect	When order ceases to have effect
Forfeiture order	When order ceases to have effect	When order ceases to have effect
Hospital order	When order ceases to have effect	When order ceases to have effect
Referral order	At the end of the order	At the end of the order
Relevant order****	When order ceases to have effect	When order ceases to have effect
Reparation order	Spent immediately	Spent immediately
Disqualifications	When order ceases to have effect	When order cease to have effect
Endorsements	5 years	2.5 years

\*A community order or youth rehabilitation order which has no specified and date has a default rehabilitation period of two years from date of conviction or from the time the disposal is administered. If the order is subsequently changed, this will not affect the rehabilitation period. The rehabilitation period is not halved if the person

was under 18 when convicted. The changes made to the rehabilitation of Offenders Act 1974 by the Legal Aid Sentencing and Punishment of Offenders Act 2012 provided for all subsequent community orders to have an end date.

**\*\*Youth caution replaces the disposals – reprimands and final warnings which were abolished in April 2013**

**\*\*\*The rehabilitation period of a fine applies even if the person is subsequently imprisoned for default of the fine. Fines arising from fixed penalty notices and penalty notices for disorder (PND) are not covered by the Act as they do not form part of an individual's criminal record so they do not have a rehabilitation period.**

**\*\*\*\*It is important that individuals obtain proof of payment of the compensation order from the court and keep this document to prove it has been paid in full. This evidence may be required before a basic disclosure can be issued by Disclosure Scotland**

**\*\*\*\*\*A relevant order (e.g. restraining order or sexual offences prevention order (SOPO) which has no specified end date has a default rehabilitation period of two years from the date of conviction or from the time the disposal is administered**

## **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

### **PRIVATE HIRE OPERATORS' LICENCES**

## **CONDITIONS ATTACHED TO A PRIVATE HIRE OPERATORS LICENCE**

### **1. Records**

- (1) The record required to be kept by the operator under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable book, the pages of which are numbered consecutively, (an electronic version is acceptable), and the operator shall enter or cause to be entered therein, before the commencement of each journey, the following particulars of every booking of a private hire vehicle invited or accepted by him:-

- (a) The time and date of the booking.
- (b) The name and address of the hirer.
- (c) How the booking was made (i.e. by telephone, personal call etc.).
- (d) The time of pick-up.
- (e) The point of pick-up.
- (f) The destination.
- (g) The time at which a driver was allocated to the booking.
- (h) The registration number of the vehicle allocated for the booking.

- (i) Remarks (including details of any sub-contract).

The operator shall also keep records of the particulars of all private hire vehicles operated by him. These particulars shall include details of the owners, registration numbers and drivers of such vehicles, together with any radio call sign used.

Private hire operators are required to keep a register of staff who are concerned with the booking and despatching of vehicles.

All records kept by the operator shall be preserved for a period of not less than six months following the date of the last entry.

## **2. Standard of Service**

The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose shall in particular:-

- (a) Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place.
- (b) Keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting.
- (c) Ensure that any waiting area provided by the operator has adequate seating facilities.
- (d) Ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.

## **3. Change of Address**

The operator shall notify the Council in writing of any change of his address (including any address from which he operates or otherwise conducts his business as an operator) during the period of the licence within seven days of such change taking place.

## **4. Convictions**

Licence holders are required to notify us 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. (or, if the proprietor is a company or partnership, on any of the directors or partners) during the period of the licence. An arrest for any of the offences within this scope will result in a review by us as to whether the licence holder is fit to continue to hold a licence. This will not however automatically mean that a licence will 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.

In all other instances, the licensee shall within seven days disclose to the Council in writing details of any conviction, caution or fixed penalty imposed on him during the period of the licence (or, if the proprietor is a company or partnership, on any of the directors or partners) during the period of the licence.

It is the duty of all operators to ensure that the staff they employ to work in their operating office are suitable to do so and are not persons who may abuse their position to take advantage of any member of the public. Operators are in receipt of certain information such as the details when a property will be left empty for a period of time, and details of customers' phone numbers. For that reason it is paramount that the person receiving the information is honest and trustworthy and would not either abuse the information themselves or pass the information on to unscrupulous persons who may use the information to their own advantage. The holder of the operator's licence must ensure that all persons employed by them to despatch vehicles has produced to them a basic criminal record check. Whilst the Council acknowledges that we are not in a position to dictate to an operator who should be working for them, a very serious view will be taken of any operator that does not ensure that the staff that they employ are honest and trustworthy and have not been convicted of any serious offence. This could cause the 'fitness and propriety of the operator to be brought into question and could lead the Council to consider whether the operator's licence should be suspended or revoked.

Private hire operators will be required to produce a policy on employing ex-offenders. The policy should be in line with the Council's adopted policy; Determining the Suitability of Applicants and Licensees in the Hackney Carriage and Private Hire Trade, and the convictions policy therein. The guidance is set out at appendix 1 to this policy. This is to ensure that everyone working within the operator's base is suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car. Existing private hire operators will be required to deliver their policy to the Council within 6 months of this policy coming into force. All new applicants will be required to produce the policy before a licence will be granted.

## **5. Drivers**

An operator must only use drivers and vehicles that hold the relevant licences issued by Hyndburn Borough Council. Operators must keep a copy of all private hire drivers licences, and photographs of drivers, that are used by them. If operators intend to sub contract work to a company outside of Hyndburn Borough Council, they must ensure that the operator holds an appropriate licence and only uses appropriately licensed vehicles and drivers.

When a customer is sent a text message to inform them that their vehicle has arrived, the operator must also inform the customer in that text of the cost of the journey. This will help to ensure that a disagreement in relation to the requested fare does not arise between the driver and the passenger

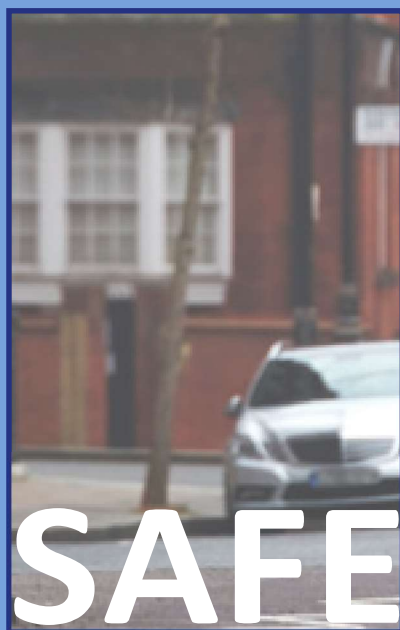
## **General Licence Conditions Applying To All Drivers, Proprietors and Operators**

All drivers/operators/proprietors shall operate strictly within the terms of any licence issued, all relevant legislation and other conditions within this handbook, but these may not necessarily be exhaustive.

**N.B.** Any lapse in any licence will result in any application being treated as a new application and **not** renewal and full application requirements will have to be satisfied. Only in exceptional circumstance will late applications for renewal be considered. Each matter will be dealt with on its own merit.



# Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:



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## Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC  
Cornerstone Barristers

April 2018

## Chapter 1: Introduction

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- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications<sup>1</sup>. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a

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<sup>1</sup> Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence.

different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*<sup>2</sup>.

- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

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<sup>2</sup> [2007] 1 WLR 2067

## Chapter 2: Offenders and Offending - An Overview

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- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.<sup>3</sup> With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of reoffending and harm<sup>4</sup>. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

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<sup>3</sup> DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

<sup>4</sup> Kemshall, H. (2008). Understanding the Management of High Risk Offenders (Crime and Justice). Open University Press

- 2.6 Flaud<sup>5</sup> noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place<sup>6</sup>.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future<sup>7</sup>. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%<sup>8</sup>. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences<sup>9</sup>.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity<sup>10</sup>. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population<sup>11,12</sup>. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

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<sup>5</sup> Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>6</sup> Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>7</sup> Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

<sup>8</sup> Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

<sup>9</sup> Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

<sup>10</sup> McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

<sup>11</sup> Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.



## Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”<sup>13</sup>.
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”<sup>14</sup>.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over<sup>15</sup>. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships<sup>15</sup>. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males<sup>16</sup>.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist<sup>17</sup>. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance<sup>18,19</sup>. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded

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<sup>13</sup> National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

<sup>14</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

<sup>15</sup> Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364. <sup>15</sup> Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

<sup>16</sup> Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

<sup>17</sup> Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

<sup>18</sup> Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3<sup>rd</sup> Edition. Oxford: Oxford University Press.



that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”<sup>20</sup>.

- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

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<sup>20</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

## Chapter 3: 'Taxi' Licensing Overview

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- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:
- "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

### **Taxi Drivers**

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory criteria to be met before a licence can be granted and many authorities grant "dual" or "combined" licences to cover driving both types of vehicle.

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- 3.11 An applicant must hold a full DVLA or equivalent driver's licence, have the right to work in the UK, and be a "fit and proper" person<sup>21</sup>.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK<sup>22</sup>.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.<sup>23</sup>
- 3.15 It is the whole issue of "fit and proper" that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*<sup>24</sup>. Silber J said:
- “... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”
- 3.16 This is reflected in a test widely used by local authorities:
- ‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’<sup>25</sup>
- 3.17 It is suggested that the expression "safe and suitable" person to hold a driver's licence is a good interpretation which neither adds nor removes anything from the original term of "fit and proper" but brings the concept up to date.
- 3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers' licence?

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<sup>21</sup> Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

<sup>22</sup> Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

<sup>23</sup> "Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales" - Home Office, 1<sup>st</sup> December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-rightto-work-checks>

<sup>24</sup> [2002] EWHC 1145 (Admin), [2003] RTR 199

<sup>25</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 10.21

- 3.19 The local authority has the power to require an applicant to provide:
- “such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”<sup>26</sup>

This “information” can include any pre-conditions or tests that they consider necessary

- 3.20 Some of these are universal, such as medical assessments<sup>27</sup>. Others are required by some authorities, but not others. These include:
- Enhanced DBS certificates and sign-up to the update service;
  - Knowledge tests;
  - Driving tests;
  - Disability Awareness;
  - Signed Declarations;
  - Spoken English tests.
- 3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.
- 3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared<sup>28</sup>) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker<sup>29</sup>.
- 3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks<sup>30</sup> and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.
- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.

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<sup>26</sup> Local Government (Miscellaneous Provisions) Act 1976 s57(1)

<sup>27</sup> See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

<sup>28</sup> “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

<sup>29</sup> See *Adamson v Waveney District Council* [1997] 2 All ER 898

<sup>30</sup> “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” DBS email 31st August 2017.

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- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability<sup>31</sup>.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account<sup>32</sup>. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.
- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own

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<sup>31</sup> As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

<sup>32</sup> *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

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hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.

- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

### ***Private Hire Operators***

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority<sup>33</sup>. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person<sup>34</sup>.
- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.

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<sup>33</sup> See *Dittah v Birmingham City Council*, *Choudhry v Birmingham City Council* [1993] RTR 356 QBD

<sup>34</sup> Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

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- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”<sup>35</sup>
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.
- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation<sup>36</sup>. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

### ***Vehicle Proprietors***

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence<sup>37</sup> and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.

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<sup>35</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 12.35

<sup>36</sup> See s57(1)(c) of the 1976 Act.

<sup>37</sup> S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.

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3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.

3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”<sup>38</sup>

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<sup>38</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 8.98



## Chapter 4: Guidance on Determination

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- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

### ***Pre-application requirements***

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

#### **Vehicles:**

- Basic DBS checks;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;
- Wheelchair accessibility requirements.

#### **Drivers:**

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;

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- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

### **Operators:**

- Basic DBS checks;
- Details of their vetting procedures for their staff; □ Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership<sup>39</sup>) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.
- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction<sup>40</sup>. Fixed penalties and community resolutions will also be considered in the same way as a conviction<sup>41</sup>.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an

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<sup>39</sup> Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

<sup>40</sup> This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

<sup>41</sup> This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

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investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.

In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.

- 4.13 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.14 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.
- 4.15 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.16 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.17 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 4.18 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver’s, vehicle and operator’s) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.19 Any dishonesty by any applicant or other person on the applicant’s behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or

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addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.

- 4.20 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.21 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.22 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.23 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## **Drivers**

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.
- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

## **Crimes resulting in death**

- 4.29 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**

- 4.30 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

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the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

### **Offences involving violence**

- 4.31 Where an applicant has a conviction for an offence of violence, 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**

- 4.32 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 7 years have elapsed since the completion of any sentence imposed.

### **Sex and indecency offences**

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 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**

- 4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Drugs**

- 4.36 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.
- 4.37 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 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

### **Discrimination**

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Motoring convictions**

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in

action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

### **Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving**

- 4.40 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 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 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 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

### **Other motoring offences**

- 4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.
- 4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Hackney carriage and private hire offences**

- 4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Vehicle use offences**

- 4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### ***Private Hire Operators***

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.

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- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that will lead to the operator's licence being revoked.

4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

### ***Vehicle proprietors***

- 4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
- 4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 4.54 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.



## Acknowledgements

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In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

- Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)
- Jim Button, Solicitor at James Button & Co and President of IoL
- Philip Kolvin QC, Cornerstone Barristers and Patron of IoL
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

The Institute is delighted to have the Local Government Association, the National Association of Licensing and Enforcement Officers and Lawyers in Local Government contributing to and supporting this project with IoL.

The Institute is also grateful to others who have contributed to the work of the project group, including former probation officer Hannah Jones (now Housing Officer at Flintshire Council) who has assisted the group in providing the chapter on 'Offenders and Offending'.



## Guidance on determining the suitability of applicants and licensees in the hackney and private hire trade

This project has been further enhanced by invaluable contributions from the following individuals and organisations:

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- Louise Scott Garner
- Jenna Parker, Institute of Licensing

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Institute of Licensing  
Egerton House  
2 Tower Road  
Birkenhead  
CH41 1FN  
T: 0151 650 6984  
E: [info@instituteoflicensing.org](mailto:info@instituteoflicensing.org)

The Local Government Association (LGA) is the national voice of local government. [www.local.gov.uk](http://www.local.gov.uk)

Lawyers in Local Government (LLG). [www.lawyersinlocalgovernment.org](http://www.lawyersinlocalgovernment.org)

National Association of Licensing and Enforcement Officers (NALEO). [www.naleo.org.uk](http://www.naleo.org.uk)