

**Public Document Pack  
SOUTHEND-ON-SEA CITY COUNCIL**

**Licensing Committee**

**Date: Monday, 13th January, 2025**

**Time: 2.30 pm**

**Place: Committee Room 5 - Civic Suite**

**Contact: Tim Row - Principal Committee Officer**

**Email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

**A G E N D A**

- 1 Apologies for Absence**
- 2 Declarations of Interest**
- 3 Minutes of the Meeting held on Wednesday 21st August 2024  
(Pages 3 - 4)**
- 4 Proposal to Consult on Taxi Licensing Policy (Pages 5 - 112)**

**TO: The Chair & Members of Licensing Committee:**

Councillor S Wakefield (Chair),

Councillors D Richardson (Vice-Chair), S W Allen, M Borton, A Dear, F Evans, M Faulkner-Hatt, S Habermel, J Harland, C Mulroney, S Nadeem, J Norman, M Sadza, J Warren and C Webster

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# SOUTHEND-ON-SEA CITY COUNCIL

## Meeting of Licensing Committee

**Date: Wednesday, 21st August, 2024**  
**Place: Committee Room 4 - Civic Suite**

# 3

**Present:** Councillor S Wakefield (Chair)  
Councillors D Richardson (Vice-Chair), S W Allen, C Mulroney,  
S Nadeem, J Norman and M Sadza

**In Attendance:** A Penn and T Row

**Start/End Time:** 10.00 am - 10.25 am

### **1 Apologies for Absence**

Apologies for absence were received from Councillors Borton, Berry, Dear, Faulkner-Hatt, Habermel, Harland and Warren (no substitutes).

### **2 Declarations of Interest**

No interests were declared at the meeting.

### **3 Minutes of the Meeting held on Thursday, 7th September, 2023**

Resolved:-

That the Minutes of the Meeting held on Thursday, 7<sup>th</sup> September 2023 be confirmed as a correct record and signed.

### **4 Licensing Act 2003 - Review of Statement of Licensing Policy**

The Committee received a report of the Executive Director (Environment and Place) that presented a draft revised Licensing Policy Statement, (attached at Appendix 1 to the submitted report), as the basis for formal consultation and to allow the Council to follow their statutory obligation set out in the Licensing Act 2003 (the Act).

Resolved:

That the draft revised Policy document attached at Appendix 1 to the submitted report be endorsed to enable consultation to commence. Once consultation is complete, the final policy document will be submitted to the Licensing Committee for approval before being submitted to Full Council for adoption.

### **5 Review of the Council's Statement of Gambling Policy**

The Committee received a report of the Executive Director (Environment and Place) that presented a draft revised Gambling Policy Statement, (attached at Appendix 1 to the submitted report), as the basis for formal consultation and to

allow the Council to follow their statutory obligation set out in the Gambling Act 2005 (the Act).

Resolved:

That the draft revised Policy document attached at appendix 1 to the submitted report be endorsed, enabling consultation to commence. Once consultation is complete, the final policy document will be submitted to the Licensing Committee for consideration and approval before being submitted to Full Council for adoption.

**Chair:** \_\_\_\_\_

**Meeting:** Licensing Committee  
**Date:** 13 January 2025  
**Classification:** Part 1  
**Key Decision:** Yes  
**Title of Report:** Proposal to Consult on Taxi Licensing Policy

**Executive Director:** Alan Richards – Executive Director for Environment & Place  
**Report Author:** Adam Penn – Regulatory Services Manager  
**Chair of Licensing:** Cllr Steve Wakefield

## 1. Executive Summary

- 1.1. The Licensing Committee are invited to review the draft policy with a view to granting permission to commence a six-week consultation on a draft Taxi Licensing Policy that consolidates statutory guidance and existing conditions. It outlines clear standards and expectations for drivers, proprietors and operators within Southend-on-Sea.
- 1.2. The committee are also invited to hear comment on the draft from members outside the licensing committee for their consideration.

## 2. Recommendations

**It is recommended that the Licensing Committee:**

- 2.1. **Approve the proposed draft Taxi Licensing Policy as a consultation document**
- 2.2. **Authorise the commencement of a six-week public consultation period to gather feedback from stakeholders**

## 3. Background

- 3.1. The Council holds statutory responsibility for licensing hackney carriage and private hire drivers, vehicles, and operators under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.
- 3.2. Currently, licensing conditions and guidance for drivers and operators are fragmented across multiple documents. This can lead to inconsistencies in understanding and enforcement. A comprehensive policy document is

needed to clearly outline professional standards, expectations, and the conditions of licensing.

#### **4. Reasons for Decisions**

4.1. The Department for Transport Guidance to Licensing Authorities requires each council to produce a taxi policy. This draft Taxi Licensing Policy has been developed in accordance with that guidance to:

- **Unify Existing Conditions:** Consolidate all current licensing conditions into a single document.
- **Set Clear Standards:** Provide explicit guidance for licensees, covering areas such as:
  - **Driver Conduct:** Customer service, adherence to traffic laws, and assistance for vulnerable passengers.
  - **Vehicle Standards:** Maintenance, cleanliness, and compliance with safety requirements.
  - **Operator Responsibilities:** Record-keeping, booking management, and adherence to licensing requirements.
- **Enhance Public Safety:** Promote measures to protect passengers, particularly children and vulnerable persons.
- **Promote Environmental Sustainability:** Encourage the adoption of low-emission vehicles.

#### **5. Other Options**

5.1. The only other option is to continue as we are without a consolidated policy. This would put the Council in a position where it is not following Government Guidance

#### **6. Financial Implications**

6.1. The consultation process will be conducted within existing resources, drawn from fees paid by the licensed taxi trade.

#### **7. Legal Implications**

7.1 The development and adoption of a consolidated Taxi Licensing Policy ensures compliance with the Council's statutory duties under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847, as well as adherence to Department for Transport guidance for licensing authorities.

7.2 Transparency in decision-making is critical to avoid potential legal challenges. Failure to provide clear and cogent reasons for decisions, particularly where policies affect protected groups under the Equality Act 2010, could result in claims of discrimination or failure to meet the public sector equality duty. The Council must demonstrate that it has given due

regard to the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations between different groups.

- 7.3 A consolidated policy will help mitigate risks of inconsistency and unreasonableness in enforcement, which could expose the Council to legal challenges by way of judicial review under principles of administrative fairness and natural justice.
- 7.4 Adopting a unified policy enhances a robust policy by ensuring that all decisions are based on a transparent, comprehensive framework in line with national guidance. The consultation process supports the principles of public accountability and public involvement in decision-making. Ensuring meaningful engagement with stakeholders will help the Council demonstrate that decisions are fair, reasonable, and made with consideration of public input, further strengthening its legal position. This reduces the likelihood of judicial review or challenges from stakeholders, including operators, drivers, or passengers.
- 7.5 Compliance with environmental and safety standards, as outlined in the policy, is essential to meet obligations under other relevant legislation, such as the Road Traffic Act 1988, and other environmental requirements.
- 7.6 By adopting this approach, the Council protects itself from legal risks and reinforces public trust in its licensing framework.

## **8. Policy Context**

- 8.1 Provides a safe city for all, by regulating the safety of the taxi and private hire services licenced by Southend Council with respect to vehicle and personal safety. Taxi and private hire services provide a 24-hour service giving access to those who are unable to use public transport services.

Enables the transition to cleaner vehicles for licenced taxi and private hire vehicles, improving air quality and environmental sustainability.

## **9. Carbon Impact**

- 9.1. The policy promotes environmental sustainability encouraging the adoption of low-emission vehicles as taxis.

## **10. Equalities**

- 10.1. An Equality Assessment has been completed to ensure that the draft policy promotes inclusivity and addresses potential impacts on protected groups. Feedback from the consultation will further inform this assessment.

## 11. Consultation

- 11.1. In developing this draft, officers have consulted heavily with the trade bodies and unions representing Drivers, Proprietors and Operators. The consultation on the draft policy will take the following format:
- 11.2. The consultation will target:
- All licensed drivers, vehicle proprietors and operators
  - Essex Police and other relevant authorities.
  - Local businesses and community and stakeholder groups.
  - Citizens.
- 11.3. Methods will include:
- An online survey hosted on the Council's website.
  - Direct communications with licence holders.
  - Press and Social Media coverage
  - Engagement with key stakeholders

## 12. Appendices

- 12.1. **Appendix 1:** Proposed Draft Taxi Policy, for consultation

## 13. Report Authorisation

This report has been approved for publication by:		
	Name:	Date:
Executive Director(s)	A Richards	03.01.25
S151 Officer	J Chesterton	30.12.24
Monitoring Officer	E Anakwue (PP S Zeiss)	02.02.25
Chair of Licensing	S Wakefield	03.01.25



Southend-on-Sea City Council

**Hackney Carriage  
and  
Private Hire Vehicle  
Licensing Policy**

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2025

# CONTENTS

## **Introduction**

1.1	Powers and Duties .....	1
1.2	Objectives .....	1
1.3	Policy Status .....	2
1.4	Implementation .....	2

## **Resources**

2.1	References .....	3
2.2	Best Practice Guidance .....	4
2.3	Consultation .....	4

## **Eligibility**

3.1	‘Fit and Proper’ Person Test .....	5
3.2	Background and Right to Work Check .....	7
3.3	Convictions, Breach of Conditions, and Complaints .....	8
3.4	Disclosure and Barring Service (DBS) Registration .....	10
3.5	DVLA Share Driving Licence Service .....	10
3.6	English Language Proficiency .....	10
3.7	Penalty Points System .....	10

## **Drivers**

4.1	Medical Fitness .....	11
4.2	Passenger Accessibility and Assistance .....	13
4.3	Driver Competence Test .....	14
4.4	Driver Knowledge Test .....	14
4.5	Age and Experience .....	15
4.6	Duration of Licence .....	15
4.7	Dress Code .....	16

## **Vehicles**

5.1	Vehicle Licence .....	16
5.2	Insurance .....	17
5.3	Accessibility .....	17
5.4	Vehicle Testing .....	18
5.5	Vehicle Damage .....	18
5.6	Signage and Advertising .....	19

5.7	Recording Devices in Licensed Vehicles .....	20
5.8	Environmental Considerations .....	22
5.9	Executive Vehicles (Including Stretched Limousines) .....	22
5.10	Taximeters .....	24
5.11	Vehicles Licensed by Another Licensing Authority .....	24
5.12	Transfer of Vehicle Licence .....	25
5.13	Expiry/Return of Vehicle Licence .....	25

## **Operators**

6.1	Operation .....	26
6.2	Conditions .....	26
6.3	Insurance .....	26
6.4	Duration of Licence .....	26
6.5	Trading Address .....	26
6.6	Record Keeping .....	27
6.7	Gaming Machines and Betting on Operator's Premises .....	27

## **Applying for a Licence**

7.1	Application Procedure .....	28
7.2	Renewal of Operator/Driver/Vehicle Licence .....	28
7.3	Fees .....	29
7.4	Right of Appeal .....	29

## **Hackney Carriage Miscellany**

8.1	Appointed Stands .....	30
8.2	Waiting on Stands .....	30
8.3	Plying for Hire .....	30
8.4	Direct control of day-to-day running of vehicle .....	30

<b>Surrender of Licence (NR3S Guidance) .....</b>	<b>31</b>
<b>Multi-Agency Safeguarding Hub .....</b>	<b>31</b>
<b>Complaints .....</b>	<b>32</b>
<b>Departure from Policy .....</b>	<b>32</b>
<b>Amendments .....</b>	<b>32</b>

# APPENDICES

## **Appendix A – ‘Fit and Proper’ person, convictions, and cautions**

1.1	General .....	34
1.2	Duty to disclose .....	36
1.3	Offences relating to loss of life or serious injury .....	36
1.4	Offences involving violence .....	36
1.5	Possession of a weapon .....	36
1.6	Sexual offences .....	36
1.7	Exploitation .....	36
1.8	Restraining Orders .....	36
1.9	Offences involving dishonesty .....	37
1.10	Drink driving/driving under the influence of drugs .....	38
1.11	Drunkenness (not in charge of a motor vehicle) .....	38
1.12	Drugs .....	38
1.13	Discrimination .....	39
1.14	Using a hand-held device whilst driving .....	39
1.15	Motoring offences .....	39
1.16	Motor insurance offences .....	40
1.17	Town Police Clauses Act 1847 and Part II Local Government (Miscellaneous Provisions) Act 1976 ...	41
1.18	Outstanding charges or summons .....	41
1.19	Rehabilitation of Offenders Act 1974 .....	41
1.20	Non-conviction information .....	42
1.21	Disclosure .....	42
1.22	Cautions .....	42
1.23	Summary .....	42
	Table 1: Minor road traffic offences .....	43
	Table 2: Major road traffic offences .....	44

## **Appendix B – Disclosure and use of information stored on the National Register of Refusals and Revocations (NR3S)**

1.1	General .....	47
1.2	Overarching principles .....	47
1.3	Reporting concerns .....	48
1.4	Requesting further information relating to an entry on the NR3S .....	48
1.5	Responding to a request for further information relating to an entry on the NR3S .....	49
1.6	Using information obtained arising out of a request to a first authority .....	50
1.7	New and historical data .....	50

## Appendix C – Drivers

1.1	General .....	53
1.2	English language proficiency .....	53
1.3	Induction course .....	54
1.4	Driver knowledge test .....	54
1.5	Enhanced disclosure .....	55
1.6	Licensee change of address/operator .....	55
1.7	Email .....	56
1.8	Maintaining required documents and payment of fees .....	56
1.9	Driver's badge and licence .....	56
1.10	Dress code .....	57
1.11	Personal conduct .....	58
1.12	Fares .....	60
1.13	Driving another person's licensed vehicle .....	60
1.14	Prohibition of plying for hire (Private Hire Vehicles) .....	61
1.15	Accidents .....	61
1.16	Lost property .....	62

## Appendix D – Hackney carriage/private hire vehicles

### General requirements

1.1	Vehicle type .....	65
1.2	Permitted vehicle passenger capacity .....	65
1.3	Vehicle passenger compartment/luggage/load space .....	65
1.4	Vehicle condition .....	66
1.5	Emissions .....	67
1.6	Taximeters and tariff card .....	67
1.7	Identification plates .....	68
1.8	Routine daily vehicle check .....	68
1.9	Council notices .....	69
1.10	Email .....	69
1.11	National flags and symbols .....	69
1.12	Assistance animals .....	69
1.13	Other animals .....	69

### Keeping records

1.14	Record of pre-booked hiring .....	70
1.15	Driver licence and DVLA licence .....	70
1.16	Change of address/email .....	70
1.17	Notification of licensed vehicle users .....	71
1.18	Vehicle licence administration fee .....	71

## Vehicle licensing

1.19	New vehicle licence .....	72
	(i) Insurance .....	72
	(ii) Registration document (log book) .....	72
	(iii) DBS and right to work checks .....	72
	(iv) MOT and vehicle compliance inspection .....	73
1.20	Renewal of vehicle licence .....	73
	(i) Insurance .....	73
	(ii) Registration document (log book) .....	73
	(iii) DBS and right to work check .....	73
	(iv) MOT and vehicle compliance testing .....	73
1.21	Transfer of vehicle ownership or vehicle licence .....	74
	(i) Insurance .....	74
	(ii) Registration document (log book) .....	74
	(iii) DBS and right to work checks .....	74
	(iv) MOT and vehicle compliance inspection .....	74

## Vehicle compliance inspection

1.22	General .....	75
	(i) Insurance .....	76
	(ii) Registration document (log book) .....	76
	(iii) MOT testing and compliance inspection .....	76
	(iv) Vehicle compliance inspection email/letter .....	76
1.23	Inspection standards .....	76
1.24	Vehicle modification .....	77
1.25	Refusal to carry out inspection .....	78

## Appendix E – Operators

### General requirements

1.1	Fit and proper person .....	80
1.2	Disclosure and Barring Service (DBS) certificate .....	80
1.3	Staff vetting and convictions .....	80
1.4	Insurance .....	81
1.5	Planning permission .....	81
1.6	Data protection .....	81
1.7	Premises and equipment .....	81
1.8	Advertising .....	82
1.9	Change of address .....	82
1.10	Email .....	82

## **Operational requirements**

1.11	Bookings (hiring) .....	82
1.12	Standing .....	83
1.13	Complaints .....	83

## **Keeping records**

1.14	Vehicles and drivers .....	84
1.15	Bookings .....	85
1.16	Staff .....	85
1.17	Global positioning system (GPS) data .....	86

## **Policy requirements**

1.18	Operator's policies .....	86
1.19	Training and update briefings .....	86

<b>Duty of co-operation</b>		<b>87</b>
-----------------------------	--	-----------

## **Appendix F – Penalty Points Scheme**

1.1	General .....	89
1.2	Appeal (penalty points) .....	90
1.3	Penalty Points Table .....	90

## **STATEMENT OF DELEGATED AUTHORITY**





# **INTRODUCTION**

The purpose of Southend-on-Sea City Council's licensing regime is to protect the public by administering stringent processes concerning applications for driver, vehicle, and operator licenses within our city. This will include checking criminal records data, requesting medical reports for drivers, and confirming all applicants have a right to work in the United Kingdom. New drivers will also be assessed to ensure they possess an appropriate standard of English speaking, listening, and reading. Induction training for all new drivers will cover topics of equality, safeguarding, and compliance with licence conditions. Existing licence holders will also be required to undertake those assessments where we have reasonable grounds to believe they may have fallen below the standards required of new applicants. To help remedy non-compliance with the Council's licensing conditions, we have also adopted an in-house penalty points system. So far as reasonably practicable we further seek to actively regulate the type of vehicle that can be licensed in our city in order to protect the environment from pollution.

## **1.1 Powers and duties**

Southend-on-Sea City Council (the 'Council') is responsible for the regulation of hackney carriage and private hire vehicle licensing within Southend. Hackney carriage and private hire vehicle regulation seeks to protect the public, businesses, the environment, and promote public safety.

This document and its appendices set out the policy (collectively the 'Policy') of the Council with regard to hackney carriage and private hire vehicle licensing in the city of Southend. The Council must have regard to this Policy in hackney carriage and private hire vehicle licensing decision making.

Pursuant to s.45 of the Local Government (Miscellaneous Provisions) Act 1976, Part II of that Act came into force in Southend-on-Sea City by resolution on 30 March 1977.

Licensees must comply with the requirements of this Policy at all times

## **1.2 Objectives**

Hackney carriage and private hire vehicles play a vital role in the integrated transport system within Southend, and often provide services where other forms of transport are either not available or less convenient. The regulation of those services is therefore critical to ensuring the following objectives are met:

- protection of the wider public, safeguarding children and the vulnerable

- prevention of crime and disorder
- health and safety of drivers and the public
- vehicle safety, comfort, and access across all equality groups in support of the Council's commitment to the Equality Act 2010
- establishment of professional and safe hackney carriage and private hire trades
- access to an efficient, safe and effective public transport service
- protection of the environment

In promoting the licensing aims and objectives, hackney carriage and private hire vehicle licence holders and applicants are expected to continuously demonstrate that they meet or exceed the standards set by the Council in pursuit of its statutory and community obligations.

### **1.3 Policy status**

In exercising its regulatory functions, the Council will have regard to this Policy and the objectives set out above. The Council will also have regard to all other relevant government strategies, policies and guidance in its decision making. Each application or enforcement measure will be considered on its own merits. Where there are exceptional, clear and compelling reasons to deviate from this Policy, the Council will consider doing so. The Council will record the reasons for any deviation from its current policies.

### **1.4 Implementation**

This Policy will become effective on ..... The Council expects hackney carriage and private hire vehicle licence holders and applicants to comply with this Policy from that date.

This Policy will be kept under review and revised as appropriate or following legislative change.

From the effective date this Policy will override and supersede all existing Council policies in relation to hackney carriage and private hire vehicle licensing.

The Policy and associated documentation are available for inspection on the Council's Licensing Policies website. You may also contact the Council's licensing department for further details.

# **RESOURCES**

## **2.1 References**

In undertaking its licensing function, the Council has had regard to the following non-exhaustive list:

- Crime and Disorder Act 1998
- Equality Act 2010
- Environmental Protection Act 1990
- Finance Act 2021
- Human Rights Act 1998
- Immigration Act 2016
- Local Government (Miscellaneous Provisions) Act 1976
- Policing and Crime Act 2017
- Pollution Prevention and Control Act 1999
- Regulation of Investigatory Powers Act 2000
- Rehabilitation of Offenders Act 1974
- Road Traffic Act 1988
- Taxi and Private Hire Vehicles (Disabled Persons) Act 2022
- Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022
- Town Police Clauses Act 1847 and 1889
- Transport Act 1985 and 2000
- UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018
  
- Access for Wheelchair Users to Taxis and Private Hire Vehicles: Statutory Guidance (2017)
- Institute of Licensing Guidance
- Mobility Scooters and Powered Wheelchairs on the Road (2015)
- Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975
- Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002
- Statutory Taxi & Private Hire Vehicle Standards (July 2020)
- Surveillance Camera Code of Practice (2013)
- Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (2010)
- The Motor Vehicles (Wearing of Seatbelts) Regulations 1993
  
- Councillor Handbook: Taxi and PHV Licensing (July 2021)

## **2.2 Best Practice Guidance**

The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation for England and Wales. Following widespread consultation, the DfT has produced Best Practice Guidance for licensing authorities which sets out standards that can be considered good practice in this area of licensing. That guidance further recognises that individual licensing authorities should, in accordance with the legislation, produce their own policies in relation to specific licensing matters.

This Guidance has been taken into consideration in preparing this Policy.

## **2.3 Consultation**

The Council is keen to hear the views of persons who may be affected by this Policy and has identified people and organisations that may be interested in commenting on this document. The Council has consulted widely and invited comments from various parties including those listed below:

- Representatives of Southend-on-Sea City Council licensed hackney carriage and private hire drivers including operators, proprietors, and trade associations
- City Councillors
- Leigh Town Council
- Internal departments within Southend-on-Sea City Council
- Access Group
- Members of the public via the Council's website
- Essex Police
- Internal and external legal advice

# ELIGIBILITY

## (General Conditions)

### 3.1 'Fit and Proper' person test

The Council has a legal duty to ensure any person to whom they grant a licence is 'fit and proper'.

Whilst there is no legal definition of the term 'fit and proper' we are obliged to ask of ourselves:

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

Then if, on the balance of probabilities, the answer to the question is 'no' the applicant or license holder shall not be granted a licence.

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

Those tasked with determining licence applications are therefore effectively asking of themselves the following questions:

- *Drivers* – would I allow someone close to me or for whom I care, vulnerable or otherwise, to get into a vehicle with this applicant alone at any time night or day?
- *Operators* – would I be comfortable providing my or another person's sensitive information such as holiday plans, movements of my family or other information to the applicant and feel safe in the knowledge that it will be protected from unlawful or unacceptable purposes?
- *Vehicle proprietors* – would I be comfortable allowing the applicant to have control of a licensed vehicle that can travel anywhere night and day without arousing suspicion, and be satisfied they would not permit it to be used at any time for unlawful or unacceptable purposes?

To assess the suitability of an applicant or licence holder the Council will therefore undertake whatever checks and apply whatever processes it considers necessary to ensure that licences are not issued to, or used by, other than 'fit and

proper' persons. Safeguarding the public is paramount in determining the suitability of applicants.

The 'fit and proper' person test is essential for ensuring that a robust hackney carriage and private hire vehicle licensing scheme is administered and enforced in the local authority city of Southend. The 'fit and proper' test equally applies to directors and partners of corporate entities and partnerships that are involved in hackney carriage and private hire vehicle licensing.

Amongst other checks and assessments, the application process may include enquiries being undertaken to determine an applicant's right to work in the United Kingdom, criminal, other background, and tax checks. It is important to note that criminal and other background checks are not only related to convictions but may also include incidents that have not resulted in convictions, and/or conduct that has not been the subject of prosecution. The Council is under a legal duty to ensure that it considers as full a range of information available when deciding as to whether to grant a licence.

The disclosure of convictions, cautions, other formal action or conduct not resulting in prosecution, is not an automatic bar to a person being granted a licence, renewing a licence, or retaining a licence. Much will depend on whether the person concerned can satisfy the Council that they are a 'fit and proper' person to hold a licence. Each incident will be assessed on its own merits.

The Council may nevertheless be satisfied that a person is not 'fit and proper' to hold a licence for any reasonable cause. If a person fails for example to provide satisfactory evidence that they are a 'fit and proper' person, or if there is good reason to question or doubt the evidence provided, then this can amount to a reasonable cause to refuse, revoke or suspend a licence.

It is essential that applicants give full disclosure of all requested information and other relevant information that might reasonably be construed as having a bearing on the decision-making process of hackney carriage and private hire vehicle licensing. A failure to disclose such information can result in an application being rejected: if in doubt the disclosure should be made.

The licensing authority provides information to the National Register of Taxi License Refusals and Revocations (NR3S). NR3S is a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or private hire driver's license revoked, or an application for one refused. As part of the requirement to determine whether applicants are fit and proper persons to hold a licence the Council will consult NR3S for further information and where appropriate may request further relevant information from other local authority licensing departments.

### 3.2 Background and right to work check

All applicants, and vehicle owners who are not licensed drivers, including directors and partners of corporate entities and partnerships, are required to have a Disclosure and Barring Service (DBS) check and a right to work check. In the interests of identifying public protection risks the Council may also have regard to Police Common Law Disclosure.

- Drivers – Enhanced DBS check (every 6 months through DBS update service following initial check)
- Operators – Basic DBS check (annually)
- Vehicle owners/proprietors including directors and partners – Basic DBS check (annually)
- Other workforce – Operators are required to ensure their booking and dispatch staff and people involved in dealing with members of the public have a basic DBS check and undergo vetting checks

The Council may also contact the Home Office to carry out immigration checks when it is appropriate to do so.

For all applicants who have lived in the United Kingdom for less than five years continuously, a certificate of good conduct (character reference) is required. That certificate must be from a person of good standing who themselves have been resident in the United Kingdom for a period of no less than five years.

For those applicants not holding a United Kingdom (UK) passport, evidence will need to be provided of the applicant's right to work in the United Kingdom, which will include a relevant VISA or letter from the appropriate Embassy/Authority. The licensing department may also contact the UK Home Office to carry out immigration checks when it is appropriate to do so.

The Council is legally required to further ensure that relevant applicants are aware of their tax responsibilities in the United Kingdom. In order to achieve this some applicants are required to provide the Council with a tax check code. Once you have obtained your tax check code you will have 120 days to pass that to the Council before it expires. A licence application will not be processed until the Council has received your tax check code. The Council must ensure all persons applying for:

- a new licence (and who **have not** held a similar licence elsewhere in England or Wales within the last 12 months) are aware of their responsibilities for paying tax to HMRC
- a new licence (but who **have** held a similar licence elsewhere in England or Wales within the last 12 months) are registered with HMRC for tax purposes

- a renewal licence is registered with HMRC for tax purposes

Further details of how to undertake a tax check are available from the government's website.

All applicants must provide original documentary evidence confirming their right to live and work in the UK. Any licence granted to applicants whose leave to remain in the UK is time limited, will only be valid for the period that they are entitled to work in the UK. In order for a licence to be extended beyond the period they are entitled to work, drivers must produce further evidence within 28 days to prove that they have a right to work in the UK.

### **3.3 Convictions, breach of conditions, and complaints**

It is recognised that many vehicles are used for the carriage of children and vulnerable persons and the requirement for an Enhanced DBS Certificate is in part an effective measure of suitability of individuals to safely transport those and other members of the wider public.

In determining licence applications, the Council will examine applicants' previous convictions in accordance with this Policy. As each case is determined on its own merits previous convictions will not always result in a licence application being refused.

Prior to consideration of any application, the applicant must provide an Enhanced DBS Certificate and the information it contains shall be referred to in accordance with the Council's policy on convictions and cautions. Please be aware that unless a conviction is protected then it must be declared.

Existing license holders are required to submit an Enhanced DBS Certificate every three years at renewal, and for regular 'spot checks' during that period, or until such time as they are signed up to the DBS registration online service. The DBS registration online service enables the Council's Licensing department to confirm DBS details directly with the agency concerned. Registration will forgo the need for licence holders to provide a hard copy Enhanced DBS certificate. The Council in any event reserves the right to require the production of a current Enhanced DBS Certificate by the licence holder at any time, including where evidence indicates that they may have received a caution or been convicted of an offence during the currency of an existing licence.

A licence will generally not be granted to any applicant who fails to satisfy the minimum requirements as set out in this Policy. In determining new licence applications or the continued suitability of existing licence holders, the Council will also consider patterns of offending, spent convictions and cautions. The totality and type of conduct will have a bearing on the suitability of existing licence holders or new applicants, although it is not necessarily to be taken as an automatic barrier to a licence being granted or maintained.



A licence may be suspended or revoked pending the outcome of any investigation or trial, or where a license holder has been charged with a serious offence. The following non-exhaustive list examples conduct the Council considers serious offences:

- driving, or being in charge of a vehicle, whilst under the influence of drink or drugs
- a drug related offence
- indecent exposure, indecent assault, or any other sexual offence or impropriety
- homicide, grievous bodily harm, wounding, assault, affray
- terrorism, racially aggravated conduct
- dishonesty

A licence may also be suspended or revoked where information received raises concern as to the continued suitability of licence holder under the 'fit and proper' test.' This applies irrespective of whether criminal charges are brought.

Where an existing licence holder commits an offence and/or breaches applicable licence conditions/byelaws, the nature and number of incidents will be also taken into account when considering if they continue to meet the 'fit and proper' person test.

Any application from a person that is found to be subject to that as outlined above will not be considered until the outcome of those matters has been determined.

Complaints in relation to existing drivers will generally be held on file and taken into consideration for a period of three years from receipt. Although where a further warning is issued during this period, the original warning will be kept on file from the date of the most recent warning. Where a licence is revoked for persistent breach of policy and/or licence conditions a period of three to five years should generally elapse before a further application will be considered by the Council.

A licence holder or applicant shall notify the Council immediately, or as soon as is reasonably practicable, of any incident involving complaints, charges, convictions, or cautions (including motoring offences) during the term of their current licence or application. Depending on the nature of the conduct involved the Council reserves the right to suspend or revoke the relevant licence and/or suspend or cease the determination of application for a licence. In such cases, there will be no reimbursement of licence application and/or test fees.

(N.B. Further conditions applicable to previous convictions and rehabilitation can be found in the relevant appendices to this Policy)

### **3.4 Disclosure and Barring Service (DBS) registration**

Applicants must register their DBS certificate with the government's online checking service so that the Council is able to undertake regular relevant checks while they are licensed. Applicants can only register their DBS certificate with this service within 28 days of the date that their certificate was issued. Evidence of registration with that service (a unique reference number will be given via the DBS Update Service website) MUST be provided to the Council within 7 days of receipt.

### **3.5 DVLA Share Driving Licence Service**

New applicants and those renewing their driver's licence are required to provide access to their driver licence record held on the Driver Vehicle Licensing Agency (DVLA) database. This requires a signed authorisation from the applicant permitting the Council access to their driver licence record for such period as they remain licensee. This requirement is necessary for the Council to confirm applicant driver details including that relating to any motoring offences.

### **3.6 English language proficiency**

In the interests of safeguarding the public and those working in the hackney carriage and private hire trades, applicants must be able to effectively communicate in English. The Council will therefore seek evidence of drivers' proficiency in both oral and written English language skills. The Council may also seek to establish English language proficiency via individual assessment.

(N.B. Further conditions applicable to English language proficiency can be found in the relevant appendices to this Policy)

### **3.7 Penalty Points System**

The Council has a responsibility to ensure that all licensed drivers, owners and operators of vehicles adhere to basic minimum standards. The Council must do this in a reasonable, consistent, and transparent manner.

The Council operates an in-house penalty points system that applies to hackney carriage and private hire vehicle operators and drivers. The penalty points system is intended to give the Council oversight of individuals' continued compliance with the current licensing regime and the Council's hackney carriage and private hire vehicle licensing policy. Penalty points may be used to determine whether licence holders and applicants meet the 'fit and proper' person test.

Individuals may appeal the sanction of its in-house penalty points system should they so choose.

The system, as described in the relevant Appendix to this Policy document will serve both as an early warning system to licence holders who fail to meet the Council's required standards and as a consistent and transparent method of enforcement.

The penalty points system will be used to deal with minor breaches or infringements of legislation, policy or unacceptable behaviour by those licensed by the Council. Infringements incur penalty points in much the same way that points can be attached to a DLVA driving licence.

Penalty points remain on a licence for a period of two years from the date on which they are imposed. If a licence holder accumulates twelve or more penalty points within a period of twenty-four months, commencing from the date of imposition of the earliest 'live' penalty points on the licence, he/she will be referred to the Licensing Committee for consideration of appropriate action.

The Licensing Committee will follow the objectives of this Policy and have a range of sanctions available to them, including suspension or revocation of licence.

The penalty points system will not compromise or curtail the Council's ability to enforce breaches of statute or the Council's Licensing Policy via legal action and enforcement in the event such action is deemed necessary.

(N.B. Further details concerning the Council's penalty points system can be found in the relevant appendices to this Policy)

## **DRIVERS**

### **4.1 Medical fitness**

There is a general recognition that it is appropriate for HC/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because:

- they carry members of the public who have expectations of a safe journey
- they are on the road for longer hours than most drivers

- they may be called upon to assist disabled and vulnerable passengers and handle luggage

The Council supports the widely held view that Group 2 Medical Standards should also be applied by local authorities to HC/PHV drivers.

A Group 2 Medical Standards Certificate signed by a UK registered general practitioner (GP) will be required from all applicants. Where holders of current Passenger Service Vehicle (PSV), Heavy Goods Vehicle (HGV), and/or 'LGV' (Large Goods Vehicle) licences, are able to produce proof of a current medical examination of less than 12 months old, will not be required to undergo a further medical certification process until such time as it may in the normal course of events be required.

All applicants will be required to obtain a Group 2 Medical Standards Certificate signed by a UK registered general practitioner (GP). The reason we require that certificate to be completed by a GP is that they are likely to have a greater awareness of and/or access to an applicant's medical history. The applicant must ensure the Council receives the signed and completed medical certificate within 28 days of it having been completed.

On the attainment of 45 years the licence holder will be required to provide a Group 2 Medical Standards Certificate signed by a UK registered GP every 5yrs.

On the attainment of 65 years the licence holder will be required to provide a Group 2 Medical Standards Certificate signed by a UK registered GP annually.

Group 2 Medical Standards concerning drivers with insulin treated diabetes are subject to further medical requirements but the condition of itself will not necessarily preclude them from obtaining a licence. Further information can be found in the relevant appendices to this Policy.

Should concerns arise regarding the health of a licensed driver, the Council may at any time require further information or a further medical examination to be carried out and submitted to our Licensing Department for review. Should that review bring into question the medical fitness of the applicant or licence holder then the Council may revoke, suspend, or refuse to issue a licence.

The Council reserves the right to revoke, suspend, or refuse to issue a licence where requested information is not submitted within 28 days of the request being made, or a satisfactory explanation is not given for the failure to provide such information. It is only in exceptional circumstances that a licensed driver will be allowed to continue to drive after having failed to provide the requested medical information within the given timeframe: please be aware that it would be extremely unusual for a driver to be allowed to continue to drive in those circumstances.

Where a Group 2 Medical Standards Certificate has not been submitted in accordance with this Policy or has not been properly completed then the Council will not issue a licence.

Your GP will likely charge you for completing a Group 2 Medical Standards Certificate. That fee is not refundable by the Council whether or not you are granted a licence.

The UK Driver and Vehicle Licensing Agency (DVLA) publishes a full A-Z list of conditions online so drivers can check those conditions that need to be reported. It should be noted however that the DVLA list is not an exhaustive list and the Council may therefore require further information in order to check the ability of a licensed driver to carry out their duties safely and diligently.

There are also notifiable medical conditions that sometimes may be 'invisible' at first, such as anxiety, depression, or post-traumatic stress disorder, and must be disclosed to the Council when renewing or applying for a licence.

It is important to note that if there is any doubt as to whether to disclose any medical condition, a licensed driver or a new applicant should err on the side of caution and disclose that information in full to the Council. Failure to do so may lead to suspension or revocation of licence, and in the case of new applicants, a rejection of their licence application.

Licensed drivers and new applicants must inform the Council within seven days of any condition likely to affect their driving becoming known.

## **4.2 Passenger accessibility and assistance**

The Council is committed to social inclusion and ensuring a wide variety of opportunities are available to those with mobility difficulties. For this reason, the Council considers it important that people with mobility difficulties have access to all forms of public transportation.

If drivers fail to perform the duties imposed on them under the Equality Act 2010 without the appropriate exemptions, they will be subject to appropriate enforcement action by the Council.

This authority maintains a list of wheelchair-accessible vehicles in accordance with section 167 of the Equality Act 2010.

At their own expense, new applicants are required to undergo Disability and Discrimination Awareness training and thereafter to produce an accredited certificate of completion in support of their application. Existing licence holders are also encouraged to undertake this training and certification at their own expense.

Existing licence holders may be required to undergo public safety awareness training as directed by the Council: attendees will be given a minimum six weeks' notice of training dates.

At the discretion of the Council's Licensing Department licence holders will, if considered necessary, undergo refresher training.

(N.B. Further details applicable to passenger accessibility and assistance can be found in the relevant appendices to this Policy)

### **4.3 Driver competence test**

A licence will not be issued to any person who at the time of the application has not held a full appropriate driving licence for a continuous period of three years immediately prior to the date of receipt of a valid application by the Council.

Periods held of full driving licences issued by EU/EEA States and Countries detailed in the Driving Licence (Exchangeable Licences) Orders also qualify towards the three-year period qualification requirement for the grant of a hackney carriage/private hire driver's licence.

To establish whether an acceptable driving standard has been achieved, new applicants are required to have successfully completed a Council approved driving standards practical taxi test and wheelchair handling test. Existing drivers may also be required to undertake these tests where concerns are raised about the standards of their driving and/or their ability to satisfactorily carry out their duties as a licensed driver. The tests are obligatory unless it is proven by cogent medical evidence that an exemption from so doing ought to be applied.

All drivers must have successfully completed the practical taxi test and the wheelchair handling test. Drivers will need to provide a suitable vehicle for undertaking the tests. If a licensed driver changes his vehicle to a wheelchair accessible vehicle, then they must undertake the element that includes the wheelchair handling test.

### **4.4 Driver Knowledge Test**

To maintain the high standards that the Council expects of its licensed hackney carriage/private hire drivers, all drivers are required to pass a knowledge test. This requirement is considered necessary as both hackney carriages and private hire vehicles are fitted with taximeters and are obliged to convey passengers via the most expediently suitable route.

A first-time driver applicant must demonstrate an acceptable knowledge of places, roads, and routes within the city of Southend. The test may also include

questions relating to relevant byelaws, licensing standards and conditions of licensing, operation of taximeters and details of fare tariffs. Drivers must successfully complete the knowledge test prior to a licence being issued.

Existing licence holders may also be required to take a knowledge test, as detailed above, where it is deemed that their knowledge may have fallen below that required of a newly licensed driver.

#### **4.5 Age and experience**

All applicants must have held a full driving licence for a period of at least 3 years immediately prior to application.

The Council does not consider it necessary to set a maximum age limit for drivers, provided that satisfactory medical checks are undertaken in accordance with this Policy.

An applicant who meets the licensing requirements by virtue of an acceptable Designated Country non-UK driving licence must:

- obtain a full UK driving licence within twelve months of the issue of the hackney carriage/private hire driver's licence

Where this requirement is not satisfied, the hackney carriage/private hire drivers' licence will be automatically suspended pending compliance.

An applicant who does not hold a driving licence from a country listed in the Driving Licence (Exchangeable Licences) Orders or an EU/EEA country must:

- have held a full UK driving licence for a period of 12 months before applying to become a taxi driver: and subject to their having held a full driver's licence for a minimum period all together of three years

#### **4.6 Duration of licence**

A new or renewal of a driver's hackney carriage/PHV/ or dual licence shall be valid for a standard term of three years (unless otherwise determined in accordance with this Policy or such period as the Council in its discretion so grants).

#### **4.7 Dress code**

The Council is committed to encouraging the professional image of the hackney carriage and private hire trade. In order to raise and maintain the profile of the licensed trade, the Council considers that drivers should conform to a minimum standard of dress, as set out in the relevant appendix. The Council does not impose such standards by way of express conditions to any licence, but it is nevertheless expected that whilst at work they will be maintained.

## **VEHICLES**

#### **5.1 Vehicle licence**

The Council has a wide discretion over the types of vehicle that can be licensed as a hackney carriage or private hire vehicle. Best practice guidance recommends local licensing authorities adopt the principle of permitting licensing for many different types of vehicle subject to a range of general criteria. It is therefore open to the taxi and private hire vehicle trades to put forward vehicles of their own choice provided they can be shown to meet the Council's criteria. It is recommended however that prior to purchase of vehicles intended to be licensed applicants first discuss their preference with the Council.

In the interests of safety all vehicles must comply with British and European vehicle regulations, be approved to the standard of type M1 European Community Whole Vehicle Type Approval (ECWVTA) and be materially unaltered from the type approval specification. A certificate of conformity bearing the vehicle's unique identification number which relates to an M1 whole vehicle type approval may be required.

All vehicles must be right-hand drive unless approved by the Council.

Whilst there is no age limit on vehicles that comply with current emissions standards, continued licensing of any vehicle shall be reviewed periodically by authorised officers based on the condition of the vehicle, at the Council's discretion.

New or replacement vehicles must comply with the Council's policy regarding vehicle emissions.

(N.B. Further conditions applicable to vehicle licensing can be found in the relevant appendices to this Policy)



## **5.2 Insurance**

All hackney carriage and private hire vehicles must be insured for public or private hire and reward, such insurance to be fully comprehensive cover.

The Council considers vehicle insurance to be an absolute condition, and all proprietors must provide evidence of continuous insurance cover throughout the period of the licence. A copy of the insurance must also be retained in the vehicle at all times, and available for inspection on request. Original proof of insurance must be produced to the appropriate licensing department within 48 hours of request.

Failure to provide evidence of valid insurance will result in the vehicle licence being suspended until valid insurance has been provided. Drivers may also be reported for breaching conditions of their licence.

## **5.3 Accessibility**

Hackney carriages and private hire vehicles are an essential mode of transport for disabled and older people. The combination of the personal service they offer, their wide availability and door to door operation enable them to respond particularly well to the travel needs of people with disabilities.

Unless exempted, all drivers must assist passengers with mobility issues including their equipment and are also required to convey passengers together with their assistance animals.

The Council considers it important that people with disabilities have access to all forms of public transport and for this reason it publishes on its website a list of vehicles that are capable of carrying passengers in wheelchairs. Once a vehicle has been listed, the driver of any such vehicle who is not exempted will be under a statutory duty to carry wheelchair bound passengers and to provide mobility assistance.

All ramps, straps and restraints for wheelchair accessible vehicles must be appropriately designed to secure a wheelchair in the licensed vehicle. Those items must be carried in the vehicle at all times and inspected, maintained on a monthly basis. Where there is any evidence of deterioration, contamination, or general wear and tear they must be replaced. Where those items have been stressed in an event i.e. accident they must be replaced.

Wheelchair users must not be positioned in their wheelchairs such they are facing sideways whilst in the vehicle. Where informed by wheelchair and vehicle manufacturers, the wheelchair must be secured in accordance with their recommendations.

The Council uses the dimensions recommended by the Government for a 'reference wheelchair' as a guide for its list. This allows for a wider range of vehicles to be included than if the Council only included on the list vehicles capable of taking a larger type of wheelchair. However, it is recognised that this will mean that some types of wheelchair, particularly powered wheelchairs, may be unable to access some of the vehicles included on the list.

(N.B. Further conditions applicable to vehicle accessibility can be found in the relevant appendices to this Policy)

#### **5.4 Vehicle testing**

The Council must be satisfied vehicles it has licensed are safe, well maintained, comply with rigorous emissions standards, and are in a presentable condition with very little or no external damage or corrosion.

Vehicles must have a suitable and sufficient power output that is capable of conveying the maximum number of passengers and their luggage without compromising safety, comfort and emissions. Power output suitability is determined by the Council but given the variance of modern vehicle technologies an exhaustive list of types is not possible. It is therefore highly recommended that prior to licensing vehicles the applicant contacts the Council to confirm suitability.

Hackney carriage and private hire vehicles are granted licences for 12 months or where appropriate for a lesser period. Prior to being granted a licence each vehicle must be examined and tested at a vehicle testing centre approved by the Council. The Council may request additional vehicle testing where deemed necessary.

Where a licensed vehicle fails an authorised examination and/or test, the vehicle will no longer be deemed suitable to carry passengers until the defect(s) is/are remedied. In this instance the proprietor and/or driver must not use the vehicle concerned to carry passengers. The proprietor and/or driver must notify the Council of the failure within 72 hours and provide details of defects. The Council's current approved vehicle testing centre can be found on our website or by contacting the Licensing Department.

(N.B. Further conditions applicable to vehicle testing can be found in the relevant appendices to this Policy)

#### **5.5 Vehicle damage**

To maintain public safety and confidence any vehicle that has been written off, regardless of repair to reinstate, in any category will not be licensed.

Any vehicle that has been written off, regardless of repair to reinstate, in any category will not have its licence renewed.

All vehicle damage must be reported to the Council as soon as reasonably practicable, and in any case within three working days of its occurrence. Damage is such that it materially affects the safety, performance or appearance of the hackney carriage or private hire vehicle or the comfort or convenience of persons carried therein. Vehicle damage is to be taken in a broad context and proprietors are therefore strongly advised to contact the Council's licensing team to obtain further guidance. Notification is initially to be made by email and by completing the Council's accident report form available from the Council's website.

A report of vehicle damage must include a detailed description of the incident giving rise to the damage and should be accompanied by any relevant photographs.

Any vehicle damage must first be inspected by an authorised Council officer for it to continue to be used as a licensed vehicle.

Where a vehicle is deemed unsafe for operational use it will result in the vehicle licence being suspended until the works are completed to make the vehicle safe, or an alternative suitable vehicle is provided.

Where a vehicle is deemed safe for operational use a defect letter with a compliance date will be issued outlining what needs to be repaired and by when it needs to be repaired. A failure to heed the compliance date may result in the vehicle's licence being suspended or revoked until the works are completed, or an alternative suitable vehicle is provided.

In order ensure the safety and comfort of public transport users, repaired damaged vehicles may be subject to mechanical inspection prior to their continued use as licensed vehicles.

Where vehicle damage has not been reported, any appointment/application received for a temporary replacement vehicle may be delayed. The onus for reporting vehicle damage lies wholly with the vehicle license holder.

Where it is necessary to utilise any 'run-flat' tyre that has deflated or a tyre has been subjected to a temporary fix using foam or gel etc., or subjected to any other temporary repair, the vehicle shall only be driven so as to ensure the completion of the journey at the time or to the nearest tyre repair station if closer. Any tyre so affected must be replaced prior to conveying further passengers.

## **5.6 Signage and advertising**

It is important that the difference between a hackney carriage and a private hire vehicle is readily discernible by members of the public.

A plate bearing the number of the licence granted shall be displayed on the outside of the hackney carriage or private hire vehicle adjacent to the rear number plate. The number of the licence shall also be displayed on the inside of the vehicle in such position as to be plainly visible to persons travelling in the vehicle.

Proprietors of executive hire vehicles who wish to be exempted from displaying licence plates and or signage must apply for an exemption certificate. Where an application seeking exemption is refused a person so aggrieved may in writing submit grounds of appeal to the licensing committee for consideration.

Roof signs fitted to hackney carriage vehicles shall not exceed 91.5cm x 16cm (approx. 36 1/4" x 6 1/4") or such other size approved by the Council and must be illuminated at all times when the vehicle is available for hire.

Private hire vehicles shall not be permitted to display any advertisement on licensed vehicles other than in rear windows and only such that it does not

unreasonably restrict the driver's vision or restrict passengers from being able to see inside or out of the vehicle.

A sign provided by the Council for the purposes of indicating that a vehicle is a hackney carriage or licensed private hire vehicle shall be securely attached to each rear door panel of the vehicle. Magnetic attachments for these signs are not permitted.

Full advertising livery is not permitted on either hackney carriages or private hire vehicles.

Advertising will otherwise be permitted on the bonnet of the vehicle, on the outside of the front doors and on the boot lid or hatchback door or rear window, provided it does not obscure the view to the rear. Additionally, advertising is permitted on the inside of the vehicle subject to the approval of the Council.

All advertisements must comply with the Advertising Codes of Practice issued by the Advertising Standards Authority and must be legal, honest and truthful. Each application will be considered on its own merits but advertisements will not be approved if they contain political, ethnic, religious, sexual or controversial texts; advertise tobacco, gambling, or alcohol products; display nude or semi-nude figures; are likely to offend public taste; depict people as sex objects; depict direct and immediate violence to anyone shown in the advertisement or anyone looking at it; advertise any racist group or organisation that may be construed as to promoting the group/organisation and/or any of its activities; or the Council in its discretion considers such material or depiction to be unsuitable for display in the hackney carriage and private hire vehicle environment.

Applications for approval of advertisements must be made in writing to the Council.

The licensee holder shall obtain the prior approval of the Council as to the type and content of any advertisement permitted by this Policy. It shall in any event remain the sole responsibility and legal duty of the licence holder to ensure any signage and advertisements displayed are fully compliant with this Policy and all other applicable laws.

(N.B. Further conditions applicable to vehicle signage and advertising can be found in the relevant appendices to this Policy)

## **5.7 Recording devices in licensed vehicles**

The hackney carriage and private hire trade provide a valuable public service, especially late at night when other forms of public transport are no longer available. Security for drivers and passengers is of paramount importance. CCTV cameras can be a valuable deterrent as well as protecting the driver from unjustified complaints.

Dashboard cameras (dashcams) that face outwards will be permitted provided they are used in accordance with guidance issued by the Information Commissioner's Office (ICO) and the Biometrics and Surveillance Camera

Commissioner or any such body authorised by the UK government to provide guidance on their use. Where that dashcam device also records sound then the proprietor, operator and/or driver must inform the Council of its installation and approval. It is the responsibility of the proprietor, operator and/or driver to ensure that use of such devices complies with all relevant data protection and privacy regulations. Where sound from inside the vehicle can be recorded on a device even though the purpose is to record data from outside a vehicle then the device will most likely be deemed to be subject to further data protection and privacy regulations.

Where any type of recording device is installed in any licensed vehicle, the system must be encrypted so that its data can only be downloaded by police, an authorised officer of the Council or an individual who is registered with the ICO. Drivers or proprietors are not permitted to download data from their own vehicle and the person downloading must be independent. A written record shall be kept by the 'downloader' and produced to an authorised officer on request. Such records shall include:

- the name of the person carrying out the download, their ICO registration number and date of expiry,
- the date and time of the download,
- the reason for the download,
- details of any person who has viewed the download and
- any other detail specified by the Council

Proprietors, operators and/or drivers that install any recording device capable of recording data from inside of a licensed vehicle shall notify the Council prior to its use.

Where any recording device is installed in any licensed vehicle, a notice to this effect must be clearly displayed in the same vehicle where it is installed, the wording of which shall be approved by the Council. Approval of a device by the Council should not be taken as an indication of its lawful use or installation. At all times it is the responsibility of the proprietor, operator and/or driver to ensure such equipment is fully compliant with UK law.

The hackney carriage and private hire vehicle trade is strongly encouraged to consider the installation of recording cameras in their vehicles on a voluntary basis and it will be incumbent on the operator to handle the data gathered in an appropriate and secure manner. For information and guidance on data protection, see The Information Commissioners' Office (ICO) website.

The hackney carriage and private hire trade are also encouraged to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships.

## **5.8 Environmental considerations**

Hackney carriages and private hire vehicles are an essential form of transport in the city of Southend and it is important therefore to consider the environmental impact of their journeys.

Best Practice Guidance asks licensing authorities to consider how far their vehicle licensing policies can support any local environmental policies that they have adopted; bearing in mind the need to ensure that the benefits outweigh costs (in whatever forms). In light of this and our commitment to the environment the Council sets emission standards for all of its licensed vehicles and, where feasible, promotes the use of cleaner fuels.

It is considered that efforts should be made, through the licensing regime, to reduce, as far as is reasonably practicable, harmful levels of pollutants emitted from licensed vehicles. New or replacement vehicles must comply with the Council's Policy regarding vehicle emissions.

In pursuit of a better environment in which we live, harmful emissions from hackney carriages and private hire vehicles could be reduced further by encouraging better maintenance of vehicles and by switching off engines when stationary, particularly at hackney carriage ranks.

In view of the above, the Council will continue to monitor relevant published government guidelines with a view to specifying vehicle emissions standards and promoting cleaner vehicles.

Liquid Petroleum Gas (LPG) conversions are acceptable. Any conversion to LPG must be undertaken by an approved converter and the conversion certificate produced to the Council.

Where licensed vehicles have been converted to use of alternative cleaner fuels it is necessary they retain sufficient space to carry a wheelchair and passenger luggage.

(N.B. Further conditions applicable to vehicle emissions and tests can be found in the relevant appendices to this Policy)

## **5.9 Executive vehicles (including stretched limousines)**

This Policy outlines the minimum standards in respect of licensing the executive private hire trade in Southend-on-Sea City.

There is no legal definition that determines the difference between executive and standard private hire vehicles. A vehicle that has more than eight passenger seats, however, cannot be licensed as a private hire vehicle save in exceptional circumstances. Where it is found an executive licensed private hire vehicle has conveyed more than eight passengers then this will be a breach of private hire regulations and the Council's Policy.

### *What is executive private hire?*

In each instance there will be involved a booking accepted by a licensed private hire operator in respect of an appropriately licensed vehicle and driver.

In determining whether a booking is considered to be executive hire then as a matter of construction, regard will be had to a number of factors, albeit not an exhaustive list but including:

- how the booking is made e.g. contract
- how payment is made (payments made direct to the driver would not normally be considered as executive hire)
- the monetary value of the booking which typically will be considerably higher than standard private hire rates
- type and monetary value of the vehicle used to undertake the journey
- any specialist training courses/skills required by the driver
- dress code/attire worn by the driver
- the business plan/model provided by the executive private hire operator
- whether the vehicle used to undertake the journey is an executive private hire vehicle exempted from displaying licence plates in accordance with LGMPA 1976 section 75(3) and by virtue of which section 54 (2) does not then apply i.e. the driver is not required to wear their licensed driver's badge in a visible position

### *What are the common differences between standard and executive hire work?*

The main distinction between standard and executive private hire can broadly be described as the type of client catered for, the type of service offered, and the cost of the service provided.

The following information provides further indicators of likely differences between the two.

Standard private hire work:

- bookings often taken at short notice
- unlikely customers exercise choice for any particular driver or vehicle therefore the latter need to be readily identifiable i.e. visible private hire vehicle licence plates, door signs on vehicle, and driver's identification badge
- payment likely (but not mandatory) to be made to the driver and more often than not at the end of the journey, vehicle and driver therefore need to be readily identifiable to the customer

- standard private hire work often takes place in busy locations e.g. late-night economy, supermarkets, hospitals, transport hubs, vehicle and driver therefore need to be readily identifiable to the customer
- the vehicle used to undertake standard private hire work will be a licensed vehicle compliant with policies and licensing conditions associated with private hire licensing

Executive private hire work:

- bookings can be made independently although the majority of work is expected to be contract work
- regular customers more likely to recognise executive type vehicles and their drivers
- payment is not usually made direct to the driver
- although pick up/drop offs may be in busy locations specific arrangements are often made with regard to exact pick up point locations and in respect of easily identifiable customers
- driver/chauffeur likely to be outside of vehicle and know the precise identity of the customer
- executive private hire vehicles will typically be of high value and specification, exempted from the requirement to display licence plates and signage, but compliant with licensing requirements and conditions associated with executive private hire licensing requirements

(N.B. Further conditions applicable to executive vehicles can be found in the relevant appendices in this Policy)

## **5.10 Taximeters**

All hackney carriage vehicles must be fitted with taximeters that are Council approved and sealed by a recognised agent. Meters must be located within the vehicle and have a current valid calibration certificate.

Hackney carriage and where installed private hire vehicles must display the current Tariff Card in the form provided by the Council in a prominent position that is clearly visible to passengers.

Taximeters are not required to be installed in private hire vehicles and executive hire vehicles but if so installed then they must comply with this Policy.

## **5.11 Vehicles licensed by another licensing authority**

The Council will not license a vehicle that is already licensed by another Licensing authority. Where it is found that a vehicle is also licensed by another authority



either before or during the currency of a licence issued by the Council then the latter licence will be suspended immediately.

### **5.12 Transfer of vehicle licence**

The Council must be satisfied that a DVLA vehicle registration will be granted to the intended proprietor of a vehicle (the proprietor is often the same person as the owner and/or registered keeper of the vehicle). The Council requires the applicant to provide the original V5C registration document (log book) evidencing the vehicle to be registered in their name and address; together with proof of purchase i.e. receipt/bill of sale/hire purchase agreement.

Where the log book has not yet been transferred to the new proprietor, the Council will issue a two-month licence (and plate) to allow time for the amended log book to be returned from the DVLA. Once the amended log book has been presented to the Council's licensing department a licence will be granted for a further 10 months. There will be an additional charge to cover the cost to the Council of producing another plate.

Bill of sale/receipt must detail:

- name, address and signature of the seller and purchaser
- date of purchase
- vehicle make, model, registration number
- price paid
- VAT details of seller and purchaser where relevant

Where a vehicle is leased the Council will accept the lease agreement in place of the V5C (log book).

### **5.13 Expiry/return of vehicle licence**

If a vehicle licence identification plate is handed back to the Council or the licence expires and the former licensed vehicle is not renewed or replaced, the licensee must take steps to inform the Council of their intentions within 28 days; failure to do so may result in the license and relevant plate being reallocated.

# **OPERATORS**

## **6.1 Operation**

A private hire operator must ensure that all private hire vehicles under their management are only driven by persons holding a valid PHV driver's licence.

All three PHV licences must be issued by the same licensing authority, namely:

- private hire operator's licence
- private hire driver's licence
- private hire vehicle licence

## **6.2 Conditions**

The Council has the power to impose such conditions on a private hire operator's licence as it considers reasonable, necessary, and proportionate.

The Council considers the conditions detailed in this Policy to be reasonable, necessary, and proportionate. All operator licences will be subject to this Policy in its entirety unless expressly excluded in writing in whole or part.

## **6.3 Insurance**

It is considered appropriate for a licensing authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.

Before an application for an operator's licence is granted, the applicant must produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed and employer's liability insurance where relevant.

Proprietors are required to produce an appropriate certificate of motor insurance which covers every private hire vehicle they operate .

Original proof of insurance must be produced to the licensing department within 48 hours of request.

## **6.4 Duration of licence**

The Department for Transport (DfT) considers that annual licence renewal is not necessary or appropriate for private hire operators. They recommend, as good practice, that a licence period of five years would be reasonable.

A private hire operator's licence will be granted for a period of five years from the date of grant; subject to the power to grant a licence for a shorter period of time should the Council in its discretion deem appropriate.

## **6.5 Trading Address**

Upon the grant of an operator's licence, the Council will specify on the licence the address from which they may trade/operate. This address will be the address

stated on the application form. Where an operator requires a change of trading address, a new application must be made in sufficient time prior to that change taking place: The operator must notify the Council in writing of any change of home address within seven days of such a change taking place.

To ensure proper regulation and enforcement a licence will not be granted to an operator whose premises are located outside our city.

Operators based outside of the area of Southend-on-Sea City Council and who have been granted a licence prior to the adoption of this Policy will be permitted to continue to trade from that address provided the conditions of their licence are fully met. This exemption will last only for as long as the operator continues to trade from that address. If an operator proposes to move to another trading address then a transfer application for an operator's licence must be submitted for an address that falls inside of our area.

## **6.6 Record keeping**

Operators are required to keep comprehensive records of each private hire booking. All records maintained by the operator must be kept for a minimum period of twelve months and made immediately available to an authorised officer on request.

## **6.7 Gaming machines and betting on operator's premises**

Operators that provide a waiting facility for members of the public and/or drivers should be aware that they cannot make available for use gaming machines or other similar facilities. To do so, would likely constitute a criminal offence under the Gambling Act 2005.

Where it comes to the attention of the Council that such facilities are made available for use then it may in its discretion suspend or revoke a licence.

# APPLYING FOR A LICENCE

## **7.1 Application procedure**

Prior to completing an application for a hackney carriage/private hire licence, applicants must examine this Policy document and its Appendices carefully for further information. The purpose of this is to encourage only those applicants that have a genuine commitment to positively contribute to the transport provision in Southend-on-Sea.

Having taken the time to read and understand the Council's policy in relation to hackney carriage/private hire licensing, applicants are advised to contact the Council's Licensing Department prior to submission of their application for any further guidance.

The Council will consider all applications on their own merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete, and the relevant fee paid.

Applications that fall outside of this Policy will be referred to the appropriate Licensing Manager for consideration.

(N.B. Further conditions applicable to the application procedure can be found in the relevant appendices to this Policy)

## **7.2 Renewal of operator/driver/vehicle licence**

It is the licence holder's responsibility to ensure that licences are renewed prior to expiry.

Application forms, relevant fees and supporting documentation must be submitted prior to the expiry date of the applicant's current licence. Applicants' must submit their application with at least 28 days to expiration to ensure there is no period or potential period between expiry of current licence and renewal application being approved.

**Driver:** Any licence that is not renewed by the expiry date will not be renewed and a new application in full will be required.

Where a licence holder will not be available at the time of renewal, for example due to an extended holiday, then they may apply in writing to the Licensing Officer, prior to the expiry date, explaining their circumstances and request a waiver. If granted, this waiver will allow the licence holder to renew their licence after the expiry date or depending on the circumstances the licence may be renewed early. The date of renewal of the licence will start from the date after the expiry of the previous licence.

In any case, following expiry of a licence, the driver will not be considered licensed and will not be permitted to drive a licensed vehicle until such time as a new licence has been approved and issued.

**Vehicle:** If a vehicle licence is not renewed prior to expiry of the current licence, the licence will expire and an application for the grant of a new licence must be submitted. In such circumstances, a new compliance certificate will be required and if approved the vehicle will be issued with a new licence number.

A vehicle may not be used for taxi or private hire work until the application for a new licence has been approved.

**Operator:** Any application for renewal of a licence, which is not made before the expiry of the previous licence, will be treated as an application for a new licence.

### **7.3 Fees**

All applications must be accompanied by the appropriate fee as prescribed by the Council. Details of current fees are available from the Council's Licensing Department website.

In the event of a driver's licence being suspended or revoked, there shall be no refund of the licence fee.

If a licensed vehicle fails a test and is no longer fit for use and a second test is not undertaken, no refund of fees will be made.

Where a failure to complete a licence application and/or failure to comply with a request for further information occurs, no refund of fees will be made.

### **7.4 Right of Appeal**

Where the licensing officer is not satisfied the applicant should be granted a licence, the matter must be referred to the Licensing Committee. The applicant will be advised of the date, time, and venue of the meeting when the application will be further considered.

Unsuccessful applicants will be informed of their right of appeal to the Magistrates' Court against the Council's decision. The right of appeal must be made to the Magistrates' Court within 21 days of deemed service of the refusal of licence.

# **HACKNEY CARRIAGE MISCELLANY**

## **8.1 Appointed stands**

The Council will periodically review the provision of hackney carriage stands within the area for which we have responsibility. In the event there is evidence of the need to amend the existing provisions, a full consultation will be undertaken prior to any amendments.

Comments are welcome from the trade and the public on the need for additional stands in specific locations, the potential for re-locating or extending existing stands, or conversely representations for the removal of stands that no longer fulfil a useful public purpose.

## **8.2 Waiting on stands**

It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any rank or stand for hackney carriages. Drivers of hackney carriages may only wait on a rank or stand whilst plying for hire or waiting for a fare. Drivers who park on a rank or stand and leave their vehicle unattended may be committing an offence. A defence may include drivers who are assisting passengers to exit a vehicle, (in line with conditions)

Whilst it is an offence to leave a vehicle unattended on a hackney stand, discretion will be allowed for drivers leaving their vehicles in acceptable circumstances, for example 'comfort breaks.' Leaving a hackney carriage unattended on a bay for any other circumstances, for example 'shopping', will be dealt with as an offence in accordance with this Policy.

## **8.3 Plying for hire**

For the avoidance of doubt, the Council does not have a by-law requiring hackney carriages to return to a taxi rank between fares

## **8.4 Direct control of day-to-day running of vehicle**

The Licensee shall be in direct control of the day-to-day running of the vehicle. This shall include, but not be limited to, being able to personally present the vehicle for inspection within 24 hours of a request to do so, being able to demonstrate a full knowledge of the driver(s) assigned to the vehicle at any time. Ensuring the reporting of any accident or incident in which the vehicle is involved within the time limits prescribed within licensing conditions, policy and/or bylaws.

The Licensee shall be a full-time Hackney Carriage Driver licensed by the Council and earning their primary income by driving the vehicle licensed under their Hackney Carriage Vehicle Licence.

The above shall apply to all licensees unless otherwise exempted by the Council.

# **SURRENDER OF LICENCE**

## **(NR3S Guidance)**

The purpose of the Guidance for Users of the National Register of taxi Licence Refusals, Revocations and Suspensions (NR3S) is to protect the public and trade from unacceptable drivers obtaining a licence in other licensing areas/regions. Unscrupulous drivers must not be allowed to circumvent the provisions by surrendering their licence ahead of any revocation or non-renewal being taken. To accept the surrendering of a driver's licence would seriously weaken the effectiveness of the NR3S Register.

The Local Government Association (LGA) and the National Anti-Fraud Network (NAFN) have become aware of instances where drivers have been able to surrender their licence before a licensing authority could revoke or suspend their licence. As a consequence, no entry is made on the NR3S Register. Currently, there is no way of recording a licence surrender on the NR3S Register. This could potentially allow an individual to apply for a licence to another licensing authority who would be unaware of any intended sanction.

Neither The Local Government (Miscellaneous Provisions) Act 1976 nor The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 make any provision for the surrender of a driver's licence. With this in mind, if a driver no longer wishes to use their licence, the licence will set to expire at the end of its given term. This will allow the Council to take appropriate action should any unknown pending sanction come to light.

A driver cannot insist that the Council accepts a surrender of their licence. There is no mechanism to surrender a licence and it therefore it remains current until expired, revoked or suspended. If a driver refuses to accept this and returns their badge and licence to the licensing authority, the licence continues to remain in force. There is no right of appeal against any decision not to accept the surrendering of a driver's licence, and the only challenge would be judicial review.

## **Multi-Agency Safeguarding Hub (MASH)**

Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.

In conformity with our safeguarding obligations the Council will seek to ensure that decisions concerning the licensing of individuals are made with the fullest knowledge possible. Those applying for licences or are existing licence holders should equally be aware that they have a duty to notify the Council of any matter that might be relevant for the purposes of licensing.

In accordance with government guidance therefore, the Council operates a means to facilitate the safeguarding objectives of the above by sharing necessary and relevant information between stakeholders.

## **COMPLAINTS**

It is important to us that our licence holders are 'fit and proper' persons to be dealing with members of the public in their vehicle.

If complaints are made against a licence holder, then we will examine the complaint to establish whether it is justifiable. If that complaint is justified and indicates the licence holder may not be a 'fit and proper' person the matter will be dealt with in accordance with this Policy.

To progress a complaint, it will be helpful if details are provided i.e. of the licence number of the vehicle and/or the name of the licence holder, of the incident, and the names and contact details of any witnesses. You can submit this information via the complaints form available from our website and once submitted a licensing officer will contact you.

As well as road traffic offences there are some incidents that may also be against the law. For example, racist behaviour, inappropriate comments and any form of harassment. If you feel that what has happened to you or what you have witnessed constitutes criminal behaviour, then you should also report this to the police.

## **DEPARTURE FROM POLICY**

There may be instances where the Council will need to consider applications outside this Policy. Where it is necessary to depart from this Policy, clear and compelling reasons for doing so will be given. Any such decision may be referred to the Licensing Committee for further guidance and consideration.

## **AMENDMENTS**

Major changes to this Policy can be made by the Chair of the Licensing Committee, Portfolio Holder and Executive Director.

Minor amendments/clarifications to this Policy can be made by the Licensing Department.

Any changes proposed by The Licensing Department will be consulted upon with the recognised trade bodies who will have the right to request that parties specified for major changes consider the proposal and determine if it should proceed.



## **APPENDIX A:**

### **'Fit and proper' person, convictions, and cautions**

1.1	General .....	1
1.2	Duty to disclose .....	3
1.3	Offences relating to loss of life or serious injury .....	3
1.4	Offences involving violence .....	3
1.5	Possession of a weapon .....	3
1.6	Sexual offences .....	3
1.7	Exploitation .....	4
1.8	Restraining Orders .....	4
1.9	Offences involving dishonesty .....	4
1.10	Drink driving/driving under the influence of drugs .....	5
1.11	Drunkenness (not in charge of a motor vehicle) .....	5
1.12	Drugs .....	5
1.13	Discrimination .....	6
1.14	Using a hand-held device whilst driving .....	6
1.15	Motoring offences .....	6
1.16	Motor insurance offences .....	7
1.17	Town Police Clauses Act 1847 and Part II Local Government (Miscellaneous Provisions) Act 1976 ...	8
1.18	Outstanding charges or summons .....	8
1.19	Rehabilitation of Offenders Act 1974 .....	8
1.20	Non-conviction information .....	9
1.21	Disclosure .....	9
1.22	Cautions .....	9
1.23	Summary .....	9
	Table 1: Minor road traffic offences .....	10
	Table 2: Major road traffic offences .....	11

## 1.1 General

The purpose of this Appendix is to provide guidance on the criteria to be considered by the Council when determining whether a new applicant or an existing licence holder is a fit and proper person to hold a licence. The guidance in this Appendix forms a part of the Council's Policy set out in the main text at pages 1 – 32.

Existing licence holders are subject to the guidance in this Policy in the same way as new licence applicants. For example, in circumstances where an applicant would normally have their application refused, an existing licence holder would equally be liable to have their licence suspended or revoked. Accordingly, where reference is made to applicant/s it should equally be taken so as to include existing licence holders.

Applicants must be, and if granted a licence continue to remain, a fit and proper person at all times, not only when they are acting in their capacity as a license holder. The onus is on the applicant/licence holder to demonstrate they meet this requirement.

In the absence of a judicially approved definition of 'fit and proper', the Council will ask of itself:

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

If, on a balance of probability, the answer to the above question is 'no' the Council will ordinarily take the view that a licence will not be granted, or if an existing licence holder their licence may be suspended or revoked.

All decisions concerning the suitability of applicants may take into consideration conduct that has not resulted in a criminal conviction. The standard of proof to be applied is a balance of probability. It is important to note that in the interests of public safety applicants will not be 'given the benefit of doubt.' For the purposes of guidance contained in this Policy, cautions are considered the same as convictions.

It should be borne in mind that licence holders are likely to deal with vulnerable members of the public including unaccompanied children; disabled people; elderly people; people who are incapacitated from alcohol or other substances; people with communication difficulties, lone people; and overseas visitors. Consequently, the overriding consideration must be the safety of the public.

The Council expects applicants to demonstrate '... they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.' The Council must also be satisfied that applicants will not defraud, discriminate against, or otherwise act inappropriately towards, or in front of, their customers and other members of the public.

If a court has found an applicant guilty of an offence, that person cannot subsequently claim to the Council that they did not commit the offence. If they seek to do so, their representation will not be considered as the Council cannot look behind convictions.

The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.

In making its decision the Council will consider, amongst other matters, the nature/class of any offence, how long ago it occurred and the applicant's age at that time, the apparent seriousness as gauged by the penalty imposed, and other factors that may be considered relevant.

Convictions, cautions or other information will not necessarily prevent applicants from being granted a licence unless the Council considers that those matters render them unsuitable. The Council will however require applicants with a criminal record to remain free of conviction for an appropriate period and show adequate evidence of good character from the end of a sentence and/or the end of an associated rehabilitation course whichever is later; simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.

In the sections that follow, guidance is given as to when a licence may or may not be granted following the disclosure or discovery of convictions, cautions, or other information. In general terms, the more recent, serious and/or relevant to public safety the offence is, the less likely it is that a licence will be granted.

By way of example, applications may be rejected where the applicant's history includes any term of imprisonment or custody; convictions, cautions or other disposal in relation to a violent or sexual offence; dishonesty that is considered of a serious nature; any serious motoring offence such as dangerous driving, driving whilst disqualified, drink or drug related driving; on a DVLA driving licence. Please note this is not intended to be an exhaustive list but merely an example.

Invariably it is not practicable to reference every offence, examples therefore are to be taken as a general guide that the Council will have regard to when considering licence applications.

In all cases, lists of offences are not exhaustive and should be read to equally encompass similar offences to those listed, including inchoate offences such as attempting or conspiring to commit. It may also be the case that from time-to-time the offences referred to in these guidelines are changed or varied and to that extent they too should be considered relevant for the purpose of licensing. This guidance similarly applies to offences and disposals that are related to other jurisdictions.

In considering whether an applicant is fit and proper, the Council may also consider such matters as an applicant's history as a licence holder; their complaint and compliance history; their co-operation with and attitude towards Licensing Officer requests, and any other relevant matters.

In any event, each application will be determined on its own merits utilising the guidance in this Policy as a transparent framework for ensuring all applicants are treated fairly.

## **1.2 Duty to disclose**

Applicants who are convicted, charged, or subject to formal investigation concerning any criminal or motoring offence must disclose the same in writing to the Council immediately. For these purposes, any offence resulting in the acceptance of a fixed penalty notice will be considered a conviction.

Applicants who are subject to enquiries involving criminal or motoring offences must disclose the same in writing to the Council immediately, or if relevant as soon as they are released from custody, whichever is sooner.

## **1.3 Offences relating to loss of life or serious injury**

Where an applicant has been convicted of a crime that has resulted in loss of life or serious injury or such actions intending to cause loss of life or serious injury to another person, they will not be licensed. The above may also include driving offences with each application being decided on its own specific circumstances.

## **1.4 Offences involving violence**

Where an applicant has been convicted for an offence involving violence against a person, or was connected with any such offence, a licence will not be considered until at least ten years have elapsed since the completion of any sentence imposed. A licence will not normally be granted if an applicant has more than one conviction for a violence-related offence.

## **1.5 Possession of a weapon**

Where an applicant has been convicted of an offence involving the possession of a weapon, or any other weapon-related offence, the Council considers this to be an unacceptable risk to members of the public and the application will normally be refused.

## **1.6 Sexual offences**

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

In addition to the above, the Council will not grant a licence to any applicant who is currently registered on the Sex Offenders Register or on any relevant official list concerned with identifying those involved in such activity.

## **1.7 Exploitation**

Where an applicant has been convicted of a crime related to, or has any connection with, abuse or exploitation of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed; including but not limited to slavery, child sexual abuse, exploitation, grooming, psychological, emotional, or financial abuse.

## **1.8 Restraining Orders**

Where an applicant is the subject of a criminal or civil restraining order, they will not be licensed by the Council.

Where an applicant has previously been the subject of a restraining order the Council may consider this to be an aggravating feature in its determination of whether to grant a licence.

### **1.9 Offences involving dishonesty**

Licence holders are expected to be individuals capable of trust. Given that the hackney carriage and private hire vehicle trade interact with members of the public day-to-day, it would be a comparatively easy task for a licence holder to act dishonestly, for example, by demanding more than the legal fare, giving incorrect change, or failing to return lost property. The Council therefore considers offences involving dishonesty as a serious risk to public safety.

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

A licence will not normally be granted if an applicant has more than one conviction or caution for an offence where dishonesty is an element.

Applicants that are found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence and may be subject to formal action relating to the making of a false declaration.

### **1.10 Drink driving/driving under the influence of drugs**

A serious view will be taken of convictions for driving, or being in charge of, a vehicle while under the influence of alcohol or drugs.

Where an applicant has been convicted for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed, whichever is later.

In the case of driving under the influence of drugs, any applicant may also have to undergo periodic drugs testing at their own expense to demonstrate that they are not using controlled drugs. The period for drug testing will depend on the nature of the original conduct and will be determined prior to a licence being granted or reinstated.

More than one conviction for any alcohol or drug-related driving offence represents an unacceptable risk to the public and an application will normally be refused.

It is important to note that prescription drugs may influence a person's ability to drive safely. Applicants are therefore reminded that the onus is on them to make sure their driving is not impaired in any way by prescription drugs. A failure to heed this warning may result in their application for a licence being refused.

### **1.11 Drunkenness (not in charge of a motor vehicle)**

An isolated conviction for disorderly conduct or drunkenness not associated with driving will not automatically preclude the granting of an application.

Where there is an isolated conviction for disorderly conduct or drunkenness, any licence granted will normally be issued together with a warning.

More than two convictions for disorderly conduct or drunkenness will normally lead to refusal of an application until such time as a period of five years free of any conviction has elapsed.

### **1.12 Drugs**

The Council considers all offences related to controlled substances as a serious risk to the public.

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

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

In the above circumstances, any applicant may be required to undergo drugs testing to demonstrate that they are not using controlled drugs. The period of testing will be determined prior to the licence application being approved. Testing will be at the expense of the applicant.

Applicants will normally be required to show a period of at least five years free from taking drugs and/or after detoxification treatment if they were an addict.

A licence will not normally be granted if an applicant has more than one conviction for drugs related offences.

### **1.13 Discrimination**

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

### **1.14 Using a hand-held device whilst driving**

Where an applicant has been convicted for using a hand-held mobile telephone or other hand-held device whilst driving, a licence will not normally be granted until at least two years have elapsed since the completion of any driving ban imposed. However the circumstances of each case will be judged individually.

### **1.15 Motoring offences**

A single minor road traffic conviction would not necessarily prohibit the granting, or necessitate the revocation or suspension, of a licence.

Multiple motoring convictions may indicate however that an applicant has a disregard for road traffic regulations and/or does not exhibit the behaviours of a safe road user who is well suited to drive professionally.

By virtue of their constituent elements, motoring convictions can potentially overlap with non-motoring convictions and may therefore be subject to guidelines provided elsewhere in this Policy. Those convictions may together be considered in isolation or collectively in the determination of an application for a licence.

Applicants with a significant history of driving convictions are likely to be refused a licence.

Each case will be judged on its merits and the following may be considered:

- Number of convictions
- Period between convictions
- Type of convictions

### Minor traffic offences

Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. Nonetheless, the number, type, and frequency of minor traffic convictions will be taken into account, and where there are two or more convictions the applicant may be expected to show a period free of conviction of between 6 and 24 months.

An application will normally be refused where the applicant has six or more penalty points on their DVLA licence (regardless of whether the applicant was convicted by a court for the offences for which the points were imposed), or where the applicant has more than one occurrence of a DVLA points penalty within the last six months. Note: this paragraph applies only to applicants, existing licence holders are judged against our own points system.

### Major traffic offences

An isolated conviction for a major motoring offence within the last two years will ordinarily result in an application being refused.

More than one conviction for a major motoring offence within the last five years will ordinarily result in an application being refused.

A list of minor and major motoring offences as determined by the Council can be found at the end of this Appendix. The list reflects the Council's current position concerning such offences although it is subject to change whenever new legislation or changes to existing legislation occur.

### Disqualification

In all cases not already dealt with elsewhere within this Appendix, the Council will normally refuse an application from an applicant disqualified from driving by the courts until a period of two years conviction free has elapsed from the restoration of their DVLA licence.

In order to provide a consistently safe level of protection to the public, the Council will also normally refuse an application from an applicant who avoids disqualification by demonstrating exceptional circumstances (such as hardship) to the court, until a period of two years conviction free has elapsed from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

#### **1.16 Motor insurance offences**

An isolated motor insurance offence will not automatically preclude an application from being granted, however given the risk to safety of the public the Council deem such offences to be serious.



More than one conviction for motor insurance offences will raise serious doubt as to an applicant's suitability to hold a licence. Ordinarily in these circumstances, an application will be refused until such time as the applicant has been free of convictions for a minimum period of five years.

### **1.17 Town Police Clauses Act 1847 and Part II Local Government (Miscellaneous Provisions) Act 1976**

A primary purpose of the licensing regime set out in the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ('The Acts') is to ensure protection of the public. For this reason, a serious view is taken of convictions for offences under the Acts when deciding whether an applicant is considered a fit and proper person to hold a licence.

An applicant will therefore normally be refused a licence where they have been convicted of an offence under either of the Acts; at any time during the twelve months preceding their application; or have two or more convictions within three years immediately preceding the date of their application.

### **1.18 Outstanding charges or summons**

Where an individual is the subject of an outstanding charge or summons concerning any offence which, if convicted of, would ordinarily preclude them from being granted a licence, their application will not be processed until the conclusion of related proceedings.

### **1.19 Rehabilitation of Offenders Act 1974**

By virtue of the Rehabilitation of Offenders Act 1974 certain criminal convictions may become 'spent' after a specified period, and thereafter can be disregarded completely for many purposes. The period before a conviction is deemed spent generally depends on the sentence imposed rather than the offence committed.

The general principles of rehabilitation regarding spent convictions do not however, apply to applicants for hackney carriage and private hire vehicle driver licences. This is because the driving of these vehicles is listed as a "regulated occupation" under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002).

Applicants for licences and existing licence holders are therefore required to disclose all convictions and cautions, past, present, and pending, including those that would previously been regarded as spent under the 1974 Act.

Whilst the 1974 Act does not prevent the Council from taking spent convictions into account, such convictions will only be considered in so far as they are relevant to the issue as to whether the applicant is a fit and proper person to hold a licence.

The Council may choose to refer to the Rehabilitation of Offenders Act 1974 as part of its assessment of convictions. Where the Council does so, any convictions that are not yet spent under the Act may weigh more heavily in the decision-making process and potentially reduce the likelihood of a licence being granted.

## **1.20 Non-conviction Information**

Where an applicant has been arrested or charged, but not convicted for a serious offence and which suggests they may be a risk to the safety of the public, consideration will be given to refusing their application, and or revoking or suspending their licence. The overriding consideration is public safety.

## **1.21 Disclosure**

A failure by an applicant to disclose something which ought reasonably to have been disclosed may be considered as behaviour inconsistent with the high standard expected of licensees in respect of honesty and/or integrity. A failure to disclose such information is likely therefore to call into question the suitability of the individual to hold a licence. The obligation to make full disclosure of all relevant facts rests entirely with the applicant: if in doubt the disclosure should be made.

## **1.22 Cautions**

Admission of guilt is required before a caution can be issued.

For the avoidance of doubt, Simple Cautions shall be treated as though they were convictions and must therefore be disclosed.

## **1.23 Summary**

Except in the most serious of circumstances, previous or current convictions will not necessarily permanently preclude an applicant from obtaining a licence. Nonetheless, the Council consider that there are certain offences that are so serious in nature and/or frequency that an applicant should be precluded from obtaining or retaining a licence. The Council's overriding duty is to protect the public by ensuring that all licensees carry out their trade in a safe, competent, and trustworthy manner.

**Table 1: MINOR ROAD TRAFFIC OFFENCES**

<b>Code</b>	<b>Offences (Include: Aiding, abetting, counselling, procuring, causing, permitting, or inciting any of the offences below)</b>	<b>DVLA Penalty points</b>
CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers	3
CU80	Breach of requirements as to control of a vehicle. The penalties for using a mobile phone whilst driving have recently changed and is now considered a more serious offence and may even result in driver disqualification.	3 to 6
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS60	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)	3
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc.	6
MW10	Contravention of special roads regulations (excluding speed limits)	3
PC10	Undefined contravention of pedestrian crossing regulations	3
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3
SP10	Exceeding goods vehicle speed limits	3 to 6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3 to 6
SP30	Exceeding statutory speed limit on a public road	3 to 6
SP40	Exceeding passenger vehicle speed limit	3 to 6
SP50	Exceeding speed limit on a motorway	3 to 6
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with traffic sign (excluding 'stop' signs, traffic lights or double white lines)	3

TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3

**Table 2: MAJOR ROAD TRAFFIC OFFENCES**

<b>Code</b>	<b>Offences (Includes: Aiding, abetting, counselling, procuring, causing, permitting, or inciting any of the offences below)</b>	<b>DVLA Penalty points</b>
AC10	Failing to stop after an accident	5 to 10
AC20	Failing to give particulars or report an accident within 24 hours	5 to 10
AC30	Undefined accident offences	4 to 9
BA10	Driving while disqualified by order of court	6
BA30	Attempting to drive while disqualified by order of court	6
BA40	Causing death by driving while disqualified	3 to 11
BA60	Causing serious injury by driving while disqualified	3 to 11
CD10	Driving without due care and attention	3 to 9
CD20	Driving without reasonable consideration for other road users	3 to 9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3 to 9
CD40	Causing death through careless driving when unfit through drink	3 to 11
CD50	Causing death by careless driving when unfit through drugs	3 to 11
CD60	Causing death by careless driving with alcohol level above the limit	3 to 11
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	3 to 11
CD80	Causing death by careless, or inconsiderate driving	3 to 11
CD90	Causing death by driving: unlicensed, disqualified, or uninsured drivers	3 to 11
DD10	Causing serious injury by dangerous driving	3 to 11
DD40	Dangerous driving	3 to 11
DD60	Manslaughter or culpable homicide while driving a vehicle	3 to 11
DD80	Causing death by dangerous driving	3 to 11
DD90	Furious driving	3 to 9
DR10	Driving or attempting to drive with alcohol level above limit	3 to 11
DR20	Driving or attempting to drive while unfit through drink	3 to 11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3 to 11

DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	3 to 11
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	10
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of a vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4
DG10	Driving or attempting to drive with drug level above the specified limit	3 to 11
DG60	Causing death by careless driving with drug level above the limit	3 to 11
DR80	Driving or attempting to drive when unfit through drugs	3 to 11
DG40	In charge of a vehicle while drug level above specified limit	10
DR90	In charge of a vehicle when unfit through drugs	10
IN10	Using a vehicle uninsured against third party risks	6 to 8
LC20	Driving otherwise than in accordance with a licence	3 to 6
LC30	Driving after making a false declaration about fitness when applying for a licence	3 to 6
LC40	Driving a vehicle having failed to notify a disability	3 to 6
LC50	Driving after a licence has been cancelled (revoked) or refused on medical grounds	3 to 6
MS50	Motor racing on the highway	3 to 11
UT50	Aggravated taking of a vehicle	3 to 11

## **APPENDIX B:**

### **Disclosure and use of information stored on the National Register of Refusals and Revocations (NR3S)**

1.1	General .....	1
1.2	Overarching principles .....	1
1.3	Reporting concerns .....	2
1.4	Requesting further information relating to an entry on the NR3S .....	2
1.5	Responding to a request for further information relating to an entry on the NR3S .....	3
1.6	Using information obtained arising out of a request to a first authority .....	4
1.7	New and historical data .....	4

## **1.1 General**

In this Policy, the 'first authority' refers to a licensing authority that has stored information on the NR3S. The 'second authority' refers to a licensing authority that is seeking more detailed information about information stored on the NR3S.

Throughout this Appendix the term licence is used to refer to a hackney carriage driver's licence, a private hire driver's licence (restricted), and a combined dual licence. Any reference to a 'new' licence should also be read to include a 'renewal' of licence.

## **1.2 Overarching principles**

As a licensing authority the Council will access and use information contained in the NR3S in accordance with this Policy to enable informed decisions to be made on whether an applicant is a 'fit and proper' person. The NR3S contains information relating to refusal to grant, or revocation of a licence. This information is important in the context of any subsequent application to another licensing authority for a licence by a person who previously has had their licence refused, revoked or suspended.

The Council has registered to use and enter information to the NR3S. This means that when an application for a licence is refused or an existing licence is revoked or suspended that information will be entered to the NR3S. The registration is undertaken via a secure website and a relevant officer will be designated as the NR3S Single Point of Contact (SPoC).

When an application for a licence is received, the Council will search the NR3S. The search will only be made by an officer who has been trained in the use of the NR3S. If details are found that appear to relate to the applicant, a request will be made for further details from the first licensing authority that entered that information. The applicant will then be notified.

All requests to the NR3S register for deletion or amendment must be made via the Spoc.

Information that is received from another licensing authority in respect of an application for a licence will only be used for the purpose of its determination. Any information received relating to the applicant will only be kept for as long as is necessary to determine the outcome of their application. The period it takes to determine any application is variable and often depends on the applicant's circumstances and timely responses to further questions. Once an application is determined there may be a further period where it is necessary to retain information for purposes of notifying the applicant of the outcome their application, and for any period to accommodate an appeal against the Council's determination should the applicant so choose.

### **1.3 Reporting Concerns**

The Council is required to report safeguarding and road safety concerns about licence holders to the licensing authority that issued the licence. The reason for this is that it is only the licensing authority that issues a licence that has the power to revoke or suspend it. Where the Council becomes aware of a safeguarding or road safety concern a notification will be made within 10 working days to the licensing authority that issued the licence.

### **1.4 Requesting further information relating to an entry on the NR3S**

When an application for a licence is made the Council will check the NR3S.

The Council will make and retain a clear written record of every search that is made of the NR3S<sup>1</sup> and which will detail:

- date of search
- name or names searched
- reason for the search – new application or renewal
- results of the search
- use made of the results of the search – (this may be entered to the NR3S at a later date once the application and appeal process has been fully concluded)

Search records will not be combined with other records and will be retained for a period of 11 years.

Should the Council's search of the NR3S reveal a potential match, a request for further information will then be made to the licensing authority that made the entry. The request will be made in writing in accordance with the standard form and which a copy of is available from [hackneycarriage@southend.gov.uk](mailto:hackneycarriage@southend.gov.uk).

The form used by the Council requesting further information will be posted or emailed to the contact address of the licensing authority that made the NR3S entry. The application process will thereafter pause until a suitable response to that request has been received by the Council.

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<sup>1</sup> A written record may be in electronic format rather than paper hard-copy format.



## **1.5 Responding to a request for further information relating to an entry on the NR3S**

If the Council receives a request for further information from a second licensing authority a clear written record will be made. A record of the Council's response arising out of the request from the second licensing authority will be retained for a period of 11 years.

On receipt of a request from a second licensing authority the Council will then determine to what extent it shall respond. It should be noted the Council will not simply provide information as a blanket response to every request.

Access to the NR3S is only possible where the licensing authority is a current member of the National Anti-Fraud Network (NAFN), and has signed a data processor agreement, and a data sharing agreement. The NR3S is hosted by Tameside Metropolitan Borough Council on behalf of the NAFN via a Public Services Network (PSN) compliant environment. The PSN is a government approved network that helps public sector organisations work together to share and access data securely over the internet. Access to the NR3S is only given to specifically authorised (and trained) users from each licensing authority and requires high level access authentication.

Any disclosure must be considered and proportionate, taking into account data subjects' rights and the position and responsibilities of licensed drivers. Whilst data is held on the NR3S for a period of 11 years, the Council will not disclose information relating to every entry. Each application will be considered on its own merits.

The Council will disclose information relating to revocation, refusal to grant or suspend a licence, or failure to co-operate with a reasonable request of the Council or its officers in so far as they comply with the data rights of applicants.

Where the reason for refusal to grant or revoke a licence relates to a conviction, or caution, consideration will be further given to the full circumstances of the case prior to disclosure. Any information about convictions and cautions will be shared in accordance with this Policy by virtue of Part 2 of Sch 1, Data Protection Act 2018 (DPA 2018). In so far, processing of data is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the Council by an enactment or rule of law.

In fulfilment of a request for further information from a licensing authority, the relevant officer will record what action was taken and why and respond as far as is reasonably practicable within 20 working days of that request being received. The Council will make and then retain a clear written record detailing:

- date the request was received
- how the data protection impact assessment was conducted and its conclusions
- name or names searched

- whether any information was provided
- if information was provided, why it was provided, and details of any further advice obtained before the decision was made to make disclosure
- if information was not provided, why it was not provided, and details of any further advice obtained before the decision was made to not disclose
- how and when the decision and any information was communicated to the requesting authority

This record will not be combined with any other records and will be retained for a period of 11 years.

### **1.6 Using information obtained arising out of a request to a first authority**

If the Council receives information arising out of a request that has been made to a licensing authority, it will take it into account (together with other information obtained as detailed in this Policy) when determining an application for a licence.

The Council will make and then retain a clear written record of the use that is made of the results of its request and the subsequent determination of the application for a licence (this information may be added to the NR3S).

Information that is received may warrant significant weight being attached to it, but it will not be the sole determinant for any decision that the Council makes in relation to the application for which it was obtained.

### **1.7 New and Historical Data**

The Council will upload new and historical revocation and refusal data to the NR3S, and will be limited to:

- name of the relevant licensing authority
- name of the licence holder/applicant
- date of birth
- address and contact details
- national insurance number
- driving licence number
- taxi licence type
- decision taken on refusal, revocation or suspension but not the reason for that decision
- date of decision
- date decision effective
- date of subsequent change to decision, and date it takes effect if different
- if a suspension, the date on which the suspension is to end

- the Council may also optionally include licence holder/applicant contact details

The Council will begin using the NR3S from 23 April 2023. This means from that point:

- applications for new hackney carriage/PHV licences and for renewals will be checked on NR3S
- where an existing licence is revoked, or an application for renewal or a new licence is refused, this will be recorded on NR3S

# **APPENDIX C:**

## **Drivers**

1.1	General .....	1
1.2	English language proficiency .....	1
1.3	Induction course .....	2
1.4	Driver knowledge test .....	2
1.5	Enhanced disclosure .....	3
1.6	Licensee change of address/operator .....	3
1.7	Email .....	4
1.8	Maintaining required documents and payment of fees .....	4
1.9	Driver's badge and licence .....	4
1.10	Dress code .....	5
1.11	Personal conduct .....	6
1.12	Fares .....	8
1.13	Driving another person's licensed vehicle .....	8
1.14	Prohibition of plying for hire (Private Hire Vehicles) .....	9
1.15	Accidents .....	9
1.16	Lost property .....	10

## **1.1 General**

The Council has a legal duty to ensure any person to whom they grant a licence is 'fit and proper'.

Licensees and new applicants must read and understand this Policy in so far as it relates to their obligations as a holder of a hackney carriage/private hire driver's licence issued by the Council

Applicants are expected to act with honesty and integrity throughout the application process and beyond. They are further required to fully and accurately disclose any information that is requested or that comes to their attention, or that they ought reasonably to have within their knowledge. Such information includes, although not exclusively, previous convictions, warnings, reprimands, current investigations and pending criminal and civil proceedings. Where an applicant is unsure as to whether information is disclosable then it is herein advised that the disclosure is made.

Applicants (who are not existing licence holders) submitting their application for a licence on or after the date this Policy comes into effect are required to provide evidence of the following qualifications/skills to the Council before a licence will be issued.

## **1.2 English language proficiency**

Applicants must provide evidence of ability in English (speaking and listening) at least to Entry Level 3 standard (as defined in the Regulated Qualifications Framework), or a similar qualification at an equivalent level.

Applicants who have an international qualification must be able to satisfy the Council that the qualification meets the requirement of English (speaking and listening) to Entry Level 3. UK NARIC ([www.naric.org.uk](http://www.naric.org.uk)) is the designated UK national agency for the recognition and comparison of international qualifications and skills. The Council will accept an English Language Assessment completed by NARIC showing the applicant has a qualification equivalent to Entry Level 3 English.

Where considered appropriate by a nominated officer, an individual assessment may be undertaken to establish English speaking and listening skills of applicants. The assessment will consist of a conversation of up to 15 mins duration between the applicant and the nominated officer and will be recorded. The applicant will be provided with their own copy of the recording of the conversation.

The Council reserves the right to refuse to accept a certificate of qualification as proof of an applicant or licence holder meeting a requirement if it is not satisfied as to the authenticity of the certificate or the quality and or reliability of any part of the process that lead to the certificate being issued.

An application fee is payable by the applicant prior to taking the Induction Course and the Driver Knowledge Test. Application fees are non-refundable regardless of whether the applicant passes, fails, or does not attend the aforementioned course or test.

### **1.3 Induction Course**

All applicants will be required to undertake an Induction Course which will include training in safeguarding, child exploitation, domestic violence and disability awareness. Applicants will be provided with an opportunity to undertake the induction course on three separate agreed dates. If an applicant fails to attend all three induction dates offered without notifying the Council, the application will be processed and determined accordingly.

### **1.4 Driver Knowledge Test**

The test will consist of topographical questions about the Southend area. Applicants will also be asked questions concerning the following (some questions may take the form of situational awareness and specific scenarios):

Examples include but are not limited to:

- disability awareness
- safeguarding children and vulnerable people
- child exploitation
- domestic violence
- road safety
- basic vehicle maintenance
- customer care and awareness
- licensing law and driver conditions
- local knowledge

Where an applicant fails the Driver Knowledge Test on the first occasion then they may retake it after a period of 6 months from that date at which the first test was taken (subject to the payment of a further test fee).

Where an applicant fails the Driver Knowledge Test on a second attempt then they will not be permitted to take the test again until at least 12 months has passed since the date at which the second test was taken (subject to the payment of a further test fee).

Where an applicant fails the Driver Knowledge Test on a third attempt then their application will be processed and determined accordingly.

Applicants are permitted to take the Driver Knowledge Test on three separate occasions within one application process.

Where an applicant passes the Driver Knowledge Test the pass will be valid for 12 months. If the applicant fails to start the next stage of the application process within that 12 month period, then their application will be progressed and determined accordingly.

Where an application is processed and the Council refuses the grant of a licence, the applicant will have a right of appeal against the decision to the Magistrates' Court. If the applicant chooses to make a new application, then the application process will start afresh.

The Council will normally refuse any subsequent application made within 12 months of the date of the previous refusal unless there are substantial material changes in the applicant's individual circumstances.

## **1.5 Enhanced disclosure**

Drivers are required to provide to the Council an Enhanced DBS certificate from the Disclosure and Barring Service. The contents of the certificate will be assessed in accordance with the Council's Policy.

Further information concerning the above certification can be found in the main Policy document under 'Eligibility'.

If from the age of 10 years the applicant has lived outside of the UK for a continuous period of 6 months or more then they must provide a letter of good citizenship from the embassy of that country or countries for the whole period.

The onus is on the applicant to obtain such a document and the applicant remains liable for all associated costs.

The Council reserves the right to request a new Enhanced DBS certificate should it consider it appropriate to do so.

## **1.6 Licensee change of address/operator**

- (i) The licensee must notify the Council in writing within 48hours of any change of their address during the period of their licence.
- (ii) Where applicable the licensee must notify the Council within 48hours of commencing work with a private hire operator.

(iii) Where applicable the licensee must notify the Council within 48 hours of any subsequent change of operator.

(iv) Where applicable the licensee must deposit a copy of his private hire driver's licence with the operator through which the vehicle is being used.

Failure to notify the Council as required may result in the licence being suspended with immediate effect and ultimately may be revoked.

## **1.7 Email**

Drivers must have an email address that they use regularly and to which they agree communications can be sent from the Council.

Any change to the agreed email address must be notified to the Council within 7 days of it taking effect.

## **1.8 Maintaining required documents and payment of fees**

Licensees shall ensure all relevant documentation (including DBS certificate/status, medical certificates/reports, and right to work documentation) required by the Council is kept up to date and remains valid.

Licensees shall pay the administration charge or fee attached to any requirement to attend training, assessments, validation checks, administration processes, or to produce relevant certificates.

## **1.9 Driver's badge and licence**

- (i) Whilst driving a licensed vehicle, the driver shall wear the badge issued to them by the Council so that it is clearly and distinctly visible.
- (ii) The licensee must not lend their badge to any other person.
- (iii) The licensee must produce their driver's licence to an authorised officer or police officer on request.
- (iv) Should the licensee not be able to produce their driver's licence to an authorised officer immediately on request, then they must produce it to the licensing department within 72 hours.
- (v) Should the licensee not be able to produce their driver's licence to a police officer on request then they must immediately seek and take directions from that officer as to where and when it is to be produced.



- (vi) On request by an authorised officer the driver's badge shall be returned to the Council immediately.
- (vii) The licensee shall wear any lanyard, clip or holder issued to them by the Council.
- (viii) On expiration, suspension or revocation of a drivers' licence, the driver shall return the badge to the Council immediately.

### **1.10 Dress code**

The purpose of the dress code is to set a standard that provides a positive and professional image of the licensed hackney carriage and private hire trade in Southend-on-Sea and beyond. Drivers are expected to be dressed in 'smart casual' attire as a minimum

*Examples include but are not limited to*

- (i) clean, well laundered clothing in good condition
- (ii) trousers, skirt, knee length shorts (i.e. Tailored type shorts)
- (iii) full body long or short sleeved shirt or blouse
- (iv) appropriate footwear in good condition and well fitted such that they provide the driver safe control of their licensed vehicle at all times

*Examples of unacceptable standard of dress*

- (xi) words, graphics, stylised fabric cuts or folds on or in clothing that might objectively be considered offensive by a member of the public

*(N.B. It is important to note that consideration must be given to 'offensive' in the context of the wider public)*

- (xii) sportswear, shorts, vests, Lycra or similar fabrics, beachwear
- (xiii) footwear that might objectively be considered to have the potential to impair the ability of the driver to operate their vehicle safely. For example, sandals with no heel straps, flip flops, sliders, high heels, wellington boots
- (xiv) hooded garments, hats, baseball caps or other type of clothing that might obscure the driver's vision and/or their identity
- (xv) Fancy dress or party wear

## *Uniforms*

The Council recognises the positive image that corporate uniforms can create. The Council does not however require drivers to wear a uniform. Should a driver wear a uniform and/or company branded clothing then compliance with this Policy's standard of dress is to be adhered to.

### **1.11 Personal conduct**

The licensee shall:

- (i) comply with the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy, licensing conditions and byelaws at all times
- (ii) conduct themselves in a courteous, professional and responsible manner when dealing with passengers, members of the public, authorised officers and other agencies and shall comply with any reasonable request made by a licensing or enforcement officer, vehicle tester, or police officer
- (iii) unless delayed or prevented by some sufficient cause, punctually attend with the vehicle at the appointed time and place for any vehicle test or appointment with authorised officers
- (iv) park the licensed vehicle considerately and legally and shall switch off the engine if required to wait
- (v) NOT use the vehicle's horn to attract customer attention. The horn may only be used whilst the vehicle is moving and the licensee needs to warn other road users of their presence
- (vi) where relevant, ensure the passenger has pre-booked the vehicle
- (vii) drive with due care, consideration and courtesy towards passengers and other road users
- (viii) provide reasonable assistance to passengers (e.g. getting in and out of the vehicle and unloading luggage to the outer door of the premises/building). The licensee shall not assist passengers by physically touching e.g. lifting them – without consent to do so
- (ix) Unless exempted, all drivers must assist passengers with mobility issues including their equipment and are also required to convey passengers together with their assistance animals.
- (x) ensure luggage including shopping and other large objects are safely and properly secured in the vehicle

- (xi) NOT
- smoke, vape or use an e-cigarette in a licensed vehicle
  - permit passengers to smoke, vape or use an e-cigarette in a licensed vehicle
  - drink or eat whilst driving
  - use any hand-held communication device whilst driving or allow themselves to be distracted in any other way
  - conduct lengthy telephone conversations whilst driving
- (xi) maintain a high standard of personal hygiene and a clean and tidy appearance
- (xii) be sober and free of non-prescription drug use when carrying out their duties
- (xiii) ensure their ability to carry out their duties are in no way impaired by any influence brought about by use of prescription substances, emotion, or third-party interference
- (xiv) NOT, except with the express consent of the hirer, play any radio or sound reproducing instrument or equipment in the vehicle other than for communicating with their office or operator
- (xv) comply with any reasonable request of passengers concerning their comfort during the journey i.e. heating/air conditioning
- (xvi) NOT cause or permit noise emitted by any radio or sound reproducing instrument or equipment installed in the vehicle to be a source of nuisance or annoyance to any persons inside or outside of the vehicle
- (xvii) subject to any directions given by the passenger, take the shortest route to the requested destination bearing in mind likely traffic problems and known diversions and explain to the passenger any necessary deviation from that route
- (xviii) discuss with the passenger alternative routes to the requested destination prior to conveyance
- (xix) take all reasonable steps to ensure the safety of passengers whilst they are conveyed in, or entering or alighting from the vehicle
- (xx) report immediately (to their operator where applicable) any incident of concern including accidents where hurt or distress has been caused, customer disputes or passenger conduct concerns
- (xxi) report immediately (to their operator where applicable) any complaints a customer/member of the public has made to the driver regarding their conduct or the conduct of other personnel/drivers

- (xxii) in the event of a complaint being raised with the driver, the latter must provide sufficient information to enable their identification (badge number), name, and vehicle details.
- (xxiii) NOT engage in any sexual activity or behaviour in a licensed vehicle, even if consensual
- (xxiv) be vigilant regarding vulnerable passengers and safeguarding concerns whilst carrying out their duties. Where there are any concerns, the driver shall report their observations to the relevant agencies immediately or in any event within 24hours
- (xxv) NOT permit a vehicle to carry a greater number of passengers than the number prescribed in the licence
- (xxvi) NOT except with the express consent of the hirer, convey any person other than the hirer in the vehicle

## **1.12 Fares**

If the vehicle is fitted with a meter the licensee shall not cause the fare recorded thereon to be cancelled or concealed until the passenger has had a reasonable opportunity of examining it and has paid the fare.

The licensee shall not demand from any passenger a fare in excess of that previously agreed or if the vehicle is fitted with a meter the fare shown on the face of the meter.

If requested by the passenger, the licensee shall provide a written receipt for the fare paid. The receipt should detail the amount of fare paid, date of travel and the driver's licence number.

## **1.13 Driving another person's licensed vehicle**

Where a driver leases or uses another person's licensed vehicle, they shall not permit the use of the vehicle by any other driver except with the consent of the vehicle proprietor.

The licensee must deposit a copy of his private hire driver's licence with the proprietor of the vehicle before using that vehicle for private hire.

The licensee shall permit only one passenger to be conveyed in the front of the vehicle beside the driver, save that two passengers may be conveyed where two seats beside the driver have been installed to the satisfaction of the Council.

It is important to note that the obligations placed on drivers of their own vehicles are required to observe those same obligations in their entirety when driving a licensed vehicle not belonging to them.

### **1.14 Prohibition of plying for hire (private hire vehicles)**

Private hire vehicles may only convey passengers that have pre-booked their journey.

The licensee must not:

- (i) tout or solicit on a road or public place any person to hire or be carried for hire in any private hire vehicle, or allow the vehicle to be used other than for private hire purposes
- (ii) cause or procure any other person to tout or solicit on a road or other public place any person to hire or be carried for hire in any private hire vehicle
- (iii) offer a private hire vehicle for immediate public hire while the licensee or that vehicle is on a road or other public place
- (iv) accept an offer for immediate hire of a private hire vehicle while the licensee or that vehicle is on a road or other public place

N.B. 'road' means any highway or other road to which the public has access to including airports and railway stations over which a road passes. This does not include land where the landowner has a private arrangement with a specific taxi provider to allow exclusive access to their land.

### **1.15 Accidents**

If at any time a licensee is driving any licensed vehicle which is involved in an accident, however minor, they must notify the Council of this fact as soon as possible and in any event within 3 working days. Notification can be sent to the Council's licensing department via email or the Council's website.

The licensee must provide the following details:

- full name
- address
- contact details including telephone number, mobile number and email
- plate number
- information about the accident, including location of the accident, injuries sustained by parties (including injuries to pedestrians and other third parties), witnesses, and whether the accident was reported to the police
- detailed description of any damage to the vehicle and a description/report regarding the vehicle's post-accident roadworthiness
- photographs of the vehicle damage showing all sides of the vehicle so that the vehicle and damage can be easily identified
- Accident report forms are available from the Council's website

## **1.16 Lost property**

Immediately after the end of every hiring or as soon as is practicable the driver must inspect the vehicle for any property which may have been left by the passenger.

If any property has been left and found in a licensed vehicle or is handed to the licensee then all reasonable steps must be taken to return the property to its rightful owner.

If the property cannot be returned to the owner, then it should be handed over to the hours Council's Licensing Department hours as soon as possible and in any case within 24 hours

## **APPENDIX D:**

### **Hackney carriage/private hire vehicles**

#### **General requirements**

1.1	Vehicle type .....	1
1.2	Permitted vehicle passenger capacity .....	1
1.3	Vehicle passenger compartment/luggage/load space .....	1
1.4	Vehicle condition .....	2
1.5	Emissions .....	3
1.6	Taximeters and tariff card .....	4
1.7	Identification plates .....	4
1.8	Routine daily vehicle check .....	5
1.9	Council notices .....	5
1.10	Email .....	5
1.11	National flags and symbols .....	6
1.12	Assistance animals .....	6
1.13	Other animals .....	6

#### **Keeping records**

1.14	Record of pre-booked hiring .....	6
1.15	Driver licence and DVLA licence .....	7
1.16	Change of address/email .....	7
1.17	Notification of licensed vehicle users .....	7
1.18	Vehicle licence administration fee .....	8

#### **Vehicle licensing**

1.19	New vehicle licence .....	9
	(i) Insurance .....	9
	(ii) Registration document (log book) .....	9
	(iii) DBS and right to work checks .....	9
	(iv) MOT and vehicle compliance inspection .....	10
1.20	Renewal of vehicle licence .....	10

	(i) Insurance .....	10
	(ii) Registration document (log book) .....	10
	(iii) DBS and right to work check .....	10
	(iv) MOT and vehicle compliance testing .....	10
1.21	Transfer of vehicle ownership or vehicle licence .....	11
	(i) Insurance .....	11
	(ii) Registration document (log book) .....	12
	(iii) DBS and right to work checks .....	12
	(iv) MOT and vehicle compliance inspection .....	12
<b>Vehicle compliance inspection</b>		
1.22	General .....	12
	(i) Insurance .....	13
	(ii) Registration document (log book) .....	13
	(iii) MOT testing and compliance inspection .....	14
	(iv) Vehicle compliance inspection email/letter .....	14
1.23	Inspection standards .....	14
1.24	Vehicle modification .....	15
1.25	Refusal to carry out inspection .....	16



## **GENERAL REQUIREMENTS**

### **1.1 Vehicle type**

Proprietors shall ensure vehicles are only of the type approved for public hire use by the Council and that they conform to the required vehicle specifications as detailed in this Policy and any further conditions detailed in the granting of a licence.

### **1.2 Permitted vehicle passenger capacity**

Depending on vehicle type, licenses can only be granted for the conveyance of between four and eight passengers. Applicants seeking to licence vehicles that accommodate less than four passengers must first contact the Council's vehicle licensing office for further guidance.

Where an application is made for a vehicle to carry more than four passengers, the vehicle must first be inspected by the Council's licensing department to determine the suitability of the seating configuration for public transport use. Applicants should contact the Council's licensing department to book a seating examination. A relevant full V5 registration document (logbook) and/or other relevant documentation must be provided at the time and point of the above vehicle inspection.

All licensed vehicles must have sufficient and appropriate luggage and/or load space capable of conveying the reasonable luggage requirements of at least four passengers: such as where passengers are in transit to a holiday destination. Excessive luggage or loads are not to be carried in a licensed vehicle where it may compromise the safety or comfort of all those travelling in that vehicle. A failure to observe this requirement may bring into question the driver's, vehicle proprietor's, and operator's suitability to continue to hold a licence.

### **1.3 Vehicle passenger compartment and luggage/load space** Licensed vehicles:

- must have opening windows in the passenger compartment and be free from impediment to communication between passengers and the driver
- seats must be those fitted at time of vehicle manufacture (unless otherwise authorised by the Council) and free from defect and/or disrepair, properly covered and cushioned

- rear seats must accommodate no less than three passengers with each seating space measuring at least 41cm (approx. 16 1/8") in width per passenger
- front seats must measure no less than 41cm (approx. 16 1/8") in width for each person save where the vehicle is a limousine, vintage vehicle, or vehicle specifically approved by the Council
- flooring must be appropriately covered with vehicle grade carpet, matting or other suitable vehicle floor fabric
- compartment furniture (handles, locks, windows, arm rests etc.) must be clean and well maintained such they are safe and hygienic for public use
- must be able to accommodate passenger luggage safely and be protected from elements of weather, theft and damage
- must have a minimum of four properly functioning doors (excluding the boot/trunk/luggage compartment), one of which must be for the sole use of the driver save where specifically approved by the Council
- tinted vehicle glass, even if installed during manufacture, may still be unsuitable for both hackney carriages or PHV's. Passengers must be able to clearly see the passenger compartment through the vehicle glass prior to entering vehicles
- Vehicles that have shared luggage and passenger compartments must have installed a robust protective shield/guard or barrier that protects passengers from harm due to shifting or unstable luggage or loads. No luggage or load should be placed inside a licensed vehicle such that it might cause harm, damage, or injury to those inside or outside of the vehicle
- Where a partition is fitted to separate the driver from the passengers, any passenger seat that falls within the driver's partitioned area shall not be included in the seating capacity of the vehicle and must not be used as such

#### **1.4 Vehicle condition**

Licensed vehicles must be maintained in safe mechanical and structural condition at all times. Licensed vehicles may be subject to inspection with or without notice by Council approved officers throughout the period a vehicle is licensed. Where a vehicle licence has been suspended or

revoked the vehicle shall continue to be subject to inspection with or without notice until any relevant Council vehicle inspection has taken place.

The interior and exterior of vehicles must at all times be kept in a safe and clean condition at all times. It is the responsibility of both licensed drivers

and proprietors to continually maintain vehicles in a safe and clean condition such that each hiring is only undertaken where that condition is fully met.

In all cases where a vehicle is considered not to be in a suitable condition for public transport use, the Council has discretion to decline to issue or renew a vehicle licence. Where a vehicle's condition is considered by the Council to have fallen below what it considers to be an acceptable condition for public transport use, the vehicle licence may be suspended or revoked until the vehicle's condition has been rectified to the Council's satisfaction.

## **1.5 Emissions**

All licensed vehicles must comply with current emission standards, Euro 6 (2015 onwards manufacturer) at time of adoption of this policy. Hybrid and LPG vehicles are generally compliant with the Euro standard but this will need to be confirmed on a case-by-case basis.

The Council does not permit retro fitting of engines into older vehicles. Where retrofit emissions technology is installed in vehicles presented for licensing the technology must have been approved as part of the Clean Vehicle Retrofit Accreditation Scheme (CVRAS).

All applications for vehicle licences must pass a compliance test by the Council's nominated garage.

The Council is committed to reducing carbon emissions. We shall seek to regulate taxis and private hire vehicles as and when the appropriate logistics infrastructure is able to readily support alternative fuels for use in those vehicles.

In any event, the Council is actively moving towards ensuring all licensed vehicles are zero emission capable (ZEC). As part of that strategy new applicants and existing licence holders should look to transition towards ZEC vehicles.

## **1.6 Taximeters and tariff card**

All vehicles fitted with taximeters must be Council approved and sealed by a recognised agent. They must be located within the vehicle and have a current valid calibration certificate and seals to remain intact at all times.

The taximeter shall be maintained in a sound mechanical condition at all times and located within the vehicle so it can be seen by customers. The physical location of taximeters is subject to the approval of an authorised officer of the Council.

The driver shall activate the taximeter for the duration of all hired journeys. Where a predetermined fare has been agreed the taximeter must be activated until reaching the Council's geographic boundary of responsibility.

There must be displayed a current Tariff Card in the form provided by the Council in a prominent position that is clearly visible to passengers or signage indication where in the vehicle the chart is located for viewing.

Taximeters are not required to be installed in private hire vehicles and executive hire vehicles. Where they are fitted then they must conform to the above requirements.

Whilst in operation, there shall be recorded on the face of the taximeter in legible figures the fare to be charged for the hire of the vehicle by distance as determined by the Council.

Taximeters must be positioned so that all letters and figures on its face shall be plainly visible to any passenger travelling inside the vehicle. The letters and figures shall be suitably illuminated during hiring. Illumination must automatically occur on operation of the key, flag or other device that brings the taximeter into a charging period.

### **1.7 Identification of Vehicles**

Licensed vehicle identification plates shall at all times remain the property of the Council and shall be affixed to the vehicle to which they relate. They shall also be affixed to the vehicle in accordance with this Policy. The cost of fixing identification plates shall be at the proprietor's own expense.

Identification plates must be securely fixed to the front (windscreen sticker) and rear of the vehicle (plate showing number designated to that vehicle by the Council). They must not be fixed in such position that directly or indirectly obscures wholly or partially the vehicle's registration plate, vehicle lights, or driver and passenger view.

The use of cable ties and other temporary fixings to affix identification plates is not permitted. Identification plates must be fixed in such manner that allows their removal by an officer who is empowered to so do i.e. police officer, council officer.

Both the licensed driver and proprietor must ensure that identification plates are regularly maintained, kept clean and clearly visible to those outside of the vehicle at all times.

If a vehicle licence identification plate is handed back to the Council or the licence expires and the former licensed vehicle is not renewed or replaced, the proprietor must take steps to inform the Council of their intentions within 28 days; failure to do so may result in the licence and relevant plate being reallocated.

### **1.8 Routine daily vehicle check**

Drivers must carry out a daily vehicle check prior to their making the vehicle available for public hire and at any time during the day where it would be reasonably prudent to do so. Drivers bear responsibility for ensuring licensed vehicles are fit for purpose in terms of road safety law, general safety, passenger comfort and all licensing requirements

If two or more drivers use a licensed vehicle then each of them must carry out a vehicle check prior to their making the vehicle available for public hire.

As evidence of due diligence, drivers may wish to retain a written record of their daily vehicle check, which is signed and dated. This vehicle check log should be kept with the vehicle during public hire use. It is advisable to ensure that a vehicle check log contains details of the vehicle to which it relates and details of the proprietor.

## **1.9 Council notices**

The proprietor and licensed driver shall cause to be affixed and maintained in a conspicuous position in accordance with the directions of the Council any sign or notices required from time to time by the Council.

## **1.10 Email**

Operators must have an email address that they use regularly and to which they agree communications can be sent from the Council.

## **1.11 National flags and symbols**

Discreet national flags and emblems are allowed at the discretion of the council, but no advertisement, promotion, signage, message, or representation implied or expressed concerning political or sporting affiliation is permitted.

## **1.12 Assistance animals**

Proprietors and licensed drivers are required to convey passengers' assistance animals and allow them to remain with the passenger in the vehicle. The location of the assistance animal must be agreed with the passenger at all times provided it does not compromise the safety of either the occupants of the vehicle or other users of the highway. No additional charge for carrying assistance animals is permitted.

Where the licensed driver has been granted a medical exemption from carrying disabled passengers and/or assistance animals, the Notice of Exemption must be displayed in the vehicle by fixing it in a place that is clearly visible to intended passengers.

## **1.13 Other animals**

Other animals may be carried in the vehicle at the discretion of the driver and must be carried in the rear of the vehicle in the custody and control of the passenger.

## **KEEPING RECORDS**

### **1.14 Record of pre-booked hiring**

Operators must ensure that an accurate and contemporaneous record is made, either by themselves or the licensed driver of a licensed vehicle, of all vehicles that are used to fulfil pre-booked hirings on behalf of operators licensed by another council/local authority.

The above record must be retained for a minimum of 6 years.

Such records must detail the following information:

- date/time/location/name/address (inc. house number) of first pick up
- date/time/location/name/address (inc. house number) of destination
- name and address of the operator on behalf of which the journey is to be undertaken
- details of the vehicle to which the booking relates including the make and model/registration number/vehicle licence number
- name of driver, and the person entering the above details into the record

The above record must be made available at any time for inspection by an authorised officer or police officer.

### **1.15 Driver licence and DVLA licence**

Proprietors must retain a copy of the driver licence and DVLA licence of all persons driving their licensed vehicle and produce the same to an officer of the Council or police officer on request.

### **1.16 Change of address/email**

Proprietors must give prior notice to the Council of any change of address. In circumstances where that notice has not been given then the proprietor must make every effort to notify the Council within 48 hours of that change occurring. A failure to notify the Council of a change of address as required may result in the vehicle licence being suspended with immediate effect and ultimately may be revoked.

Any change to the agreed email address must be notified to the Council within 7 days of it taking effect.

### **1.17 Notification of licensed vehicle users**

If requested, the proprietor must retain a copy of the following details and documents. Further and within any timescale stated, provide in writing to the Council the following information:

- name of each driver and their licence number
- residential address of the driver
- company for who the driver works
- date and time the driver hired/lent/leased/rented the vehicle
- insurance details under which the driver used the vehicle
- whether the driver has sole use of the vehicle
- if the driver did not have sole use, then details of all other drivers that had access to the vehicle
- duration the vehicle was or will be hired/lent/leased/rented to the driver

In any event, documents detailing arrangements for the use of, letting, or hiring, or insurance of a licensed vehicle must be made available to the Council no later than 48hours after a request being made.

### **1.18 Vehicle licence administration fee**

For such period a vehicle licence remains in force, the proprietor shall pay the reasonable administration charge or fee attached to any requirement to attend training, or produce a relevant certificate, assessment, validation check or other administration or notification process.

## **VEHICLE LICENSING**

Applicants must complete an application form and pay the required fee. Further information and application form can be obtained by visiting the Council's website at [www.southend.gov.uk](http://www.southend.gov.uk) and searching for 'Hackney Carriage' or 'Private Hire Vehicle' information.

These conditions shall equally apply to persons entering into some form of combined trading relationship, or where that arrangement has been or is

about to be dissolved, legal or otherwise, with the person to whom the current licence was granted and where an application to transfer a licence is made.

### **1.19 New vehicle licence**

The following documents are required before an application can be approved:

- (i) *Valid UK certificate of insurance to cover public and/or private hire work.*

Vehicle insurance certificate must be produced at the time of the application or when collecting the vehicle plate and licence.

- (ii) *UK vehicle registration document V5C (log book).*

Applicants must provide an original V5C registration document (log book) showing the vehicle to be registered in the applicant's name with their current address. This should be accompanied by proof of purchase, for example a receipt, bill of sale or hire purchase agreement.

Receipt or bill of sale/receipt or hire purchase agreement must provide the following details:

- name, address and signatures of all parties to the transaction
- date of transaction
- vehicle make, model, registration number
- price agreed
- VAT details of parties to the transaction where relevant

Where the log book has not yet been transferred to the applicant (proof of purchase will still be required), the Council will issue a two-month licence (and plate) to allow time for the amended log book to be returned from the DVLA. Once the amended log book has been presented to the Council's licensing department a licence will be granted for a further 10 months. There will be an additional charge to cover the cost to the Council of producing another plate.

Where a log book fails to show a transfer to the applicant after two months then the Council may use its discretion to suspend or revoke the licence.

- (iii) *Disclosure and Barring Service (DBS) check and right to work check.*

If the applicant is not an existing Southend City Council licensed driver or vehicle proprietor, a basic DBS disclosure certificate and proof of right to work must be submitted with the vehicle license application. A company shall not be accepted as proprietor of a vehicle licence.



*(iv) MOT testing and Council's vehicle compliance inspection.*

Unless otherwise exempt, vehicles must first pass a UK Ministry for Transport (MOT) test at an approved testing station nominated by the Council. Details of how to book an appointment at a Council nominated testing station will be provided.

The vehicle must also pass a vehicle compliance inspection that is carried out as directed by an officer of the Council, see section 1.22 below.

At the time of the vehicle compliance inspection, the vehicle's owner/proprietor must present a valid MOT certificate, valid UK insurance certificate, and the vehicle's original V5C registration document (log book).

## **1.20 Renewal of vehicle licence**

The following documents are required before an application can be approved:

*(i) Valid UK certificate of insurance to cover public and/or private hire work.*

Vehicle insurance certificate must be produced at the time of the application or when collecting the vehicle plate and licence.

*(ii) UK vehicle registration document V5C (log book).*

Applicants must provide an original V5C registration document (log book) showing the vehicle to be registered in the applicant's name with their current address. This should be accompanied with a proof of purchase, for example a receipt, bill of sale or hire purchase agreement: see 1.19(ii) above.

*(iii) Disclosure and Barring Service (DBS) check and right to work check.*

If the applicant is not an existing Southend City Council licensed driver or vehicle proprietor, a basic DBS disclosure certificate and proof of right to work must be submitted with the vehicle license application. A company shall not be accepted as proprietor of a vehicle licence.

*(iv) MOT testing and Council's vehicle compliance inspection.*

Unless otherwise exempt, vehicles must first pass a UK Ministry for Transport (MOT) test at an approved testing station nominated by the Council. Details of how to book an appointment at a Council nominated testing station will be provided.

The vehicle must also pass a vehicle compliance inspection that is carried out by an officer of the Council, see section 1.22 below.

At the time of the vehicle compliance inspection, the vehicle's owner/proprietor must present a valid MOT certificate, valid UK insurance certificate, and the vehicle's original V5C registration document (log book).

Where a licensee is unable to provide a suitable vehicle for continued use as a licensed vehicle the Council may revoke the licence. A new Licence may then be issued to another licensee in place of that revoked licence.

### **1.21 Transfer of vehicle ownership or vehicle licence**

This section applies where either the ownership of a licensed vehicle is transferred to another person, or where a vehicle licence is to be transferred to another vehicle.

Transfer of vehicle ownership of a licensed vehicle must be notified to the Council prior to the transfer.

Transfer of a vehicle licence must be notified to the Council prior to the transfer.

Transfer of vehicle ownership, or transfer of a vehicle licence must be notified to the Council via the relevant form.

On application for transfer of a licensed vehicle from the person to whom the current licence was granted the application will only be approved if:

- The person to whom the licence was granted had carried on business satisfactorily during the previous three years, and
- The person to whom it was transferred complies with the Council's Licensing Policy and is not the holder of any other hackney carriage vehicle licence.

The following documents are required before an application can be approved:

(i) *Valid UK certificate of insurance to cover public and/or private hire work.*

A valid UK certificate of insurance must be produced at the time of application or when collecting the vehicle plate and licence.

(ii) *UK vehicle registration document V5C (log book).*

Original V5C registration document (log book) showing the vehicle to be registered in the applicant's name with their current address. This should be accompanied with a proof of purchase, for example a receipt, bill of sale or hire purchase agreement: see 1.19(ii) above.

(iii) *Disclosure and Barring Service (DBS) and right to work check.*

Where the applicant is not an existing Southend City Council licensed driver or operator, a basic DBS disclosure certificate and proof of right to work must be submitted.

(iv) *MOT and vehicle compliance inspection.*

Unless otherwise exempt, vehicles must have passed a UK Ministry for Transport (MOT) test at an approved testing station nominated by the

Council. A current MOT test certificate must be produced to the Council prior to transfer of vehicle ownership or transfer of vehicle licence.

The vehicle must also have passed a vehicle compliance inspection conducted by an officer of the Council: see section 1.22 below.

At the time of the vehicle compliance inspection, the vehicle's owner/proprietor must present a valid MOT certificate, valid UK insurance certificate, and the vehicle's original V5C registration document (log book).

### **VEHICLE COMPLIANCE INSPECTION**

A vehicle compliance inspection is different to the MOT test. A vehicle compliance inspection is carried out by the Council to determine the suitability of vehicles intended to be used for public transport.

Vehicles must have a suitable and sufficient power output that is capable of conveying the maximum number of passengers and their luggage without compromising safety, comfort and emissions.

#### **1.22 General**

It is the applicant's responsibility to ensure that their vehicle is presented at the correct time and place for testing. To avoid unnecessary delay, applicants should contact the Council to arrange a vehicle compliance inspection appointment at least 21 days in advance of expiration of an existing vehicle compliance inspection.

Should a vehicle not be presented or is caused to arrive late for inspection, a further fee may be charged and/or the Council officer may refuse to inspect the vehicle and in which case a new appointment will have to be made.

Persistent non-attendance or late attendance may result in a vehicle licence application being declined.

Vehicle compliance inspection is conducted via appointment only.

Vehicles may be presented for inspection up to 14 days before the expiry date of an existing vehicle compliance inspection.

If a presented vehicle benefits from current vehicle compliance inspection evidence of this must be presented at the time of retest.

Where a vehicle has been repaired then a vehicle compliance inspection may be required prior to the vehicle continuing to be used as a licensed vehicle.

Vehicle compliance inspections may be carried out at the discretion of the Council where it is deemed a vehicle has fallen below the standard applied at the usual inspection date.

Where relevant, payment of inspection fees must be made prior to date of inspection.

The following documents are required before an application can be approved:

- (i) *Valid UK certificate of insurance to cover public and/or private hire work.*

A valid UK certificate of insurance must be produced at the time of the test.

- (ii) *UK vehicle registration document V5C (log book).*

Applicants must provide an original V5C registration document (log book) showing the vehicle to be registered in the applicant's name with their current address. This should be accompanied with a proof of purchase, for example a receipt, bill of sale or hire purchase agreement: see 1.19(ii) above.

After having been granted two months to allow for the applicant's details to be entered on to the log book: Where a vehicle is presented and/or retested and the log book does not show the applicant's details then the vehicle will not be tested, and any existing licence may be suspended or revoked.

- (v) *MOT testing and Council's vehicle compliance inspection.*

Unless otherwise exempt, vehicles must have passed a UK Ministry for Transport (MOT) test at an approved testing station nominated by the Council. A current MOT test certificate must be produced to the Council prior to or at the time of the vehicle compliance test.

- (vi) *Vehicle compliance inspection email/letter.*

When presenting a vehicle for a vehicle compliance inspection the applicant must produce either the email or letter from the Council that provides details of the appointment.

### **1.23 Inspection standards**

Body panels, paint finish and trim (exterior and interior) should not significantly differ in appearance to that of the vehicle when new unless previously approved.

Full or part vinyl vehicle body wrapping is not permitted save with prior approval of the Council and only in exceptional circumstances. Allowances are made for stone chips and minor paint finish blemishes resulting from normal use.

The standard required is the same for all vehicles irrespective of their age or mileage.

Common reasons for a vehicle failing a test due to appearance include but not limited to:

- damage, for example, panel dents, scratched paintwork, missing or damaged trim, insecure panel or trim and mirrors

- poor maintenance of vehicle bodywork including glass, for example, dirty, dull, or faded paintwork and trim, scratched glass
- corrosion to metal and/or degraded/worn fitments, for example, rust, holed panels or structure, staining, corroded trim (including wheels and wheel trims)
- poor quality vehicle repairs that fail to match the appearance and fabrication of the vehicle when new or first licensed

#### **1.24 Vehicle modification**

Vehicle modification may result in test failure. Vehicle owners must submit any proposal for vehicle modification to the Council and prior to the work being carried out, together with relevant safety details and certification. Any modification or proposed modification must be notified to vehicle insurers and evidence of this must be provided to the Council.

The Council takes the view that modification includes any changes to a vehicle that may affect or is intended to affect directly or indirectly its safety, operation, or appearance. Even where no impact on a vehicle's safety, operation or appearance has occurred the Council may still consider such changes a modification. Examples include but are not limited to:

- non-standard tyres and/or deviation from the manufacturers recommended tyre rating and size. Winter tyres will not be permitted unless they match the manufacturers recommended tyre rating and size.
- non-standard paint finish, colour, vinyl wrapping, or a combination thereof
- additional badges, decals, or signage
- non-standard body trim, bumpers, exhaust, window tinting, and custom body work
- non-standard lights, reflectors and additional illuminating materials or components that are either fixed permanently or temporarily to inside or outside of the vehicle
- disconnection or removal of standard or manufacturer's vehicle components
- non-standard replacement, addition or modified; engine, engine components, drive chain (including gearbox, differential, axle, prop shaft), brakes, steering, suspension, and fuel delivery system (including fuel tank) or components thereof
- non-standard seats, seat belts, or changes to seating provision.
- wheelchair adaptations, tie down anchors, and floor pan adjustments

- tow bars, bull bars, and winching devices
- tinted vehicle glass, even if installed during manufacture may still be unsuitable for both hackney carriages or PHV's.

### **1.25 Refusal to carry out inspection**

A Council officer may refuse to carry out or abandon a vehicle compliance inspection if in their discretion it appears reasonable to do so. Examples where this may occur include but are not limited to:

- non-payment for any reason where a required inspection fee is payable
- failure to provide a UK valid insurance certificate covering the intended use of the vehicle to be inspection
- failure to provide the V5C registration document (log book) or acceptable evidence of ownership, see 1.19(ii) above
- vehicle condition, tidiness, cleanliness is such that it may reasonably prevent the tester from carrying out a vehicle compliance inspection
- behaviour of applicant or other parties

Where an inspection is refused or abandoned any inspection fee payable may not be refunded. In such circumstances a new vehicle compliance inspection will need to be arranged and a further inspection fee paid where required.

# **APPENDIX E:**

## **Operators**

### **General requirements**

1.1	Fit and proper person .....	1
1.2	Disclosure and Barring Service (DBS) certificate .....	1
1.3	Staff vetting and convictions .....	1
1.4	Insurance .....	2
1.5	Planning permission .....	2
1.6	Data protection .....	2
1.7	Premises and equipment .....	2
1.8	Advertising .....	3
1.9	Change of address/email .....	4
1.10	Email .....	4

### **Operational requirements**

1.11	Bookings (hiring) .....	4
	(i) Booking systems .....	5
	(ii) Sub-contracted booking .....	5
1.12	Standing .....	6
1.13	Complaints .....	6

### **Keeping records**

1.14	Vehicles and drivers .....	7
1.15	Bookings .....	8
1.16	Staff .....	8
1.17	Global positioning system (GPS) data .....	9

### **Policy requirements**

1.18	Operator's policies .....	9
1.19	Training and update briefings .....	9

<b>Duty of co-operation</b>	<b>10</b>
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## **GENERAL REQUIREMENTS**

### **1.1 'Fit and Proper' person**

The Council has a legal duty to ensure it only grants licences to 'fit and proper' persons.

(N.B. Further details can be found in the main Policy document under 'Eligibility' and Appendix A)

### **1.2 Disclosure and Barring Service (DBS) certificate**

Private hire operator's licence applicants must provide a current (no more than four weeks old) 'Basic Disclosure' DBS certificate and must be renewed annually. A subsequent disclosure must be provided prior to the expiry of any existing certificate.

(N.B. Further details can be found in the main Policy document under 'Eligibility' and Appendix A)

### **1.3 Staff vetting and convictions**

In accordance with the Council's licensing obligations it requires that staff working for operators must undergo vetting. Any failure in that regard may give rise to the suspension and/or revocation of the operator's licence, or refusal of their application for a new licence. Operators must therefore ensure:

- all members of staff working in any capacity (paid or unpaid) have obtained a basic Disclosure and Barring Service (DBS) certificate. The DBS certificate must be dated within one month before the commencement of employment and must be renewed every 3 years
- DBS checks are carried out for all existing staff (paid or unpaid) within one month of this policy coming into effect
- information disclosed in DBS certificates is compatible with the Council's obligation to ensure that only fit and proper operators are licensed. Where information disclosed in a DBS certificate is incompatible with that obligation then the operator must have regard to this Policy in determining whether the member of staff is a suitable person to work in the operator's business

Further details concerning the Council's position in respect of suitability of persons applying for a licence can be found in the main Policy document under 'Eligibility' and Appendix A. It is to be noted that the aforementioned conditions are to apply to members of staff as they do to licensees.



## **1.4 Insurance**

Before an application for a private hire operator's licence is granted, the applicant must provide evidence they have public liability insurance of £5m for the premises to which the licence relates.

Depending on circumstances it may also be necessary for the operator to hold employer's liability insurance prior to the grant of licence.

Operators must maintain valid insurance as detailed above throughout the period they are licensed. That insurance shall be produced when requested by an authorised officer or police officer. A failure to maintain that insurance may result in suspension or revocation of their licence.

## **1.5 Planning permission**

Licences will only be issued to operators located within the area for which Southend City Council has responsibility. Applicants must further demonstrate they have all necessary planning permissions or are exempt from the operation of a private hire business from the address for which the licence is to be issued.

## **1.6 Data protection**

Operators must comply with all relevant data protection regulations and ensure they are properly registered with the Information Commissioner's Office for data protection purposes.

Where the operator is exempt from registration with the Information Commissioner's Office, they must notify the Council within 7 days of becoming aware of that fact.

At all times operators must remain aware of any change in their circumstances that may necessitate a change in their registration status with the Information Commissioner's Office.

## **1.7 Premises and equipment**

Operators shall:

- provide suitable functioning communication technology to enable staff to provide an efficient service to the public
- ensure their business premises are kept clean, tidy, and safe (including adequate ventilation, heating and lighting)
- provide waiting areas used by customers with adequate seating that is properly and regularly maintained
- not permit or cause audio and communication equipment within their business premises to be a source of nuisance, annoyance, or interference to other parties
- take all reasonable precautions to ensure activities within their business premises do not cause or create a nuisance to other parties

Operators must at all times display in a prominent position and from where it is easily seen to members of the public:

- a valid operator’s licence relating to the business premises
- a current schedule of fares
- a notice providing information on how to make a complaint to the Council including relevant contact details
- a copy of their public liability insurance certificate

Where the operator has a website, social media presence, and/or uses a technology derived booking system then the above notices must also be readily presented or accessible to the public via those specific platforms.

## **1.8 Advertising**

Operators shall not cause or permit to be displayed on, in, or from their premises or to be published, signs, notices or advertisements that consist of or include the words “Taxi” whether in the singular or plural, or the words “For Hire” or any other word or words of similar meaning or appearance whether alone or as part of another word or phrase, or word or words likely to cause a person to believe that any vehicle operated by them is a hackney carriage. The above condition shall equally apply to any format or representation that has the potential to convey a message that the operator provides a hackney carriage service.

All advertisements should first be approved by the Council to ensure they comply with this Policy and do not breach the Codes of Practice of the Advertising Standards Authority or those of the Portman Group relating to alcohol advertising.

## **1.9 Change of address**

Operators shall give notice in writing to the Council of any change of address of the premises from which they operate during the licence period. Notification must be made no less than 14 days prior to the change of address taking place.

## **1.10 Email**

Operators must have an email address that they use regularly and to which they agree communications can be sent from the Council.

Any change to the agreed email address must be notified to the Council within 7 days of it taking effect.

## **OPERATIONAL REQUIREMENTS**

### **1.11 Bookings (‘hiring’)**

When accepting a booking the operator shall, unless prevented by some reasonable cause, ensure a licensed vehicle attends at the appointed time and place.

The operator shall further specify to the customer the fare or the rate of the fare for the journey to be undertaken and shall immediately enter all the details of the booking legibly in the form prescribed below.

It is the sole legal responsibility of the operator to maintain and make available when requested by an authorised officer or police officer a record of all bookings. Each record booking must detail the following:

- time and date of booking (24-hour time notation)
- name and contact details (phone number or address) of customer
- how the booking was made (telephone/mobile/online/in person)
- time and locations details of pick up
- specific details of destination
- details of dispatched driver (name and call sign)
- details of dispatched vehicle (licence/fleet number)
- details of person taking the booking (excluding electronic/App/online bookings)
- special requirements of customer making the booking (i.e. wheelchair accessible multi seated vehicle etc.)
- where applicable, subcontracted out booking (including any other operator owned by the operator taking the first booking)
- details of any fare quoted to the customer

Operators must at all times have a robust system in place to ensure drivers and/or vehicles are not made available for hire when their licence or insurance has expired. Operators must further understand that it is their sole responsibility to keep and maintain such a system and that any failure to do so may bring into question their suitability to hold an operator's licence.

### **1.12 Standing**

Proprietors and Drivers must ensure that its drivers and vehicles, when plotting or waiting without bookings do not wait:

- in high footfall, high visibility locations or outside busy venues or businesses
- at the front or back of designated Hackney ranks,
- in groups or lines that present as a 'rank'
- for a booking in contravention of road traffic orders

Upon request by an authorised officer or police officer operators must demonstrate how they monitor and control 'standing' of its licensed drivers.

### **1.13 Complaints**

Operators must notify the Council immediately (or in any case within 24 hours) by email of any complaints, police enquiries or notification of convictions involving any driver that is registered to carry out bookings for the operator that concern matters involving sexual impropriety, dishonesty, indecency, violence or threats of violence, drugs or issues involving equality or racism.

At the time of notification, the operator must also provide details of the person that is subject to the complaint, the nature of the complaint and the complainant's details.

All complaints received against the operator in the course of business (including against any of its drivers and sub-contracted drivers) must be recorded. If the operator is unable to resolve the complaint within 7 days (from the date of the complaint) they must provide the complainant with the relevant licensing authority contact details within 10 days (from the date of complaint).

Operators must notify the Council immediately (or in any case within 24 hours) by email of any complaints, police enquiries or notification of convictions involving any member of staff or driver that is registered to carry out bookings for the operator that concern matters involving sexual impropriety, dishonesty, indecency, violence or threats of violence, drugs or issues involving equality or racism

Operators must provide a report to the Council upon request detailing all complaints received and action taken. Operators must keep records of any complaint for at least 12 months.

## **KEEPING RECORDS**

### **1.14 Vehicles and drivers**

Operators must keep detailed, up to date, records of all drivers and vehicles they operate (whether licensed as private hire or hackney carriage). This obligation must be fulfilled regardless of the licensing authority under whom their drivers and vehicles are licensed. Records must include:

- name and home address all drivers
- date from when the driver started taking bookings from the operator and if applicable at what point they stopped taking bookings from the operator
- a copy of every driver's current licence including the commencement and end dates of that licence and the licensing authority that issued it
- name and home address of the vehicle proprietor
- a copy of each current vehicle licence including the commencement and expiry dates of that licence, the licensing authority that issued it, the date the vehicle was first used to fulfil bookings by the operator and if applicable the date the operator ceased taking bookings for that vehicle
- the vehicle registration number of all licensed vehicles used to fulfil bookings by the operator
- a list of all unique radio/call signs (including all technologies used to communicate with drivers) allocated to each licensed driver and/or vehicles

- a copy of a valid insurance policy for licensed drivers and vehicles that covers the period for when they are to be used for the provision of transport services

In any event, documents detailing arrangements for the use of, letting, or hiring, and insurance of a licensed vehicle must be made available to the Council no later than 48 hours after a request being made.

### **1.15 Bookings**

Operators must ensure booking records are:

- kept and maintained in electronic format and readable utilising readily available software
- made available for immediate inspection by an authorised officer or police officer
- able to be printed on to paper and/or downloaded in an accessible electronic format
- to be a continuous and chronologically updated record
- incapable of retrospective alteration or amendment
- maintained as a single record, or set of records, independent of cash and credit account bookings
- accredited with the author's name and where relevant the compiler's name
- drafted in clear legible English
- retained for a minimum period of 12 months from the date of the last entry of for such period as required by the Council

### **1.16 Staff**

Operators must keep and maintain a record for each member of staff (paid or unpaid) and that provide as a minimum the following details:

- full name and home address
- date of birth
- contact details (telephone, mobile and email)

- disclosure and barring service issue date and certificate number
- job title
- start of employment and if applicable finish date of employment

### **1.17 Global positioning system (GPS) data**

The operator must ensure GPS data obtained in the conveyance of pre-booked customers is made available for inspection upon request by an authorised officer or police officer.

## **POLICY REQUIREMENTS**

### **1.18 Operator's policies**

Operators are required to adopt, implement, review, update as is necessary and submit to the Council the following policies:

- Safeguarding Policy
- Customer Service and Complaints Policy (which must include details of complaints concerning drivers and a timeframe for responding to complaints)
- Equality Policy (which must include details of disability awareness and the carrying of assistance animals)
- Data Protection Policy
- Recruitment Policy

### **1.19 Training and update briefings**

Operators must:

- attend licensing training within the timeframe directed by the Council
- ensure training is provided within 1 month of staff (paid or unpaid) commencing work at the operator's business
- ensure staff are trained in matters relevant to, the policies stated at 1.18 above, licensing law, how and when to accept bookings, accurate and diligent record keeping
- provide update briefings and training to staff every two years in respect of the aforementioned matters
- keep and maintain a training record of all training events and update briefings detailing who attended, when they attended, and the type of training provided
- ensure each training event record is signed by both the operator and the member of staff attending

## **DUTY OF CO-OPERATION**

Operators and their staff are expected to co-operate fully with any licensing authority officer or police officer in respect of enquiries or investigations involving drivers or vehicles currently or formerly connected with their business.

On this Policy coming into force and for purposes of compliance and enforcement, operators must provide the Council with details of appropriate members of staff (whether at the premises or via telephone) who are contactable during the times of operation (day or night). Where those contact details change, operators shall within 24 hours inform the Council of the new contact details.

Operators shall permit access to their premises to any licensing authority officer or police officer at their request.

# **APPENDIX F:**

## **Penalty Points System**

1.1	General .....	1
1.2	Appeal (penalty points) .....	2
1.3	Penalty Points Table .....	2



## 1.1 General

The penalty points system is not a formal sanction in its own right but is intended to be an open and transparent method of determining whether licence holders satisfy their continuing obligation to remain a 'fit and proper' person. The general aim is to encourage licence holders to comply with all legislation and licensing conditions and to conduct themselves in a manner consistent with the professionalism and integrity expected of the licensed vehicle trade.

The penalty points system operates in addition to all existing enforcement options open to the Council.

Penalty points issued to a licence holder will be confirmed in writing within 10 working days from the disclosure, discovery, or finding of a points' related infraction.

Once issued, penalty points will remain active 24 months from the date they were sanctioned. This means points accumulated during a rolling 24-month period will remain active and taken into consideration where it is relevant to do so.

If a licence holder accumulates 12 or more points within a 24-month period they will be required to attend a Licensing Committee hearing. The purpose of the hearing is to determine whether the licence holder remains a 'fit and proper' person to continue to hold a licence.

Where the licence holder is brought before a Licensing Committee the options available to it include continuation, suspension, revocation of licence or such other action it deems appropriate in light of the Council's licensing obligations. Among other options available to the Council it may also, but is not limited to, extend the period for which points are to remain active, issue a written warning, or require further training.

- If the penalty points period is extended the points will remain active for a period determined by the Licensing Committee.
- In the event of suspension of a licence the duration will depend on the nature of the breach and the compliance history of the licence holder.
- More than one accumulation of 12 penalty points in any 24-month period may result in revocation of licence.
- If a licence is suspended or revoked the licence holder retains a right of Appeal to the Magistrates' Court.
- If the licence holder successfully appeals to the Magistrates' Court against suspension or revocation the penalty points may nevertheless continue
- In all other cases penalty points will remain active

Up to a maximum of 6 points may be issued by officers whereas greater sanction of points may only be issued by the Licensing Committee.

Authorised council officers may refer any breach to the Licensing Committee where it is considered there exist aggravating features to any particular case.

Whilst the chart below indicates potential recipients of points for stated infringements, it is important to note that it is not limited to only those parties. Certain cases may result in drivers and/or proprietors and/or operators receiving penalty points. Points may be awarded to one or several persons depending upon the specific circumstances of each case.

## 1.2 Appeal (penalty points)

A licensee will be given written notice of any points issued. Affected licence holders may appeal the sanction of penalty points. To do so the licence holder must within 21 days write to, or email, the Council's Licensing Department and state the reasons why they consider the penalty points should not have been imposed. The Appeal will then be put to a senior licensing officer for consideration.

## 1.3 Penalty Points Table

	Misconduct	Points	Driver	Vehicle proprietor/operator
1	Providing false/misleading information for licence application, failing to provide relevant information, failure to pay relevant fees (including dishonoured cheques or other financial instruments)	6	V	V
2	Failure to notify the Council of a change of address as required in this Policy	3	V	V
3	Refusal to accept hiring/booking without reasonable justification	3-6	V	
4	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6	V	

5	Plying for hire by private hire drivers, or hackney carriage drivers plying for hire outside of the Council's boundary	9	v	v
6	Private hire vehicle parking (or waiting) on a taxi rank, or waiting so as to imply a taxi rank is in place	6	V	
7	Inappropriate behaviour whilst in charge of a licensed vehicle	1-12	v	
8	Leaving a taxi unattended at a taxi rank	4	v	
9	Using an unlicensed vehicle or using a licensed vehicle without insurance or without a valid MOT	12	v	v
10	Failure to produce relevant documents within timescales when requested by an authorised officer	4	v	v
11	Unsatisfactory condition of interior or exterior of a licensed vehicle	4	v	v
12	Failure to undertake 6 monthly mechanical vehicle inspection on request.	6	v	v
13	Failure to provide appropriate proof of insurance cover when requested	6	v	
14	Failure to produce hackney carriage or private hire vehicle for re-testing when required	4		v
15	Using a vehicle that is subject to a suspension order issued by an authorised officer or a police officer	12	v	v
16	Using a vehicle for which the licence has been suspended or revoked	12	v	v
17	Failure to report an accident or damage to a licensed vehicle in accordance with this Policy, and which would bring the vehicle in breach of licence conditions	4	v	v
18	Carrying more passengers than stated on the vehicle licence	6	v	
19	Failure to display licence plate or failure to display appropriate door signs in accordance with this Policy	6	v	v

20	Carrying or allowing to be carried an offensive weapon in a licensed vehicle	12	V	V
21	Failure to notify a transfer of vehicle licence in accordance with this Policy	4		V
22	Failure to carry a working fire extinguisher in a licensed vehicle	4		V
23	Displaying signage or advertisements otherwise than in accordance with this Policy	3	V	V
24	Failure to use an authorised roof light where required	4	V	
25	Failure to maintain records otherwise than in accordance with this Policy	4	V	V
26	Failure to produce on request record of drivers' pre-booked work activity	4		V
27	Using a non-approved or non-calibrated taximeter	6	V	V
28	Obstruction of an authorised officer or police officer in the inspection of a licensed vehicle	12	V	V
29	Smoking or evidence thereof in a licensed vehicle	3	V	V
30	Displaying any feature on a private hire vehicle that may suggest it is a hackney carriage	6	V	V
31	Failure to carry an assistance animal without requisite medical exemption certificate	6	V	

32	Driver not holding a current DVLA licence	12	V	V
33	Failure to display driver's badge otherwise in accordance with this Policy	4	V	
34	Failure to notify a change in medical circumstances otherwise in accordance with this Policy	6	V	V
35	Unsatisfactory appearance of driver	4	V	
36	Failure to observe rank discipline (HC)	3	V	
37	Misleading use of words 'taxi' or 'cab' on advertising materials	3	V	V
38	Failure to issue receipt on request	3	V	V
39	Using a licensed vehicle in a dangerous condition	9	V	V
40	Failure to return vehicle licence plate otherwise in accordance with this Policy	4	V	V
41	Unsatisfactory behaviour or conduct of a driver / Failure to behave in a civil manner and/or bringing the trade into disrepute	1-12	V	V
42	Failure to notify the Council of any motoring or criminal convictions otherwise in accordance with this Policy	6	V	V
43	Failure to provide reasonable assistance to a passenger	1-12	V	V
44	Failure to display a correct up to date fare card	3	V	
45	Carrying two or more separate fares without the appropriate consent	9	V	V
46	Failure to carry a legal spare wheel and tyre (or appropriate alternative) and the necessary tools to fit it	4	V	V

47	Use of licensed vehicle with a bald, dangerous or defective tyre	4 (per tyre)	V	V
48	Driving whilst using a handheld electronic communications device or some other device	7	V	
49	Sanction of additional points by Licensing Committee where no points	1 - 4	V	V
50	Failure to attend a Council booked appointment without reasonable excuse.	3	V	V

**STATEMENT  
OF  
DELEGATED AUTHORITY**

Circumstances may arise that require the Council to take urgent action against a licence holder, such as where it has received information alleging or proving serious misconduct. The misconduct must be such that it immediately brings into question the licence holder's obligation to remain a 'fit and proper' person.

In fulfilment of its statutory duty the Council has therefore authorised the Head of Regulatory Services by way of delegated authority to be able to take such action as is necessary to protect the public. That action includes immediate revocation, or suspension of licence. The Licensing Committee may take such action to protect the public as it considers reasonable.

Where the above action has been taken, the Head of Regulatory Services will cause a report to be made for the next meeting of the Licensing Committee. An affected licensee has a right to appeal that decision to the Magistrates' Court.

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