

Thursday, 26 August 2021

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## MISCELLANEOUS LICENSING SUB-COMMITTEE

You are summoned to a meeting of the Miscellaneous Licensing Sub-Committee which will be held in the Council Chamber, Woodgreen, Witney OX28 1NB on **Thursday, 9 September 2021 at 2.00 pm.**



Giles Hughes  
Chief Executive

To: Members of the Miscellaneous Licensing Sub-Committee

Councillors: Councillor Norman MacRae MBE (Chairman), Councillor Steve Good (Vice-Chair), Councillor Ted Fenton, Councillor David Jackson and Councillor Geoff Saul

Recording of Proceedings – The law allows the public proceedings of Council, Cabinet, and Committee Meetings to be recorded, which includes filming as well as audio-recording. Photography is also permitted. By participating in this meeting, you are consenting to be filmed.

As a matter of courtesy, if you intend to record any part of the proceedings please let the Democratic Services officers know prior to the start of the meeting.

## AGENDA

1. **Minutes of Previous Meeting (Pages 3 - 4)**  
To approve the minutes of the meeting held on Friday, 2 July 2021.
2. **Apologies for Absence and Temporary Appointments**
3. **Declarations of Interest**  
To receive any declarations from Members of the Committee on any items to be considered at the meeting.
4. **Participation of the Public**  
To receive any submissions from members of the public, in accordance with the Council's Rules of Procedure.
5. **Hackney Carriage and Private Hire Licensing Policy Review (Pages 5 - 248)**  
Purpose  
To provide the Sub-Committee with an opportunity to review the Draft Hackney Carriage and Private Hire Licensing Policy and to seek approval.  
Recommendations
  - a) That the Sub-Committee considers the revised Hackney Carriage and Private Hire Licensing Policy in 'Annex A'; and
  - b) subject to any further amendments approves the document to come into effect from 1 October 2021.
6. **Business and Planning Act 2020 - Extension to Pavement Licensing Regime (Pages 249 - 266)**  
Purpose  
The report details the extension of the current regime and the review to the current Policy and provides the Miscellaneous Licensing Sub-Committee with a draft document for approval.  
Recommendations
  - a) That the Miscellaneous Licensing Sub-Committee considers the draft Policy at Annex A;
  - b) That, subject to any further amendments, approves the draft Policy; and
  - c) Approves the fee charged for 2021/22.

(END)

## WEST OXFORDSHIRE DISTRICT COUNCIL

### Record of Decisions of the meeting of the **Miscellaneous Licensing Sub-Committee**

Held in Committee Room 2, Council Offices, Woodgreen at 10.00 am on **Friday, 2 July 2021**

#### PRESENT

Councillors: Councillor Norman MacRae MBE (Chairman), Councillor Ted Fenton, Councillor David Jackson and Councillor Geoff Saul

Officers: Michelle Bignell (Service Leader (Licensing)), Susan Gargett (Interim Head of Legal Services) and Andrea Thomas (ERS Officer, Professional Services)

#### **1 Minutes of Previous Meeting**

The minutes of the meeting held on 18 March 2021 were approved and signed by the Chairman as a correct record.

#### **2 Apologies for Absence and Temporary Appointments**

Apologies for absence were received from Councillor Steve Good.

#### **3 Declarations of Interest**

There were no declarations of interest received.

#### **4 Exclusion of Public and Press**

**RESOLVED:** That, in view of the likely disclosure of exempt information, as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A to the Local Government Act 1972, the public were excluded from the meeting for the remaining item of business.

#### **5 Review of a Dual Drivers Licence**

The Sub-Committee received a report from the Group Manager of Residents' Services which asked them to review a Dual Driver's licence, held by an existing West Oxfordshire District Council licence holder.

Members were required to determine whether or not they deemed the individual to be a 'fit and proper' person to hold said licence, in light of the information contained in the report.

The Service Leader (Licensing and Business Support), Mrs Bignell, outlined the report which advised that the driver had been licenced with the authority since 2011. During that time, officers had received one complaint about him in 2019 regarding his proficiency in English.

Mrs Bignell explained that all licensed drivers and new applicants had to complete Safeguarding and Disability Awareness Training every three years. This was also a requirement of the West Oxfordshire District Council Hackney Carriage and Private Hire Licensing Policy which formed part of the conditions of the driver licence.

The driver's safeguarding training expired in 2020, however, the Council had decided to extend this to 31 March 2021 due to the pandemic.

Due to the fact that the driver's proficiency in English was poor, and he had to be accompanied to his safeguarding training session in 2017. However, Oxfordshire County Council was not permitting this now due to Covid-19 restrictions meaning that the driver could not pass the examination and fulfil the mandatory requirement.

Mrs Bignell outlined the options available to the panel, as detailed at section 5 and signposted Members to the written submission from the driver, attached as Annex A to the report.

02/July2021

The driver, his representative and the officers present were introduced.

The Chairman, Councillor MacRae clarified that none of the Members had any questions for the officer and then proceeded to ask the driver a number of questions regarding his current working situation.

The driver's representative explained that his client's family had suffered a number of bereavements over the last 12 months, resulting in him travelling to, and staying in, Pakistan for four months. On his return he had continued to work as a taxi driver in West Oxfordshire. He advised that his client had undertaken Safeguarding training previously but had been unable to do the refresher training because the County Council were not allowing interpreters or assistants to provide support, due to Covid restrictions.

Following a question from Councillor Fenton, officers advised that it was not known when the County Council were likely to remove the restriction and they had not been advised that it would change on 19 July 2021 when other restrictions were potentially due to be lifted.

Councillor Saul addressed the driver in order to ascertain how he currently communicated with his passengers and heard the circumstances surrounding the previous complaint received in 2019. The driver's representative also provided some background to the complaint which had occurred during the Charlbury Festival.

In response to a question from Councillor MacRae, the driver explained that he was not able to undertake the Safeguarding test because the County would not allow him to have an assistant present. However, he requested that an exception be made to enable him to continue working and provide for his and his brothers' family. His representative reiterated that he would complete the Safeguarding course as soon as he could and reminded the Panel that he had completed the training previously and was aware of the rules.

In summing up, the driver's representative reiterated the request to allow his client to continue working and reminded them that no further complaints had been received in the past ten years.


The Sub-Committee then withdrew to determine the application and, having considered the report and the evidence given by the applicant, the Sub-Committee:-

**Resolved** that the hearing be adjourned for three months to enable the Safeguarding test to be completed. If the training was not completed by 1 October 2021, the licence would be suspended.

The Chairman reiterated to the driver that it was, therefore, in his best interests to make every effort to take the Safeguarding test as soon as possible.

The Meeting closed at 10.38 am

CHAIRMAN

 <b>WEST OXFORDSHIRE DISTRICT COUNCIL</b>	<b>WEST OXFORDSHIRE DISTRICT COUNCIL</b>
<b>Name and date of Committee</b>	<b>Miscellaneous Licensing Sub-Committee: Thursday 9 September 2021</b>
<b>Report Number</b>	<b>Agenda Item No. 5</b>
<b>Subject</b>	<b>Hackney Carriage and Private Hire Licensing Policy Review</b>
<b>Wards affected</b>	<b>All</b>
<b>Accountable member</b>	<b>Councillor Norman MacRae, Cabinet Member for Environment Email: <a href="mailto:norman.macrae@westoxon.gov.uk">norman.macrae@westoxon.gov.uk</a></b>
<b>Accountable officer</b>	<b>Michelle Bignell, Service Leader (Licensing and Business Support) Tel: 01285 623000 Email: <a href="mailto:michelle.bignell@publicagroup.uk">michelle.bignell@publicagroup.uk</a></b>
<b>Summary</b>	<b>To provide the Sub-Committee with an opportunity to review the Draft Hackney Carriage and Private Hire Licensing Policy and to seek approval</b>
<b>Annexes</b>	<b>Annex A – Draft West Oxfordshire District Council’s current Hackney Carriage and Private Hire Licensing Policy</b> <b>Annex B – Department for Transport (DfT) Statutory Taxi and Private Hire Standards</b> <b>Annex C – Copy of Oxfordshire’s Joint Operating Framework (JOF)</b> <b>Annex D – Table showing a comparison between current requirements and the proposed requirements to ensure that the District meets the requirements from the DfT Statutory Standards</b> <b>Annex E – Draft Conviction policy, enforcements and complaints policy and table of delegations</b> <b>Annex F – the Council’s current Hackney Carriage and Private Hire Licensing Policy (April 2018)</b> <b>Annex G – Institute of Licensing’s Guide to determining suitability of applicants and licensees in the hackney and private hire trades</b> <b>Annex H – Copy of consultation responses and Officer appraisal</b>
<b>Recommendations</b>	<b>a) <i>That the Sub-Committee considers the revised Hackney Carriage and Private Hire Licensing Policy in ‘Annex A’; and</i></b> <b>b) <i>subject to any further amendments approves the document to come into effect from 1 October 2021.</i></b>
<b>Corporate priorities</b>	<b>A Vibrant District Economy Strong Local Communities</b>

Key Decision	N/A
Exempt	No
Consultees/ Consultation	12 week consultation with various bodies as detailed in this report

## **I. BACKGROUND**

- 1.1. In July 2020, the Department for Transport (DfT) published updated guidance for local councils on their approach to their taxi/private hire licensing function. The Statutory Taxi and Private Hire Vehicle Standards guidance is attached at **Annex B**.
- 1.2. The DfT recommended that Licensing Authorities should have reviewed their current policies against the document by January 2021 and have a plan to implement the Standards.
- 1.3. The DfT Standards raises the Council's standards even higher and focusses on the safeguarding of travelling passengers including children and vulnerable individuals who are over 18 from harm when using these services.

## **2. MAIN POINTS**

### **Joint approach**

- 2.1. West Oxfordshire District Council's licensing team already works closely with the other licensing authorities in Oxfordshire and are fully committed to the Joint Operating Framework (JOF). This framework was introduced following several safeguarding cases across the Country and in Oxford ('Bullfinch'). A copy is attached at **Annex C**.
- 2.2. The JOF ensures that we already meet the majority of the DfT Standards.
- 2.3. The standards which are missing are covered in the comparison table in **Annex D**. This is accompanied by an updated criminal conviction policy, enforcement complaints policy and table of delegations at **Annex E**.
- 2.4. A copy of our current Hackney Carriage and Private Hire Licensing Policy is attached at **Annex F**.

### **Diabetics**

- 2.5. The County Licensing Officers Group has been working closely with Oxford Health NHS Foundation Trust to agree a robust procedure for any drivers with diabetes managed by insulin, a sulphonylurea or a glinide to undergo an annual medical by a diabetes specialist.
- 2.6. Diabetes controlled by these drugs poses a significant risk and requires satisfactory monitoring to ensure that there is no risk to public safety.

### **Convictions Policy**

- 2.7. Following discussions with other licensing professionals across the Country, it is felt that the assessment of previous convictions in the DfT document is too grey and would not offer adequate guidance to Members, applicants and licence holders when faced with an application or review of a licence due to convictions.
- 2.8. The draft convictions policy included in **Annex E** has taken the proposed standards in the DfT document, the Institute of Licensing's 'Guidance on determining suitability of applicants and licensees in the hackney and private hire trades' (copy attached at **Annex G**) and West Oxfordshire's current policy and drafted a widespread document so that Members have extensive guidance to make decisions. It also lays out clear guidelines to licence holders and applicants and minimises the risk of deviating from the policy and facing appeals.

### **Consultation**

- 2.9. The Sub-Committee determined to commence a consultation on the proposed standards at its meeting in March 2021.
- 2.10. A 12 week consultation has been carried out with the following parties:
  - All current licence holders (drivers, operators and vehicles)
  - Ward members

- Town/Parish Councils
- Trade customers
- Trade associations

- 2.11. A copy of all responses is attached at **Annex H**.
- 2.12. Following an appraisal of the comments, it was felt that no amendments were considered necessary.
- 2.13. The current policy has been updated to reflect these changes. This document will be formatted in accordance with the Council's style guide prior to publishing on the website.

## **CCTV**

- 2.14. At present, CCTV is permitted in licensed vehicles as long as the licence holder complies with other data protection legal requirements.
- 2.15. The DfT document also states that '*licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues*'.
- 2.16. At this point it is proposed to ask a question within the consultation as to whether the trade and other bodies feel that there is a need to implement mandatory CCTV. This piece of work will follow at a later date.
- 2.17. This review is concentrating on the driver standards in the District. It is proposed that a second piece of work in 2021/22 will look at the vehicle part of the Council's Policy and review in line with the Council's climate change priorities.
- 2.18. A question was asked within the consultation whether there was a need to make CCTV a mandatory requirement. The responses are contained within **Annex H**.

## **Joint Authorisations**

- 2.19. Paragraph 9.2 of the DfT Standards suggests that '*Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area*'.
- 2.20. Joint authorisations will be looked at as a future piece of work between the Oxfordshire Licensing Authorities.

## **3. FINANCIAL IMPLICATIONS**

- 3.1. There will be a financial impact as a result of these changes. Private Hire Operators will incur increased costs due to additional DBS checks upon staff.
- 3.2. The Council will face an increase in work to comply with the Statutory Standards. The cost of this work will be absorbed in the fee setting process in 2021/22.

## **4. LEGAL IMPLICATIONS**

- 4.1. Licensing should consult on any changes to the licensing rules or its policy that might affect passengers or trade. Such consultations should include not only the taxi and private hire trades but also groups likely to be the trade's customers. In accordance with section 177(4) of the Policing and Crime Act 2017, licensing authorities must have regard to the DfT 2020 guidance when exercising their functions.



- 4.2. Privacy notices on the application forms will need to be reviewed to ensure that the changes proposed under the DfT 2020 guidance are reflected.
- 4.3. There are data protection implications arising from adopting the National Register of Taxi Licence Revocations & Refusals (NR3). Licensing has been working closely with the Data Protection Officer to ensure that the Council is fully compliant and follows the LGA Guidance on adopting the National Register of Taxi Licence Revocations & Refusals (NR3).

## **5. ALTERNATIVE OPTIONS**

- 5.1. No alternative options are proposed.

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## **Hackney Carriage and Private Hire Policy** **October 2021**

Business Support (Licensing) Environmental and Regulatory Services West Oxfordshire District Council, Woodgreen, Witney, OX28 1NB	Tel: 01993 861000  Email: <a href="mailto:ers@westoxon.gov.uk">ers@westoxon.gov.uk</a>  Web: <a href="http://www.westoxon.gov.uk">www.westoxon.gov.uk</a>
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# **General**

## **Introduction**

The Council has the responsibility to regulate and control all operators, drivers and vehicles used for carrying passengers for hire and reward within the West Oxfordshire District under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

This document includes West Oxfordshire District Council's Policy and Conditions with regard to Hackney Carriage (Taxis) and Private Hire licensing and will provide guidance to applicants, interested parties, Officers and Members on the approach the Council will take on Hackney Carriage and Private Hire licensing matters. Additionally, this document provides guidance on legislation and other issues that have an impact on Hackney Carriage and Private Hire licensing.

For the purposes of this document, Hackney Carriage vehicles will be referred to as Hackney Carriages.

## **Objectives**

In setting out its Policy, the Council seeks to promote the following objectives:-

- a) Safety and health of drivers and the public;
- b) Vehicle safety, comfort and access;
- c) To prevent crime and disorder and protect the public.

## **Future Amendments to Policy and Conditions**

All licences are granted subject to compliance with the Policies and Conditions contained within this document.

This document was approved by the Miscellaneous Licensing Sub-Committee on 9 September 2021 and came into force on 1 October 2021.

This document may be amended and republished from time to time to take account of changes in legislation and minor amendments. However, any such changes or amendments that have significant impact on the Policies and Conditions in this document shall first be considered by the Licensing Committee for approval. Matters that would be considered significant include those that could have a financial or negative impact on licence holders or new applicants or that affect the convenience, safety or comfort of passengers.

## **General Differences between Hackney Carriages and Private Hire**

There are two types of vehicle that carry fare paying passengers that are licensed by West Oxfordshire District Council.

- Can be flagged down and use designated ranks
- Can be pre-booked
- Hackney Carriages must have a meter and the maximum tariff (fare) is set by the Council.
- Hackney Carriages must display a roof sign (door stickers will no longer be required and will no longer be issued from 1 April 2018). All Hackney Carriage vehicles must have a roof sign by 1 April 2019

### **Private Hire**

- Must be booked in advance of a journey.
- The booking must be made through a licensed Private Hire operator
- The fare is agreed in advance between the operator and the customer

### **Maximum Number of Passengers**

The maximum number of passengers that a Hackney Carriage or Private Hire vehicle can be licensed to carry is 8.

Any vehicles used for hire and reward that carry more than 8 passengers must be licensed by the traffic commissioners as a public service vehicle <https://www.gov.uk/psv-operator-licences/overview>

### **Licences issued by West Oxfordshire District Council**

There are five types of Licence issued by West Oxfordshire District Council.

#### **1. Dual Drivers Licence**

This is a licence that allows you to drive both Hackney Carriage and Private Hire vehicles. This licence is issued for 3 years.

#### **2. Private Hire Drivers Licence**

This licence allows you to drive a Private Hire vehicle only. This licence is issued for 3 years.

#### **3. Private Hire Operators Licence**

If you take bookings for a Private Hire business, you must hold a Private Hire operator's licence. This licence is issued for 1 or 5 years.

#### **4. Hackney Carriage Vehicle Licence**

You must have a Hackney Carriage vehicle licence for each Hackney Carriage you own. The licence will be granted for 1 year only.

#### **5. Private Hire vehicle Licence**

You must have a Private Hire vehicle licence for any vehicle that you use for Private Hire. A Private Hire vehicle must be operated under a Private Hire operator licence. The licence will be granted for 1 year only.

### **Application Forms**

Application forms and associated documents are available from the Council's website [www.westoxon.gov.uk](http://www.westoxon.gov.uk)



- **By Post** - payment by cheque made payable to "**West Oxfordshire District Council**" and sent to the Business Support (Licensing), Environmental and Regulatory Services, West Oxfordshire District Council, Woodgreen, Witney, OX28 1NB
- **By Telephone** – Customer Services can be contacted on (01993) 861000 and the team will take card payment from you

## **Renewals**

The Council does not have a legal obligation to notify you when your licence is due to expire. **Please ensure that you are aware of the expiry date and that you submit your renewal application at least 7 days before expiry to ensure that the application is processed in time.**

## **Refunds**

No refunds are issued for any Hackney Carriage and Private Hire licences.

## **Right of Appeal**

With two exceptions there is a right of appeal to the Magistrates Court in relation to driver, vehicle and operators licences for the following:

- An application for a new licence, or renewal of a licence, is refused by the Council
- An existing licence is suspended or revoked by the Council
- Any conditions imposed on the licence

The appeal must be lodged within 21 days of the decision being notified to the applicant or licence holder.

The exceptions are:

- The right of appeal against the refusal to grant or renew a Hackney Carriage vehicle licence is to the Crown Court
- Where the Council suspends a Hackney Carriage or Private Hire vehicle licence under section 68 (immediate suspension in a situation where, on inspection of the vehicle, the Police or Council are not satisfied to the fitness of the vehicle or accuracy of the meter) there is no right of appeal.

## **Hackney Carriage and Private Hire Drivers**

### **1. Hackney Carriage and Private Hire Driver (Dual Driver) - Application Requirements**

**The following apply to Dual Driver Licences and Private Hire Driver Licences.**

The dual driver licence permits you to drive both Hackney Carriages and Private Hire vehicles. The Private Hire driver licence permits you to drive a Private Hire vehicle only.

#### **1.1 New Application**

You must have held a full valid driving licence for at least 12 months authorising you to drive a motor car in the UK.

You must be 18 years of age or over.

An application cannot be granted unless the Council is satisfied that you are a 'fit and proper person' to hold a Hackney Carriage or Private Hire driver licence. There is no judicially approved test, however, when determining whether a driver is 'fit and proper', the Council will consider, amongst other things, the applicant's relevant skills, knowledge, experience, qualifications, conduct, medical fitness, criminal record and any previous history as a licence holder.

**If you have criminal convictions you may wish to wait until the Council has considered your criminal conviction and DVLA conviction history before undertaking the medical or driver assessment as any fees incurred will not be refunded should the Council decide that you are not a 'fit and proper person' in relation to offences.**

You are required to notify the Council of any convictions, cautions, fixed penalties received or any court cases pending during the application period (i.e. the time between the application being submitted and the licence being granted).

To make a new application you must submit the following (for information on how to obtain these please visit the driver application section of the website):

- **Application form**
- **Application fee**
- **Passport size photograph**, recently taken and clearly showing your full face uncovered, without sunglasses or hat
- **Valid DVLA driving licence**, authorising you to drive a motor car in the UK, showing your current home address
- **DVLA check code**  
**Disclosure and Barring Service (DBS) Enhanced Criminal Convictions Certificate** which is registered for the online update service prior to licensing with the Council. If this certificate has not been processed by the Council, the original certificate must be seen along with proof of the DBS Online Update Service registration. The DBS certificate must specify 'Other Workforce', Child and Adult barring list information.

In the interests of public safety, a licence is unlikely to be granted to any individual that appears on either barred list.

Please see our convictions policy in Annex 2 for further details.

- **Satisfactory Group 2 medical certificate** completed by your own General Practitioner or a medical practitioner that has access to your medical records. A medical certificate will not be accepted if it is dated more than 4 months prior to submitting the application. All costs associated with the medical certificate are met by the applicant and paid direct to the medical practitioner.
- **Evidence of successful completion of a Driving Assessment** through a Council approved provider. Assessment Certificates will not be accepted that are over 12 months old.
- **Evidence of successfully passing a Safeguarding Training Course** as specified by West Oxfordshire District Council.
- **Evidence that you have passed a knowledge test.** The knowledge test is an examination held at the Council Offices. Please see Annex 3 for details about the Knowledge Test.
- **A right to work check under the Immigration Act 2016 will be carried out before your licence is issued.**
- **English Proficiency qualification** (see 2.12)

### **Additional Application Requirements for Foreign Nationals and Persons That Have Resided Outside of England, Wales and Republic of Ireland**

The Council must be satisfied that you are a 'fit and proper person'. The DBS Criminal Record Check covers England, Wales and Republic of Ireland. The Council needs to take account of any offences committed outside these countries. If you are a foreign national or are a person who has resided outside of England, Wales and The Republic of Ireland, you must provide the following:

- DBS Enhanced Criminal Record Disclosure Certificate as detailed in new application requirements (unless you have only just arrived in this country). The DBS Enhanced Criminal Record Disclosure will show any convictions that have been committed in the UK.
- Where any applicant has been resident abroad at any time from the age of 18 prior to an application they must provide a Certificate of Good Conduct, a Criminal Record Check or similar document from each and every country within which they have been resident. Residency for these purposes is considered by this Licensing Authority as where the person has lived in a country for longer than 6 months in a given calendar year. Where this Certificate has been produced in a non-English language, the applicant is required to produce a translation of the Certificate from the Embassy or Consulate of that country and provide the original document. An exception might be permitted where a refugee has been allowed to stay in the UK and has been given asylum, and this exception will only apply to that country. <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants> will assist you further in obtaining this document.
- Driving Licence that permits you to drive in the UK for vocational purposes (driving as a job). If you hold an EC/EEA driving licence the Council will normally expect you to convert this to a GB driving licence prior to making your application.

A renewal application must be completed prior to the expiry date of your current Hackney Carriage and/or Private Hire driver licence. If you do not renew your licence before your licence expires you will become unlicensed. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

You have the option of applying for a 3 year licence.

To make a renewal application you must submit:

- Renewal application form
- Fee
- Valid DVLA driving licence authorising you to drive a motor car in the UK showing your current home address
- DVLA check code

**Renewals will not be processed if there are any DBS and medicals certificates outstanding.**

**Any previous information that has not been disclosed on your new or renewal application (for example speeding, criminal convictions etc.) will result in your licence being reviewed by the Licensing Sub-Committee.**

## **2. Hackney Carriage & Private Hire Drivers (Dual Driver)- West Oxfordshire District Council Policy**

### **2.1 Duration of Licence**

The Licence shall remain in force for a period of 3 years. The Council retains the right to only issue a licence for 1 year duration if appropriate.

### **2.2 Medical Criteria**

You must provide a satisfactory Group 2 medical certificate completed by your own General Practitioner or a medical practitioner that has access to your medical records at the following times:

- On application
- Every five years between the ages of 45 – 65 years
- Every year from the age of 65

All costs associated with the medical certificate are met by the applicant.

A recent satisfactory Group 2 medical examination for a PCV or HGV may be acceptable as an appropriate medical. This is, however, at the discretion of the Licensing Officer and you **must** be able to provide sufficient evidence that the medical was completed by your own General Practitioner or a medical practitioner that has access to your medical records and the DVLA have determined you are fit to drive a PCV/HGV. This certificate must be no more than 4 months old.

For drivers with diabetes managed by insulin or a sulphonylurea or a glinide, a full medical is required at the usual intervals determined by the driver's age and/or any other medical conditions, and in addition an annual specialist medical will be required.

You **must notify the Council immediately** if you develop any health or medical issues that may affect your fitness as a driver. The Council may require you to produce medical evidence of continuing fitness to drive during the period of the licence.

### **2.3 Requirement to return Driver Badge**

If you no longer intend to be a Hackney Carriage or Private Hire driver, or your badge is suspended or revoked, you must return your licence and badges to the Council **within 7 days**.

### **2.4 Notification of Changes**

If you move house or change your name, or if any other details included on the application form change, you must write and let the Council know **within 7 days**. If you cease to work for a Hackney Carriage proprietor or Private Hire operator or change to work for another Hackney Carriage proprietor or Private Hire operator you must write and let the Council know **within 7 days**.

### **2.5 Convictions, Cautions and Fixed Penalties**

Licence holders are required to notify the Licensing Authority **within 48 hours** any of the following:

- an arrest and release, charge or conviction of any sexual offence
- any conviction, caution, fixed penalty or court case pending
- any motoring offence including speeding fines

An arrest for any sexual offence, any offence involving dishonesty or violence and any motoring offence is likely to result in a review by the issuing authority as to whether the licence holder is fit to continue.

Please also refer to the relevance of convictions policy at Annex 1 for more information on the relevance of other convictions, arrests, cautions and criminal investigations.

**It is a requirement of your driver licence that you must notify the Police that you are a licensed driver upon arrest or whilst being interviewed Under Caution.**

## **2.6 DBS Check (Disclosure and Barring Service) criminal history**

It is a requirement as a licensed driver to have a satisfactory criminal check (DBS) in place at all times. The DBS certificate must be registered for the DBS Online Update Service and the registration must be kept active at all time. It is the responsibility of the licence holder to ensure that their subscription is paid and that their card details remain active with the DBS. If a subscription lapses, the driver licence will be suspended until another DBS certificate has been issued and the DBS Online Update Service has been verified by the Licensing team.

The DBS certificate that is used for the Online Update Service registration must be retained by the licence holder so that the Licensing Authority can view this upon request.

The DBS certificate must specify 'Other Workforce' and Child and Adult Barring list information.

The Licensing Authority will conduct 6 monthly checks automatically.

In the interests of public safety, a licence is unlikely to be granted to any individual that appears on either barred list.

## **2.7 Code of Conduct**

While working as a Hackney Carriage or Private Hire driver, you shall act in accordance with the following:

- Display your driver badge where it is easily visible
- Have a clean and tidy appearance in accordance with the Dress Code
- Behave in a polite and courteous manner
- Take reasonable precautions to ensure the comfort and safety of passengers at all times
- Attend punctually at the appointed time and place when hired
- If requested offer reasonable assistance with the loading and unloading of bags and luggage
- Offer reasonable assistance to passengers with a disability when they are getting in and out of the vehicle and, if appropriate, to and from their starting point or destination
- Unless otherwise directed by the Licensing Authority, proceed to the destination by the shortest or most economical route

- Not eat or drink in the vehicle whilst working as a Hackney Carriage or Private Hire vehicle
- Comply with a passenger's request not to play any radio or other sound producing equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle
- Not play any radio or other sound producing equipment in the vehicle so loud that it causes a noise nuisance to anyone inside or outside the Hackney Carriage or Private Hire vehicle
- Not carry animals in the vehicle whilst working as a Hackney Carriage or Private Hire except those carried in connection with the hiring of the vehicle. The driver has the discretion to decide whether he/she wants to take an animal belonging to a passenger in the vehicle, however, that animal may only be carried in the rear of the vehicle
- **Must carry a customer's guide, hearing or assistance dog** unless the driver holds an exemption on medical grounds
- Shall ensure that the vehicle is clean, tidy and free of rubbish and unnecessary personal belongings whilst being used to carry passengers
- Shall ensure that they comply with the Intended Use Policy at all times (see Annex 4)

### **2.8 Dress Code**

The purpose of West Oxfordshire District Council's driver dress code is to seek a standard of dress that portrays a positive image of the district; to enhance a professional image of the drivers licensed by the Council and to ensure that public and driver safety is not compromised.

The Council expects all licensed drivers to be dressed in an appropriate manner whilst working as a Hackney Carriage or Private Hire driver.

Unacceptable standards of dress include:

- Dirty and ripped clothing
- Words or graphics on any clothing that is of an offensive or suggestive nature
- Beachwear
- Outdoor footwear for all drivers must be suitable. Flip flops and forms of footwear which are not secured around the heel are deemed unacceptable.

### **2.9 Lost Property**

When a passenger is leaving your vehicle, you should check to make sure that no property has been left behind.

If a passenger does leave something in your vehicle you should take it to a local Police Station and get a receipt for it from the duty officer.

### **2.10 Safeguarding, Disability and Equality Awareness Training**

There are well-publicised issues relating to child sexual exploitation and human trafficking that have occurred throughout the country. These are abhorrent crimes and the Hackney Carriage and Private Hire trade have a role to play in tackling this issue by acting as the 'eyes and ears' of the community to help identify and help those who are vulnerable or being exploited.

West Oxfordshire District Council is committed to working with all Oxfordshire District and City Councils and Oxfordshire Safeguarding Children Board to ensure that there is a training programme available that all licensed drivers and new applicants must complete. This training is mandatory for all drivers. This training is required to be successfully passed upon application (before the driver licence can be granted) and every 3 years after. The cost of

the training must be paid for by the licence holder. Failure to undertake the training within the timescales, except in exceptional circumstances at the discretion of the Licensing Officers, will lead to suspension of the licence until such a time as the training is completed.

If you have concerns with regards to safeguarding issues, please follow the following reporting procedures for Oxfordshire:

To report **specific concerns about the abuse or neglect of an adult**, call Social and Health Care on **(0845) 050 7666**

If you are worried that your manager or any other professional (e.g teacher) may be abusing a child, call the Local Authority Designated Officer for Child Protection (LADO) on **(01865) 810603**

If you are concerned that a child may be being abused by someone other than your manager or another professional (e.g parent). Please contact the Multi-Agency Safeguarding Hub (MASH) on **(0845) 0507666**

To discuss **general safeguarding concerns** for the particular attention of the Transport hub (School Contracts) call Transport Quality Monitoring Team on **(01865) 323500** or email [qmcc@oxfordshire.gov.uk](mailto:qmcc@oxfordshire.gov.uk)

If there is an **urgent risk** call **999** immediately

### 2.11 Information Sharing

West Oxfordshire District Council will share information regarding drivers (applicants and existing licence holders) with neighbouring Oxfordshire Councils which may impact on public safety.

**2.12 English Proficiency** – The assessment of fit and proper includes an assessment of an applicant or licensee's English language proficiency. A lack of English language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others. Applicants for a hackney carriage or private hire driving licence must therefore have a sufficient English language proficiency and be able to demonstrate this. Some applicants may not be required to take the English proficiency test. This is the case if they can demonstrate their ability to communicate in English by providing an appropriate educational certificate for a qualification related to English. Acceptable qualifications may include a GCSE (or equivalent) in a subject such as English language or literature, a degree in a subject containing substantial English content, or an NVQ or BTEC in a subject that requires its students to communicate well in English. If applicants are unable to provide such a certificate, or if the licensing officer is not satisfied that the certificates provided sufficiently demonstrate the applicant's ability to communicate in English, the applicant will need to pass the English proficiency test. English language proficiency requirements will apply to new applicants from date of adoption of these standards however, discretion remains to refer existing licence holder for an assessment on a case to case basis.

### 2.13 National Register of Taxi Licence Refusals and Revocations Drivers (NR3)

West Oxfordshire District Council has signed up to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or private hire driver licence revoked, or an application for one refused. The register is used for assessing whether an individual is a fit and proper person to hold a hackney carriage or private hire driver licence.

Therefore:



- Where a hackney carriage or private hire driver licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new driver licence or driver licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

The information recorded on NR3 itself will be limited to:

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

Information will be retained on NR3 for a period of 25 years.

This is a mandatory part of making a new or a renewal application for a dual hackney carriage and private hire driver licence or for a private hire driver licence. West Oxfordshire District Council has a published policy on its website outlining the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it. You can read that policy at [\(link to follow\)](#)

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer. This includes submitting a subject access request. [\(link to follow\)](#)

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

A decision to refuse or revoke a licence where this decision related to a risk of harm to a child or vulnerable adult, will be referred to the DBS and Thames Valley Police.

All new and renewal driver licence applications will be checked against the NR3 to ensure that no action has been taken by any other Licensing Authorities.

### 2.14 Fit and Proper Test

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. The question of whether a person is a fit and proper person will be based on the following standard:

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

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

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

## **2.15 Complaints against licensees**

Licensees are required to display, in their licensed vehicles, guidance for passengers on making complaints directly to the licensing authority. The guidance for passengers must be displayed where it can easily be read. Signage to be displayed in licensed vehicles showing the guidance will be issued by the licensing authority. The signage will include:

- the licensing authority's name, contact email and address,
- the vehicle plate number for reference when making complaint,
- the licensing authority's website address where there will be further information for passengers about how to make complaint.

Licensees who are found to not be displaying the complaint guidance face a suspension of their vehicle licence and a possible review of their driving licence.

Complaints will be recorded, investigated and appropriate action taken in accordance with the Enforcement and Complaints policy at Annex 2.

### **3. Hackney Carriage & Private Hire Drivers (Dual Driver) - Requirements under Legislation**

#### **3.1 Equality Act 2010**

The Equality Act 2010 makes it unlawful to discriminate, either directly or indirectly, against members of the public on the grounds of disability, gender reassignment, pregnancy and maternity, race, sex, sexual orientation, religion or belief.

#### **3.2 Wheelchair Users**

Under the Equality Act 2010, from 6 April 2017, drivers of Hackney Carriage and Private Hire vehicles designated by the local licensing authority as being wheelchair accessible must comply with the requirements of Section 165 of the Equality Act 2010, unless they have been issued with an exemption certificate.

Drivers must:

- carry the passenger while in a wheelchair
- not make any additional charge for doing so
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair
- take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- give the passenger such mobility assistance as is reasonably required

Section 166 allows us to exempt drivers from the duties to assist passengers in wheelchairs if it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties.

The licensing authority will also maintain a list of designated wheelchair accessible vehicles on its website.

#### **3.3 Assistance Dogs**

Under the Equality Act 2010, licensed drivers of Hackney Carriages and Private Hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make any additional charge for doing so

It is best practice to ask the passenger where they want themselves and their dog to sit in the vehicle.

Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed.

To ensure that the Equality Act 2010 is upheld, West Oxfordshire District Council will have a zero tolerance policy to access refusals and will investigate all reported violations of the Act with a view to pursuing a conviction.

Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from the duty on medical grounds. The Council will only issue an exemption certificate when it is authorised by the driver's GP and is

accompanied by medical evidence, for example a blood test, a skin prick test or clinical history. The notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.

### **3.4 Smoke Free Legislation**

Under the Health Act 2006, Hackney Carriage and Private Hire vehicles are smoke free vehicles by law. This means that neither the driver nor the passengers are able to smoke in the vehicle at any time. Even if you are driving a licensed vehicle without passengers you will be committing an offence if you smoke in the vehicle.

Vaping and electronic cigarettes are also prohibited in licensed Hackney Carriage or Private Hire vehicles.

### **3.5 Immigration Act 2016**

Any person who does not have the right to work in the UK is disqualified from holding a Hackney Carriage or Private Hire driver licence. The Council will need to see documentation to check that an applicant is not disqualified for reason of their immigration status.

## **4. Vehicles - Application Requirements**

### **4.1 New Application**

To make an application you must submit the following:

- Application form
- Fee
- Vehicle registration document in your name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate (unless the vehicle is less than 1 year old from registration date)
- Meter Calibration Certificate. This applies to all Hackney Carriages. For Private Hire vehicles it only applies if a meter is fitted
- LOLER and weight test certificate (if applicable)
- Basic DBS check by the vehicle proprietor if they are not a licensed driver with West Oxfordshire District Council

### **4.2 Renewal Application**

A renewal application must be completed prior to the expiry date of the current Hackney Carriage vehicle licence. If you do not renew your licence before it expires your vehicle becomes unlicensed and should not be used for hire and reward. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply.. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

To make a renewal application you must submit:

- Application form
- Fee
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Hackney Carriage, Hackney Carriage or public hire. For Private Hire vehicles insurance will state Private Hire
- MOT certificate (unless the vehicle is less than 1 year old from registration date)
- Basic DBS check by the vehicle proprietor if they are not a licensed driver with West Oxfordshire District Council

### **4.3 Transfer of Ownership Application**

*(Ownership of a licensed vehicle is transferred to another person(s)).*

To make a transfer application the new owner must submit the following:

- Transfer application form
- Fee
- Proof of transfer of the licensed vehicle such as a registration certificate in the new owner's name or, if not available, a bill of sale, an invoice or a credit agreement

- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT (unless the vehicle is less than 1 year old from registration date)
- Written consent to transfer from previous licence holder
- Basic DBS check by the vehicle proprietor if they are not a licensed driver with West Oxfordshire District Council

The existing licence plate will be valid for the remainder of the current licence. A new plate will not be issued.

### **4.4 Change of Vehicle Application**

*(A licensed vehicle is replaced with another vehicle either temporarily or permanently)*

To make a change of vehicle application you must submit:

- Change of vehicle application form
- Fee
- Proof of ownership of the vehicle such as a registration certificate in your name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate (unless the vehicle is less than 1 year old from registration date)
- Return any plates and discs previously issued by the Council

For permanent transfers, the licence holder can choose whether to be issued with a new plate for a full year or for the remainder of the current year.

For insurance companies providing vehicles temporarily, a new licence must be applied for. The application form should be completed by the insurance company.

### **4.5 Change of Registration of Vehicle Application**

*(The registration number of a licensed Hackney Carriage or Private Hire vehicle is changed eg personalised number plate)*

To make a change of registration application you must submit:

- Change of registration application form
- Fee
- Documents from DVLA confirming change of registration
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate showing new registration
- Return any plates and discs previously issued by the Council

## **5. Hackney Carriage and Private Hire vehicles - West Oxfordshire District Council Policy**

### **5.1 Vehicles**

The vehicle shall be of a suitable size, type and design to be safe and comfortable for passengers.

The vehicle must be right hand drive.

Normally vehicles should be four door saloons; five door estates, multi purpose vehicles (people carriers), minibus or purpose built Hackney Carriages.

The vehicle must be constructed and the doors open sufficiently wide as to allow easy access in to and egress from the vehicle and cause no inconvenience to passengers.

A minibus, or similar type of vehicle, in addition to the driver's door, must have at least two other doors that provide adequate entry/egress to the vehicle for use by passengers. These doors must permit easy access for passengers entering and exiting the vehicle and be readily opened from inside the vehicle. They may consist of:

- Either two sliding doors, one to either side of the vehicle, or
- A door on the 'near side' of the vehicle and a door at the rear of the vehicle

The vehicle licence holder shall ensure that the vehicle and all fittings and seating are efficient, safe, tidy and clean.

The **outside of the vehicle** will be free from dents, rust or unrepaired accident damage and with even paintwork matching that applied by the manufacturer. This includes alloy wheels, hub caps and wheel trims.

The **inside of the vehicle** will be free of all visible stains, splits, and tears unless satisfactorily repaired or covered neatly. All carpets and mats will be fitted so as to not be a trip hazard.

A vehicle must not be structurally damaged or have been an insurance write-off, except where repaired and certified to the Council's satisfaction.

### **5.2 Age policy for vehicles**

A new application for a Hackney Carriage or Private Hire vehicle licence will be refused if a vehicle is more than 5 years old from date of first registration.

An application to change the vehicle licensed as a Hackney Carriage or Private Hire vehicle will be refused if a vehicle is more than 5 years old from date of first registration.

An application to renew a Hackney Carriage or Private Hire vehicle will be refused if the vehicle is more than 15 years old from date of first registration.

Wheelchair accessible vehicles will be exempt from the above policy.

Licensing Officers have the discretion to licence a vehicle that does not meet the above age policy in the case of elite vehicles such as purpose built Hackney Carriage cab, Rolls Royce or similar provided the vehicle is in excellent condition. Any such requests for licensing a vehicle should be made in writing by email.

### **5.3 Converted Vehicles (including wheelchair accessible)**

A vehicle that has been converted since manufacture, for example, many wheelchair accessible vehicles, must provide one of the following M1 approvals following conversion:

- European Whole Vehicle Type approval (ECWVTA)
- UK Low volume approval (UKLVTA)
- UK Individual Vehicle Approval (IVA)
- Certificate of Initial Fitness (COIF)
- UK Voluntary Standard Individual Vehicle Approval

Vehicles converted from vans which have a type approval other than M1 will not be acceptable unless they are presented with approved M1 certification for the resultant vehicle.

Please note that to achieve Voluntary Standard Individual Vehicle Approval VOSA are likely to require valid certification that all alterations such as seat fitting and tracking are M1 compliant. There is information about voluntary approvals on the Government's website. <https://www.gov.uk/vehicle-approval/voluntary-approval>

Where a wheelchair accessible vehicle has been converted by a bona fide converter, and the vehicle has then been registered with DVLA after conversion, the Council will accept that this vehicle will have passed appropriate approval in order to be registered and so the vehicle will be accepted for licensing without need for further documentation unless it appears that further conversions have been made to the vehicle following registration.

For vehicles that have been converted and currently licensed with West Oxfordshire District Council, an IVA will be required by 1 April 2020.

### **5.4 Wheelchair Accessible Vehicles**

Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:

- The vehicle must be capable of accommodating a wheelchair user in a wheelchair so that the wheelchair faces forwards. The wheelchair must not be placed sideways
- Access to and egress from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus
- Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit
- A suitable restraint must be available for the occupant of a wheelchair
- Access ramps or lifts to the vehicle must be securely fixed prior to use and be able to support the wheelchair, occupant and baggage
- Ramps and lifts must be securely stored in the vehicle before it may move off



- When deployed, ramps must run flush with the interior floor level
- Any equipment fitted to the Hackney Carriage or Private Hire vehicle for lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times

### **5.5 Stretched Limousines**

#### Hackney Carriages

Stretched Limousines are not permitted to be licensed as Hackney Carriage vehicles.

#### Private Hire vehicles

Stretched limousines are permitted to be licensed as Private Hire vehicles.

The vehicle may be left or right hand drive.

The vehicle will be licensed to carry no more than 8 passengers.

All limousines must have a UK single vehicle approval certificate issued by VOSA.

Any proprietor who wishes to license an American Stretched Limousine will need to prove the vehicle has been converted by an approved converter under the Ford, Quality Vehicle Modifier (QVM) programme or on the Cadillac, Cadillac Master Coachbuilders (CMC) programme. It is the responsibility of the proprietor to provide the evidence to support this.

Where any vehicle is 'stretched' within the European Union the proprietor must produce the appropriate 'Low Volume' or 'European Whole Vehicle Type Approval' certification identifying the converting company.

Each Private Hire Licensed Stretched Limousine shall be required to produce a new MOT certificate every 6 months. The MOT test should be carried out by a VOSA registered MOT testing station with facilities to accommodate such vehicles.

### **5.6 Criminality checks for vehicle proprietors**

Licensed vehicle proprietors will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the vehicle licence.

Whether a licensed vehicle proprietor is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at Annex 1.

Should the licensed vehicle proprietor cease to hold a driver hackney carriage or private hire driver licence a basic certificate should will be required immediately.

A refusal to license an individual as a hackney carriage or private hire driver or to suspend or revoke a driver licence, does not automatically mean that that individual cannot be issued or continue to hold a hackney carriage or private hire vehicle or private hire vehicle operator licence.

Under these circumstances, a decision on the fitness and propriety of a vehicle proprietor will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the information that would only be available via an enhanced DBS

check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

## 6. Hackney Carriage and Private Hire vehicles - West Oxfordshire District Council Conditions

These conditions are attached to all Hackney Carriage and Private Hire vehicle licences issued by West Oxfordshire District Council.

### 6.1 Vehicle Testing

All vehicles over 5 years old will be subject to obtaining a satisfactory MOT certificate every 6 months. It will be the licence holders responsibility to ensure that this certificate is submitted to licensing in a timely manner.

### 6.2 Vehicle Plates

Hackney Carriages only - an external licence plate must be attached to the outside of the vehicle adjacent or near to the rear vehicle number plate and must be visible at all times that the licence is in force.

Hackney Carriages and Private Hire - an internal licence plate must be attached to the internal bottom passenger side corner of the front windscreen and must be visible from inside and outside the vehicle at all times that the licence is in force.

All plates shall remain the property of the Council and in the event that the licence is suspended, revoked or expired shall be returned to the Council **within 7 days** from the date of a notice served on the licence holder by the Council.

### 6.3 Roof Signs

#### Hackney Carriages

A roof sign must be displayed on the top of the vehicle clearly showing the word 'Taxi'. The sign shall be attached to the meter and shall be illuminated when the vehicle is available for hire. The design of the roof sign shall be approved by the Council. The following may be incorporated in the roof sign:

- the trade name or name of the proprietor;
- the telephone number, email address and/or website of the proprietor;
- the words 'For Hire' which are only illuminated when the licensed Hackney Carriage is available for hire;

The roof sign may be of any colour except blue, but must conform to national legislation and Road Vehicle Lighting Regulations in respect of the display of lights to the front and rear of any vehicle.

Any exceptions to this rule must be submitted to the Licensing Officer for consideration.

#### Private Hire vehicles

The displaying of signs on or above the roof of a Private Hire vehicle is permitted but can only consist of the company name, telephone number and must state pre-booking only. The words 'taxi', 'cab' or 'Hackney Carriage' are strictly prohibited.

Requests for roof signs on Private Hire vehicles must be approved by the Licensing Officer.

#### **6.4 Fire Extinguisher**

The vehicle licence holder shall ensure that an appropriate fire extinguisher is provided in the vehicle and is maintained in good working order and readily available for use in an emergency.

#### **6.5 First Aid Kits**

It is recommended that a First Aid Kit is carried in the vehicle.

#### **6.6 CCTV**

CCTV in vehicles is not currently a requirement.

If the licence holder chooses to install CCTV, they must be registered with the ICO.

CCTV systems must be operated in accordance with data protection legislation.

Any vehicle with CCTV that records inside the vehicle must display a sign advising passengers that a CCTV system is in operation in the vehicle.

Audio recording CCTV systems must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances. You must choose a system without this facility wherever possible; however, if the system comes equipped with a sound recording facility then this functionality should be disabled. There are limited circumstances in which audio recording may be justified due to a specific threat to an individual's personal safety, e.g. when a 'panic button' is utilised in response to a threat of physical violence. Where this audio recording facility is utilised a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed. The time period that audio recording may be active should be the minimum possible and should be declared at the time of submission for approval of the equipment. In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out.

Further information on CCTV and data protection can be found on the Information Commissioners' website at <https://ico.org.uk>

#### **6.7 Tinted Windows**

Vehicles will not be accepted that have tinted film on the windows. However factory fitted tinted windows are permitted.

#### **6.8 Luggage**

All luggage must be stored securely and, if appropriate, the vehicle shall be fitted with suitable equipment to prevent luggage from entering the passenger compartment.

Any roof racks, roof boxes and trailers to be used must be approved by a Licensing Officer. When using such equipment you should ensure that the luggage is safely secured.

## **6.9 Seatbelts**

For each passenger carried in the licenced vehicle there shall be available a properly fitted, maintained and EU approved seatbelt as per the manufacturer's specification.

## **6.10 Meters**

### Hackney Carriages

All Hackney Carriages must have a meter.

For requirements relating to meters in Hackney Carriages please see Hackney Carriage Byelaws (see section 7).

A meter certificate issued by a meter fitter, approved by the meter supplier, will be required in the following cases:

- When a vehicle is first licensed
- If a meter is replaced
- A meter is moved to another licensed vehicle
- West Oxfordshire District Council rates are changed
- At the request of a Licensing Officer where there is concern about the accuracy of the meter

Hackney Carriage meters may be tested for accuracy at the discretion of the Council.

### Private Hire vehicles

A meter may be installed in a Private Hire vehicle. However, if installed, it must have a sign attached stating that 'This is a Private Hire vehicle' and clearly display the tariff to which the meter is set. The tariff set should not exceed the authorised tariff for Hackney Carriages set by the Council. A meter certificate certifying the meter has been calibrated accurately must be provided when the meter is installed, changed or moved to another vehicle.

## **6.11 Fares**

### Hackney Carriages

For a journey that wholly takes place within the controlled district the meter shall be running at no higher than the prescribed rate and the fare charged shall be the fare showing on the meter unless a fare is agreed with the passenger(s) prior to the commencement of the journey. Such an agreed fare shall not exceed the prescribed rate.

For a journey that either wholly or in part takes place outside the controlled area the fare or method of calculation of the fare shall be agreed with the passenger(s) prior to the commencement of the journey.

### Private Hire

All journeys must be pre-booked. The fare must be agreed in advance with the customer or, if a meter is fitted, it must be agreed prior to the journey to use the meter.

## **6.12 Setting of fares**

Upon receipt of a request to review the fares for the District, the licensing authority must conduct a review.

The request must be supported by independent operators and firms to ensure that the request is required by a combination of licence holders. As a rule, a request will not be accepted if there is less than 10% of the trade requesting it.

A request will only be entertained providing that there has been no other review within the past 12 months.

Once a request has been received, the licensing authority will ensure that the consultation commences within 3 months of receipt.

### **6.13 Complaints, compliments and feedback regarding licensees**

Licensees are required to display, in their licensed vehicles, guidance for passengers on making complaints, compliments or general feedback directly to the licensing authority. The guidance for passengers must be displayed where it can easily be read. Signage to be displayed in licensed vehicles showing the guidance will be issued by the licensing authority. The signage will include:

- the licensing authority's name, contact email and address,
- the vehicle plate number for reference when making complaint,
- the licensing authority's website address where there will be further information for passengers about how to make complaint.

Licensees who are found to not be displaying the complaint guidance face a suspension of their vehicle licence and a possible review of their driving licence.

Complaints will be recorded, investigated and appropriate action taken in accordance with the Enforcement and Complaints policy at Annex 2.

### **6.14 Advertising**

A copy of the policy guidelines on signage, advertising and other vehicle signage is shown in Appendix 9. The requirements are detailed below:

#### **For Hackney Carriage Vehicles**

a) Vehicle markings which comply with the following condition do not require approval by the Licensing Officer: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 457mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.

b) New vehicle markings which do not fall within the standard condition at (a) above must be given prior approval by the Licensing Officer. Applications should be made following procedures and guidelines which are available from licensing. No new markings or advertising can be displayed until the application has been approved.

c) The Hackney Carriage company / proprietor's trade-name, telephone number, email address and/or website, may be displayed anywhere on the vehicle. The size, style and colours of the lettering are not restricted but must be approved by the Licensing Officer beforehand.

d) Third-party advertising – for example sponsorship by a local company – may be allowed, but each application must be made in writing and will be decided by the

Council's Licensing Sub-Committee. No such advertising may be used without the Licensing Sub-Committee's prior agreement.

e) Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view, must conform with national legislation concerning the placing of such signs on vehicle windscreens, and must be approved by the Licensing Officer beforehand.

f) Markings and advertising on the vehicle must not be of a racial, sexual, potentially offensive, political or religious nature, and any markings considered by the Licensing Officer to be inappropriate will not be permitted.

### **For Private Hire vehicles**

a) Vehicle markings which comply with the following condition do not require approval by the Licensing Officer: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 962mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.

b) New vehicle markings which do not fall within the standard condition at (a) above must be given prior approval by the Licensing Officer. Applications should be made following procedures and guidelines which are available from the Licensing Team. No new markings or advertising can be displayed until the application has been approved.

c) The Private Hire Operator's trade-name, telephone number, email address and/or website, may be displayed anywhere on the vehicle. The size, style and colours of the lettering are not restricted but must be approved by the Licensing Officer beforehand.

d) The use of the following words, or derivatives of them, is PROHIBITED anywhere on a Private Hire vehicle: 'TAXI', 'CAB', 'HACKNEY CARRIAGE'

e) Third-party advertising – for example sponsorship by a local company – may be allowed, but each application must be made in writing and will be decided by the Council's Licensing Sub-Committee. No such advertising may be used without the Licensing Sub-Committee's prior agreement.

f) Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view, must conform with national legislation concerning the placing of such signs on vehicle windscreens, and must be approved by the Licensing Officer beforehand.

g) Markings and advertising on the vehicle must not be of a racial, sexual, potentially offensive, political or religious nature, and any markings considered by the Licensing Officer to be inappropriate will not be permitted.

### **Approval of signage and advertising**

All new signs, markings and advertisements must be approved by the Council. In the case of disagreement between the Licensing Officer and the applicant, the applicant may ask for the application to be considered by the Council's Licensing Sub-Committee.

## **7. Hackney Carriage Byelaws**

**These bye laws only apply to hackney carriages, they do not apply to Private Hire vehicles**

Byelaws made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875, by the West Oxfordshire District Council with respect to hackney carriages in the West Oxfordshire District.

### **Interpretation**

1. Throughout these bye laws “the Council” means the District Council of West Oxfordshire and “the district” means the area of West Oxfordshire.

**Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence shall be displayed.**

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.

(b) A proprietor or driver of a hackney carriage shall:-

- i. not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
- ii. not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

**Provisions regulating how hackney carriages are to be furnished or provided.**

3. The proprietor of the hackney carriage shall:-

- (a) provide sufficient means by which any person in the carriage may communicate with the driver;
- (b) cause the roof or covering to be kept water-tight;
- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
- (d) cause the seats to be properly cushioned or covered;
- (e) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
- (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
- (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
- (h) provide an efficient fire extinguisher which shall be carried in such a position as to be ready available for use; and
- (i) provide at least two doors for the use of persons conveyed in such carriage and separate means of ingress and egress for the driver.

4. The proprietor of the hackney carriage shall cause the same to be provided with the taximeter so constructed, attached, and maintained as to comply with the following requirements, that is to say:-

- (a) the taximeter shall be fitted with a key, flag, or other device the operation of which will bring the machinery of the taximeter into action and cause the word “HIRED” to appear on the face of the taximeter;



- (b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for hire of the carriage by distance in pursuance of the byelaw in that behalf.
- (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.**

5. The driver of a hackney carriage provided with a taximeter shall:-

- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
- (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;
- (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise and also at any other time at the request of the hirer.

6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.

7. A driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-

- (a) proceed with reasonable speed to one of the stands fixed by the byelaw in that behalf;
- (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
- (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;
- (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.

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

## ***Vehicles***

9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place, shall unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

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

12. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.

13. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.

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

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

### **Provisions fixing the stands of hackney carriages.**

15. Each of the several places specified in the following list shall be a stand for such number of hackney carriages as is specified in the list:

<u>Town</u>	<u>Situation of stand</u>	<u>Number of hackney carriages</u>
Chipping Norton	High Street On the east side of the Town Hall from a point approximately 50 metres north of the High Street/ Cattle market junction for a distance Of 12 metres south.	2
Witney	Market Square On the east side from a point of 20 metres north of the centre line of its junction with Corn Street for a distance of 20 metres north.	4

### **16. Provisions fixing the rates or fares to be paid for hackney carriages within the district, and securing the due publication of such fares**

The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the following table the rate or fare being

calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the following table which it may not be possible to record on the face of the taximeter.

**Fares for distance**

	New pence
(i) Mileage	
For the first 1760 yards (1609 metres) or uncompleted portion thereof	100
For each subsequent 352 yards (321 metres) or uncompleted part thereof	15
(ii) Extra charges	
For hirings begun between midnight and 6am	50% of the above rate or fare
For hirings on Sundays and Bank Holidays	50% of the above rate or fare

17. a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the byelaw in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.

(b) The proprietor of a Hackney Carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

**Provisions securing the safe custody and re-delivery of any property accidentally left in Hackney Carriages, and fixing the charges to be made in respect thereof.**

18. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have accidentally be left therein.

19. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed in to him:-

(a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave in the custody of the officer in charge of the office on his giving receipt for it;

(b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

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

**Repeal of Byelaws**

21. a) Chipping Norton

The byelaws relating to hackney carriages which were made by the Borough of Chipping Norton on the 21<sup>st</sup> day of May, 1973, and which were confirmed by the Secretary of State on the 15<sup>th</sup> day of August, 1973, are hereby repealed.

b) Witney

The byelaws relating to hackney carriages which were made by the District of West Oxfordshire on the 10<sup>th</sup> day of September, 1975 and which were confirmed by the Secretary of State on 7<sup>th</sup> November, 1975, are hereby repealed.

Given under the Common Seal of the West Oxfordshire District Council this 24<sup>th</sup> day of April 1986 in the presence of M L Chadwick (Chairman) and D J Rose (Deputy Clerk).

The foregoing byelaw is hereby confirmed by the Secretary of State and shall come into operation on the 1<sup>st</sup> day of July 1986.

## **8. Hackney Carriage and Private Hire vehicles - Requirements under Legislation**

### **8.1 Duration of Licence**

The licence shall remain in force for a period of one year.

### **8.2 Number of Passengers permitted**

A Hackney Carriage or Private Hire vehicle shall not be licensed to carry more than 8 passengers.

A Hackney Carriage or Private Hire vehicle shall not carry any more passengers than the number stated on the Hackney Carriage or Private Hire vehicle plate.

### **8.3 Hackney Carriage must be driven by a licensed Hackney Carriage Driver**

Once a vehicle is licensed as a Hackney Carriage it can only be driven by a person holding a Hackney Carriage driver's licence issued by the same Council throughout the duration of that Hackney Carriage vehicle licence. This includes when the Hackney Carriage is being used for private use.

### **8.4 Private Hire vehicle must be operated by a licensed Private Hire Operator and driven by a licensed Private Hire Driver**

A Private Hire vehicle must at all times be operated by a Private Hire operator licensed with the same Council.

Once a vehicle is licensed as a Private Hire vehicle it can only be driven by a person holding a Private Hire drivers licence issued by the same Council throughout the duration of that Private Hire vehicle licence. This includes when the Private Hire vehicle is being used for private use.

### **8.5 Private Hire vehicle must not look or be used like a Hackney Carriage**

A Private Hire vehicle must not be or resemble a Hackney Carriage or otherwise be of such design or appearance as to lead any person to believe that the vehicle is a Hackney Carriage. For example it should not resemble a London style Hackney Carriage.

A Private Hire vehicle must not display any sign that includes the word 'Taxi' or 'Cab' or 'For Hire' or any word of similar meaning or appearance to any of those words.

### **8.6 Plying for Hire – Hackney Carriages only**

Plying for hire means waiting for passengers at a taxi rank or being flagged down in the street.

Hackney Carriages licensed by West Oxfordshire District Council can only ply for hire within West Oxfordshire District boundaries.

A Private Hire vehicle is not permitted to ply for hire.

### **8.7 Change of Address or Details of Licence**

A holder of a Hackney Carriage or Private Hire vehicle licence must notify the Council in writing **within 7 days** of any changes in the details of their licence including a change of address.

### **8.8 Notification of Accidents**

A holder of a Hackney Carriage or Private Hire vehicle licence must notify the Council as soon as reasonably practical and **no longer than 72 hours** after any accident that causes damage affecting the safety, performance or appearance of a Hackney Carriage or Private Hire vehicle or the comfort and convenience of the passengers.

### **8.9 Smoke Free Legislation**

Hackney Carriages and Private Hire vehicles are smoke free vehicles by law and neither the driver nor the passengers are able to smoke in the vehicle at any time. Even if there are no passengers the driver cannot smoke in the vehicle.

Vaping and electronic cigarettes are also prohibited in licensed vehicles.

A 'No Smoking' sign must be displayed in each compartment in the vehicle which shows the international 'No Smoking' symbol (a minimum of 70 mm in diameter).

### **8.10 Seat Belt and Child Restraint legislation**

The driver of a Hackney Carriage or Private Hire vehicle is responsible for ensuring that all passengers under the age of 14 are wearing the correct seat belts or restraints.

There is an exemption in legislation for Hackney Carriages and Private Hire vehicles regarding child restraints. If the correct size child restraints are not available in the vehicle then the following apply:

- Under 3s may travel unrestrained but in the rear seat only;
- Those 3 years and above in the rear seat must use an adult belt if the appropriate child seat or booster is not available;
- A child up to 12 years old or up to 135 cms in a front seat of any vehicle including Hackney Carriages must use the correct child seat or booster.

The driver of a Hackney Carriage or Private Hire vehicle is exempt from wearing a seatbelt whilst the vehicle is being used for seeking hire, or answering a call for hire, or carrying a passenger for hire. However, as a matter of safety, the Council would advise that drivers do wear their seatbelts at all times and in particular when not carrying passengers.

### **8.11 Sale of Alcohol**

Sale of alcohol is a licensable activity under the Licensing Act 2003. Sale of alcohol is prohibited on a moving vehicle. If a sale of alcohol is made as part of a booking arrangement that sale must be authorised by either a premises licence or temporary event notice in accordance with the Licensing Act 2003.

# **Private Hire Operators**

## **9. Private Hire Operators - Application Requirements**

### **9.1 New Applications**

You have the option to apply for a licence that lasts for 1 year or 5 years. The application process is the same but the fee is higher for a 5 year licence.

To make an application, you must submit the following:

- Application form
- Fee
- Satisfy the Council that you are a 'fit and proper person'. You must provide a Basic Criminal Record Disclosure and provide appropriate identity documentation. (Where you have also submitted an application for a Hackney Carriage or Private Hire driver licence to the Council (and that application or licence is still current), the Enhanced Criminal Record Check that is undertaken as part of that application will be accepted instead of needing to provide a Basic Criminal Record Disclosure)

### **Additional New Application Requirements for Foreign Nationals and Persons That Have Resided Outside the UK**

- Provide a Basic Criminal Record Disclosure as detailed in application requirements above (unless you have only just arrived in this country). The Basic Criminal Record Disclosure issued through Disclosure Scotland will show any convictions that have been committed in the UK
- In addition to the Basic Criminal Record Disclosure you must provide the Council with a criminal record disclosure from all countries outside the UK you have resided in from the age of 18; or if those countries do not produce such information a certificate of good conduct from the Embassy or Legation from all countries outside the UK that you have resided in from the age of 18. This certificate must be an original and if in a foreign language must be accompanied by an original certified translation from a sworn translator. Any costs involved in such certificates and translations must be paid by you

### **9.2 Renewal Application**

A renewal application must be completed prior to the expiry date of the Private Hire Operator's licence. There is normally no period of grace if a renewal is submitted after the expiry date. If you do not renew your licence on time you will become unlicensed. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

You have the option to renew for a licence that lasts for 1 year or 5 years.

To make a renewal application you must submit:

- Renewal application form
- Pay the appropriate renewal fee

## 10. Private Hire Operators Conditions

These conditions are attached to all Private Hire operator licences issued by West Oxfordshire District Council.

### 10.1 Duration of Licence

The licence is issued for a period of 1 year or 5 years.

### 10.2 Convictions, Cautions and Fixed Penalties

If any person named on the Private Hire operator's licence gets any convictions, cautions, fixed penalties or has a court case pending, he/she must notify the Council in writing **within 48 hours**

### 10.3 Criminality checks for private hire vehicle operators

Licensed private hire operator(s) will be subject to an annual basic disclosure check from the DBS unless they are also a licensed hackney carriage or private hire driver licensed with the same authority where they hold the operating licence.

Whether a private hire operator(s) is fit and proper will be determined based on the definition set by the common licensing standards and the relevance of convictions policy at Annex 1.

Should the private hire operator(s) cease to hold a driver hackney carriage or private hire driver licence, a basic certificate should will be required immediately.

Refusal to license in individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence.

Under these circumstances, a decision on the fitness and propriety of a private hire operator(s) will be made independent of a driver licence refusal, based on the appropriate information and taking into consideration the individual circumstances of each case. An important consideration will be the information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

A private hire vehicle operator licence may be applied for by a company or partnership. In this case, the 'fit and proper' test will apply to each of the directors or partners in that company or partnership.

A licensed private hire operator issued to a company or partnership must advise the licensing authority of any change in directors or partners. Any change to directors or partners will require additional criminality checks.

### 10.4 Change of Address or Details of Licence

Any person named on the Private Hire operator's licence must notify the Council in writing **within 7 days** if the information supplied in his/her application for a Private Hire operator's licence is altered for any reason including a change of address.

### 10.5 Responsibility for Drivers and Vehicles



A Private Hire operator must ensure that all vehicles and drivers operating under his/her operator's licence are complying with the legislation and conditions relating to Private Hire vehicles and drivers.

### **10.6 Accepting Bookings**

A Private Hire operator must not accept a booking unless the person making the booking knows the basis of the hire charge.

### **10.7 Records**

A Private Hire operator must keep records of all bookings at their operator base in either a bound book or as a computer record which must include:

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

- Any other comments such as details of sub-contract

A Private Hire operator must keep records of all Private Hire vehicles that he/she operates. This includes:

- The owner of the vehicle;
- The registration number and plate number;
- The driver of the vehicle and badge number.

All records should be kept for **6 months** from the date of the last entry.

Details of all bookings must be entered into the records immediately after they have been accepted or as soon as reasonably practicable.

An operator shall notify the Council in writing **within 7 days** of the termination of employment of a Private Hire vehicle or driver.

### **10.8 Advertising**

A Private Hire operator must not use the words 'taxi' or 'cab' or any word of similar meaning or appearance to any of those words in any advertising of the operator's company except where an operator also makes licensed Hackney Carriages available.

### **10.9 Standard of Service**

A Private Hire operator shall ensure that when a Private Hire vehicle has been hired it shall attend punctually at the appointed time and place unless delayed or prevented with reasonable cause.

#### **10.10 Location of Operator Base**

The location where a Private Hire operator makes provision for taking a booking must be within the Council's boundaries. This may be an office address, business address or a home address.

#### **10.11 Premises**

If any rooms or areas are provided for the public for waiting or making bookings they must be clean, adequately heated and ventilated and lit and have adequate seating facilities.

If any rooms or areas are provided for use by the public the Private Hire operator must hold public liability insurance for those areas if relevant.

If premises are open to the public, applicants must produce evidence that they have taken out a minimum of £5 million of public liability insurance for the premises to be licensed, before the relevant council will approve an application for a private hire operator's licence.

#### **10.12 Booking and dispatch staff**

Licensed private hire operator(s) will be subject to a licence condition ensuring that all booking and dispatch staff have had a basic DBS check. In addition, private hire operators must ensure they have written policies and procedures in place to:

- a. ensure criminality checks are undertaken on all booking and dispatch staff at appropriate intervals; and
- b. set out its approach on employing all booking and dispatch staff that are ex-offenders.

Where a licensed private hire operator has outsourced its booking and dispatch function that licensed private hire operator must ensure the third-party have adequate arrangements in place as outlined above.

## **11. Private Hire Operators - Requirements under Legislation**

### **11.1 Drivers and Vehicles**

An operator must not use unlicensed drivers or vehicles.

An operator may only make use of drivers and vehicles licensed by the same Council that has issued the operator's licence.

### **11.2 Sub-Contracting**

An operator may sub-contract a booking to another operator licensed with any Council. Both operators must keep a record of the booking. The contract and responsibility for the booking remains between the operator that took the booking and the client.

### **11.3 Records**

An operator must make available records, on request, to an authorised officer of the Council or to a Police Officer.

### **11.4 Smoke Free Legislation**

Private Hire vehicles and Hackney Carriages are 'Smoke Free' vehicles which means that no one can smoke in these vehicles at any time and the appropriate signage must be displayed.

Vaping and electronic cigarettes are also prohibited in licensed vehicles.

Any enclosed premises that are used by the public, for example for making bookings or are used as a workplace, must be smoke free.

### **11.5 Equality Act**

The Equality Act 2010 makes it unlawful to discriminate, either directly or indirectly, against members of the public on the grounds of disability, gender reassignment, pregnancy and maternity, race, sex, sexual orientation, religion or belief.

### **11.6 Bookings Made by Disabled Persons Accompanied by Assistance Dogs**

A Private Hire operator may not refuse to take a booking by a disabled person if the reason for that refusal is because the person will be accompanied by an assistance dog.

A Private Hire operator may not make an additional charge to carry an assistance dog.

### **11.7 Planning Permission**

The use of a premises for a Private Hire operators business may require planning permission. Operators are advised to check with the relevant Planning Authority.

### **11.8 Sale of Alcohol**

Sale of alcohol is a licensable activity under the Licensing Act 2003. Sale of alcohol is prohibited on a moving vehicle. If a sale of alcohol is made as part of a booking arrangement that sale must be authorised by either a Premises Licence or Temporary Event Notice in accordance with the Licensing Act 2003.

### **11.9 Immigration Act 2016**

Any person who does not have the right to work in the UK is disqualified from holding a Private Hire operator licence. The Council will need to see documentation to check that an applicant is not disqualified for reason of their immigration status.

## **17. ANNEXES**

- 1. Criminal Convictions Policy**
- 2. Enforcement and Complaints**
- 3. Knowledge Test**
- 4. Intended Use Policy**
- 5. Policy guidelines for signage, advertising and other markings on licensed vehicles**
- 6. Service Delivery Timescales**
- 7. Table of delegations**

## **ANNEX 1**

### **TAXI AND PRIVATE HIRE CONVICTIONS POLICY AS FROM 1 OCTOBER 2021**

#### **INFORMATION FOR APPLICANTS AND EXISTING LICENCE HOLDERS**

1. This policy is intended to provide guidance on determining suitability of new applicants and existing licence holders where the applicant or licence holder has been convicted of a criminal or driving offence.
2. The policy lists the types of offences that may give concern to the Licensing Authority. For the more serious offences the expectation is that an application will be refused or an existing licence holder will have their licence revoked. For other offences the policy gives the timescales that it is expected will have elapsed since the conviction before an application will be granted.
3. The Policy states that each case will be treated on its own merits. Where an applicant or Licence Holder has an offence listed in this policy it will not necessarily mean an automatic barring or revocation. However, the applicant or licence holder can expect that their application or licence will be put before a Licensing Sub-Committee for consideration who will take account of this policy. The obligation will be on the applicant or licence holder to put forward reasons and/or evidence in support of their case for the Licensing Sub-Committee to consider.
4. If an application is refused or a licence is revoked the applicant or licence holder will have right of appeal to the Magistrate's Court. The application to the Magistrates Court should be made within 21 days of the applicant or licence holder being notified by the Licensing Authority of the decision to refuse or revoke.
5. Where a licence holder is convicted of an offence where the Licensing Authority believes that the safety of the public may be at immediate risk, the licence may be suspended/revoked with immediate effect. The licence holder will have right of appeal to the Magistrates Court against a suspension issued with immediate effect however they may **not** use the licence until any decision is made by the Court.
6. Existing licence holders that have been granted licences previous to this policy coming into effect may have convictions on their record that fall within the timescales within this policy. The Licensing Authority will have made decisions on those licences based on policies in place at the time where the timescales may have been lesser or those offences not included. It is not reasonable that those licences should be automatically be revoked. The Licensing Authority will review all existing licences in light of this policy and where the Licensing Authority has concerns about a particular licence holder and/or there are further offences, breaches or complaint, the licence holder may be reviewed by a Licensing Sub-Committee who will take into account all matters including any previous offences that may now fall within this current policy. In particular, serious account will be taken of any history of safeguarding matters. Where appropriate, existing licence holders may be requested to apply for a new enhanced DBS certificate in order that the Council can review historic offences in line with this policy.

**OVERVIEW**

7. The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must have the confidence that the driver is safe and suitable.
8. Taxi legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
9. These guidelines apply to all new applications for a taxi or private hire driver licence and all licensed taxi and private hire drivers.
10. In addition, where relevant, they will also be applied to taxi and private hire vehicle licence applicants and licence holders, and private hire operator licence applicants and licence holders. Where such applicants and licence holders are not applying for, or already hold a taxi or private hire driver licence they will be required to provide a basic criminal conviction checks on application and then at regular intervals. The Licensing Authority will take account of any current criminal convictions showing on the basic criminal conviction check, or criminal conviction received, in accordance with this policy.
11. Taxi legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence.
12. This policy is based on the Statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport in July 2020, Annex - Assessment of Previous Convictions. <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
- 13. The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.**
14. In each case appropriate weight should be given to the evidence provided. This will include assessing the risk of re-offending and harm.
15. The Licensing Authority will be looking at the entirety of the individual when making the decision whether an applicant or licence holder is a safe and suitable person. Time periods are relevant and weighty considerations, but they are not the only determining factor. Other factors that the Licensing Authority will take into account when making a decision include but are not exhaustively:
  - Relevance and date of the offence
  - Sentence imposed by the court
  - Age of person and circumstances when the offence was committed
  - Subsequent periods of good behaviour
  - Overall conviction history
  - Any history of complaints made to the Licensing Authority against an existing licence holder. Unproven complaints may in some circumstances be taken into account if it is considered that there is a strong likelihood that the complaints are justified and the nature and/or number of complaints raise concern regarding suitability of applicant
  - Whether the applicant has intentionally misled the Licensing Authority or has lied as part of the application process

- Information provided by other agencies or other services at the Licensing Authority. This may include information disclosed by the Police or Safeguarding Services
  - Any other matters that are relevant
16. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.
17. A caution is regarded in exactly the same way as a conviction.
18. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
19. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered
20. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. This places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.
21. It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered.
22. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
23. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
24. Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
25. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
26. It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver’s,



vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.

27. Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
28. Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
29. These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person.
30. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## **OFFENCES**

### **Crimes resulting in death**

31. Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury (where there was an intention or strong likelihood of death) of another person they will not be licensed. A licence holder who is convicted of the above will have their licence revoked.

### **Exploitation**

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

### **Offences involving violence against the person**

33. Licensed drivers have close regular contact with the public who could be at risk from violent behaviour. Drivers are often entrusted with the care of children, young persons and vulnerable adults. The Licensing Authority seeks to protect the safety of the public and minimise risk.
34. Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked

Examples of Violent offences include (this is not an exhaustive list)

- a. Arson
- b. Malicious wounding or grievous bodily harm

- c. Actual bodily harm
- d. Grievous bodily harm with intent
- e. Robbery
- f. Riot
- g. Assault Police
- h. Any racially aggravated assault
- i. Violent disorder
- j. Resisting arrest
- k. Common assault/battery
- l. Affray
- m. Obstruction

**Possession of a weapon**

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

**Sexual offences**

36. As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences should be considered as serious.
37. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. A licence holder convicted of the above will have their licence revoked
38. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list. A licence holder who goes on any of the above will have their licence revoked
39. Sexual/Indecency Offences include (this is not an exhaustive list)
- a. Rape
  - b. Assault by penetration
  - c. Offences involving children or vulnerable adults
  - d. Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
  - e. Making or distributing obscene material
  - f. Possession of indecent photographs depicting child pornography.
  - g. Sexual assault
  - h. Indecent assault
  - i. Exploitation of prostitution
  - j. Soliciting (kerb crawling)
  - k. Making obscene / indecent telephone calls
  - l. Indecent exposure
  - m. Any similar offences (including attempted or conspiracy to commit) offences

40. Any licence holder charged with, convicted or issued with a formal caution for any of the offences mentioned above should expect to have their licence revoked with immediate effect.

**Dishonesty**

41. Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. In certain situations, drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station. For these reasons convictions of dishonesty are treated very seriously
42. Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of any of the above will have their licence revoked
43. Dishonesty offence includes (this is not an exhaustive list)
- a. Theft
  - b. Burglary
  - c. Fraud
  - d. Benefit fraud
  - e. Handling or receiving stolen goods
  - f. Forgery
  - g. Conspiracy to defraud
  - h. Obtaining money or property by deception
  - i. Other deception
  - j. Any similar offence

**Drugs**

44. Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
45. Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs. A licence holder convicted of the above will have their licence revoked

**Discrimination**

46. Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked
47. Examples of Discrimination offences include (this is not exhaustive list)

- a. Racially aggravated common assault
- b. Any racially-aggravated offence against a person or property.
- c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- d. Offences under Equality Act 2010
- e. Any offence considered as hate crime. Hate crime is any criminal offence which is perceived by the victim, or anybody else, to be motivated by hostility or prejudice towards someone's: race, religion, sexual orientation, transgender identity, disability.

**Motoring convictions**

48. Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.
49. For the purposes of this policy a minor traffic offence is one where the DVLA has imposed no more than 3 penalty points on the applicant's DVLA driving licence for the offence. A major conviction is one where the DVLA has imposed more than 3 penalty points on the applicant's DVLA driving licence for the offence. There is more information about endorsement codes and penalty points on the Government's website. <https://www.gov.uk/penalty-points-endorsements/endorsement-codes-and-penalty-points>
50. For the purposes of this policy, a 'valid' traffic offence is the same definition as used by the DVLA. Points that stay on a DVLA licence for 4 years are 'valid' for 3 years. Points that stay on a DVLA driving licence for 11 years they are 'valid' for 10 years. There is more information on the Government's website <https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence>
51. Where an applicant has more than one minor traffic offence a licence would be refused whilst the relevant points remain 'valid' on their driving licence.
52. Where an applicant has a major conviction the application will be refused whilst the relevant points remain 'valid' on their driving licence.
53. Where there is a second occurrence of a minor traffic offence, whilst the first minor traffic offence is valid, or a single occurrence of a major traffic offence of up to 6 points, a licence holder can agree to complete a driving assessment, at their own expense, through an approved provider, as an alternative to a review/revocation of their licence by a Licensing Sub-Committee
54. Where a licence holder has more than 6 valid penalty points for driving offences their licence will be revoked.

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

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

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

56. Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later. A licence holder convicted of the above will have their licence revoked.
57. Where the offence is dealt with as driving offence and penalty points have been imposed on a DVLA licence, the licence will not be granted until at least four years have passed. This is the length of time these points remain current of the DVLA licence. A licence holder who has had penalty points imposed on their DVLA licence for using a held-hand mobile telephone or a hand-held device, will have their licence revoked.

**Hackney Carriage and Private Hire Offences**

58. Where an applicant has any offences under any relevant hackney carriage or private hire legislation a licence will not be granted until at least 7 years have elapsed since the conviction. A licence holder convicted of the above will have their licence revoked

**MAJOR TRAFFIC OFFENCES**

***Paragraph 3(b) refers***

AC10	Failing to stop after an accident.
AC20	Failing to give particulars or to report an accident within 24 hours.
AC30	Undefined accident offences.
BA10	Driving while disqualified due to care and attention.
BA20	Attempting to drive while disqualified by order of the court.
CD10	Driving without due care and attention.
CD20	Driving without reasonable consideration for other road users.
CD30	Driving without due care and attention or without reasonable consideration for other road users.
CD40	Causing death through careless driving when unfit through drink.
CD50	Causing death by careless driving when unfit through drugs.
CD60	Causing death by careless driving with alcohol level above the limit.
CD70	Causing death by driving then failing to supply a specimen for analysis.
DD40	Dangerous driving.
DD60	Manslaughter or culpable homicide while driving a vehicle.
DD80	Causing death by dangerous driving.
DR10	Driving or attempting to drive with alcohol level above limit.
DR20	Driving or attempting to drive while unfit through drink.
DR30	Driving or attempting to drive then failing to supply a specimen for analysis.
DR40	In charge of a vehicle while alcohol level above limit.
DR50	In charge of a vehicle while unfit through drink.
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive.
DR70	Failing to provide specimen for breath test.
DR80	Driving or attempting to drive when unfit through drugs.
DR90	In charge of vehicle when unfit through drugs.
IN10	Using a vehicle uninsured against third party risks.

LC20	Driving otherwise than in accordance with a license.
LC30	Driving after making a false declaration about fitness when applying for a license.
LC40	Driving a vehicle having failed to notify a disability.
LC50	Driving after a license has been revoked or refused on medical grounds.
MS50	Motor racing on the highway.
MS60	Offences not covered by other codes.
UT50	Aggravated taking of a vehicle.

***Aiding, abetting, counselling or procuring***

*Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)*

***Causing or permitting***

*Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)*

***Inciting***

*Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)*

## **ANNEX 2**

### **Enforcement and Complaints – With Effect from 1 October 2021**

#### **Enforcement**

West Oxfordshire District Council takes a risk based proportionate, targeted and flexible approach to inspection and enforcement and where appropriate will work with external agencies such as the Police.

When a potential breach or offence is identified Licensing Officers will investigate the matter.

If it is in relation to a licensed vehicle the licence holder may be requested to bring the vehicle to West Oxfordshire District Council Offices for inspection by a Licensing Officer or to take the vehicle to an MOT approved garage for a full inspection.

If it is in relation to a licensed driver or operator the licence holder may be requested to attend an interview at West Oxfordshire District Council Offices. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law the interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

#### **Complaints by the Public**

The public are able to make complaints to the licensing department about licensed drivers and operators. This could include such issues as offensive comments by a driver, unsafe driving, failure or lateness of attending bookings and refusal to take guide dogs.

Licensing Officers will normally ask the complainant to put their complaint in writing or by email giving details of the nature of the complaint with date, time and location if relevant.

All such complaints will be recorded and investigated and the licence holder notified. Licensing Officers may request the licence holder to attend an interview at West Oxfordshire District Council Offices in order to determine the facts. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law that interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

## Enforcement and Complaints

Some complaints such as those alleging a serious criminal offence, traffic offence, violence or verbal abuse may be referred to the Police.

### Actions that may be Taken Following Enforcement or Complaint

When deciding what action to take the Licensing Officers will consider each case on its own merits and will consider all relevant matters including:

- Seriousness of the offence, breach or complaint
- Any history of previous offences, breaches and/or complaints
- Consequences of non-compliance
- Effectiveness of any action
- Danger to the public
- In the case of an unproven allegation the seriousness of the allegation and the likelihood and risk of danger to the public

Action	Examples (but not an exhaustive list)
Take no action	<ul style="list-style-type: none"><li>• Breach, offence or complaint is proven to be false.</li><li>• Matter is minor or unproven and there is no previous history</li></ul>
Verbal or written advice for example recommendation to re-take driver assessment test	<ul style="list-style-type: none"><li>• Matter is minor and/or due to misunderstanding by the licence holder</li></ul>
Verbal or written warning	<ul style="list-style-type: none"><li>• Complaint made by the public</li><li>• Minor traffic offence</li><li>• Contravention of the code of conduct or dress code</li></ul>
Fixed penalty notice	<ul style="list-style-type: none"><li>• Smoking offences in a licensed vehicle</li></ul>
Immediate suspension or revocation of licence	<ul style="list-style-type: none"><li>• Suspension of vehicle (S 68) issued when on inspection of a vehicle Officers believe that it has a defect or is potentially unsafe for passengers or the meter is defective</li><li>• Suspension of driver licence (s 61 (2b) if in interest of public safety for example failing a medical or serious criminal allegations</li><li>• Suspension of driver licence (s 61) if driver fails to provide relevant documentation by expiry e.g. DBS/Medical</li></ul>
Revocation of driver licence	<ul style="list-style-type: none"><li>• More than 6 penalty points on their DVLA driving licence</li></ul>
Suspension of licence – 21 days notice	<ul style="list-style-type: none"><li>• Suspension of a vehicle licence (s60) for failure to have a Council Vehicle Inspection or provide relevant document or visual condition of vehicle is not satisfactory</li></ul>
Simple caution issued by Business Support Service Leader	<ul style="list-style-type: none"><li>• A licence holder admits to committing a less serious offence and the issuing of such a caution is likely to reduce re-offending</li></ul>



## Enforcement and Complaints

Review of the licence by the Licensing Sub-Committee	<ul style="list-style-type: none"><li>• A licence holder receives criminal conviction, police caution major motoring offence, or serious complaint or allegation</li><li>• A licence holder has a history of complaints and/or offences. In the case of complaints by the public these complaints could be unproven if there is previous history of such complaints or a likelihood that the complaint is justified and the public could be at risk</li><li>• A licence holder that had received more than 3 warnings from Officers for breaches of conditions, policy or legislation within a 12 month period</li><li>• Any matter where a possible outcome is the revocation of the licence</li></ul>
Prosecution	<ul style="list-style-type: none"><li>• Using an unlicensed vehicle</li><li>• Unlicensed driver driving a licensed vehicle</li><li>• Unlicensed operator</li><li>• Driving without valid insurance</li><li>• Refusing to carry a guide dog</li><li>• Exceeding the number of passengers on the plate</li></ul>

### Review of the Licence by the Licensing Sub-Committee

The panel will be 3 members of the Licensing Committee. The licence holder will be invited to attend the review and will be given reasonable notice. However if the licence holder does not attend without reasonable cause the panel may undertake the review in his/her absence. The licence holder may bring another person with them to the review to support or represent them or they may wish to put comments in writing for the panel to consider. After considering all the facts the panel may take any action they feel appropriate. Below is a list of possible actions.

- No action
- Oral or written warning
- Requirement to take action within a time period for example recommendation to take a anger management course, speed awareness course or driving assessment
- Suspend the licence until an action or requirement has been met
- Suspend the licence for a period of time as a deterrent to ensure future compliance
- Revoke the licence
- Recommend a simple caution
- Recommend prosecution

### Right of Appeal

A licence holder has a right of appeal to the Magistrates Court for any decision by the Council to refuse, suspend or revoke a driver, vehicle licence or operator licence or against any conditions added to a licence. This appeal must be made within 21 days of the notification of the Council's decision.

There is an exception to the above right of appeal in the case of a decision to refuse to grant a Hackney Carriage vehicle licence. In this case the right of appeal is to the Crown Court.

There is no right of appeal against an immediate suspension of a vehicle licence (s68).



## ANNEX 3

### Hackney Carriage and Private Hire Drivers - Knowledge Test Guidance

All Hackney Carriage and Private Hire Driver applicants must pass a knowledge test.

The test is taken at West Oxfordshire District Council's offices in a group sitting and you must bring your passport and Photocard Driving Licence with you for identification purposes. The passport will also be checked to ensure that you have the right to work in the UK. If you do not hold a passport you must bring additional documentation showing that you have the right to work in the UK.

The knowledge test is broken down into the following sections:

For Dual Drivers (Hackney Carriage and Private Hire):

- 1) Highway Code
- 2) Numeracy
- 3) Policy Questions
- 4) Routes
- 5) Places of interest

For Private Hire Drivers:

- 1) Highway Code
- 2) Numeracy
- 3) Policy Questions

Each section has 20 questions. You must score at least 16/20 in each section and achieve a pass mark of 80% overall (e.g. Dual Drivers 80/100 and Private Hire Drivers 48/60).

Questions about the Policy will be taken from the Policy. You should make sure that you have read this document before attempting to take the test.

The questions on the Highway Code are based on the national rules for safe driving.

Questions about places of interest in West Oxfordshire District will include questions on pubs, clubs, hotels, supermarkets, public buildings, train stations, museums, schools and some of the main road names.

Questions about routes are those within the district that will require you to know the names and numbers of the main roads in the district. Questions about routes to locations outside the district will focus on major destinations such as airports, ferry ports and large sport and entertainment centres and will require knowledge of the major motorway network.

The maths questions will include simple calculations such as how much change to give a customer.

The knowledge test must be booked in advance. You will be allowed up to one and half hours to complete the test. You will be advised of your results by email within 5 days of the test date.

If you fail your test you will be allowed to retake it a second time. You must pay for the knowledge test each time you take the test.

A third resit is not permitted until a period of 6 months has lapsed.

If you pass, test papers are valid for 6 months, after which time you will need to retake the test.

## ANNEX 4

### Intended Use Policy for Licensing of Hackney Carriages (Hackney Carriage Vehicles)

The law permits a Hackney Carriage vehicle licensed by one local authority to be used to fulfil pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. In order to close this loophole, West Oxfordshire District Council is likely to refuse to grant a Hackney Carriage vehicle licence where the applicant for that licence intends their Hackney Carriage vehicle to be used entirely or predominately for the purpose of fulfilling pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. (e.g. Cherwell, South Oxfordshire or Oxford City).

**Intended Use Policy** - The policy is for the following types of application:-

- New vehicle licence;
- Renewal of vehicle licence;
- Transfer of vehicle ownership;
- Change of vehicle;

**New applicants** wishing to licence a Hackney Carriage with West Oxfordshire District Council will be required to make a statement on their application form about their intended use of the vehicle, i.e., whether the applicant intends the vehicle to be used.

(i) Exclusively or predominantly to ply for hire/or take advance bookings in the West Oxfordshire District (that is determined as 80% of the time; the journey may finish outside of West Oxfordshire District) – **Complies with policy**

(ii) Exclusively or predominantly (more than 20% of the time) operate taking pre booked journeys from operators outside of the West Oxfordshire District – **fails to comply with policy, presumption of refusal**

### Renewal of a Hackney Carriage vehicle licence

The driver or operator will need to maintain an accurate record of all uses of the vehicle when being used to fulfil pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. The record should contain:

- Name and address of the operator on behalf of which the journey was being undertaken; pick up point and destination date and time.
- Evidence of the number of days over the previous year they have plied for hire in the West Oxfordshire District.

If the records maintained show the vehicle use fails to comply with the policy, (see (ii) above, there will be a presumption of refusal of renewal.

### Existing Licence Holders

Where a licence has been granted under the terms that the applicant intends to ply for hire or trade to a material extent within the West Oxfordshire District but is subsequently found not to be plying for hire to a material extent in the District and/or to be trading in

### **Intended Use Policy**

another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) will be referred to the Licensing Sub-Committee for determination.

### **Exceptional Circumstances**

Each application will be decided on its merits. However, the presumptions that intended use is to ply for hire or trade to a material extent within the West Oxfordshire District will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not frustrate the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

## ANNEX 5

### Policy guidelines for signage, advertising and other markings on licensed vehicles

Vehicle markings which comply with the following conditions do not require approval by the Licensing Officer:

*Hackney Carriages: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 457mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.*

All signage, advertising and other markings which do not fall within the condition shown above **must be given the Council's prior approval**. Further details are as follows:

1. Third-party advertising (i.e. carrying adverts for companies other than the proprietor's own business) on licensed Hackney Carriage (HC) and Private Hire (PH) vehicles must have the prior approval of the Council's Licensing Sub-Committee. Applications should be made in writing including a pictorial representation of the proposals. A meeting of the Licensing Sub-Committee will then be arranged to consider the proposal. **No third-party advertising is permitted without the prior approval of the Licensing Sub-Committee.**
2. For further details about applying to the Sub-Committee for third-party advertising, please contact the Licensing Officer.
3. The Licensing Officer has the authority, on behalf of the Sub-Committee, to approve other signage and markings on vehicles, such as the name of the Hackney Carriage / Private Hire business, contact details, the services provided (e.g. "Airport Runs") etc. No such signage is permitted until the Licensing Officer has seen and approved the proposals.
4. In order to make an application to have such markings on a HC or PH vehicle, proprietors should submit their proposal in writing to the Licensing Officer, including a full description of the advertising they intend to have on the vehicle and a pictorial representation such as a sketch or a photograph of similar markings.
5. The HC / PH proprietor must ensure that any proposed signage, advertisements and markings do not breach advertising standards industry guidelines.
6. Advertisements must not be of a racial, sexual, political or religious nature and must not be discriminatory or offensive.
7. Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view and must conform to national legislation concerning the placing of such signs on vehicle windscreens.
8. Once the Licensing Officer has given written approval, the HC / PH proprietor may proceed with the advertising as submitted in the original proposal.
9. If the Licensing Officer deems the proposed signage, markings or advertising to be inappropriate, the request will be refused.
10. HC / PH proprietors may appeal to the Licensing Sub-Committee if their proposal has been refused.

## **ANNEX 6**

### **Service Delivery Timescales for Hackney Carriage and Private Hire Applications**

<b>Type of application</b>	<b>Delivered to licence holder</b>
Driver – New	5 days
Driver – Renewal	7 days
Vehicle – New	5 days
Vehicle – Renewal	7 days
Vehicle Transfer	1 working day
Customer query	5 days
Complaints	Initial response within 5 days
Serious allegation	Initial response within 1 working day

**These timescales are based on a full and valid application being submitted. Any invalid applications will be returned to the applicant and may result in further delays.**

**Renewals should be submitted at least 7 days before the expiry date to guarantee that they are issued prior to expiry.**



## Annex 7 - Table of Delegations

<u>Matter to be dealt with</u>	<u>Sub-Committee</u>	<u>Licensing Officers</u>
<u>Full policy review</u>	<u>All cases</u>	
<u>Application for driver's licence, with no convictions</u>		<u>All cases</u>
<u>Application for driver's licence, with relevant convictions</u>	<u>Cases where referral for determination required, other than traffic offences</u>	<u>Cases in relation to traffic offences</u>
<u>Suspension of driver's licence (public safety)</u>	<u>All cases where referral for determination required</u>	
<u>Revocation of driver's licence (public safety, immigration)</u>	<u>Cases where referral for determination required</u>	<u>Cases where immediate effect required</u>
<u>Application for vehicle licence</u>		<u>All cases</u>
<u>Suspension of vehicle licence (public safety)</u>		<u>All cases with a reasonable cause</u>
<u>Revocation of vehicle licence (public safety)</u>	<u>Cases where referral for determination required</u>	<u>Cases where immediate effect required</u>
<u>Application for operator's licence</u>		<u>All cases</u>
<u>Application for operator's licence, with relevant convictions</u>	<u>All cases where referral for determination required</u>	
<u>Suspension of operator's licence (public safety)</u>	<u>All cases where referral for determination required</u>	
<u>Revocation of operator's licence (public safety)</u>	<u>Cases where referral for determination required</u>	<u>Cases where immediate effect required</u>
<u>Assistance dogs in taxis: exemption certificate request forms</u>		<u>All cases</u>
<u>Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.</u>		<u>All cases</u>





Department  
for Transport

# **Statutory Taxi & Private Hire Vehicle Standards**

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# 1. Introduction

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

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

## Terminology

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

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

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

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



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

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

### 3. Administering the Licensing Regime

#### Licensing policies

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

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

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

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

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

## Duration of licences

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

## Whistleblowing

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

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

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

### Consultation at the local level

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

### Changing licensing policy and requirements

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

## 4. Gathering and Sharing Information

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

### The Disclosure and Barring Service

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

## The Disclosure and Barring Service Update Service

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

### Common Law Police Disclosure

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

### Licensee self-reporting

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

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

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

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

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

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

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

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

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



## Working with the Police

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

## Sharing licensing information with other licensing authorities

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

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

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

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

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

### Complaints against licensees

- 4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.
- 4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.
- 4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.
- 4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.
- 4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

### Overseas convictions

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

## 5. Decision Making

### Administration of the licensing framework

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

### Training decision makers

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

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

### The regulatory structure

- 5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.
- 5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:
- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
  - Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.
- 5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.
- 5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.
- 5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close



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

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

### Fit and proper test

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

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

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

### Criminal convictions and rehabilitation

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

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



## 6. Driver Licensing

### Criminality checks for drivers

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

### Safeguarding awareness

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

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

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

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

### ‘County lines’ exploitation

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

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

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

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

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

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

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

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

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

### Language proficiency

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

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

## 7. Vehicle Licensing

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

### Criminality checks for vehicle proprietors

- 7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.
- 7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.
- 7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.
- 7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

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

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

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

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

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

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

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

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

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

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

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

### Stretched Limousines

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



## 8. Private Hire Vehicle Operator Licensing

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

### Criminality checks for private hire vehicle operators

- 8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.
- 8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately
- 8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- 8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

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

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

### Booking and dispatch staff

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



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

## Record keeping

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

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

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

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

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

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

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

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

## 9. Enforcing the Licensing Regime

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

### Joint authorisation of enforcement officers

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

### Setting expectations and monitoring

- 9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere to and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.
- 9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

### Suspension and revocation of driver licences

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

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

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

- 9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.
- 9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.
- 9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.
- 9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.
- 9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

## Annex – Assessment of Previous Convictions

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

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

### Crimes resulting in death

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

### Exploitation

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

### Offences involving violence against the person

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

### Possession of a weapon

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

### Sexual offences

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

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

### Dishonesty

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

## Drugs

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

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

## Discrimination

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

## Motoring convictions

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

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

## Drink driving/driving under the influence of drugs

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

## Using a hand-held device whilst driving

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

## Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

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

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

## Annex – CCTV Guidance

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

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

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

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

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

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



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

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

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

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

## Annex - Staying Safe: Guidance for Passengers

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

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

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

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

When using a private hire vehicle, passengers should always:

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

When using a taxi, passengers should where possible:

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



# **Joint Operating Framework for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing in Oxfordshire**

**Between**

**Oxford City Council  
South Oxfordshire District Council  
Vale of White Horse District Council  
West Oxfordshire District Council  
Cherwell District Council  
Thames Valley Police  
Oxfordshire County Council**

**November 2015**

**Reviewed: February 2018**

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# 1. Introduction: Local and National Context

The Oxfordshire Joint Operating Framework (JOF) for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing was commissioned by the Child Sexual Exploitation Sub-Group of Oxfordshire Safeguarding Children Board (OSCB), and is the result of collaboration between the City and District Councils, the county council and the police. Health partners have reviewed their processes separately.

OSCB recognised the risks involved in transporting children and adults with care and support needs, and the opportunities provided by taxi and private hire drivers to spot the signs and alert the appropriate authorities to concerns about the safety of children and adults with care and support needs. Taxis and private hire vehicles regularly transport passengers who may be vulnerable, for example when the passenger is under the influence of drink or drugs or is travelling alone, hence the need to promote the highest safeguarding standards to protect both passengers and drivers.

The JOF provides a single set of minimum standards for agencies with responsibilities for transporting children and adults with care and support needs in Oxfordshire, including addressing vetting, training, awareness raising, information sharing, policy alignment, enforcement activity and quality assurance and monitoring.

It has been developed as a direct result of the learning from the Bullfinch investigation into historical child sexual exploitation in Oxford, the subsequent Serious Case Review into child sexual exploitation of Children A-F (published in March 2015) and the findings of the Stocktake Report set up to review Oxfordshire's current approach to tackling child sexual exploitation (published in July 2015).

The Joint Targeted Inspection of Child Sexual Exploitation and Children Missing in Oxfordshire in March 2016 found that "Oxfordshire now has a highly developed and well-functioning approach to tackling exploitation: "Work in relation to taxi licensing and hotels are seen as "important steps in building community confidence in the recognition and reporting of safeguarding issues."

In May 2013 the Bullfinch investigation resulted in seven men being sentenced to a total of 95 years in prison for a range of child sexual exploitation offences in Oxford. The Serious Case Review identified that a number of the victims had spoken of being transported in licensed vehicles to locations where offences took place. The review recommended that Licensing Authorities in Oxfordshire seek harmonisation of taxi and private hire licensing standards across the county and this Operating Framework is a product of that work.

The 2015 Stocktake Report was positive about the local progress made and recommended that the county council and all districts had to work more closely together to ensure that the regulation of the contracts to transport vulnerable children and taxi licensing across Oxfordshire is more robust.

At a national level in February 2015, a report was published into the failings of Rotherham Metropolitan Borough Council to protect young people in the city from child sexual exploitation. The report, written by Louise Casey, recommended improvements to the authority's taxi licensing function and these have also been taken into account in drawing up this framework. Examples of good practice in Sheffield and other areas have also informed its development.

## 2. Background Information

### 2.1 Legal Framework

Hackney carriage (taxi) and private hire vehicle legislation is primarily concentrated in the Town Police Clauses Act 1847 (hackney carriage) and the Local Government (Miscellaneous Provisions) Act 1976 (both hackney carriage and private hire).

The legislation provides a broad framework for the licensing of drivers, vehicles and operators but the detail of how this is done, including standards and conditions, is the responsibility of individual councils. There are a number of other Acts which also have an impact; for example the Equalities Act 2010, which enables regulations to improve wheelchair accessibility to licensed vehicles.

Vehicles carrying over eight passengers are regulated by the Department of Transport, under the Public Passenger Vehicles Act 1981.

### 2.2 Deregulation Act 2015

In March 2014 the Government published amendments to what became the Deregulation Act 2015. In effect this Act has reduced some of the safeguards operating previously.

Section 10 of the Deregulation Act 2015 makes a requirement on Authorities to set a standard duration of three years for a taxi and PHV driver's licence and a standard duration of five years for a PHV operator's licence. A lesser period may be specified only if appropriate in a particular case.

In addition, section 11 of the Act makes changes to cross border hiring by allowing a PHV operator to sub-contract a PHV booking to another operator who is licensed in a different licensing district. The onus is on the original operator who accepts the booking and subsequently passes it on, to retain the liability for the satisfactory completion of that journey. It is also clear there is a duty on the operator who takes the booking to keep a full record and to report the full record of that journey.

### 2.3 Terminology

#### 2.3.1 The Licensing Authority

Each Oxfordshire district council provides the Licensing Authority function for hackney carriage and private hire drivers, vehicles and operators within their local authority area. A private hire operator does not employ its drivers; they are self-employed. A number of drivers may drive the same vehicle if they have the appropriate licence, and the vehicle proprietor holds the appropriate motor insurance.

It is the authority's responsibility to:

- set the local framework including driver, vehicle and operator standards and conditions, and specifically for hackney carriage the tariffs and appropriate number of licensed vehicles
- consider applications and granting, reviewing, suspending or revoking licences
- Investigate and respond to complaints concerning hackney carriage or private hire drivers/operators
- undertaking inspection and enforcement activities of all licence holders

The Licensing Authority has the power to attach conditions to private hire drivers, private hire vehicles and private hire operators under the 1976 Act. Hackney carriage drivers and vehicles are

dealt with by way of byelaws adopted following the 1847 Act. It should be noted, that many Councils now issue Hackney Carriage and Private Hire Driver Dual Licences meaning that the conditions relating to private hire can be attached to such a licence.

### 2.3.2 Hackney Carriage Vehicles (HCV)

HCVs commonly known as taxis or cabs are able to wait on a taxi rank and be hailed on the street within the district within which they are licensed. The vehicle can only be driven by a hackney carriage driver licensed by the same authority as the vehicle. They can be booked directly by a customer or operate undertaking private hire bookings for a private hire operator anywhere in the country.

### 2.3.3 Private Hire Vehicles (PHV)

PHVs include a range of vehicles such as minicabs, executive cars, limousines and chauffeur services. These vehicles must be pre-booked through a private hire operator and cannot legally be hailed on the street or wait on a rank. Should a passenger get in a PHV which has not been pre-booked the licensed driver is operating unlawfully and their insurance will be invalidated. The vehicle can only be driven by a private hire driver licensed by the same authority as the vehicle and operator, and all bookings must be provided to the driver by the operator.

### 2.3.4 Public Service Vehicles (PSV)

PSVs carry over eight passengers and are licensed by the Department for Transport, not local authorities.

### 2.3.5 Taxi Licensing: A “Fit and Proper Person”

The “fit and proper” test considers whether someone should serve the public, with particular regard to the range of passengers that a driver may carry. For example, the elderly, unaccompanied children, people with disabilities, those who have had too much to drink, lone women, foreign visitors and unaccompanied property. The test is centred upon:

**Honesty and trustworthiness** – drivers often have knowledge that a customer is leaving a house empty and have responsibilities for passengers who are vulnerable or do not know the locality.

**Not abusive** – drivers can be subject to unpleasant or dishonest behaviour. Drivers are expected to avoid confrontation, and to address disputes through the proper legal channels.

**A good and safe driver** – passengers paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of and comply with all Road Traffic legislation and conditions attached to the licence.

### 2.3.6 Enforcement

Councils do not have the power to stop vehicles; only the police can do this. Therefore officers can only intervene when a vehicle is stationary, and they are unable to do anything if it drives off except follow up at a later date. Councils can only take action against a vehicle or driver that it has licensed, so **cannot** enforce against a vehicle or driver licensed elsewhere whilst operating in their area, **unless** they have been given delegated authority by the licensing authority. Officers **can** enforce



against hackney carriages licensed elsewhere if the driver is plying for hire within the officer's district as they are operating as an unlicensed hackney carriage. However, the Government has identified concerns raised by many Licensing Authorities regarding drivers and vehicles deliberately seeking a licence from a district that the driver and vehicle have no intention of working within, in order to obtain either a) a cheaper licence, b) where standards are less robust, and c) to avoid being able to be enforced against.

### **2.3.7 Cross-border hiring**

The biggest risk to the safety of the public and the reputation of the taxi and private hire trade, and in turn the reputation of Licensing Authorities is the legal loophole that allows a driver and vehicle to be licensed as hackney carriage by one Licensing Authority and operate as private hire vehicle in another authority's area. The driver does not require a licence from the Licensing Authority where the driver carries out work for the Private Hire operator who gives the driver bookings. The Local Government Associations Councillors Handbook for Licensing describes the issue very well:

“... the issue of cross-border hiring is perhaps the most acute problem facing many councils today. In one recent example, a driver applied to a council for a licence only to be refused after the police presented concerns to the licensing committee; the driver then applied to the neighbouring council, which was given the same information by the police but chose to licence the driver. The driver now operates in the first council's area and there is nothing they can do to stop it.”

### **2.3.8 Enhanced DBS checks for taxi drivers.**

Drivers who work under contract to transport children (also known as school transport services) frequently i.e. once a week or more or more than 3 times in a 30 day period, are considered as partaking in regulated activity. This is a prescribed position in Police Act Criminal Record Regulations 2002 and therefore they are subject to an enhanced Disclosure Barring Service (DBS) check.

Even if a driver is not transporting children regularly they still require an Enhanced DBS for the Licensing Authority with Adult and Children Barring List checks

### **2.3.9 The Disclosures and Barring Update Service**

Drivers are required to subscribe to the DBS Update Service to reduce costs and speed up checks. The Disclosures and Barring Update Service must be applied for within 21 days after the applicant has been issued with a Disclosures and Barring Service report. The service will then only supply information or list offences which have occurred after the date of that original check.

As a result Licensing Authorities must ensure that the original DBS report application was made at an enhanced level, and have sight of that original report.

Authorities responsible for the transportation of children/adults with care and support needs must ensure that the update service subscription was based on an enhanced check for the role of a 'taxi driver' and they must have sight of the original DBS check report.

## 3. Oxfordshire's Minimum Safeguarding Standards

### 3.1 Vetting

#### 3.1.1 Documents Checklist to obtain a Hackney Carriage and Vehicle for Hire

All licensing authorities will ensure the following documents/processes are in place.

New Hackney Carriage and Private Hire Drivers Licence	Renewal licence
Application Form	Application Form
Passport and Proof of National Insurance number or other document from a prescribed list e.g. P45, full birth certificate, work permit	Passport and Proof of National Insurance number or other document from a prescribed list
Proof of address- 1 proof within 2-3 months	Proof of address - proof within 2-3 months
Visa, residency card/proof of entitlement to work in the UK	Visa, residency card/proof of entitlement to work in the UK
Photographs for ID badge 2 minimum passport size	Photographs for ID badge 2 minimum passport size
Current licence to drive a motor vehicle minimum months 12 and DVLA mandate consent form	Current licence to drive a motor vehicle minimum months 12
Mandatory Safeguarding Awareness Training through Oxfordshire County Council	Revised every 3 years
Enhanced DBS check for 'other workforce' and 'children and adults' every 3 years*.	Every 3 years.
Taxi Drivers will sign up to the Update Service (A5 leaflet will be provided)	DBS – A renewal licence will not be given unless the DBS check has been returned, or a check can be made on the Update Service
Face to face interview held	Every 3 years
Information leaflets issued	Information leaflets issued
English language competency assesses during appointment, followed by the knowledge test, including verbal assessment. If spoken English is not deemed adequate application will be denied and referred to a spoken English course	
Knowledge Test (including safeguarding)	
Disability awareness course	
Medical report As listed in the DVLA Group 2 Guidance: <a href="https://www.gov.uk/guidance/current-medical-guidelines-dvla-guidance-for-professionals">https://www.gov.uk/guidance/current-medical-guidelines-dvla-guidance-for-professionals</a>	

\*If an Authority requires a DBS check for the role of taxi driver and that person falls within regulated activity for children (such as schools contract transportation), then two separate checks should be requested.

The first check, for the role of a 'Taxi driver', does not fall within the requirements for regulated activity, and as such that check must be listed as 'other work force' on the DBS application. By specifying 'other work force' on the DBS application the level of information which may be disclosed on the enhanced report is restricted.

This first DBS check is applied to all licensing Authorities, where the applicant is applying for a Hackney Carriage/Private Hire driver's licence.

### **3.1.2 Vetting to become approved transport provider with the County Council for children and adults with care and support needs**

Taxi drivers who work under contract to transport children frequently are considered as partaking in regulated activity and so a second DBS will be undertaken potentially providing additional intelligence because the driver is to have substantive contact with children. This check falls within the requirements of regulated activity, and as such the check must be listed as 'Taxi driver' on the DBS application. By specifying 'taxi driver' on the DBS the level of information on the enhanced report is not restricted.

When a driver applies for a badge or renewal with the county council, the vetting process covers the following:

- Collation of full details on the driver.
- Information sharing with the licensing authority
- Enhanced DBS checking through initial face to face appointment to check documents
- Checks on whether the driver is known to Children's Social Care because of any safeguarding concerns regarding his own family.
- Risk assessment if there is a concern following process identified in g) below.

### **3.1.3 Licences**

The Deregulation Act 2015 makes a requirement on Authorities to issue a licence for a maximum duration of 3 years, or less – but if less must be done so on a "case-by-case" basis.

### **3.1.4 Code of Conduct for Taxi Drivers and Hackney Carriage drivers and drivers and escorts of contract holders at the County Council**

The Code of Conduct is made available to all drivers and escorts. Failure to comply with the Code of Conduct will result in a review of the Identification Badge and appropriate action will be taken (as set out below). Information sharing arrangements across the districts and county council are included in the Code of Conduct. Where appropriate, non-compliance will be brought to the attention of the relevant Licensing Authority.

### **3.1.5 Enforcement Procedures**

#### **Enforcement Procedures for Licensing Authorities – Warning System**

- Issue of warning (appropriate and proportionate to the incident reported and in line with the district council's enforcement policies).
- Issue of higher level warning (appropriate to incident and having regard to history)
- If caught for a criminal offence /plying for hire a request will be made for an interview to be held in accordance with Police and Criminal Evidence Act. (PACE may only be used when the

authority is investigating with a view to prosecution). Referral to Law and Governance department/legal adviser to consider prosecution will be made for criminal offences and plying for hire. Appeals can be made to the Magistrates Court.

- When reaching the highest warning level a decision will be made by senior management or to refer to relevant licence committee or take further action under delegated powers.

### **Enforcement and Quality Monitoring for Oxfordshire County Council Transport Hub and Quality Monitoring Team**

- Quality assurance processes are in place to ensure the Local Authority Designated Officer (LADO), the Transport Hub, Disabled Children Manager and the Adult Social Care Safeguarding Manager review complaints and investigations regularly.
- Complaints and providers are classified by risk (Red, Amber, Green) based on number of complaints, level of seriousness, compliance with contract requirements and any other soft information.
- Providers who are classified as Red are not allocated work. Providers rated as Amber are given a specified time period to make agreed improvements or become Red.
- The Information Sharing Protocol requires the Transport Service to notify the appropriate Licensing Authority of all substantiated concerns, in order that the Licensing Authority can consider the “fit and proper” status of the driver, vehicle, operator, in order to uphold its public safety and safeguarding objectives.

#### **3.1.6 Action and criteria for decision making if there is a conviction or intelligence**

All past convictions, warnings, reprimands, , cautions, community service orders, restraining orders and fixed penalties (including traffic offences), civil remedies and anti-social behaviour notices will be considered against Home Office guidelines. The Rehabilitation of Offenders Act 1974 as amended by the Legal Aid, Sentencing and Punishment Act 2012 sets out the period after which all convictions, warnings, reprimands, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) are regarded as ‘spent’ and which would not normally necessitate disclosure.

In 2002 the Rehabilitation of Offenders Act was amended so as to exclude hackney carriage and private hire drivers from the effects of the 1974 Act. Applicants for such licences are now required to disclose all convictions, warnings, reprimands, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) including those that would previously have been regarded as spent under the Act. The council will use the Rehabilitation of Offenders Act 1974 as guidance but in every case the individual facts will be considered in accordance with the criteria set out in policies

The Local Government Miscellaneous Act 1976 (Licensing of Hackney Carriages (47) and Private Hire Vehicles (48)) provides that Councils can set a criteria of how the provisions will be implemented: <http://www.legislation.gov.uk/ukpga/1976/57/part/II>

The following information must be disclosed on every application form, or within 7 working days of the conviction.

**Traffic Convictions**  
**Major Traffic offences**

**Police recommendation**  
**Indecency Offences /sex offence register**

**Plying for hire  
Drunkenness  
Drugs  
Police Bail**

**Violence  
Dishonesty  
Behaviour Guidelines issued  
Police Investigations/Cautions**

Note: Some Motoring Offences are notifiable only for a period of three years.

### **Conviction/serious crime**

All spent offences are to be considered at every application.

Crime and Criminal Offences need not result in permanent bar but there would be an expectation that there would be at least three years or more (depending upon nature of offence) of being free from conviction. In addition there can be exclusions for offences such as sexual offences and drugs offences, requiring at least five years clear from convictions.

**Cautions and Convictions** are never treated as spent in relation to licensed drivers, and an Authority can refuse a licence to any person where they believe that older offences would lead to concerns that the person is not fit and proper.

The taxi licensing data set would collect data on drivers with convictions being licensed to enable monitoring of standards in relation to this area.

Applicants are required to inform the Authority of all offences, cautions, arrests, or Police investigations. If non-compliance occurred this would be taken into account in assessing the risk in relation to the driver.

Licensing Authorities will require, through the driver licence conditions that a driver must inform the police that they are a taxi driver when arrested or interviewed under caution.

At the conclusion of an on-going police investigation the licensing officers should not merely accept a No Further Action letter or Not Guilty finding, if the police have been unable to share adequate information then there needs to be an application for a new DBS certificate, as the threshold for prosecution or conviction is not the same as the “fit and proper person” test. The DBS may reveal Additional Information relevant to the decision-making process. (a licensing authority may ask the individual to cover the cost of a new DBS).

The Policy statements set out the “minimum” criteria applicable, not the “maximum” criteria applicable.

### **3.1.7 Risk Management Process**

Where there is a conviction the Licensing Authority follows the risk management process identified below and if the taxi company is seeking to become an approved transport provider with the county council a second risk management process will be undertaken.

### **The Licensing Authority Process**

- Where it is considered that there is a concern and that action may be required District Councils share this information with the Transport Hub and Quality Monitoring Team, who undertake

further checking, including with the Local Authority Designated Officer (LADO) and Adult Safeguarding.

- The Licensing Authority licence number and name is included to enable faster sharing of information if any relevant matter appeared on the applicant's DBS. Further details are to be found in the Information Sharing Protocol Section.
- Investigation and risk assessment undertaken based on seriousness and date of the offence. Depending on risk level a recommendation is made to a Sub-Committee/Member Panel/Officer with delegated powers to determine outcome.
- There is a right of appeal to officer/member panel and final appeal to Magistrates Court.
- The County Council will be informed of this decision.
- Licensing Authorities' policies relate to the minimum standards any applicant or licence holder should meet, and any decision to depart from their policies should be taken only following legal advice, and any such decision should be clearly documented.

### **Oxfordshire County Council Process**

A driver is required to bring a copy disclosure and completed questionnaire.

Risk Assessment Panel meeting is held to consider the risk (based on the scoring set out in the County Council Risk Assessment Guidance).

- Panel to make a recommendation;
- A decision letter is sent including information on how to Appeal;
- Appeal meeting with an Independent Panel of senior managers and /or members;
- A decision letter is sent giving information on how to Appeal;

#### **3.1.8 Information sharing where there is a new offence**

There is differential practice regarding whether and when the police will inform licensing authorities and the county council of a new offence or arrest using the definition 'pressing social need', because the interpretation of this is subjective.

Thames Valley Police Force is reviewing whether a strategic approach could be taken to this so that all offences by taxi drivers within agreed categories could result in an automatic notification.

The police share information in three ways:

- disclosure on a DBS Certificate,
- application by a partner to the Joint Information Management Unit of Thames Valley Police for information on a specific individual,
- or the release of information from a police officer making a Common Law Disclosure based on the information available to them.

Risk Assessment processes are followed in accordance with the previous section.

### **3.2 Mandatory Training**

All Licensing Authorities require taxi drivers to attend the mandatory safeguarding training commissioned by Oxfordshire County Council so a single standard is in place.

In addition to the Mandatory training facilitated by Oxfordshire County Council, the Licensing Authorities all have the following further criteria in place that all new driver and operator applicants must meet when making a licence application.

### **3.2.1 Local Knowledge Test**

New applicants must pass a knowledge test, devised so that applicants can prove that they have sufficient knowledge of the conduct required of licensed drivers and local traffic regulations, and display an awareness of the issues relating to the safeguarding of children and vulnerable persons.

It covers the following areas:

- The local geography of the district and surrounding region, including the location of public buildings such as hospitals, leisure centres and important regional transport links such as airports or train stations.
- The Councils' hackney carriage and private hire licensing policy (as set out in this handbook), taxi law.
- The Highway Code.
- Safeguarding and child sexual exploitation.
- Equal opportunities and disability awareness.

There is an 80% pass mark. If the test is failed the driver will be invited to take the test again after a further test fee has been paid, and then allocated a retest date.

English language competency is also tested as part of the initial vetting process.

### **3.2.2 Licensing Authority Disability Awareness Training**

A driver must attend a Licensing Authority approved Disability Awareness Course and obtain the required pass mark as a pre-condition to receiving a licence. The course provides the driver with a clear understanding of the requirements placed upon them when supporting people who need assistance.

### **3.2.3 County Council Safeguarding Training**

A training course has been developed and commissioned by Oxfordshire County Council for all drivers and escorts.

This includes:

- Safeguarding
- Human trafficking
- Child sexual exploitation
- Exploitation of vulnerable persons
- Code of Conduct

Training is provided in face to face workshops followed by a written assessment. No badges will be issued or renewed without written certification that the applicant has passed the safeguarding training.

The current training manual is available on request.

- All Oxfordshire Licensing Authorities require all drivers to attend the mandatory Oxfordshire County Council face to face training with a written assessment.



- The programme is available to all districts and drivers need to renew their training every three years. No driver is able to renew his/her school transport badge when it expires (3 year badge) unless the new training has been undertaken.
- All existing drivers in Oxford City, Cherwell and West Oxfordshire District Council will be trained by April 2018 and all new drivers will attend the county council commissioned training from January 2016. South and Vale drivers will attend the county council training from September 2017 and there are satisfactory safeguarding training arrangements for drivers in place in the interim.
- Costs of training is £15 per person. Drivers are charged for non-attendance at pre-booked courses.
- All Investigating Officers attend generalist safeguarding training through OSCB and each Licensing Authority ensures that one officer has attended the specialist designated lead training to advise and support other officers.

### **3.3 Safeguarding Materials and Information**

Safeguarding information is disseminated to drivers and operators in a similar way across all the Oxfordshire Licensing Authorities.

The minimum standards are set out to ensure new applicants understand their safeguarding responsibilities through the successful completion of the knowledge and disability awareness tests. Safeguarding awareness-raising for existing drivers is provided through web-based information and leaflets that an officer talks through with all drivers at interview.

Information and materials are in accordance with national 'Say Something if You See Something' guidance on tackling child sexual exploitation.

- All drivers – Web-site information: All Licensing Authorities must include safeguarding information on their taxi licensing web-pages. Specific references should be made to child sexual exploitation, human trafficking and transportation of vulnerable people. Advice on what to look for, what to do and reporting mechanism must be included.
- All drivers – Application Pack or handbook: Safeguarding information is included in the driver's application pack or handbook. Specific references are made to child sexual exploitation, human trafficking and transportation of vulnerable people. Advice on what to look for, what to do and reporting mechanism is included.
- All drivers – Safeguarding Information Leaflet. All drivers are given a safeguarding information leaflet when being interviewed for a licence. Officers talk through the leaflet so the driver is fully aware of its content. The leaflet includes advice on what to look for, what to do and reporting mechanism must be included.
- A5 Leaflet on the DBS Update Service is issued.
- All drivers - Safeguarding Business Card – all drivers are given a business card sized information sheet with reporting telephone numbers and email addresses, to be kept easily accessible in their vehicle.
- Operators - Application Pack or handbook: Safeguarding information is included in the operator's application pack or handbook. Specific references are made to child sexual exploitation, human trafficking and transportation of vulnerable people. Advice on what to look for, what to do and reporting mechanism must be included.



- Operators – Safeguarding Information Leaflet. All Operators and their staff are given a safeguarding information leaflet when being inspected. Officers talk through the leaflet so the driver is fully aware of its content. The leaflet includes advice on what to look for, what to do and the reporting mechanism is included.

### **3.4 Client Risk Assessment**

- Oxfordshire County Council has in place a programme of Risk Assessment for all children conveyed on Oxfordshire County Council commissioned services. From September 2016 a programme for adults deemed at risk by Adult Social Care has also been in place.
- To initiate a Risk Assessment a Transport Information Form is sent to parent, carer or social worker. This gathers relevant information including a photo of the client to enable the Risk Assessment to be completed.
- Following the completion of the Risk Assessment a passenger passport is then produced. This is attached to the student school bag, with a copy being retained by the Service Provider.

### **3.5 Escorts/drivers**

There is no difference in the processes for vetting, training and supporting escorts/drivers by Oxfordshire County Council.

## **4. Information Sharing**

- The Information Sharing Schedule for the exchange of transporting children/vulnerable adults and taxi licensing information sits under the Information Sharing Protocols of the Oxfordshire Safeguarding Children Board, the Oxfordshire Safeguarding Adults Board and the Oxfordshire Safer Communities Partnership and can be found at Appendix 1.
- The Schedule supports the exchange of information necessary to prevent and detect crime, and support and protect children and vulnerable adults.
- Information exchanged between licensing authorities and Oxfordshire County Council ensures that decisions on complaints, enforcement, suspension and revocation, convictions and public safety concerns are shared in a secure and timely manner on a formal basis, and prevents drivers at risk of losing a licence at one authority from simply obtaining a licence from a neighbouring authority.
- The information is used to risk assess drivers, investigate complaints fairly and proportionately and ensure that those denied licences or having a licence revoked in one area are not able to get a licence in another Oxfordshire authority.
- Informal information sharing takes place between the district councils and the county council to ensure that there is a joined up approach to manage issues regarding vehicle quality, health and safety, driver behaviour and safeguarding, using the county council's risk categories 3 and 4 as a guideline.
- Each Local Police Area must have an arrangement to regularly identify and pass on information of concern, as governed by the common law duty. Data sets to be reviewed include Command and Control, Niche and Custody systems.

- Oxfordshire County Council has no powers to enforce or undertake investigations regarding the licensing of vehicles, operators or drivers. Such matters are passed to the Districts and Police who do have the powers to enforce and investigate.
- Failure to share information results in drivers / vehicles / operators continuing to carry children, vulnerable persons, and all of the public when action could have been taken to remove them from being able to.
- All allegations concerning those who work with children are passed to the Local Authority Designated Officer (LADO) and Adult Safeguarding without delay. Details are included in the Information Sharing Schedule in Appendix 2.

## 5. Policy Alignment and Intended Use Policy

The biggest risk to the safety of the public and the reputation of the taxi and private hire trade is the legal loophole that allows a driver and vehicle to be licensed as hackney carriage by one Licensing Authority and operate as private hire vehicle in another authority's area. The driver does not require a licence from the Licensing Authority where the driver carries out the Private Hire work.

The Local Government Associations Councillors Handbook for Licensing describes the issue very well:

*"... the issue of cross-border hiring is perhaps the most acute problem facing many councils today. In one recent example, a driver applied to a council for a licence only to be refused after the police presented concerns to the licensing committee; the driver then applied to the neighbouring council, which was given the same information by the police but chose to licence the driver. The driver now operates in the first council's area and there is nothing*

To try and address this issue, Licensing Authorities:

- Identify and address key policy differences, thus removing some of the incentives to be licensed elsewhere. To this end, Oxford City Council has removed its age limit criteria, introduced a discount for "green" vehicles, and changed its livery and vehicle requirements.
- Consider ways to reduce the incentives that result in drivers and vehicle owners seeking a licence from an area that they have no intention of working within, but without placing stresses on the resource levels available to councils.
- Refuse an application where there is clearly no intention to work in the Licensing Authority district. This will be easier for renewal licenses where evidence has been gathered by neighbouring authorities, and in effect a simple way to achieve this is for officers to pass on information to their neighbours when they see a vehicle licensed by one council but liveried with the identity of an operator licensed in another area.
- Drivers found to be parking in prominent positions to ply for hire, or are predominantly working in a neighbouring Licensing Authority area will be subject to the enforcement protocol detailed in Appendix 2

## 6. Delegated Enforcement and Joint Operations

Licensing authorities, where appropriate, will delegate authority to enforce taxi licensing legislation. Relevant training in the licensing conditions must be provided. Licensing

Authorities must contribute to an annual schedule of enforcement operations in areas where “out of town” vehicles are operating.

Licensing Authorities undertake regular enforcement operations with Oxfordshire Transport Hub to address issues relating to school transport and the transportation of adults with care and support needs

## **7. Performance Management Framework**

A range of performance measures have been agreed to monitor the effectiveness of the Joint Operating Framework.

This Performance Framework (see Appendix 2) is presented to the Child Exploitation Sub-Group of Oxfordshire Safeguarding Children Board.

If one agency is concerned about how any partner is operating within this framework there is the opportunity to escalate either within that organisation or through Oxfordshire Safeguarding Children Board/Oxfordshire Safeguarding Adults Board escalation routes.

## **8. Health Partners**

No local health organisations commission patient transport for children locally, except South Central Ambulance Service who have robust arrangements in place.

There is no need for local health organisations commission patient transport for adults with care and support needs.

## **9. Neighbouring Authorities**

The Chair of OSCB has written to all Local Safeguarding Children Boards in the south east to request that they adopt similar arrangements.

## Appendix 1: Information Sharing Schedule



### INFORMATION SHARING AGREEMENT: SCHEDULE

This information sharing agreement should be **read and applied** in the context of the information sharing policies adopted by:

- The Oxfordshire Safeguarding Children's Board
- The Oxfordshire Safeguarding Adults Board
- The Oxfordshire Safer Communities Partnership

The information exchange process is subject to the provisions of the Data Protection Act 1998 and the common law duty of Confidentiality. The information must not be used for any purpose other than that for which it is requested and must not be disclosed to an unauthorised person.

Information will only be shared as relevant and necessary.

The statutory powers to exchange information are set out in the information policies approved by the Safeguarding Boards and the Safer Communities Partnerships. That is:

- *Adult Safeguarding: Sharing Information* (Social Care Institute for Excellence)
- *Oxfordshire Safeguarding Children's Board Information Sharing Protocol*
- *Oxfordshire Community Safety Information Sharing Protocol*

In particular, information sharing under this agreement will conform to the *Seven Golden Rules of Information Sharing* which are outlined in each of the above policies.

The process for exchanging information for the purpose of Hackney Carriage & Private Hire Safeguarding and Public Protection will be those described in the associated Oxfordshire Safer Communities Partnership Information Sharing Protocol.

No information is to be accessed or shown to individuals who have not agreed and signed the Confidentiality Agreement. Any breach in confidentiality may result in sanctions described with the Confidentiality Declaration outlined at the end of this document. No information provided by partners to those procedures will be released to any third party without the permission of the owning partner.

Before a decision is made about disclosure, a professional must consider the following factors, based on case law decisions:

- Belief in the truth of any allegation
- Legitimacy of the interests of the person needing this information
- Degree of risk if disclosure is not made
- Relevance and importance of the information
- Urgency of the disclosure
- Whether consent for the disclosure has been sought (if appropriate)
- Interests of the vulnerable person or persons
- Impact upon the person to whom the information relates

**Should this agreement at any time be required to be terminated the instigating Designated Officer must notify all relevant parties.**

Name of Designated Officer instigating this procedure			
Post of Designated Officer			
Date instigated		Review date	
Schedule title			
Information Sharing Agreement (Hackney Carriage & Private Hire)			
Information sharing process			
<p><i>(Please show how personal information is <u>necessary</u> to enable the appropriate authority to carry out their respective duties in relation to the regulation of contracts to transport vulnerable children and adults, and to the regulation of taxi licensing across Oxfordshire. Information sharing would be used directly to facilitate:</i></p> <ul style="list-style-type: none"> <li>• <i>driver, vehicle and operator vetting processes</i></li> <li>• <i>reviewing the status of current licence holders and new applicants,</i></li> <li>• <i>to prevent crime and disorder, and</i></li> <li>• <i>to uphold our safeguarding obligations)</i></li> <li>• <i>to assist those authorised to make decisions as to the suitability of an applicant or the continuing suitability of a current licence or badge holder where information is required to promote public safety</i></li> </ul> <p>The purpose of the information sharing is informed by the following context:</p> <ul style="list-style-type: none"> <li>• All drivers licensed by the District Councils and those seeking to carry out transport services on behalf of the County Council are required to undertake an Enhanced Disclosure &amp; Barring Services Check.</li> <li>• All drivers licensed by the District Councils are subject to enforcement actions taken following complaints made against them, or matters witnessed by Officers.</li> <li>• Suspending or revoking a County Badge does not stop the driver from still doing all other work given to him/her by the Operator.</li> <li>• A vehicle identified as being unfit for purpose will still be used if the correct authority is not informed.</li> <li>• An operator who may be carrying on illegal activities will still pose a threat to safeguarding and public safety if the other authorities are not informed.</li> </ul>			

- Revoking a licence may result in the person seeking a licence from a neighbouring District.

#### **Types of information exchanged under this Information Sharing Procedure**

- Details of licences / badges suspended, refused or revoked (drivers, vehicles, operators)
- All substantiated outcomes that relate to the following categories
  - Driver Behaviour
  - Road Traffic Accident
  - Overloaded Vehicle
  - Un-badged Driver
  - Undersized Vehicle
  - Unlicensed Vehicle
  - Vehicle Condition
- Details of criminal investigations undertaken by Police and shared with any of the Authorities and County Council
- Matters witnessed by Officers / complaints received that would lead to concerns in relation to public safety
- Matters witnessed by Officers / complaints received that would lead to concerns in relation to the safeguarding of children, young persons and vulnerable adults
- References by Licensing Authorities to County Council in relation to applicants for County badge

#### **Transmission, storage and retention period of data exchanged under this information sharing process**

- Any information printed off will be kept in the file in a locked drawer or cabinet, or electronically with access only provided to such persons authorised to see such information.
- All papers that are shared will be encrypted and security marked.
- Information shared in the categories identified will be on the secure 'operational' spreadsheet between District Councils and the Transport Hub and will be shared in a timely manner.
- Information shared verbally will be further supported in written form to ensure accuracy.
- Information shared by those signed up to this agreement will be the responsibility of the delegated officer giving it and receiving it.
- No information will be held for longer than is necessary in accordance with each authority's retention schedules and relevant statutory provisions.

#### **Licensing managers, their officers, Thames Valley Police and the County Council Transport Hub and LADO are responsible for sharing the information**

I have read and understand the Confidentiality Agreement

#### **For Office use only**

Organisational Signatories agreed

☐

Schedule meets ISP Requirements

☐

Copy all Confidentiality Agreements received

☐

<b><i>Schedule Reference:</i></b>	
<b><i>Organisation holder:</i></b>	
<b><i>Initiating Designated Officer:</i></b>	
<b><i>Review date:</i></b>	

## POWERS AND RESPONSIBILITIES OF PARTNERSHIP AGENCIES:

DISTRICT	POLICE	COUNTY
Licence all hackney carriage & private hire drivers, vehicles, & private hire operators	Investigate criminal activity by all	Issue school transport badge to drivers working through contracted operators
Have power to refuse, enforce conditions, suspend, revoke, prosecute all licences	Have power to arrest, prosecute, recommend licence be suspended / revoked by district	Have power to refuse, suspend / revoke badge, & cancel contract with operator
Have power to inspect vehicles, seize records	Have power to inspect vehicles, seize records	N/A
Transporting all of public	Protecting all of the public	Transporting children and vulnerable persons
Receive complaints about drivers, vehicles & operators	Receive complaints about drivers, vehicles & operators	Receive complaints about drivers & vehicles
Power to caution (council), convict (court), suspend / revoke based on complaints (committee)	Power to caution or convict (via court)	N/A

## Sharing Of Information: When to Ask and When to Give Information

### County Council:

- All applicants for new badge / renewal of badge: add in to vetting process “check with District” re: enforcement / complaint history.
- Any substantiated outcomes identified in the categories in ‘Types of Information Exchanged’ above about a driver / vehicle / operator.
- Any complaint relating to criminal activity to be shared with Police and District.
- Any additional relevant information arising from the county council DBS checking process.
- Any information arising from request for additional check if there is a conviction to inform the District’s risk management decision making.
- All relevant safeguarding concerns relating to a driver or operator to be shared with the appropriate licensing authority(s).
- All allegations relating to a driver working with children or adults with care and support needs must be sent to the Local Authority Designated Officer or Adult Safeguarding within one working day.
- All relevant safeguarding information to be provided by the Local Authority Designated Officer (LADO) or Adult Safeguarding upon receipt of a request from a licensing officer, in support of a sub-committee report. Appeals are heard within a Magistrate’s Court and are held in the public domain.

### District:

- Any request from County for their applicants re: enforcement / complaint history
- Any request from Police for their investigations re: enforcement / complaint history



- Any request from Police for driver / vehicle / operator details
- Any substantiated complaint relating to driver / vehicle re: public safety to be shared with County Council
- Any complaint relating to driver / operator re: criminal activity to be shared with Police (if also relates to public safety to be shared with County Council)
- Any driver / operator whose licence has been suspended or revoked to be shared with other Districts and the County Council
- All allegations relating to a driver working with children or adults with care and support needs must be shared with the County Council
- Any driver / operator issued sanctions by Committee to be shared with County Council

#### **Police:**

- Any requests from District for PNC Check as part of vetting process / Committee process.
- Any complaints about drivers / vehicles / operators to be passed to Districts and County.
- Any investigation into driver conduct, vehicle standards, operator obstructing Police obtaining information, to be shared with Districts and County.
- Any driver arrested (any reason) / stopped (motoring offences) to be shared with District and County.
- Any bail conditions applied to drivers to be shared with District and County.
- Any cautions / convictions to be shared with District and County.

#### **Annex on Information Sharing: Information Sharing with the Local Authority Designated Officer (LADO) and Adult Referrals:**

“Working together” (2015) requires that arrangements should be put in place to ensure that any allegations about those who work with children are passed to the designated officer (LADO) without delay. There are similar requirements for adults with care and support needs in the Care Act 2014.

The local authority has in place arrangements to provide advice and guidance on how to deal with allegations against people who work with children.

The role of the designated officer is to ensure that there are appropriate arrangements in place and to effectively liaise with the police and other agencies to monitor the progress of cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process. The Designated Officer also has a role to challenge organisations whose processes are not fair open and compliant.

A licensing authority should ensure that the designated officer is informed, within one working day, of all allegations that come to their attention. Appropriate referrals should be made directly to the Designated Officer or through the safeguarding lead for transport.

*Contact details as follows for children;*

**For LADO** Telephone: **01865 815956** or [lado@oxfordshire.gov.uk](mailto:lado@oxfordshire.gov.uk)  
**or to discuss general safeguarding concerns** call the Transport Hub on 01865 323500  
 or email Transport Quality Monitoring at [qmcc@oxfordshire.gov.uk](mailto:qmcc@oxfordshire.gov.uk)

All referrals relating to concerns about a child’s welfare, where the concern does not relate to someone who is employed or volunteering in a position with children should be referred directly to the MASH in line with agreed existing protocols.



**MASH-Children [mash-children@Oxfordshire.gov.uk](mailto:mash-children@Oxfordshire.gov.uk) or telephone 0345 050 7666**

*Contact details as follows for adults;*

Please call **the Adult Safeguarding Team** on **0345 050 7666** then pick **option 4**

## Information sharing

Information will be shared with district councils in line with legal requirements and locally agreed protocols. The basic principle is that the child's welfare is paramount and information will be shared where there is any potential safeguarding risk to a child or children identified in relation to a driver or an escort. The normal process would mean that if this individual or individuals have their Oxfordshire County Council badge removed, the appropriate district or districts will be informed of the reasons for this and the actions taken. In certain circumstances where there is a sensitive criminal investigation and at the request of Thames Valley Police, where they consider releasing information may interfere with an investigation, Oxfordshire County Council will not disclose until such time as agreement is reached with police.

The Designated Officer role is a statutory role and the process around this also statutory so it is important the Designated officer is informed about any allegation where the concern relates to a potential risk to children. This means that there should be a two way flow of information in line with the agreed protocol but requires referrals to and info to be shared with the designated officer where the referral criteria are met.

These criteria are; any adult employed or volunteering in a position where there is access to children where the adult is alleged to have:

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates they may pose a risk of harm to children

The requirements in the statutory guidance require organisations to make referrals under the above criteria within 24 hours so in the norm referrals should come straight to the Designated Officer rather than MASH. It is then for the Designated Officer to involve Police and or social care and other agencies as appropriate.

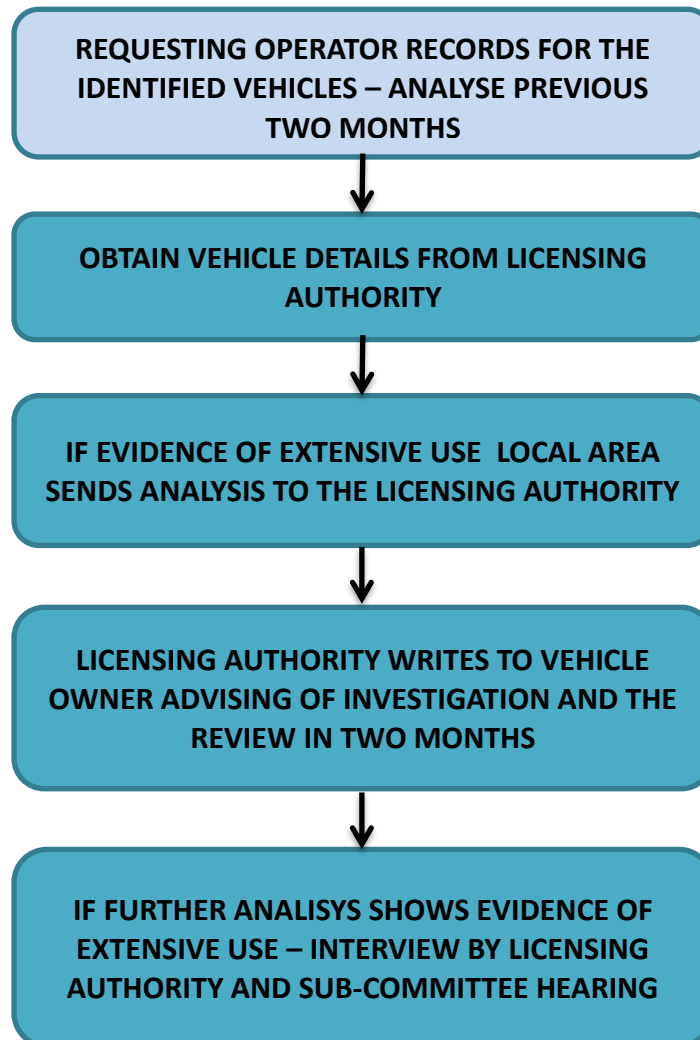


## Appendix 2: Performance Framework

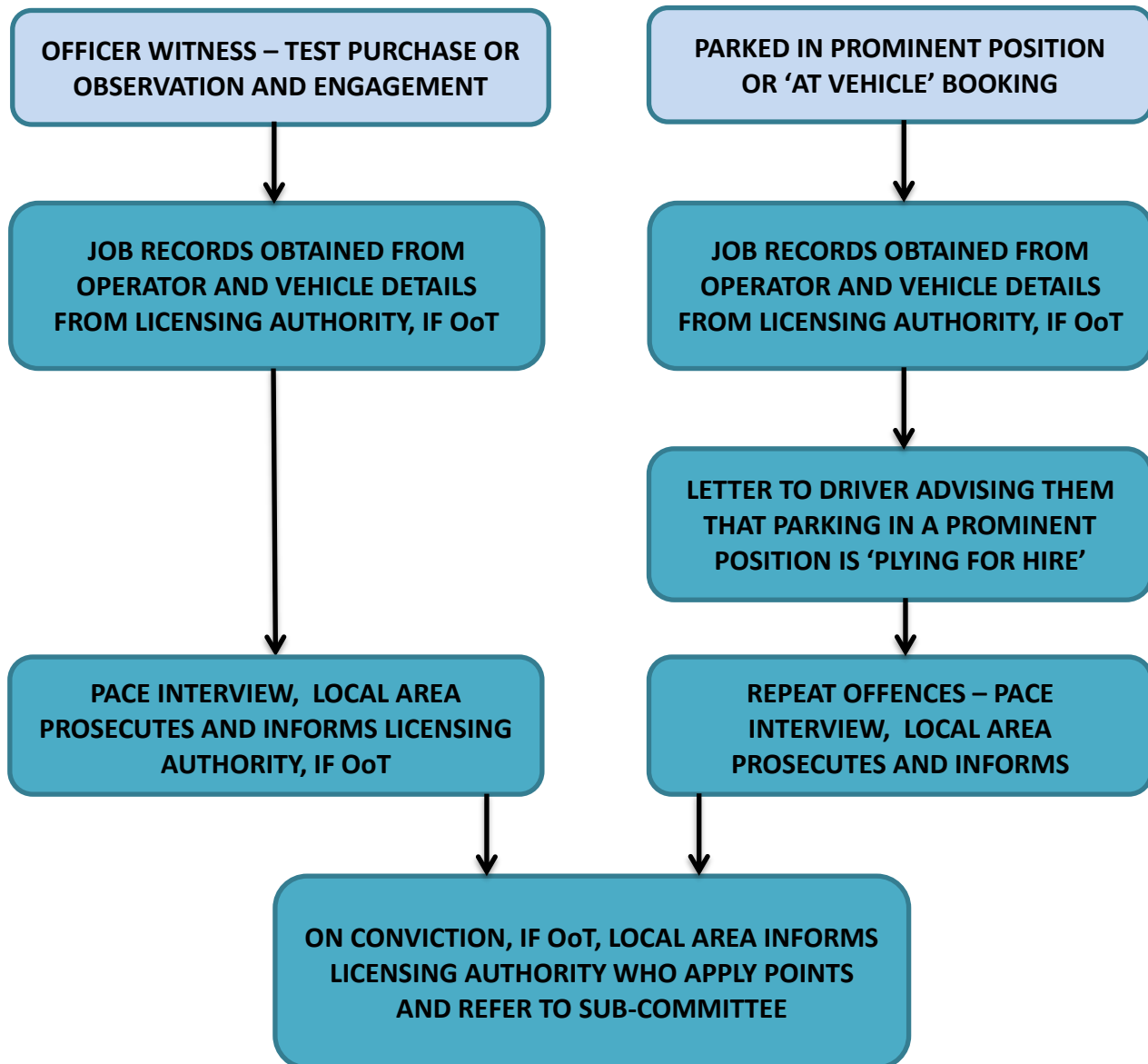
	Measure	Reporting schedule	Notes
1a	Number of licenced taxi drivers at the end of the quarter	Quarterly	Fig at the end of the quarter
1b	Number of drivers licensed during quarter	Quarterly	No. in quarter
1c	Total number of vehicles licensed at end of quarter	Quarterly	Fig at the end of the quarter
1d	Number of vehicles licensed during quarter	Quarterly	No. in quarter
2	Number of complaints received	6-monthly	Calculated
	* substantiated complaints received		No. in quarter
	* unsubstantiated complaints received		No. in quarter
3	No. of referrals made to MASH or LADO for children or adult safeguarding for adults relating to concerns about a driver	Quarterly	No. in quarter
4	No. of drivers who have received the appropriate safeguarding training (either e-training or course attendance) in the last 3 years	6-monthly from September 2015	All current licenced drivers trained in the last 3 years
	Proportion of all licensed drivers who have been trained in the last 3 years		Calculated
5	Number of driver specific enforcement actions taken	Quarterly	Calculated. (Driver specific excludes notifications such as out of date first aid kit; bald tyres etc.)
	* declined/refused		
	* suspensions		
	* revoked		
	* other		
	* NFA		
6	Number of drivers revoked or refused on one areas applying elsewhere	Quarterly	
7	Information Sharing	Quarterly	Calculated
	* number of concerns raised by the transport hub/quality monitoring team shared with the licensing authority		
	* number of concerns raised by the licensing authority shared with the transport hub/quality monitoring team		

## **Appendix 3: Enforcement protocol for plying for hire and taxis predominantly working out of area**

### **OXFORDSHIRE JOF ENFORCEMENT PROTOCOL: OUT OF TOWN VEHICLES SUSPECTED OF PREDOMINANTLY WORKING IN ANOTHER DISTRICT**



**OXFORDSHIRE JOF ENFORCEMENT PROTOCOL: PLYING FOR HIRE –  
PROSECUTION LED BY AUTHORITY WHERE OFFENCE TOOK PLACE**



## Consultation on revised Standards for Licensing Hackney Carriage and Private Hire Drivers and Operators in West Oxfordshire 2021

Table showing a comparison between West Oxfordshire District Councils current Hackney Carriage (taxi) and Private Hire Licensing Policy and the proposed requirements to ensure that the District meets the requirements from the DfT Statutory Standards

	Topic	Current	Proposal	Impact on licence holders
1	<b>Delegations for Decisions</b>	The Service Leader is delegated to make all decisions on new applications and can suspend/revoke licences with immediate effect in consultation with the Chair of Licensing Committee. Reviews of licences and revocation of licences are dealt with by the Miscellaneous Licensing Sub-Committee.	Licensing Officers to be delegated to make all decisions on new applications except where there are relevant convictions. Officers to be able to suspend and revoke with immediate effect. A Miscellaneous Licensing Sub-Committee will consider new applications with relevant convictions (except minor motoring convictions) and will continue to review existing licences where relevant	New applicants with relevant convictions will be able to present their case to a Miscellaneous Licensing Sub-Committee. Officers will be able to take immediate action in cases where there is a public risk and there is not time to arrange a Miscellaneous Licensing Sub-Committee
2	<b>Frequency of DBS Enhanced Criminal Checks</b>	On new application and then every three years on renewal	Every six months	<p>Provided drivers subscribe to the update service this should not have financial impact.</p> <p>The Council will use the Multiple Status Check Facility (MSCF) which allows you to run a check on all licence drivers automatically</p>
3	<b>Time period for licence holders to notify the Council of arrest, charges and offences</b>	7 working days for convictions, cautions, fixed penalties or court case pending. 3 working days if arrested.	48 hours for arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.	No significant impact on licence holders

4	<b>How to complain Signage in vehicles</b>	Council contact details for complaint displayed on the rear of the internal vehicle disc displayed in front windscreen	Signage to be displayed in vehicles giving guidance for passengers and how to complain and displayed where it can easily be read. Failure to display could lead to suspension and a possible review of their licence.	Licence holders will need to display an additional sign in the vehicle. There will be a cost for the sign and a holder. Likely cost is £3 to £4. The sign will only need to be replaced if the vehicle is changed
5	<b>Immediate suspension and revocation of licences</b>	Where there are concerns that cannot wait until the next Miscellaneous Licensing Sub-Committee the Service Leader can immediately suspend or revoke a licence but Officers cannot	Where there are concerns that cannot wait until the next Miscellaneous Licensing Sub-Committee, Officers will be able to decide if immediate action is necessary including to suspend or revoke the licence.	This gives more flexibility for officers to take immediate action if there is a possible public risk
6	<b>Language proficiency</b>	If an applicant's first language is not English they must have an adequate spoken and written standard and may be referred to a Miscellaneous Licensing Sub-Committee if there are concerns	All new applicants must take an English Proficiency test unless they can provide an appropriate educational certificate for a qualification related to English.  English language proficiency requirements will apply to new applicants from date of adoption of these standards  Discretion to refer an existing licence holder for an assessment on a case to case basis.	This places an additional criteria and possible cost for all new driver applicants if they do not have an appropriate educational certificate (Officers to have discretion)  Likely cost of an English Proficiency Test is £60 - £70
7	<b>Safeguarding and Disability Awareness training</b>	Mandatory every 3 years	Addition of suspension if not completed or failed	Cost of training is £50
8	<b>Diabetes (this is a County requirement not part of the DfT Standards)</b>	The Group 2 standard precludes the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of	County approach: Drivers with diabetes managed by insulin, a sulphonylurea or a glinide will require a specialist annual medical.	No cost to the licensing authority  Cost of medical approx.. £120-50  Licensing authority to write to all drivers to confirm whether they are effected by this

		'medical criteria' to obtain a licence to drive category C1 vehicles. The Council will apply those standards.		
9	<b>Criminality checks for vehicle proprietors</b>	No requirements for licensed vehicle proprietors to provide a criminal certificate	Licensed vehicle proprietors must provide an annual basic disclosure certificate from the DBS unless they are also a licensed driver.	Cost of basic DBS (£23)
10	<b>Criminality checks for private hire vehicle operators</b>	Licensed private hire operators must provide a basic disclosure check from the DBS every 5 years on renewal unless they are also a licensed driver	Licensed private hire operators must provide an annual basic disclosure check from the DBS unless they are also a licensed driver	Cost of basic DBS (£23)
11	<b>Private Hire Operator Booking and dispatch staff</b>	No requirement for operators to make criminality checks on booking and dispatch staff	Private hire operators must have written policies and procedures in place to ensure criminality checks are undertaken on all booking and dispatch staff at appropriate intervals and set out its approach on employing staff that are ex-offenders.  Where a booking is outsourced the operator must ensure the third-party have adequate arrangements in place as outlined above.	Some impact on operators who must develop policies and procedures. Basic criminal conviction disclosure cost £23
12	<b>Use of National Register of Refusals and Revocations (NR3)</b>	Currently specified in the Policy although WODC has some final steps to implement	All new drivers and licence holders on renewal will be checked against the National Register to ensure that they have not been refused or revoked by another Licensing Authority (quite often this would be for grounds that are not included on a DBS certificate e.g. a failed medical)	The Council will be required to carry out all steps as included in the report to the Miscellaneous Licensing Sub-Committee (10.03.21)  This provides a more robust check on individuals and assists to safeguard the public

13	<b>Convictions Policy</b>	A current criminal convictions policy	An enhanced convictions policy that adds further conviction categories and extends some of the time scales applicants are expected to be clear of offences. It reflect the statutory standards - see separate conviction policy comparison table below	Existing licence holders may have convictions that fall in the timescales within the proposed policy. It is not reasonable that those licences should automatically be revoked. All existing licences will be considered in line with the new policy and where there is concern, they will be reviewed by a Miscellaneous Licensing Sub-Committee
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## Comparison Table for Convictions Policy

Suitability of new applicants is considered in relation to the period of time that has elapsed since the conviction or sentence. Offences are grouped in categories. This table shows a summary of the current and proposed policy

Offence Category	West Oxfordshire District Council's current Conviction Policy	Proposed Conviction Policy
Exploitation	Not included	Never
Violence	3 years	All offences 10 years
Possession of Weapon	Not included	7 years
Sexual Offences	Offences categorised to either never or 10 years	Never
Dishonesty	3 to 5 years	7 years
Drugs	3 to 5 years	5 to 10 years
Discrimination	Not specifically included	7 years
Motoring convictions New Applicants	Minor – isolated should not prevent a person from holding a licence but the number, type and frequency should be taken into account. Major – an isolated conviction should normally merit a warning. More than one within the last 2 years should merit refusal and no further application should be considered for a period of 1 to 3 years from convictions lapsing.	One or more major – 10 years More than one minor – 3 years
Motoring convictions - current licence holders	Same as new applicant	Two minor or one major up to 6 points - licence holder to complete driving assessment More than 6 points referred to a Committee for revocation
Drink driving or under influence of drugs	(i) With Motor Vehicle An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for this type of offence should raise grave doubts as to the applicants' fitness to hold a licence and, where disqualification has occurred, at least 3 years from the date of restoration of the drivers licence should have	7 years since conviction or completion of any sentence or driving ban

	<p>elapsed before the application is considered.</p> <p>If there is any suggestion that the applicant is an alcoholic a special medical examination should be arranged and if the applicant is found to be an alcoholic there should be a period of at least 5 years from the completion of detoxification treatment before an application is entertained</p> <p>(ii) Not in Motor Vehicle</p> <p>An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see above). In some cases, a warning may be sufficient.</p>	
Use of handheld device whilst driving	Not specifically included	5 years since conviction or completion of any sentence or driving ban
Hackney carriage or private hire offence	1 to 3 years	7 years

## Draft ancillary policies and delegations – these will replace the relevant annexes in the Current Hackney Carriage and Private Hire Licensing Policy

### Draft Convictions Policy

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#### **INFORMATION FOR APPLICANTS AND EXISTING LICENCE HOLDERS**

1. This policy is intended to provide guidance on determining suitability of new applicants and existing licence holders where the applicant or licence holder has been convicted of a criminal or driving offence.
2. The policy lists the types of offences that may give concern to the Licensing Authority. For the more serious offences the expectation is that an application will be refused or an existing licence holder will have their licence revoked. For other offences the policy gives the times scales that it is expected will have elapsed since the conviction before an application will be granted.
3. The Policy states that each case will be treated on its own merits. Where an applicant or Licence Holder has an offence listed in this policy it will not necessarily mean an automatic barring or revocation. However, the applicant or licence holder can expect that their application or licence will be put before a Miscellaneous Licensing Sub-Committee for consideration who will take account of this policy. The obligation will on the applicant or licence holder to put forward reasons and/or evidence in support of their case for the Miscellaneous Licensing Sub-Committee to consider.
4. If an application is refused or a licence is revoked the applicant or licence holder will have right of appeal to the Magistrate's Court. The application to the Magistrates Court should be made within 21 days of the applicant or licence holder being notified by the Licensing Authority of the decision to refuse or revoke.
5. Where a licence holder is convicted of an offence where the Licensing Authority believes that the safety of the public may be at immediate risk, the licence may be suspended/revoked with immediate effect. The licence holder will have right of appeal to the Magistrates Court against a suspension issued with immediate effect however they may **not** use the licence until any decision is made by the Court
6. Existing licence holders that have been granted licences previous to this policy coming into effect may have convictions on their record that fall within the timescales within this policy. The Licensing Authority will have made decisions on those licences based on policies in place at the time where the timescales may have been lesser or those offences not included. It is not reasonable that those licences should be automatically be revoked. The Licensing Authority will review all existing licences in light of this policy and where the Licensing Authority has concerns about a particular licence holder and/or there are further offences, breaches or complaint, the licence holder may be reviewed by a Miscellaneous Licensing Sub-Committee who will take into account all matters including any previous offences that may now fall within this current policy. In particular, serious account will be taken of any history of safeguarding matters. Where appropriate, existing licence holders may be requested to apply for a new enhanced DBS certificate in order that the Council can review historic offences in line with this policy.

## OVERVIEW

7. The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must have the confidence that the driver is safe and suitable.
8. Taxi legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
9. These guidelines apply to all new applications for a taxi or private hire driver licence and all licensed taxi and private hire drivers.
10. In addition, where relevant, they will also be applied to taxi and private hire vehicle licence applicants and licence holders, and private hire operator licence applicants and licence holders. Where such applicants and licence holders are not applying for, or already hold a taxi or private hire driver licence they will be required to provide a basic criminal conviction checks on application and then at regular intervals. The Licensing Authority will take account of any current criminal convictions showing on the basic criminal conviction check, or criminal conviction received, in accordance with this policy.
11. Taxi legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence.
12. This policy is based on the Statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport in July 2020, Annex - Assessment of Previous Convictions. <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
- 13. The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.**
14. In each case appropriate weight should be given to the evidence provided. This will include assessing the risk of re-offending and harm.
15. The Licensing Authority will be looking at the entirety of the individual when making the decision whether an applicant or licence holder is a safe and suitable person. Time periods are relevant and weighty considerations, but they are not the only determining factor. Other factors that the Licensing Authority will take into account when making a decision include but are not exhaustively:
  - Relevance and date of the offence
  - Sentence imposed by the court
  - Age of person and circumstances when the offence was committed
  - Subsequent periods of good behaviour
  - Overall conviction history
  - Any history of complaints made to the Licensing Authority against an existing licence holder. Unproven complaints may in some circumstances be taken into account if it is considered that there is a strong likelihood that the complaints are justified and the nature and/or number of complaints raise concern regarding suitability of applicant
  - Whether the applicant has intentionally misled the Licensing Authority or has lied as part of the application process
  - Information provided by other agencies or other services at the Licensing Authority. This may include information disclosed by the Police or Safeguarding Services
  - Any other matters that are relevant

16. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime.
17. A caution is regarded in exactly the same way as a conviction.
18. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
19. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered
20. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. This places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.
21. It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered.
22. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
23. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
24. Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
25. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
26. It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver’s, vehicle and operator’s) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
27. Any dishonesty by any applicant or other person on the applicant’s behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.

28. Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
29. These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person.
30. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## **OFFENCES**

### **Crimes resulting in death**

31. Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury (where there was an intention or strong likelihood of death) of another person they will not be licensed. A licence holder who is convicted of the above will have their licence revoked.

### **Exploitation**

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

### **Offences involving violence against the person**

33. Licensed drivers have close regular contact with the public who could be at risk from violent behaviour. Drivers are often entrusted with the care of children, young persons and vulnerable adults. The Licensing Authority seeks to protect the safety of the public and minimise risk.
34. Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed. A licence holder convicted of the above will have their licence revoked

Examples of Violent offences include (this is not an exhaustive list)

- a. Arson
- b. Malicious wounding or grievous bodily harm
- c. Actual bodily harm
- d. Grievous bodily harm with intent
- e. Robbery
- f. Riot
- g. Assault Police
- h. Any racially aggravated assault
- i. Violent disorder
- j. Resisting arrest
- k. Common assault/battery
- l. Affray
- m. Obstruction

### **Possession of a weapon**

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

### **Sexual offences**

36. As licensed drivers often carry unaccompanied and vulnerable passengers, the Licensing Authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences should be considered as serious.
37. Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. A licence holder convicted of the above will have their licence revoked
38. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list. A licence holder who goes on any of the above will have their licence revoked
39. Sexual/Indecency Offences include (this is not an exhaustive list)
- a. Rape
  - b. Assault by penetration
  - c. Offences involving children or vulnerable adults
  - d. Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).
  - e. Making or distributing obscene material
  - f. Possession of indecent photographs depicting child pornography.
  - g. Sexual assault
  - h. Indecent assault
  - i. Exploitation of prostitution
  - j. Soliciting (kerb crawling)
  - k. Making obscene / indecent telephone calls
  - l. Indecent exposure
  - m. Any similar offences (including attempted or conspiracy to commit) offences
40. Any licence holder charged with, convicted or issued with a formal caution for any of the offences mentioned above should expect to have their licence revoked with immediate effect.

### **Dishonesty**

41. Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways. In certain situations, drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station. For these reasons convictions of dishonesty are treated very seriously
42. Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed. A licence holder convicted of any of the above will have their licence revoked

43. Dishonesty offence includes (this is not an exhaustive list)

- a. Theft
- b. Burglary
- c. Fraud
- d. Benefit fraud
- e. Handling or receiving stolen goods
- f. Forgery
- g. Conspiracy to defraud
- h. Obtaining money or property by deception
- i. Other deception
- j. Any similar offence

#### **Drugs**

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

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

#### **Discrimination**

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

47. Examples of Discrimination offences include (this is not exhaustive list)

- a. Racially aggravated common assault
- b. Any racially-aggravated offence against a person or property.
- c. Any offences (including attempted or conspiracy to commit offences) that are similar to those above.
- d. Offences under Equality Act 2010
- e. Any offence considered as hate crime. Hate crime is any criminal offence which is perceived by the victim, or anybody else, to be motivated by hostility or prejudice towards someone's: race, religion, sexual orientation, transgender identity, disability.

#### **Motoring convictions**

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

49. For the purposes of this policy a minor traffic offence is one where the DVLA has imposed no more than 3 penalty points on the applicant's DVLA driving licence for the offence. A major conviction is one where the DVLA has imposed more than 3 penalty points on the applicant's DVLA driving



licence for the offence. There is more information about endorsement codes and penalty points on the Government's website. <https://www.gov.uk/penalty-points-endorsements/endorsement-codes-and-penalty-points>

50. For the purposes of this policy, a 'valid' traffic offence is the same definition as used by the DVLA. Points that stay on a DVLA licence for 4 years are 'valid' for 3 years. Points that stay on a DVLA driving licence for 11 years they are 'valid' for 10 years. There is more information on the Government's website <https://www.gov.uk/penalty-points-endorsements/how-long-endorsements-stay-on-your-driving-licence>
51. Where an applicant has more than one minor traffic offence a licence would be refused whilst the relevant points remain 'valid' on their driving licence.
52. Where an applicant has a major conviction the application will be refused whilst the relevant points remain 'valid' on their driving licence.
53. Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the Licensing Authority considers that the licensee remains a fit and proper person to retain a licence.
54. Where there is a second occurrence of a minor traffic offence, whilst the first minor traffic offence is valid, or a single occurrence of a major traffic offence of up to 6 points, a licence holder can agree to complete a driving assessment, at their own expense, through an approved provider, as an alternative to a review/revocation of their licence by a Miscellaneous Licensing Sub-Committee
55. Where a licence holder has more than 6 valid penalty points for driving offences their licence will be revoked.

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

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

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

57. Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later. A licence holder convicted of the above will have their licence revoked.
58. Where the offence is dealt with as driving offence and penalty points have been imposed on a DVLA licence, the licence will not be granted until at least four years have passed. This is the length of time these points remain current of the DVLA licence. A licence holder who has had penalty points imposed on their DVLA licence for using a held-hand mobile telephone or a hand-held device, will have their licence revoked.

## **Hackney Carriage and Private Hire Offences**

59. Where an applicant has any offences under any relevant hackney carriage or private hire legislation a licence will not be granted until at least 7 years have elapsed since the conviction. A licence holder convicted of the above will have their licence revoked

## Draft Enforcement and Complaints Policy & Procedure

### Enforcement

This policy takes a risk based proportionate, targeted and flexible approach to inspection and enforcement and where appropriate will work with external agencies such as the Police.

When a potential breach or offence is identified Licensing Officers will investigate the matter.

If it is in relation to a licensed vehicle the licence holder may be requested to bring in the vehicle for an inspection by a Licensing Officer or to take the vehicle to an MOT approved garage for a full inspection.

If it is in relation to a licensed driver or operator the licence holder may be requested to attend an interview. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law the interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

### Complaints by the Public

The public are able to make complaints to the licensing service about licensed drivers and operators. This could include such issues as offensive comments by a driver, unsafe driving, failure or lateness of attending bookings and refusal to take guide dogs.

Licensing Officers will normally ask the complainant to put their complaint in writing or by email giving details of the nature of the complaint with date, time and location if relevant.

All such complaints will be recorded and investigated and the licence holder notified. Licensing Officers may request the licence holder to attend an interview in order determine the facts. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law that interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Some complaints such as those alleging a serious criminal offence, traffic offence, violence or verbal abuse may be referred to the Police.

### Actions that may be Taken Following Enforcement or Complaint

When deciding what action to take the Licensing Officers will consider each case on its own merits and will consider all relevant matters including:

- Seriousness of the offence, breach or complaint
- Any history of previous offences, breaches and/or complaints
- Consequences of non-compliance
- Effectiveness of any action
- Danger to the public
- In the case of an unproven allegation the seriousness of the allegation and the likelihood and risk of danger to the public

Action	Examples (but not an exhaustive list)
Take no action	<ul style="list-style-type: none"> <li>Breach, offence or complaint is proven to be false.</li> <li>Matter is minor or unproven and there is no previous history</li> </ul>
Verbal or written advice for example recommendation to re-take driver assessment test	<ul style="list-style-type: none"> <li>Matter is minor and/or due to misunderstanding by the licence holder</li> </ul>
Verbal or written warning	<ul style="list-style-type: none"> <li>Complaint made by the public</li> <li>Minor traffic offence</li> <li>Contravention of the code of conduct or dress code</li> </ul>
Fixed penalty notice	<ul style="list-style-type: none"> <li>Smoking offences in a licensed vehicle</li> </ul>
Immediate suspension or revocation of licence	<ul style="list-style-type: none"> <li>Suspension of vehicle (S 68) issued when on inspection of a vehicle Officers believe that it has a defect or is potentially unsafe for passengers or the meter is defective</li> <li>Suspension of driver licence (s 61 (2B) if in interest of public safety for example failing a medical, safeguarding or serious criminal allegations</li> <li>Suspension of driver licence (s 61) if driver fails to provide relevant documentation by expiry e.g. DBS/Medical</li> </ul>
Suspension of licence – 21 days notice	<ul style="list-style-type: none"> <li>Suspension of a vehicle licence (s60) for failure to have a Council Vehicle Inspection or provide relevant document or visual condition of vehicle is not satisfactory</li> </ul>
Simple caution issued by authorised officer	<ul style="list-style-type: none"> <li>A licence holder admits to committing a less serious offence and the issuing of such a caution is likely to reduce re-offending</li> </ul>
Review of the licence by the Miscellaneous Licensing Sub-Committee	<ul style="list-style-type: none"> <li>A licence holder receives criminal conviction, police caution, major motoring offence, safeguarding concern or serious complaint or allegation</li> <li>A licence holder has a history of complaints and/or offences. In the case of complaints by the public these complaints could be unproven if there is previous history of such complaints or a likelihood that the complaint is justified and the public could be at risk</li> <li>A licence holder that had received more than 3 warnings from Officers for breaches of conditions, policy or legislation within a 12 month period</li> <li>A licensed driver who has accumulated more than 6 current points on their driving licence</li> <li>Any matter where a possible outcome is the revocation of the licence</li> </ul>
Prosecution	<ul style="list-style-type: none"> <li>Using an unlicensed vehicle</li> <li>Unlicensed driver driving a licensed vehicle</li> <li>Unlicensed operator</li> <li>Driving without valid insurance</li> <li>Refusing to carry a guide dog</li> <li>Exceeding the number of passengers on the plate</li> </ul>

### **Review of the Licence by the Miscellaneous Licensing Sub-Committee**

The licence holder will be invited to a Miscellaneous Licensing Sub-Committee meeting. The licence holder will be given reasonable notice of the meeting. However if the licence holder does not attend without reasonable cause the panel may undertake the review in his/her absence. The licence holder may bring another person with them to the review to support or represent them or they may wish to put comments in writing for the panel to consider. After considering all the facts the panel may take any action they feel appropriate. Below is a list of possible actions.

- No action
- Oral or written warning
- Requirement to take action within a time period for example recommendation to take a anger management course, safeguarding or disability awareness training, speed awareness course or driving assessment
- Suspend the licence until an action or requirement has been met
- Suspend the licence for a period of time as a deterrent to ensure future compliance
- Revoke the licence
- Recommend a simple caution
- Recommend prosecution

### **Right of Appeal**

A licence holder has a right of appeal to the Magistrates Court for any decision by the Council to refuse, suspend or revoke a driver, vehicle licence or operator licence or against any conditions added to a licence. This appeal must be made within 21 days of the notification of the Council's decision.

There is an exception to the above right of appeal in the case of a decision to refuse to grant a Hackney Carriage vehicle licence. In this case the right of appeal is to the Crown Court.

There is no right of appeal against an immediate suspension of a vehicle licence (s68).

## Draft Table of Delegations

<b>Matter to be dealt with</b>	<b>Miscellaneous Licensing Sub-Committee</b>	<b>Licensing Officers</b>
Full policy review	All cases	
Application for driver's licence, with no convictions		All cases
Application for driver's licence, with relevant convictions	Cases where referral for determination required, other than traffic offences	Cases in relation to traffic offences
Suspension of driver's licence (public safety)	All cases where referral for determination required	
Revocation of driver's licence (public safety, immigration)	Cases where referral for determination required	Cases where immediate effect required
Application for vehicle licence		All cases
Suspension of vehicle licence (public safety)		All cases with a reasonable cause
Revocation of vehicle licence (public safety)	Cases where referral for determination required	Cases where immediate effect required
Application for operator's licence		All cases
Application for operator's licence, with relevant convictions	All cases where referral for determination required	
Suspension of operator's licence (public safety)	All cases where referral for determination required	
Revocation of operator's licence (public safety)	Cases where referral for determination required	Cases where immediate effect required
Assistance dogs in taxis: exemption certificate request forms		All cases
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.		All cases



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WEST OXFORDSHIRE  
DISTRICT COUNCIL

# Hackney Carriage and Private Hire Licensing Policy

April 2018



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## General

### Introduction

The Council has the responsibility to regulate and control all operators, drivers and vehicles used for carrying passengers for hire and reward within the West Oxfordshire District under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

This document includes West Oxfordshire District Council's Policy and Conditions with regard to Hackney Carriage (Taxis) and Private Hire licensing and will provide guidance to applicants, interested parties, Officers and Members on the approach the Council will take on Hackney Carriage and Private Hire licensing matters. Additionally, this document provides guidance on legislation and other issues that have an impact on Hackney Carriage and Private Hire licensing.

For the purposes of this document, Hackney Carriage vehicles will be referred to as Hackney Carriages.

#### **Objectives**

In setting out its Policy, the Council seeks to promote the following objectives:-

- a) Safety and health of drivers and the public;
- b) Vehicle safety, comfort and access;
- c) To prevent crime and disorder and protect the public.

#### **Future Amendments to Policy and Conditions**

All licences are granted subject to compliance with the Policies and Conditions contained within this document.

This document was approved by the Planning and Licensing Committee on 13 March 2018 and came into force on 1 April 2018.

This document may be amended and republished from time to time to take account of changes in legislation and minor amendments. However, any such changes or amendments that have significant impact on the Policies and Conditions in this document shall first be considered by the Planning and Licensing Committee for approval. Matters that would be considered significant include those that could have a financial or negative impact on licence holders or new applicants or that affect the convenience, safety or comfort of passengers.

#### **General Differences between Hackney Carriages and Private Hire**

There are two types of vehicle that carry fare paying passengers that are licensed by West Oxfordshire District Council.



## Hackney Carriages

- Can be flagged down and use designated ranks
- Can be pre-booked
- Hackney Carriages must have a meter and the maximum tariff (fare) is set by the Council.
- Hackney Carriages must display a roof sign (door stickers will no longer be required and will no longer be issued from 1 April 2018). All Hackney Carriage vehicles must have a roof sign by 1 April 2019

## Private Hire

- Must be booked in advance of a journey.
- The booking must be made through a licensed Private Hire operator
- The fare is agreed in advance between the operator and the customer

## Maximum Number of Passengers

The maximum number of passengers that a Hackney Carriage or Private Hire vehicle can be licensed to carry is 8.

Any vehicles used for hire and reward that carry more than 8 passengers must be licensed by the traffic commissioners as a public service vehicle <https://www.gov.uk/psv-operator-licences/overview>

## Licences issued by West Oxfordshire District Council

There are five types of Licence issued by West Oxfordshire District Council.

### 1. Dual Drivers Licence

This is a licence that allows you to drive both Hackney Carriage and Private Hire vehicles. This licence is issued for 3 years.

### 2. Private Hire Drivers Licence

This licence allows you to drive a Private Hire vehicle only. This licence is issued for 3 years.

### 3. Private Hire Operators Licence

If you take bookings for a Private Hire business, you must hold a Private Hire operator's licence. This licence is issued for 1 or 5 years.

### 4. Hackney Carriage Vehicle Licence

You must have a Hackney Carriage vehicle licence for each Hackney Carriage you own. The licence will be granted for 1 year only.

### 5. Private Hire vehicle Licence

You must have a Private Hire vehicle licence for any vehicle that you use for Private Hire. A Private Hire vehicle must be operated under a Private Hire operator licence. The licence will be granted for 1 year only.

## Application Forms

Application forms and associated documents are available from the Council's website [www.westoxon.gov.uk](http://www.westoxon.gov.uk)

### How can I pay?

- In Person - At the Town Centre Shop in Witney. The team will accept cash, debit/credit card payments or cheque.
- By Post - payment by cheque made payable to "West Oxfordshire District Council" and sent to the Business Support (Licensing), Environmental and Regulatory Services, West Oxfordshire District Council, Woodgreen, Witney, OX28 1NB
- By Telephone – Customer Services can be contacted on (01993) 861000 and the team will take card payment from you.

### Renewals

The Council does not have a legal obligation to notify you when your licence is due to expire.

**Please ensure that you are aware of the expiry date and that you submit your renewal application at least 7 days before expiry to ensure that the application is processed in time.**

### Refunds

No refunds are issued for any Hackney Carriage and Private Hire licences.

### Right of Appeal

With two exceptions there is a right of appeal to the Magistrates Court in relation to driver, vehicle and operators licences for the following:

- An application for a new licence, or renewal of a licence, is refused by the Council
- An existing licence is suspended or revoked by the Council
- Any conditions imposed on the licence

The appeal must be lodged within 21 days of the decision being notified to the applicant or licence holder.

### The exceptions are:

- The right of appeal against the refusal to grant or renew a Hackney Carriage vehicle licence is to the Crown Court.
- Where the Council suspends a Hackney Carriage or Private Hire vehicle licence under section 68 (immediate suspension in a situation where, on inspection of the vehicle, the Police or Council are not satisfied to the fitness of the vehicle or accuracy of the meter) there is no right of appeal.



## Hackney Carriage and Private Hire Drivers

### I. Hackney Carriage and Private Hire Driver (Dual Driver) - Application Requirements

**The following apply to Dual Driver Licences and Private Hire Driver Licences.**

The dual driver licence permits you to drive both Hackney Carriages and Private Hire vehicles. The Private Hire driver licence permits you to drive a Private Hire vehicle only.

#### I.1 New Application

You must have held a full valid driving licence for at least 12 months authorising you to drive a motor car in the UK.

You must be 18 years of age or over.

An application cannot be granted unless the Council is satisfied that you are a 'fit and proper person' to hold a Hackney Carriage or Private Hire driver licence. There is no judicially approved test, however, when determining whether a driver is 'fit and proper', the Council will consider, amongst other things, the applicant's relevant skills, knowledge, experience, qualifications, conduct, medical fitness, criminal record and any previous history as a licence holder.

**If you have criminal convictions you may wish to wait until the Council has considered your criminal conviction and DVLA conviction history before undertaking the medical or driver assessment as any fees incurred will not be refunded should the Council decide that you are not a 'fit and proper person' in relation to offences.**

You are required to notify the Council of any convictions, cautions, fixed penalties received or any court cases pending during the application period (i.e. the time between the application being submitted and the licence being granted).

To make a new application you must submit the following (for information on how to obtain these please visit the driver application section of the website):

- **Application form**
- **Application fee**
- **Passport size photograph**, recently taken and clearly showing your full face uncovered, without sunglasses or hat
- **Valid DVLA driving licence**, authorising you to drive a motor car in the UK, showing your current home address
- **DVLA check code**
- **Disclosure and Barring Service (DBS) Enhanced Criminal Convictions Certificate** which is not more than 1 month old at time of application, or if you are registered with the DBS, provide the relevant information to allow Officers to make an on-line enhanced check of your current criminal record. If you are unable to provide either of the above you can make an application for a DBS Certificate through the Council. You will need to complete a DBS Enhanced Criminal Record application form, provide 3 forms of appropriate identity documentation and pay the relevant fee. If your application is delayed you may be required to obtain a new DBS disclosure

certificate if the date of the original certificate is more than 6 months old at the time of making a decision whether to grant the licence.

Convictions (whether spent or unspent) must be disclosed on your application form.

Please see our convictions policy in Annex 2 for further details.

- **Satisfactory Group 2 medical certificate** completed by your own General Practitioner or a medical practitioner that has access to your medical records. A medical certificate will not be accepted if it is dated more than 4 months prior to submitting the application. All costs associated with the medical certificate are met by the applicant and paid direct to the medical practitioner.
- **Evidence of successful completion of a Driving Assessment** through one of the Council's approved assessors. Assessment Certificates will not be accepted that are over 12 months old.
- **Evidence of successfully passing a Safeguarding Training Course** as specified by West Oxfordshire District Council.
- **Evidence that you have passed a knowledge test.** The knowledge test is an examination held at the Council Offices. Please see Annex 3 for details about the Knowledge Test.
- **A right to work check under the Immigration Act 2016 will be carried out before your licence is issued.** This will be at the knowledge test

### **Additional Application Requirements for Foreign Nationals and Persons That Have Resided Outside of England, Wales and Republic of Ireland**

The Council must be satisfied that you are a 'fit and proper person'. The DBS Criminal Record Check covers England, Wales and Republic of Ireland. The Council needs to take account of any offences committed outside these countries. If you are a foreign national or are a person who has resided outside of England, Wales and The Republic of Ireland, you must provide the following:

- DBS Enhanced Criminal Record Disclosure Certificate as detailed in new application requirements (unless you have only just arrived in this country). The DBS Enhanced Criminal Record Disclosure will show any convictions that have been committed in the UK.
- Criminal record check from all countries outside of England, Wales and The Republic of Ireland you have resided in from the age of 18 or, if those countries do not produce such information, a certificate of good conduct from the Embassy or Legation from all countries outside the UK that you have resided in from the age of 18. This certificate must be an original and, if in a foreign language, must be accompanied by an original certified translation from a sworn translator. Any costs involved in such certificates and translations must be paid by you.
- Driving Licence that permits you to drive in the UK for vocational purposes (driving as a job). If you hold an EC/EEA driving licence the Council will normally expect you to convert this to a GB driving licence prior to making your application.
- If your first language is not English you must have an adequate standard of spoken and written English and you may be required to pass an English proficiency test to demonstrate this. If the Licensing Officer has concerns, the applicant will be referred to the Licensing Sub-Committee to determine the application.

## 1.2 Renewal Application

A renewal application must be completed prior to the expiry date of your current Hackney Carriage and/or Private Hire driver licence. If you do not renew your licence before your licence expires you will become unlicensed. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

You have the option of applying for a 1 year or 3 year licence.

To make a renewal application you must submit:

- Renewal application form
- Fee
- Valid DVLA driving licence authorising you to drive a motor car in the UK showing your current home address
- DVLA check code

**Renewals will not be processed if there are any DBS and medicals certificates outstanding.**

## 2. Hackney Carriage & Private Hire Drivers (Dual Driver)- West Oxfordshire District Council Policy

### 2.1 Duration of Licence

The Licence shall remain in force for a period of 3 years. The Council retains the right to only issue a licence for 1 year duration if appropriate.

### 2.2 Medical Criteria

You must provide a satisfactory Group 2 medical certificate completed by your own General Practitioner or a medical practitioner that has access to your medical records at the following times:

- On application
- Every five years between the ages of 45 – 65 years
- Every year from the age of 65

All costs associated with the medical certificate are met by the applicant.

A recent satisfactory Group 2 medical examination for a PCV or HGV may be acceptable as an appropriate medical. This is, however, at the discretion of the Licensing Officer and you must be able to provide sufficient evidence that the medical was completed by your own General Practitioner or a medical practitioner that has access to your medical records and the DVLA have determined you are fit to drive a PCV/HGV. This certificate must be no more than 4 months old.

The Group 2 standard precludes the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of 'medical criteria' to obtain a licence to drive category C1 vehicles. The Council will apply those standards.

You **must** notify the Council immediately if you develop any health or medical issues that may affect your fitness as a driver. The Council may require you to produce medical evidence of continuing fitness to drive during the period of the licence.

**The applicant will receive up to 3 reminders prior to the expiry of their medical. Reminder letters are sent via the post and generated at the beginning of the month which means that applicants will receive their first reminder between eight & twelve weeks prior to its expiry and further reminders at the beginning of each consecutive month until it's expiry. If a satisfactory medical is not received by the expiry date, the licence will be suspended the following working day.**

### 2.3 Requirement to return Driver Badge

If you no longer intend to be a Hackney Carriage or Private Hire driver, or your badge is suspended or revoked, you must return your licence and badges to the Council **within 7 days**.

### 2.4 Notification of Changes

If you move house or change your name, or if any other details included on the application form change, you must write and let the Council know **within 7 days**. If you cease to work for a Hackney Carriage proprietor or Private Hire operator or change to work for another Hackney

Carriage proprietor or Private Hire operator you must write and let the Council know **within 7 days**.

## 2.5 Convictions, Cautions and Fixed Penalties

If you get any convictions, cautions, fixed penalties or have a court case pending, you must write (or email) and let the Council know **within 7 working days**. If you are arrested you should let the Council know **within 3 working days**.

## 2.5 DBS Check (Disclosure and Barring Service) criminal history

It is a requirement as a licensed driver to have a satisfactory criminal check (DBS) in place at all times.

**The applicant will receive up to 3 reminders prior to the expiry of their DBS. Reminder letters are sent via the post and generated at the beginning of the month which means that applicants will receive their first reminder between eight & twelve weeks prior to its expiry and further reminders at the beginning of each consecutive month until it's expiry. If a satisfactory DBS is not received by the expiry date, the licence will be suspended the following working day.**

**It is mandatory from 1 April 2017 for all licence holders to sign up to the Online Update Service with the DBS so that the check remains active. A reference number must be provided to licensing to record on file. Please see the DBS website for further details. If the licence holder fails to sign up to this service on renewal of their DBS (or issue for new applicants), the licence will be suspended.**

**For existing licence holders, the mandatory requirement must be complied with by 31 December 2020. Failure to do so will result in suspension of your driver licence.**

When the new DBS has been submitted, if there are previous convictions/cautions that have already been considered, no further action will be taken. If there are convictions/cautions that have been imposed since the last DBS that have not been declared by the licence holder, the licence will be suspended with immediate effect until a Licensing Sub-Committee can be held to determine the licence.

## 2.6 Code of Conduct

While working as a Hackney Carriage or Private Hire driver, you shall act in accordance with the following:

- Display your driver badge where it is easily visible
- Have a clean and tidy appearance in accordance with the Dress Code
- Behave in a polite and courteous manner
- Take reasonable precautions to ensure the comfort and safety of passengers at all times
- Attend punctually at the appointed time and place when hired
- If requested offer reasonable assistance with the loading and unloading of bags and luggage
- Offer reasonable assistance to passengers with a disability when they are getting in and out of the vehicle and, if appropriate, to and from their starting point or destination
- Unless otherwise directed by the hirer, should proceed to the destination by the shortest or most economical route
- Not eat or drink in the vehicle whilst working as a Hackney Carriage or Private Hire vehicle

- Comply with a passenger's request not to play any radio or other sound producing equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle
- Not play any radio or other sound producing equipment in the vehicle so loud that it causes a noise nuisance to anyone inside or outside the Hackney Carriage or Private Hire vehicle
- Not carry animals in the vehicle whilst working as a Hackney Carriage or Private Hire driver except those carried in connection with the hiring of the vehicle. The driver has the discretion to decide whether he/she wants to take an animal belonging to a passenger in the vehicle, however, that animal may only be carried in the rear of the vehicle
- **Must carry a customer's guide, hearing or assistance dog** unless the driver holds an exemption on medical grounds
- Shall ensure that the vehicle is clean, tidy and free of rubbish and unnecessary personal belongings whilst being used to carry passengers
- Shall ensure that they comply with the Intended Use Policy at all times (see Annex 4)

## 2.7 Dress Code

The purpose of West Oxfordshire District Council's driver dress code is to seek a standard of dress that portrays a positive image of the district; to enhance a professional image of the drivers licensed by the Council and to ensure that public and driver safety is not compromised. The Council expects all licensed drivers to be dressed in an appropriate manner whilst working as a Hackney Carriage or Private Hire driver.

### Unacceptable standards of dress include:

- Dirty and ripped clothing
- Words or graphics on any clothing that is of an offensive or suggestive nature
- Beachwear
- Outdoor footwear for all drivers must be suitable. Flip flops and forms of footwear which are not secured around the heel are deemed unacceptable.

## 2.8 Lost Property

When a passenger is leaving your vehicle, you should check to make sure that no property has been left behind.

If a passenger does leave something in your vehicle you should take it to a local Police Station and get a receipt for it from the duty officer.

## 2.9 Safeguarding

There are well-publicised issues relating to child sexual exploitation and human trafficking that have occurred throughout the country. These are abhorrent crimes and the Hackney Carriage and Private Hire trade have a role to play in tackling this issue by acting as the 'eyes and ears' of the community to help identify and help those who are vulnerable or being exploited.

West Oxfordshire District Council is committed to working with all Oxfordshire District and City Councils and Oxfordshire Safeguarding Children Board to ensure that there is a training programme available that all licensed drivers and new applicants must complete. This training is mandatory for all drivers.

If you have concerns with regards to safeguarding issues, please follow the following reporting procedures for Oxfordshire:

To report **specific concerns about the abuse or neglect of an adult**, call Social and Health Care on **(0845) 050 7666**

If you are worried that your manager or any other professional (e.g teacher) may be abusing a child, call the Local Authority Designated Officer for Child Protection (LADO) on **(01865) 810603**

If you are concerned that a child may be being abused by someone other than your manager or another professional (e.g parent). Please contact the Multi-Agency Safeguarding Hub (MASH) on **(0845) 0507666**

To discuss **general safeguarding concerns** for the particular attention of the Transport hub (School Contracts) call Transport Quality Monitoring Team on **(01865) 323500** or email [qmcc@oxfordshire.gov.uk](mailto:qmcc@oxfordshire.gov.uk)

If there is an **urgent risk** call **999** immediately

### 2.10 Information Sharing

West Oxfordshire District Council will share information on drivers (applicants and existing licence holders) with neighbouring Oxfordshire Councils which may impact on public safety. In addition to this, West Oxfordshire District Council will also be an active member of the National Anti-Fraud Network (NAFN) Refusals and Revocations Register and share information regarding refused and revoked driver licences on this register.

**2.11 English Test** – Drivers of licensed vehicles have to be able to communicate with their passengers, be able to understand instructions and requests and also be able to respond appropriately. It is therefore essential that drivers have a good understanding and command of the English language which is the predominant language used in the West Oxfordshire District. If there are substantiated concerns, either at application or whilst licensed with us, the individual will be referred to the Licensing Sub-Committee.

### 3. Hackney Carriage & Private Hire Drivers (Dual Driver) - Requirements under Legislation

#### 3.1 Equality Act 2010

The Equality Act 2010 makes it unlawful to discriminate, either directly or indirectly, against members of the public on the grounds of disability, gender reassignment, pregnancy and maternity, race, sex, sexual orientation, religion or belief.

#### 3.2 Wheelchair Users

Under the Equality Act 2010, from 6 April 2017, drivers of Hackney Carriage and Private Hire vehicles designated by the local licensing authority as being wheelchair accessible must comply with the requirements of Section 165 of the Equality Act 2010, unless they have been issued with an exemption certificate.

Drivers must:

- carry the passenger while in a wheelchair
- not make any additional charge for doing so
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair
- take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- give the passenger such mobility assistance as is reasonably required

Section 166 allows us to exempt drivers from the duties to assist passengers in wheelchairs if it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties.

The licensing authority will also maintain a list of designated wheelchair accessible vehicles on its website.

#### 3.3 Disability and Equality Awareness Training

Where available, this training will be mandatory for all existing licensed drivers and new applicants.

#### 3.4 Assistance Dogs

Under the Equality Act 2010, licensed drivers of Hackney Carriages and Private Hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make any additional charge for doing so

It is best practice to ask the passenger where they want themselves and their dog to sit in the vehicle.

Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed.



To ensure that the Equality Act 2010 is upheld, West Oxfordshire District Council will have a zero tolerance policy to access refusals and will investigate all reported violations of the Act with a view to pursuing a conviction.

Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from the duty on medical grounds. The Council will only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history. The notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.

### **3.5 Smoke Free Legislation**

Under the Health Act 2006, Hackney Carriage and Private Hire vehicles are smoke free vehicles by law. This means that neither the driver nor the passengers are able to smoke in the vehicle at any time. Even if you are driving a licensed vehicle without passengers you will be committing an offence if you smoke in the vehicle.

Vaping and electronic cigarettes are also prohibited in licensed Hackney Carriage or Private Hire vehicles.

### **3.6 Immigration Act 2016**

Any person who does not have the right to work in the UK is disqualified from holding a Hackney Carriage or Private Hire driver licence. The Council will need to see documentation to check that an applicant is not disqualified for reason of their immigration status.

## Hackney Carriages and Private Hire vehicles

### 4. Vehicles - Application Requirements

#### 4.1 New Application

To make an application you must submit the following:

- Application form
- Fee
- Vehicle registration document in your name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate (unless the vehicle is less than 1 year old from registration date)
- Meter Calibration Certificate. This applies to all Hackney Carriages. For Private Hire vehicles it only applies if a meter is fitted
- LOLER and weight test certificate (if applicable)

#### 4.2 Renewal Application

A renewal application must be completed prior to the expiry date of the current Hackney Carriage vehicle licence. If you do not renew your licence before it expires your vehicle becomes unlicensed and should not be used for hire and reward. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

To make a renewal application you must submit:

- Application form
- Fee
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Hackney Carriage, Hackney Carriage or public hire. For Private Hire vehicles insurance will state Private Hire
- MOT certificate (unless the vehicle is less than 1 year old from registration date)

#### 4.3 Transfer of Ownership Application

(Ownership of a licensed vehicle is transferred to another person(s)).

To make a transfer application the new owner must submit the following:

- Transfer application form
- Fee
- Proof of transfer of the licensed vehicle such as a registration certificate in the new owner's name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT (unless the vehicle is less than 1 year old from registration date)
- Written consent to transfer from previous licence holder

The existing licence plate will be valid for the remainder of the current licence. A new plate will not be issued.

#### **4.4 Change of Vehicle Application**

(A licensed vehicle is replaced with another vehicle either temporarily or permanently)

To make a change of vehicle application you must submit:

- Change of vehicle application form
- Fee
- Proof of ownership of the vehicle such as a registration certificate in your name or, if not available, a bill of sale, an invoice or a credit agreement
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate (unless the vehicle is less than 1 year old from registration date)
- Return any plates and discs previously issued by the Council

For permanent transfers, the licence holder can choose whether to be issued with a new plate for a full year or for the remainder of the current year.

For insurance companies providing vehicles temporarily, a new plate will be provided. The cost will be the same as a new licence. The application form should be completed by the insurance company.

#### **4.5 Change of Registration of Vehicle Application**

(The registration number of a licensed Hackney Carriage or Private Hire vehicle is changed eg personalised number plate)

To make a change of registration application you must submit:

- Change of registration application form
- Fee
- Documents from DVLA confirming change of registration
- Insurance certificate or cover note. For Hackney Carriages insurance certificate will state Taxi, Hackney Carriage, hire and reward or public hire. For Private Hire vehicles insurance will state Private Hire. This must also cover 'full passenger liability'
- MOT certificate showing new registration
- Return any plates and discs previously issued by the Council

## 5. Hackney Carriage and Private Hire vehicles - West Oxfordshire District Council Policy

### 5.1 Vehicles

The vehicle shall be of a suitable size, type and design to be safe and comfortable for passengers.

The vehicle must be right hand drive.

Normally vehicles should be four door saloons; five door estates, multi purpose vehicles (people carriers), minibus or purpose built Hackney Carriages.

The vehicle must be constructed and the doors open sufficiently wide as to allow easy access in to and egress from the vehicle and cause no inconvenience to passengers.

A minibus, or similar type of vehicle, in addition to the driver's door, must have at least two other doors that provide adequate entry/egress to the vehicle for use by passengers. These doors must permit easy access for passengers entering and exiting the vehicle and be readily opened from inside the vehicle. They may consist of:

- Either two sliding doors, one to either side of the vehicle, or
- A door on the 'near side' of the vehicle and a door at the rear of the vehicle

The vehicle licence holder shall ensure that the vehicle and all fittings and seating are efficient, safe, tidy and clean.

The **outside of the vehicle** will be free from dents, rust or unrepaired accident damage and with even paintwork matching that applied by the manufacturer. This includes alloy wheels, hub caps and wheel trims.

The **inside of the vehicle** will be free of all visible stains, splits, and tears unless satisfactorily repaired or covered neatly. All carpets and mats will be fitted so as to not be a trip hazard.

**A vehicle must not be structurally damaged or have been an insurance write-off, except where repaired and certified to the Council's satisfaction.**

### 5.2 Age policy for vehicles

A new application for a Hackney Carriage or Private Hire vehicle licence will be refused if a vehicle is more than 5 years old from date of first registration.

An application to change the vehicle licensed as a Hackney Carriage or Private Hire vehicle will be refused if a vehicle is more than 5 years old from date of first registration.

An application to renew a Hackney Carriage or Private Hire vehicle will be refused if the vehicle is more than 15 years old from date of first registration. Existing vehicles will be permitted a 2 year period from the implementation of this policy to adhere to this requirement (1 April 2020).

Wheelchair accessible vehicles will be exempt from the above policy.

Licensing Officers have the discretion to licence a vehicle that does not meet the above age policy in the case of elite vehicles such as purpose built Hackney Carriage cab, Rolls Royce or similar

provided the vehicle is in excellent condition. Any such requests for licensing a vehicle should be made in writing by email.

Existing licence holders that have a vehicle over 15 years old at the time this policy is adopted will have a 2 year period to replace it with a vehicle that meets the age policy. After the 2 year period any renewal application for a vehicle that does not meet the age policy will be refused.

### 5.3 Converted Vehicles (including wheelchair accessible)

A vehicle that has been converted since manufacture, for example, many wheelchair accessible vehicles, must provide one of the following M1 approvals following conversion:

- European Whole Vehicle Type approval (ECWVTA)
- UK Low volume approval (UKLVTA)
- UK Individual Vehicle Approval (IVA)
- Certificate of Initial Fitness (COIF)
- UK Voluntary Standard Individual Vehicle Approval

Vehicles converted from vans which have a type approval other than M1 will not be acceptable unless they are presented with approved M1 certification for the resultant vehicle.

Please note that to achieve Voluntary Standard Individual Vehicle Approval VOSA are likely to require valid certification that all alterations such as seat fitting and tracking are M1 compliant. There is information about voluntary approvals on the Government's website. <https://www.gov.uk/vehicle-approval/voluntary-approval>

Where a wheelchair accessible vehicle has been converted by a bona fide converter, and the vehicle has then been registered with DVLA after conversion, the Council will accept that this vehicle will have passed appropriate approval in order to be registered and so the vehicle will be accepted for licensing without need for further documentation unless it appears that further conversions have been made to the vehicle following registration.

For vehicles that have been converted and currently licensed with West Oxfordshire District Council, an IVA will be required by 1 April 2020.

### 5.4 Wheelchair Accessible Vehicles

Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:

- The vehicle must be capable of accommodating a wheelchair user in a wheelchair so that the wheelchair faces forwards. The wheelchair must not be placed sideways
- Access to and egress from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus
- **Wheelchair internal anchorage** must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit
- A **suitable restraint** must be available for the occupant of a wheelchair
- Access ramps or lifts to the vehicle must be securely fixed prior to use and be able to support the wheelchair, occupant and helper
- Ramps and lifts must be securely stored in the vehicle before it may move off
- When deployed, **ramps must run flush** with the interior floor level
- Any **equipment fitted to the Hackney Carriage or Private Hire vehicle for lifting a wheelchair** into the vehicle must have been tested in accordance with the

requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times

## **5.5 Stretched Limousines**

### **Hackney Carriages**

Stretched Limousines are not permitted to be licensed as Hackney Carriage vehicles.

### **Private Hire vehicles**

Stretched limousines are permitted to be licensed as Private Hire vehicles.

The vehicle may be left or right hand drive.

The vehicle will be licensed to carry no more than 8 passengers.

All limousines must have a UK single vehicle approval certificate issued by VOSA.

Any proprietor who wishes to license an American Stretched Limousine will need to prove the vehicle has been converted by an approved converter under the Ford, Quality Vehicle Modifier (QVM) programme or on the Cadillac, Cadillac Master Coachbuilders (CMC) programme. It is the responsibility of the proprietor to provide the evidence to support this.

Where any vehicle is 'stretched' within the European Union the proprietor must produce the appropriate 'Low Volume' or 'European Whole Vehicle Type Approval' certification identifying the converting company.

Each Private Hire Licensed Stretched Limousine shall be required to produce a new MOT certificate every 6 months. The MOT test should be carried out by a VOSA registered MOT testing station with facilities to accommodate such vehicles.

## 6. Hackney Carriage and Private Hire vehicles - West Oxfordshire District Council Conditions

These conditions are attached to all Hackney Carriage and Private Hire vehicle licences issued by West Oxfordshire District Council.

### 6.1 Vehicle Testing

All vehicles over 5 years old will be subject to obtaining a satisfactory MOT certificate every 6 months. It will be the licence holder's responsibility to ensure that this certificate is submitted to licensing in a timely manner.

### 6.2 Vehicle Plates

Hackney Carriages only - an external licence plate must be attached to the outside of the vehicle adjacent or near to the rear vehicle number plate and must be visible at all times that the licence is in force.

Hackney Carriages and Private Hire - an internal licence plate must be attached to the internal bottom passenger side corner of the front windscreen and must be visible from inside and outside the vehicle at all times that the licence is in force.

All plates shall remain the property of the Council and in the event that the licence is suspended, revoked or expired shall be returned to the Council **within 7 days** from the date of a notice served on the licence holder by the Council.

### 6.3 Roof Signs

#### Hackney Carriages

A roof sign must be displayed on the top of the vehicle clearly showing the word 'Taxi'. The sign shall be attached to the meter and shall be illuminated when the vehicle is available for hire. The design of the roof sign shall be approved by the Council. The following may be incorporated in the roof sign:

- the trade name or name of the proprietor;
- the telephone number, email address and/or website of the proprietor;
- the words 'For Hire' which are only illuminated when the licensed Hackney Carriage is available for hire;

The roof sign may be of any colour except blue, but must conform to national legislation and Road Vehicle Lighting Regulations in respect of the display of lights to the front and rear of any vehicle.

Any exceptions to this rule must be submitted to the Licensing Officer for consideration.

### Private Hire vehicles

The displaying of signs on or above the roof of a Private Hire vehicle is permitted but can only consist of the company name, telephone number and must state pre-booking only. The words 'taxi', 'cab' or 'Hackney Carriage' are strictly prohibited.

Requests for roof signs on Private Hire vehicles must be approved by the Licensing Officer.

#### **6.4 Fire Extinguisher**

The vehicle licence holder shall ensure that an appropriate fire extinguisher is provided in the vehicle and is maintained in good working order and readily available for use in an emergency.

#### **6.5 First Aid Kits**

It is recommended that a First Aid Kit is carried in the vehicle.

#### **6.6 CCTV**

CCTV in vehicles is not currently a requirement.

If the licence holder chooses to install CCTV, they must be registered with the ICO.

CCTV systems must be operated in accordance with data protection legislation.

Any vehicle with CCTV that records inside the vehicle must display a sign advising passengers that a CCTV system is in operation in the vehicle.

Audio recording CCTV systems must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances. You must choose a system without this facility wherever possible; however, if the system comes equipped with a sound recording facility then this functionality should be disabled. There are limited circumstances in which audio recording may be justified due to a specific threat to an individual's personal safety, e.g. when a 'panic button' is utilised in response to a threat of physical violence. Where this audio recording facility is utilised a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed. The time period that audio recording may be active should be the minimum possible and should be declared at the time of submission for approval of the equipment. In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out.

Further information on CCTV and data protection can be found on the Information Commissioners' website at <https://ico.org.uk>

#### **6.7 Tinted Windows**

Vehicles will not be accepted that have tinted film on the windows. However factory fitted tinted windows are permitted.

#### **6.8 Luggage**

All luggage must be stored securely and, if appropriate, the vehicle shall be fitted with suitable equipment to prevent luggage from entering the passenger compartment.

Any roof racks, roof boxes and trailers to be used must be approved by a Licensing Officer. When using such equipment you should ensure that the luggage is safely secured.

#### **6.9 Seatbelts**

For each passenger carried in the licenced vehicle there shall be available a properly fitted, maintained and EU approved seatbelt as per the manufacturer's specification.



## 6.10 Meters

### Hackney Carriages

All Hackney Carriages must have a meter.

For requirements relating to meters in Hackney Carriages please see Hackney Carriage Byelaws (see section 7).

A meter certificate issued by a meter fitter, approved by the meter supplier, will be required in the following cases:

- When a vehicle is first licensed
- If a meter is replaced
- A meter is moved to another licensed vehicle
- West Oxfordshire District Council rates are changed
- At the request of a Licensing Officer where there is concern about the accuracy of the meter

Hackney Carriage meters may be tested for accuracy at the discretion of the Council.

### Private Hire vehicles

A meter may be installed in a Private Hire vehicle. However, if installed, it must have a sign attached stating that 'This is a Private Hire vehicle' and clearly display the tariff to which the meter is set. The tariff set should not exceed the authorised tariff for Hackney Carriages set by the Council. A meter certificate certifying the meter has been calibrated accurately must be provided when the meter is installed, changed or moved to another vehicle.

## 6.11 Fares

### Hackney Carriages

For a journey that wholly takes place within the controlled district the meter shall be running at no higher than the prescribed rate and the fare charged shall be the fare showing on the meter unless a fare is agreed with the passenger(s) prior to the commencement of the journey. Such an agreed fare shall not exceed the prescribed rate.

For a journey that either wholly or in part takes place outside the controlled area the fare or method of calculation of the fare shall be agreed with the passenger(s) prior to the commencement of the journey.

### Private Hire

All journeys must be pre-booked. The fare must be agreed in advance with the customer or, if a meter is fitted, it must be agreed prior to the journey to use the meter.

## 6.12 Setting of fares

Upon receipt of a request to review the fares for the District, the licensing authority must conduct a review.

The request must be supported by independent operators and firms to ensure that the request is required by a combination of licence holders. As a rule, a request will not be accepted if there is less than 10% of the trade requesting it.

A request will only be entertained providing that there has been no other review within the past 12 months.

Once a request has been received, the licensing authority will ensure that the consultation commences within 3 months of receipt.

### **6.13 Advertising**

A copy of the policy guidelines on signage, advertising and other vehicle signage is shown in Appendix 9. The requirements are detailed below:

#### **For Hackney Carriage Vehicles**

- a) Vehicle markings which comply with the following condition do not require approval by the Licensing Officer: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 457mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.
- b) New vehicle markings which do not fall within the standard condition at (a) above must be given prior approval by the Licensing Officer. Applications should be made following procedures and guidelines which are available from licensing. No new markings or advertising can be displayed until the application has been approved.
- c) The Hackney Carriage company / proprietor's trade-name, telephone number, email address and/or website, may be displayed anywhere on the vehicle. The size, style and colours of the lettering are not restricted but must be approved by the Licensing Officer beforehand.
- d) Third-party advertising – for example sponsorship by a local company – may be allowed, but each application must be made in writing and will be decided by the Council's Licensing Sub-Committee. No such advertising may be used without the Licensing Sub-Committee's prior agreement.
- e) Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view, must conform with national legislation concerning the placing of such signs on vehicle windscreens, and must be approved by the Licensing Officer beforehand.
- f) Markings and advertising on the vehicle must not be of a racial, sexual, potentially offensive, political or religious nature, and any markings considered by the Licensing Officer to be inappropriate will not be permitted.

#### **For Private Hire vehicles**

- a) Vehicle markings which comply with the following condition do not require approval by the Licensing Officer: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 962mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.

- b) New vehicle markings which do not fall within the standard condition at (a) above must be given prior approval by the Licensing Officer. Applications should be made following procedures and guidelines which are available from the Licensing Team. No new markings or advertising can be displayed until the application has been approved.
- c) The Private Hire Operator's trade-name, telephone number, email address and/or website, may be displayed anywhere on the vehicle. The size, style and colours of the lettering are not restricted but must be approved by the Licensing Officer beforehand.
- d) The use of the following words, or derivatives of them, is PROHIBITED anywhere on a Private Hire vehicle: 'TAXI', 'CAB', 'HACKNEY CARRIAGE'
- e) Third-party advertising – for example sponsorship by a local company – may be allowed, but each application must be made in writing and will be decided by the Council's Licensing Sub-Committee. No such advertising may be used without the Licensing Sub-Committee's prior agreement.
- f) Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view, must conform with national legislation concerning the placing of such signs on vehicle windscreens, and must be approved by the Licensing Officer beforehand.
- g) Markings and advertising on the vehicle must not be of a racial, sexual, potentially offensive, political or religious nature, and any markings considered by the Licensing Officer to be inappropriate will not be permitted.

### **Approval of signage and advertising**

All new signs, markings and advertisements must be approved by the Council. In the case of disagreement between the Licensing Officer and the applicant, the applicant may ask for the application to be considered by the Council's Licensing Sub-Committee.

## 7. Hackney Carriage Byelaws

**These bye laws only apply to Hackney Carriages, they do not apply to Private Hire vehicles**

Byelaws made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875, by the West Oxfordshire District Council with respect to hackney carriages in the West Oxfordshire District.

### Interpretation

1. Throughout these bye laws "the Council" means the District Council of West Oxfordshire and "the district" means the area of West Oxfordshire.

**Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence shall be displayed.**

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.

(b) A proprietor or driver of a hackney carriage shall:-

- i. not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
- ii. not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

**Provisions regulating how hackney carriages are to be furnished or provided.**

3. The proprietor of the hackney carriage shall:-

- (a) provide sufficient means by which any person in the carriage may communicate with the driver;
- (b) cause the roof or covering to be kept water-tight;
- (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
- (d) cause the seats to be properly cushioned or covered;
- (e) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
- (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
- (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;
- (h) provide an efficient fire extinguisher which shall be carried in such a position as to be ready available for use; and
- (i) provide at least two doors for the use of persons conveyed in such carriage and separate means of ingress and egress for the driver.

4. The proprietor of the hackney carriage shall cause the same to be provided with the taximeter so constructed, attached, and maintained as to comply with the following requirements, that is to say:-

- (a) the taximeter shall be fitted with a key, flag, or other device the operation of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
- (b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for hire of the carriage by distance in pursuance of the byelaw in that behalf.
- (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges.**

5. The driver of a hackney carriage provided with a taximeter shall:-

- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
- (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;
- (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise and also at any other time at the request of the hirer.

6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.

7. A driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-

- (a) proceed with reasonable speed to one of the stands fixed by the byelaw in that behalf;
- (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
- (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;
- (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.

8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by

calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.

9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place, shall unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.

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

12. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.

13. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.

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

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

#### **Provisions fixing the stands of hackney carriages.**

15. Each of the several places specified in the following list shall be a stand for such number of hackney carriages as is specified in the list:

<u>Town</u>	<u>Situation of stand</u>	<u>Number of hackney carriages</u>
Chipping Norton	High Street On the east side of the Town Hall from a point approximately 50 metres north of the High Street/ Cattle market junction for a distance Of 12 metres south.	2
Witney	Market Square On the east side from a point of 20 metres north of the centre line of its junction with Corn Street for a distance of 20 metres north.	4

**16. Provisions fixing the rates or fares to be paid for hackney carriages within the district, and securing the due publication of such fares**

The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the following table the rate or fare being calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the following table which it may not be possible to record on the face of the taximeter.

<u>Fares for distance</u>	<u>New pence</u>
(i) Mileage	
For the first 1760 yards (1609 metres) or uncompleted portion thereof	100
For each subsequent 352 yards (321 metres) or uncompleted part thereof	15
(ii) Extra charges	
For hirings begun between midnight and 6am	50% of the above rate or fare
For hirings on Sundays and Bank Holidays	50% of the above rate or fare

17. a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the byelaw in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.

(b) The proprietor of a Hackney Carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

**Provisions securing the safe custody and re-delivery of any property accidentally left in Hackney Carriages, and fixing the charges to be made in respect thereof.**

18. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have accidentally be left therein.

19. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed in to him:-

(a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave in the custody of the officer in charge of the office on his giving receipt for it;

(b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

**Penalties**

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

**Repeal of Byelaws**

## 21. a) Chipping Norton

The byelaws relating to hackney carriages which were made by the Borough of Chipping Norton on the 21st day of May, 1973, and which were confirmed by the Secretary of State on the 15th day of August, 1973, are hereby repealed.

## b) Witney

The byelaws relating to hackney carriages which were made by the District of West Oxfordshire on the 10th day of September, 1975 and which were confirmed by the Secretary of State on 7th November, 1975, are hereby repealed.

Given under the Common Seal of the West Oxfordshire District Council this 24th day of April 1986 in the presence of M L Chadwick (Chairman) and D J Rose (Deputy Clerk).

The foregoing byelaw is hereby confirmed by the Secretary of State and shall come into operation on the 1st day of July 1986.



## 8. Hackney Carriage and Private Hire vehicles - Requirements under Legislation

### 8.1 Duration of Licence

The licence shall remain in force for a period of one year.

### 8.2 Number of Passengers permitted

A Hackney Carriage or Private Hire vehicle shall not be licensed to carry more than 8 passengers.

A Hackney Carriage or Private Hire vehicle shall not carry any more passengers than the number stated on the Hackney Carriage or Private Hire vehicle plate.

### 8.3 Hackney Carriage must be driven by a licensed Hackney Carriage Driver

Once a vehicle is licensed as a Hackney Carriage it can only be driven by a person holding a Hackney Carriage driver's licence issued by the same Council throughout the duration of that Hackney Carriage vehicle licence. This includes when the Hackney Carriage is being used for private use.

### 8.4 Private Hire vehicle must be operated by a licensed Private Hire Operator and driven by a licensed Private Hire Driver

A Private Hire vehicle must at all times be operated by a Private Hire operator licensed with the same Council.

Once a vehicle is licensed as a Private Hire vehicle it can only be driven by a person holding a Private Hire drivers licence issued by the same Council throughout the duration of that Private Hire vehicle licence. This includes when the Private Hire vehicle is being used for private use.

### 8.5 Private Hire vehicle must not look or be used like a Hackney Carriage

A Private Hire vehicle must not be or resemble a Hackney Carriage or otherwise be of such design or appearance as to lead any person to believe that the vehicle is a Hackney Carriage. For example it should not resemble a London style Hackney Carriage.

A Private Hire vehicle must not display any sign that includes the word 'Taxi' or 'Cab' or 'For Hire' or any word of similar meaning or appearance to any of those words.

### 8.6 Plying for Hire – Hackney Carriages only

Plying for hire means waiting for passengers at a taxi rank or being flagged down in the street.

Hackney Carriages licensed by West Oxfordshire District Council can only ply for hire within West Oxfordshire District boundaries.

A Private Hire vehicle is not permitted to ply for hire.

### 8.7 Change of Address or Details of Licence

A holder of a Hackney Carriage or Private Hire vehicle licence must notify the Council in writing **within 7 days** of any changes in the details of their licence including a change of address.

### **8.8 Notification of Accidents**

A holder of a Hackney Carriage or Private Hire vehicle licence must notify the Council as soon as reasonably practical and **no longer than 72 hours** after any accident that causes damage affecting the safety, performance or appearance of a Hackney Carriage or Private Hire vehicle or the comfort and convenience of the passengers.

### **8.9 Smoke Free Legislation**

Hackney Carriages and Private Hire vehicles are smoke free vehicles by law and neither the driver nor the passengers are able to smoke in the vehicle at any time. Even if there are no passengers the driver cannot smoke in the vehicle.

Vaping and electronic cigarettes are also prohibited in licensed vehicles.

A 'No Smoking' sign must be displayed in each compartment in the vehicle which shows the international 'No Smoking' symbol (a minimum of 70 mm in diameter).

### **8.10 Seat Belt and Child Restraint legislation**

The driver of a Hackney Carriage or Private Hire vehicle is responsible for ensuring that all passengers under the age of 14 are wearing the correct seat belts or restraints.

There is an exemption in legislation for Hackney Carriages and Private Hire vehicles regarding child restraints. If the correct size child restraints are not available in the vehicle then the following apply:

- Under 3s may travel unrestrained but in the rear seat only;
- Those 3 years and above in the rear seat must use an adult belt if the appropriate child seat or booster is not available;
- A child up to 12 years old or up to 135 cms in a front seat of any vehicle including Hackney Carriages must use the correct child seat or booster.

The driver of a Hackney Carriage or Private Hire vehicle is exempt from wearing a seatbelt whilst the vehicle is being used for seeking hire, or answering a call for hire, or carrying a passenger for hire. However, as a matter of safety, the Council would advise that drivers do wear their seatbelts at all times and in particular when not carrying passengers.

### **8.11 Sale of Alcohol**

Sale of alcohol is a licensable activity under the Licensing Act 2003. Sale of alcohol is prohibited on a moving vehicle. If a sale of alcohol is made as part of a booking arrangement that sale must be authorised by either a premises licence or temporary event notice in accordance with the Licensing Act 2003.

## Private Hire Operators

### 9. Private Hire Operators - Application Requirements

#### 9.1 New Applications

You have the option to apply for a licence that lasts for 1 year or 5 years. The application process is the same but the fee is higher for a 5 year licence.

To make an application, you **must submit the following**:

- Application form
- Fee
- Satisfy the Council that you are a 'fit and proper person'. You must provide a Basic Disclosure and provide appropriate identity documentation. (Where you have also submitted an application for a Hackney Carriage or Private Hire driver licence to the Council (and that application or licence is still current), the Enhanced Criminal Record Check that is undertaken as part of that application will be accepted instead of needing to provide a Basic Disclosure)

#### **Additional New Application Requirements for Foreign Nationals and Persons That Have Resided Outside the UK**

- Provide a Basic Disclosure as detailed in application requirements above (unless you have only just arrived in this country). The Basic Disclosure issued through the DBS will show any convictions that have been committed in the UK
- In addition to the Basic Criminal Record Disclosure you must provide the Council with a criminal record disclosure from all countries outside the UK you have resided in from the age of 18; or if those countries do not produce such information a certificate of good conduct from the Embassy or Legation from all countries outside the UK that you have resided in from the age of 18. This certificate must be an original and if in a foreign language must be accompanied by an original certified translation from a sworn translator. Any costs involved in such certificates and translations must be paid by you

#### 9.2 Renewal Application

A renewal application must be completed prior to the expiry date of the Private Hire Operator's licence. There is normally no period of grace if a renewal is submitted after the expiry date. If you do not renew your licence on time you will become unlicensed. Any application received after expiry will be treated as a new application and all the requirements and fees of a new application will apply. **It is your responsibility to make sure you renew your licence.** To enable the service to process your application in time, it is advisable to submit this application at least 7 days prior to expiry.

You have the option to renew for a licence that lasts for 1 year or 5 years.

To make a renewal application you must **submit**:

- Renewal application form
- Pay the appropriate renewal fee

## 10. Private Hire Operators Conditions

These conditions are attached to all Private Hire operator licences issued by West Oxfordshire District Council.

### 10.1 Duration of Licence

The licence is issued for a period of 1 year or 5 years.

### 10.2 Convictions, Cautions and Fixed Penalties

If any person named on the Private Hire operator's licence gets any convictions, cautions, fixed penalties or has a court case pending, he/she must notify the Council in writing **within 7 days**.

### 10.3 Change of Address or Details of Licence

Any person named on the Private Hire operator's licence must notify the Council in writing **within 7 days** if the information supplied in his/her application for a Private Hire operator's licence is altered for any reason including a change of address.

### 10.4 Responsibility for Drivers and Vehicles

A Private Hire operator must ensure that all vehicles and drivers operating under his/her operator's licence are complying with the legislation and conditions relating to Private Hire vehicles and drivers.

### 10.5 Accepting Bookings

A Private Hire operator must not accept a booking unless the person making the booking knows the basis of the hire charge.

### 10.6 Records

A Private Hire operator must keep records of all bookings at their operator base in either a bound book or as a computer record which must include:

- The time and date of booking
- The name and address of person making the booking
- Name of passenger
- How the booking is made
- The time of the pick up
- Fare quoted
- The point of pick up
- The destination
- The driver that is allocated to the booking
- The plate number or registration of the vehicle allocated to the booking
- Any other comments such as details of sub-contract

A Private Hire operator must keep records of all Private Hire vehicles that he/she operates. This includes:

- The owner of the vehicle;
- The registration number and plate number;
- The driver of the vehicle and badge number.

All records should be kept for **6 months** from the date of the last entry.

Details of all bookings must be entered into the records immediately after they have been accepted or as soon as reasonably practicable.

An operator shall notify the Council in writing **within 7 days** of the termination of employment of a Private Hire vehicle or driver.

### **10.7 Advertising**

A Private Hire operator must not use the words 'taxi' or 'cab' or any word of similar meaning or appearance to any of those words in any advertising of the operator's company except where an operator also makes licensed Hackney Carriages available.

### **10.8 Standard of Service**

A Private Hire operator shall ensure that when a Private Hire vehicle has been hired it shall attend punctually at the appointed time and place unless delayed or prevented with reasonable cause.

### **10.9 Location of Operator Base**

The location where a Private Hire operator makes provision for taking a booking must be within the Council's boundaries. This may be an office address, business address or a home address.

### **10.10 Premises**

If any rooms or areas are provided for the public for waiting or making bookings they must be clean, adequately heated and ventilated and lit and have adequate seating facilities.

If any rooms or areas are provided for use by the public the Private Hire operator must hold public liability insurance for those areas if relevant.

## **11. Private Hire Operators - Requirements under Legislation**

### **11.1 Drivers and Vehicles**

An operator must not use unlicensed drivers or vehicles.

An operator may only make use of drivers and vehicles licensed by the same Council that has issued the operator's licence.

### **11.2 Sub-Contracting**

An operator may sub-contract a booking to another operator licensed with any Council. Both operators must keep a record of the booking. The contract and responsibility for the booking remains between the operator that took the booking and the client.

### **11.3 Records**

An operator must make available records, on request, to an authorised officer of the Council or to a Police Officer.

### **11.4 Smoke Free Legislation**

Private Hire vehicles and Hackney Carriages are 'Smoke Free' vehicles which means that no one can smoke in these vehicles at any time and the appropriate signage must be displayed.

Vaping and electronic cigarettes are also prohibited in licensed vehicles.

Any enclosed premises that are used by the public, for example for making bookings or are used as a workplace, must be smoke free.

### **11.5 Equality Act**

The Equality Act 2010 makes it unlawful to discriminate, either directly or indirectly, against members of the public on the grounds of disability, gender reassignment, pregnancy and maternity, race, sex, sexual orientation, religion or belief.

### **11.6 Bookings Made by Disabled Persons Accompanied by Assistance Dogs**

A Private Hire operator may not refuse to take a booking by a disabled person if the reason for that refusal is because the person will be accompanied by an assistance dog.

A Private Hire operator may not make an additional charge to carry an assistance dog.

### **11.7 Planning Permission**

The use of a premises for a Private Hire operators business may require planning permission. Operators are advised to check with the relevant Planning Authority.

### **11.8 Sale of Alcohol**

Sale of alcohol is a licensable activity under the Licensing Act 2003. Sale of alcohol is prohibited on a moving vehicle. If a sale of alcohol is made as part of a booking arrangement that sale must be authorised by either a Premises Licence or Temporary Event Notice in accordance with the Licensing Act 2003.

### **11.9 Immigration Act 2016**

Any person who does not have the right to work in the UK is disqualified from holding a Private Hire operator licence. The Council will need to see documentation to check that an applicant is not disqualified for reason of their immigration status.

## 17. Annexes

1. Criminal Convictions Policy
2. Enforcement and Complaint
3. Knowledge Test
4. Intended Use Policy
5. Policy guidelines for signage, advertising and other markings on licensed vehicles
6. Service Delivery Timescales



## Annex I

# Policy on Convictions for Hackney Carriage and Private Hire Vehicles Drivers

## Guidelines relating to the relevance of convictions

### **General Policy**

1. Each case will be decided on its own merits.

The overriding consideration must be the safety of the public. The council has a duty to ensure so far as is possible that persons licensed to drive Hackney Carriage and Private Hire vehicles are fit and proper persons to do so.

This policy is merely a guide and the Sub-Committee can choose to determine contrarily to this document if there are good reasons to do so.

2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain:

- (a) Free of convictions for an appropriate period, and
- (b) Show evidence of good character from the time of the conviction. Simply remaining free of conviction does not necessarily provide sufficient evidence of good character.

Where an applicant was imprisoned for offences, they must demonstrate that they have been free of convictions and provide evidence of good character subsequent to their release from imprisonment.

Discretion would be appropriate where an offence is an isolated one and there are mitigating circumstances. Multiple offences or a series of offences over a period of time would give greater cause for concern and may give indications of a pattern of criminal behaviour which would need to be taken into account.

3. Under the Rehabilitation of Offenders Act 1974, offences by Hackney Carriage or Private Hire drivers are never 'spent'. The Licensing Officer will determine whether there is a risk to public safety based on the nature of the offence and the history of reoffending. If the Licensing Officer deems that there is a risk to public safety then the application will be determined by the Licensing Sub-Committee.

4. The following examples afford a general guide on the action to be taken where convictions are disclosed:

#### **a) Minor Traffic Offences**

Isolated convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, etc., should not prevent a person from proceeding with an application. However the number, type

and frequency of the type of offence should be taken into account. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a Hackney Carriage or Private Hire Drivers Licence may be granted after its restoration but a warning should be issued as to future conduct.

**b) Major Traffic Offences**

An isolated conviction for a major traffic offence should normally merit a warning as to future driving and advice on the standard expected of Hackney Carriage and Private Hire vehicle drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed.

(A list of those offences considered as major is attached).

**(c) Drunkenness****(i) With Motor Vehicle**

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.

More than one conviction for this type of offence should raise grave doubts as to the applicants' fitness to hold a licence and, where disqualification has occurred, at least 3 years from the date of restoration of the drivers licence should have elapsed before the application is considered.

If there is any suggestion that the applicant is an alcoholic a special medical examination should be arranged and if the applicant is found to be an alcoholic there should be a period of at least 5 years from the completion of detoxification treatment before an application is entertained

**(ii) Not in Motor Vehicle**

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

**(d) Drugs**

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

**(e) Sexual, Indecency and Child Protection Offences**

A licence will not be granted to an applicant currently on the sex offenders' register.

Drivers of Hackney Carriage and Private Hire vehicle are often entrusted with the care of children, young persons and vulnerable adults. Therefore where there is a conviction for a sexual offence that involves a child, young person or vulnerable adult, an application for a licence will be refused.

Applicants with a conviction for rape, indecent assault, or other similar offences or similar offences under the Sexual Offences Act 2003, will be refused a licence.

Applicants with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be refused a licence until they can show a period of at least 10 years free from any such conviction. If there is more than one such offence an application for a licence will be refused.

**(f) Violence**

As Hackney Carriage and Private Hire vehicle drivers maintain close contact with the public a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. Depending on the seriousness of the offence at least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

**(g) Dishonesty**

Hackney Carriage drivers and Private Hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

**(h) Licensing Offences**

Any contravention of licensing laws or conditions, irrespective of whether or not these are related to Hackney Carriage or Private Hire licensing, are important as they suggest a disregard of the importance of those requirements. Depending on the nature and seriousness of the offence 1 to 3 years should have elapsed following conviction before an application is entertained. Further information regarding licensing offences whilst a licence holder, can be found in our enforcement policy (Annex 2).

**(i) Offences of Discrimination**

Offences of discrimination are a serious concern to all as they represent unacceptable treatment of certain sections of our society. A conviction for this type of offence should be taken extremely seriously. Each case would need to be assessed on an individual basis and although the applicant may not be debarred from receiving a licence a strict warning should always be given. On considering any case care should be taken before issuing a licence to assess if the applicant is deemed to be a 'fit and proper person' to hold a licence.

**(j) Other Miscellaneous Offences**

These could include local authority offences, bye law offences, nuisance offences etc. which although may not be directly relevant to Hackney Carriage and Private Hire licensing would demonstrate a feckless or irresponsible attitude and should not be discounted lightly. Each case would need to be assessed on an individual basis and although they may not necessarily debar an applicant from receiving a licence a strict warning should be given.

**(k) Spent Convictions**

The Council will only consider spent convictions if it appears to be relevant for deciding whether the applicant is a fit and proper person to hold a licence and that full consideration for determining the application cannot be given except by admitting or requiring evidence relating to that spent conviction.

**(l) Cautions and Endorsable Fixed Penalties**

For the purposes of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

## Major Traffic Offences

### Paragraph 3(b) refers

AC10	Failing to stop after an accident.
AC20	Failing to give particulars or to report an accident within 24 hours.
AC30	Undefined accident offences.
BA10	Driving while disqualified due to care and attention.
BA20	Attempting to drive while disqualified by order of the court.
CD10	Driving without due care and attention.
CD20	Driving without reasonable consideration for other road users.
CD30	Driving without due care and attention or without reasonable consideration for other road users.
CD40	Causing death through careless driving when unfit through drink.
CD50	Causing death by careless driving when unfit through drugs.
CD60	Causing death by careless driving with alcohol level above the limit.
CD70	Causing death by driving then failing to supply a specimen for analysis.
DD40	Dangerous driving.
DD60	Manslaughter or culpable homicide while driving a vehicle.
DD80	Causing death by dangerous driving.
DR10	Driving or attempting to drive with alcohol level above limit.
DR20	Driving or attempting to drive while unfit through drink.
DR30	Driving or attempting to drive then failing to supply a specimen for analysis.
DR40	In charge of a vehicle while alcohol level above limit.
DR50	In charge of a vehicle while unfit through drink.
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive.
DR70	Failing to provide specimen for breath test.
DR80	Driving or attempting to drive when unfit through drugs.
DR90	In charge of vehicle when unfit through drugs.
IN10	Using a vehicle uninsured against third party risks.
LC20	Driving otherwise than in accordance with a licence.
LC30	Driving after making a false declaration about fitness when applying for a licence.
LC40	Driving a vehicle having failed to notify a disability.
LC50	Driving after a license has been revoked or refused on medical grounds.
MS50	Motor racing on the highway.
MS60	Offences not covered by other codes.
UT50	Aggravated taking of a vehicle.

#### **Aiding, abetting, counselling or procuring**

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

#### **Causing or permitting**

Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

#### **Inciting**

Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)

## Annex 2

### Enforcement and Complaints – With Effect from 1 April 2018

#### **Enforcement**

West Oxfordshire District Council takes a risk based proportionate, targeted and flexible approach to inspection and enforcement and where appropriate will work with external agencies such as the Police.

When a potential breach or offence is identified Licensing Officers will investigate the matter.

If it is in relation to a licensed vehicle the licence holder may be requested to bring the vehicle to West Oxfordshire District Council Offices for inspection by a Licensing Officer or to take the vehicle to an MOT approved garage for a full inspection.

If it is in relation to a licensed driver or operator the licence holder may be requested to attend an interview at West Oxfordshire District Council Offices. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law the interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

#### **Complaints by the Public**

The public are able to make complaints to the licensing department about licensed drivers and operators. This could include such issues as offensive comments by a driver, unsafe driving, failure or lateness of attending bookings and refusal to take guide dogs.

Licensing will normally ask the complainant to put their complaint in writing or by email giving details of the nature of the complaint with date, time and location if relevant.

All such complaints will be recorded and investigated and the licence holder notified. Licensing may request the licence holder to attend an interview at West Oxfordshire District Council Offices in order to determine the facts. If the licence holder is suspected of a criminal offence or an offence under Hackney Carriage law that interview may be carried out under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) codes of practice.

Some complaints such as those alleging a serious criminal offence, traffic offence, violence or verbal abuse may be referred to the Police.

#### **Actions that may be Taken Following Enforcement or Complaint**

When deciding what action to take the Licensing Officers will consider each case on its own merits and will consider all relevant matters including:

- Seriousness of the offence, breach or complaint
  - Any history of previous offences, breaches and/or complaints
  - Consequences of non-compliance
  - Effectiveness of any action
  - Danger to the public
  - In the case of an unproven allegation the seriousness of the allegation and the likelihood and risk of danger to the public
- Immediate suspension of licence

<b>Action</b>	<b>Examples (but not an exhaustive list)</b>
Take no action	<ul style="list-style-type: none"> <li>Breach, offence or complaint is proven to be false.</li> <li>Matter is minor or unproven and there is no previous history</li> </ul>
Verbal or written advice for example recommendation to re-take driver assessment test	<ul style="list-style-type: none"> <li>Matter is minor and/or due to misunderstanding by the licence holder</li> </ul>
Verbal or written warning	<ul style="list-style-type: none"> <li>Complaint made by the public</li> <li>Minor traffic offence</li> <li>Contravention of the code of conduct or dress code</li> </ul>
Fixed penalty notice	<ul style="list-style-type: none"> <li>Smoking offences in a licensed vehicle</li> </ul>
Immediate suspension of licence	<ul style="list-style-type: none"> <li>Suspension of vehicle (S 68) issued when on inspection of a vehicle Officers believe that it has a defect or is potentially unsafe for passengers or the meter is defective</li> <li>Suspension of driver licence (s 61 (2b) if in interest of public safety for example failing a medical or serious criminal allegations</li> <li>Suspension of driver licence (s 61) if driver fails to provide relevant documentation by expiry e.g. DBS/Medical</li> </ul>
Suspension of licence – 21 days notice	Suspension of licence – 21 days notice
Simple caution issued by Business Support Service Leader	<ul style="list-style-type: none"> <li>A licence holder admits to committing a less serious offence and the issuing of such a caution is likely to reduce re-offending</li> </ul>
Review of the licence by the Licensing Sub-Committee	<ul style="list-style-type: none"> <li>A licence holder receives criminal conviction, police caution major motoring offence, or serious complaint or allegation</li> <li>A licence holder has a history of complaints and/or offences. In the case of complaints by the public these complaints could be unproven if there is previous history of such complaints or a likelihood that the complaint is justified and the public could be at risk</li> <li>A licence holder that had received more than 3 warnings from Officers for breaches of conditions, policy or legislation within a 12 month period</li> <li>A licensed driver who has accumulated more than 6 current points on their driving licence</li> <li>Any matter where a possible outcome is the revocation of the licence</li> </ul>
Prosecution	<ul style="list-style-type: none"> <li>Using an unlicensed vehicle</li> <li>Unlicensed driver driving a licensed vehicle</li> <li>Unlicensed operator</li> <li>Driving without valid insurance</li> <li>Refusing to carry a guide dog</li> <li>Exceeding the number of passengers on the plate</li> </ul>

**Review of the Licence by the Licensing Sub-Committee**

The panel will be 3 members of the Licensing Committee. The licence holder will be invited to attend the review and will be given reasonable notice. However if the licence holder does not attend without reasonable cause the panel may undertake the review in his/her absence. The licence holder may bring another person with them to the review to support or represent them or they may wish to put comments in writing for the panel to consider. After considering all the facts the panel may take any action they feel appropriate. Below is a list of possible actions.

- No action
- Oral or written warning
- Requirement to take action within a time period for example recommendation to take a anger management course, speed awareness course or driving assessment
- Suspend the licence until an action or requirement has been met
- Suspend the licence for a period of time as a deterrent to ensure future compliance
- Revoke the licence
- Recommend a simple caution
- Recommend prosecution

**Right of Appeal**

A licence holder has a right of appeal to the Magistrates Court for any decision by the Council to refuse, suspend or revoke a driver, vehicle licence or operator licence or against any conditions added to a licence. This appeal must be made within 21 days of the notification of the Council's decision.

There is an exception to the above right of appeal in the case of a decision to refuse to grant a Hackney Carriage vehicle licence. In this case the right of appeal is to the Crown Court.

There is no right of appeal against an immediate suspension of a vehicle licence (s68).



## Annex 3

### Hackney Carriage and Private Hire Drivers - Knowledge Test Guidance

All Hackney Carriage and Private Hire Driver applicants must pass a knowledge test.

The test is taken at West Oxfordshire District Council's offices in a group sitting and you must bring your passport and Photocard Driving Licence with you for identification purposes. The passport will also be checked to ensure that you have the right to work in the UK. If you do not hold a passport you must bring additional documentation showing that you have the right to work in the UK.

The knowledge test is broken down into the following sections:

#### **For Dual Drivers (Hackney Carriage and Private Hire):**

- 1) Highway Code
- 2) Numeracy
- 3) Policy Questions
- 4) Routes
- 5) Places of interest

#### **For Private Hire Drivers:**

- 1) Highway Code
- 2) Numeracy
- 3) Policy Questions

Each section has 20 questions. You must score at least 16/20 in each section and achieve a pass mark of 80% overall (e.g. Dual Drivers 80/100 and Private Hire Drivers 48/60).

Questions about the Policy will be taken from the Policy. You should make sure that you have read this document before attempting to take the test.

The questions on the Highway Code are based on the national rules for safe driving.

Questions about places of interest in West Oxfordshire District will include questions on pubs, clubs, hotels, supermarkets, public buildings, train stations, museums, schools and some of the main road names.

Questions about routes are those within the district that will require you to know the names and numbers of the main roads in the district. Questions about routes to locations outside the district will focus on major destinations such as airports, ferry ports and large sport and entertainment centres and will require knowledge of the major motorway network.

The maths questions will include simple calculations such as how much change to give a customer.

The knowledge test must be booked in advance. You will be allowed up to one and half hours to complete the test. You will be advised of your results by email within 5 days of the test date.

If you fail your test you will be allowed to retake it. You must pay for the knowledge test each time you take the test.

If the test is failed twice, you will not be permitted to resit the test until a period of 6 months has lapsed.

If you pass, test papers are valid for 6 months, after which time you will need to retake the test.

## Annex 4

### Intended Use Policy for Licensing of Hackney Carriages (Hackney Carriage Vehicles)

The law permits a Hackney Carriage vehicle licensed by one local authority to be used to fulfil pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. In order to close this loophole, West Oxfordshire District Council is likely to refuse to grant a Hackney Carriage vehicle licence where the applicant for that licence intends their Hackney Carriage vehicle to be used entirely or predominately for the purpose of fulfilling pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. (e.g. Cherwell, South Oxfordshire or Oxford City).

Intended Use Policy - The policy is for the following types of application:-

- New vehicle licence;
- Renewal of vehicle licence;
- Transfer of vehicle ownership;
- Change of vehicle;

New applicants wishing to licence a Hackney Carriage with West Oxfordshire District Council will be required to make a statement on their application form about their intended use of the vehicle, i.e., whether the applicant intends the vehicle to be used.

- (i) Exclusively or predominantly to ply for hire/or take advance bookings in the West Oxfordshire (that is determined as 80% of the time; the journey may finish outside of West Oxfordshire District) – **Complies with policy**
- (ii) Exclusively or predominantly (more than 20% of the time) operate taking pre booked journeys from operators outside of the West Oxfordshire District – **fails to comply with policy, presumption of refusal**

#### Renewal of a Hackney Carriage vehicle licence

The driver or operator will need to maintain an accurate record of all uses of the vehicle when being used to fulfil pre-booked hiring's on behalf of a Private Hire operator licensed by another local authority. The record should contain:

- Name and address of the operator on behalf of which the journey was being undertaken; pick up point and destination date and time.
- Evidence of the number of days over the previous year they have plied for hire in the West Oxfordshire District.

If the records maintained show the vehicle use fails to comply with the policy, (see (ii) above, there will be a presumption of refusal of renewal.

#### Existing Licence Holders

Where a licence has been granted under the terms that the applicant intends to ply for hire or trade to a material extent within the West Oxfordshire District but is subsequently found not to be plying for hire to a material extent in the District and/or to be trading in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) will be referred to the Licensing Sub-Committee for determination.

### **Exceptional Circumstances**

Each application will be decided on its merits. However, the presumptions that intended use is to ply for hire or trade to a material extent within the West Oxfordshire District will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not frustrate the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.

## Annex 5

### Policy guidelines for signage, advertising and other markings on licensed vehicles

Vehicle markings which comply with the following conditions do not require approval by the Licensing Officer:

Hackney Carriages: The proprietor's company name and/or telephone number may be displayed on a sign which measures not greater than 305mm (12 inches) by 305mm (12 inches) or 457mm (18 inches) width by 203mm (8 inches) depth. This sign must be affixed to the lower front door panels of the vehicle.

All signage, advertising and other markings which do not fall within the condition shown above **must be given the Council's prior approval.** Further details are as follows:

1. Third-party advertising (i.e. carrying adverts for companies other than the proprietor's own business) on licensed Hackney Carriage (HC) and Private Hire (PH) vehicles must have the prior approval of the Council's Licensing Sub-Committee. Applications should be made in writing including a pictorial representation of the proposals. A meeting of the Licensing Sub-Committee will then be arranged to consider the proposal. **No third-party advertising is permitted without the prior approval of the Licensing Sub-Committee.**

2. For further details about applying to the Sub-Committee for third-party advertising, please contact the Licensing Officer.

3. The Licensing Officer has the authority, on behalf of the Sub-Committee, to approve other signage and markings on vehicles, such as the name of the Hackney Carriage / Private Hire business, contact details, the services provided (e.g. "Airport Runs") etc. No such signage is permitted until the Licensing Officer has seen and approved the proposals.

4. In order to make an application to have such markings on a HC or PH vehicle, proprietors should submit their proposal in writing to the Licensing Officer, including a full description of the advertising they intend to have on the vehicle and a pictorial representation such as a sketch or a photograph of similar markings.

5. The HC / PH proprietor must ensure that any proposed signage, advertisements and markings do not breach advertising standards industry guidelines.

6. Advertisements must not be of a racial, sexual, political or religious nature and must not be discriminatory or offensive.

7. Lettering or signage on the windows and windscreens of the vehicle must not obscure the driver's view and must conform to national legislation concerning the placing of such signs on vehicle windscreens.

8. Once the Licensing Officer has given written approval, the HC / PH proprietor may proceed with the advertising as submitted in the original proposal.

9. If the Licensing Officer deems the proposed signage, markings or advertising to be inappropriate, the request will be refused.

10. HC / PH proprietors may appeal to the Licensing Sub-Committee if their proposal has been refused.

## ANNEX 6

### Service Delivery Timescales for Hackney Carriage and Private Hire Applications

Type of application	Delivered to licence holder
Driver – New	5 days
Driver – Renewal	7 days
Vehicle – New	5 days
Vehicle – Renewal	7 days
Vehicle Transfer	1 working day
Customer query	5 days
Complaints	Initial response within 1 working day
Serious allegation	Initial response within 1 working day

**These timescales are based on a full and valid application being submitted. Any invalid applications will be returned to the applicant and may result in further delays.**

**Renewals should be submitted at least 7 days before the expiry date to guarantee that they are issued prior to expiry.**



This document can be produced in Braille, large print, audio tape and in other languages.

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



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:

 **LLG**  
Lawyers in Local Government

 **NALEO**

 **Local Government Association**

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## Foreword

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

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

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

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

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

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

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

Philip Kolvin QC  
Cornerstone Barristers

April 2018

## Chapter 1: Introduction

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

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

authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*<sup>2</sup>.

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

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

## Chapter 2: Offenders and Offending - An Overview

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

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

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

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

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

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

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

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

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

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

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



### Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”<sup>12</sup>.
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”<sup>13</sup>.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over<sup>14</sup>. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships<sup>15</sup>. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males<sup>16</sup>.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist<sup>17</sup>. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance<sup>18</sup>. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

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<sup>12</sup> National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

<sup>13</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

<sup>14</sup> Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

<sup>15</sup> Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

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

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

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



ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”<sup>19</sup>.

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

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<sup>19</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

## Chapter 3: 'Taxi' Licensing Overview

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

### Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory

criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person<sup>20</sup>.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK<sup>21</sup>.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.<sup>22</sup>
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*<sup>23</sup>. Silber J said:

“... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”

- 3.16 This is reflected in a test widely used by local authorities:

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’<sup>24</sup>

- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

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<sup>20</sup> Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

<sup>21</sup> Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

<sup>22</sup> “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1<sup>st</sup> December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

<sup>23</sup> [2002] EWHC 1145 (Admin), [2003] RTR 199

<sup>24</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 10.21

3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers' licence?

3.19 The local authority has the power to require an applicant to provide:

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”<sup>25</sup>

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

3.20 Some of these are universal, such as medical assessments<sup>26</sup>. Others are required by some authorities, but not others. These include:

- Enhanced DBS certificates and sign-up to the update service;
- Knowledge tests;
- Driving tests;
- Disability Awareness;
- Signed Declarations;
- Spoken English tests.

3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.

3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared<sup>27</sup>) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker<sup>28</sup>.

3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks<sup>29</sup> and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

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<sup>25</sup> Local Government (Miscellaneous Provisions) Act 1976 s57(1)

<sup>26</sup> See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

<sup>27</sup> “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

<sup>28</sup> See *Adamson v Waveney District Council* [1997] 2 All ER 898

<sup>29</sup> “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” DBS email 31st August 2017.

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability<sup>30</sup>.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account<sup>31</sup>. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

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<sup>30</sup> As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

<sup>31</sup> *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

to assault another sexually has demonstrated completely unacceptable standards of behaviour.

- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

## Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same

authority<sup>32</sup>. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person<sup>33</sup>.

- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”<sup>34</sup>
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they

<sup>32</sup> See *Dittah v Birmingham City Council*, *Choudhry v Birmingham City Council* [1993] RTR 356 QBD

<sup>33</sup> Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

<sup>34</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 12.35



obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation<sup>35</sup>. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

## Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence<sup>36</sup> and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be

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<sup>35</sup> See s57(1)(c) of the 1976 Act.

<sup>36</sup> S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.



satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”<sup>37</sup>

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<sup>37</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 8.98

## Chapter 4: Guidance on Determination

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

### Pre-application requirements

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

#### Vehicles:

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

#### Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

#### Operators:

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

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership<sup>38</sup>) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

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<sup>38</sup> Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction<sup>39</sup>. Fixed penalties and community resolutions will also be considered in the same way as a conviction<sup>40</sup>.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

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<sup>39</sup> This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

<sup>40</sup> This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

#### Crimes resulting in death

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

#### Exploitation

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

#### Offences involving violence

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

#### Possession of a weapon

- 4.32 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

#### Sex and indecency offences

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

### Dishonesty

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

### Drugs

- 4.36 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 4.37 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

### Discrimination

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

### Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

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

- 4.40 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

### Other motoring offences

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

### Hackney carriage and private hire offences

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

### Vehicle use offences

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

## Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.



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

## Vehicle proprietors

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

## Acknowledgements

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

The core project group comprised:

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

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

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

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

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- Tim Briton, Lawyers in Local Government
- Ben Atrill
- Suzy Lamplugh Trust
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- Professor of Criminology Fiona Measham, Durham University
- Councillor Philip Evans, Conwy County Borough Council
- Councillors Catriona Morris and Mick Legg, Milton Keynes Council
- Louise Scott Garner
- Jenna Parker, Institute of Licensing

Finally, grateful thanks go to all those who responded to the initial fact-finding survey and the subsequent consultation on the draft guidance.

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The Institute of Licensing (IoL) is the professional body for licensing practitioners across the UK.  
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The Local Government Association (LGA) is the national voice of local government.  
[www.local.gov.uk](http://www.local.gov.uk)



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



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

## Annex H – West Oxfordshire District Council Consultation responses

Joint enforcement	Officer Appraisal
	N/A
	N/A
NA	N/A
Yes	N/A
	N/A

Delegations for decisions	Officer Appraisal
	N/A
	N/A
Me	N/A
Yes	N/A
No issues	N/A

Frequency of DBS Checks (every 6 months)	Officer Appraisal
No issues, as DBS is on update it makes little difference but agreed it may help to flag information quicker	N/A
	N/A
Yes and have signed up for automatic renewal	N/A
Yes	N/A
No change with subscription - no issues	N/A

Time period to report arrests, charges and offences (48 hours)	Officer Appraisal
	N/A
	N/A
NA as all my customers are high end law abiding citizens	This is regarding the driver not the passengers
No	N/A
Just needs to be clear if its for charge or conviction of each offence - time period not an issue	Policy is clear

How to complain signage	Officer Appraisal
Is further signage really necessary?.. personally I like to keep my cars very professional, whilst we abide with the current stickers I would hate to think that the cars with have more signs. Where would signs need to be placed?.. currently they are in the front window, but not really noticeable for rear seat passengers, Could WODC not think more digitally?	Signage would be in a prominent position. We could permit Officer discretion for private hire work?
Sorry, this section has got me thinking. Surely 'How to complain' signage is only putting a negative light on service providers?.. why do only wish to know if someone had had a bad experience?.. what if some wishes to tell you how amazing a driver was? Or	Updated wording to reflect compliments and feedback

maybe a driver went above and beyond?... surely all feedback is worthy? I am not suggesting WODC should become some platform for reviews but I am suggesting wording should reflect both GOOD & bad feedback and as such should be filtered back to the driver. Sometimes it's important to be recognised for the good things as well as being reprimanded for the bad. I hope myself and my team have very little cause for complaint however I would not want advertising just telling people 'How to complain'	
Displayed in vehicle	N/A
No	N/A
Additional sign not necessary and detracts from the appearance and general experience a client would have in a chauffeur driven car and/or car being used for weddings etc	See above

<b>Immediate suspension of licences to be delegated to Officer</b>	<b>Officer Appraisal</b>
Personally I would prefer to have to deal with one individual when it comes to the seriousness of license suspension/revoke. My concerns would be on the complete process of a situation and if information is being feed through the system quickly and correctly.	This would be the named Officer on the correspondence
I will say Kevin Dunford is one of (if not THE) most helpful people with the council. For the first time in years it does feel like we actually have some support.	Have fed this back to the Officer
not sure what question you are asking?	N/A
Yes	N/A
No issues	N/A

<b>Safeguarding and Disability Awareness Training – suspension if failed/not attended</b>	<b>Officer Appraisal</b>
No issues	N/A
	N/A
Yes and attended the most recent course	N/A
Yes	N/A
Already a requirement - no issues	N/A

<b>Language Proficiency</b>	<b>Officer Appraisal</b>
100% agree.	N/A
	N/A
NA	N/A
Yes	N/A
Essential and should be introduced very quickly	Will be in effect from 1/10/21 and all existing drivers can be reviewed if complaints received

<b>Diabetes medical requirement</b>	No comments received
-------------------------------------	----------------------

<b>DBS checks for vehicle proprietors</b>	<b>Officer Appraisal</b>
No issues, think it is a good idea, but can't help thinking that there are more costs for a struggling industry	Agree – but less than 1% of licence holders would be effected
	N/A
Yes	N/A
No	N/A
No issues although not really necessary, the driver is the one in contact with passengers	N/A

<b>DBS checks for Private Hire Operators</b>	<b>Officer Appraisal</b>
No issues, think it is a good idea, but can't help thinking that there are more costs for a struggling industry	Agree – but less than 1% of licence holders would be effected
	N/A
Yes	N/A
No	N/A
No issues although not really necessary as the driver is the one in contact with passengers	N/A

<b>DBS check for Private Hire Operator booking and dispatch staff</b>	<b>Officer Appraisal</b>
No issues, think it is a good idea, but can't help thinking that there are more costs for a struggling industry	Agree but good standard
	N/A
Yes	N/A
No	N/A
No issues although the driver is the one in contact with passengers. I would imagine very difficult to ensure booking staff has abs as they could be casual staff in a large company that change regularly	This would be down to the company to ensure that this requirement is in place and recorded

<b>Use of National Refusal and Revocation Register (NR3)</b>	<b>Officer Appraisal</b>
100% agree	N/A
	N/A
Sounds good!	N/A
Yes	N/A
No issues, sounds a sensible requirement	N/A

<b>Revised Convictions Policy</b>	<b>Officer Appraisal</b>
	N/A
	N/A

NA	N/A
Yes	N/A
With minor motoring offences if the police/law states the driver can have a license and be on the road then the private hire license should not be revoked, the assessment after 6 points sounds a good idea	The position is one of trust and should set a high standard

## **CCTV**

<b>Should CCTV should be made mandatory at a later date</b>
Yes
No
No
No

<b>Please provide any evidence you may have to support your view on CCTV being mandatory</b>
I do think it should be mandatory, however this would come at a sizeable cost, we have 12/13 vehicles privately own by us and this would be an expensive exercise. Would the council have approved installers that would be able to negotiate a sensible rate for installation?.. If this suggestion was to be mandatory, would the council have a grace period perhaps starting with new licenses being granted and rolling out over a period of a few years?
Taking away discretion and privacy from customers. Possibility of footage being used against customers (blackmail etc) .Big no from me.
I would be against this as most passengers have private confidential telephone or laptops in the car that they would not want recorded.

Separate consultation response regarding CCTV:

'My Client base is very niche, it consists of A-List Celebrities, Elite Famous Sports People and some of the Worlds most wealthy business people.


I have signed a non disclosure agreement with a number of my VIP Clients.

None of Clients would allow a recording CCTV system in my vehicles'.

## **Officer Appraisal regarding CCTV**

This was a general question to 'test the water'. A full study will be conducted at a later date.



 <b>WEST OXFORDSHIRE DISTRICT COUNCIL</b>	<b>WEST OXFORDSHIRE DISTRICT COUNCIL</b>
<b>Name and date of Committee</b>	<b>Miscellaneous Licensing Sub-Committee: Thursday 9<sup>th</sup> September 2021</b>
<b>Report Number</b>	<b>Agenda Item No. 6</b>
<b>Subject</b>	<b>BUSINESS AND PLANNING ACT 2020 – EXTENSION TO PAVEMENT LICENSING REGIME</b>
<b>Wards affected</b>	<b>All</b>
<b>Accountable member</b>	<b>Councillor Norman MacRae, Cabinet Member for Environment Email: <a href="mailto:norman.macrae@westoxon.gov.uk">norman.macrae@westoxon.gov.uk</a></b>
<b>Accountable officer</b>	<b>Michelle Bignell, Service Leader (Licensing and Business Support) Tel: 01285 623000 Email: <a href="mailto:michelle.bignell@publicagroup.uk">michelle.bignell@publicagroup.uk</a></b>
<b>Summary</b>	<b>The report details the extension of the current regime and the review to the current Policy and provides the Miscellaneous Licensing Sub-Committee with a draft document for approval.</b>
<b>Annexes</b>	<b>Annex A – Copy of draft Pavement Licensing Policy</b>
<b>Recommendations</b>	<b>a) That the Miscellaneous Licensing Sub-Committee considers the draft Policy at Annex A; b) That, subject to any further amendments, approves the draft Policy; <i>and</i> c) Approves the fee charged for 2021/22.</b>
<b>Corporate priorities</b>	<b>A Vibrant District Economy Strong Local Communities</b>
<b>Key Decision</b>	<b>N/A</b>
<b>Exempt</b>	<b>No</b>
<b>Consultees/ Consultation</b>	<b>West Oxfordshire District Council Pavement Licensing Working Group – August 2021</b>

## **I. BACKGROUND**

- 1.1. The Business and Planning Act 2020 (“the Act”) was introduced in 2020 to support various business sectors including hospitality. This Act included numerous temporary relaxations to existing legislations including the introduction of the Pavement Licensing regime which permitted businesses to apply to the Local Authority for a licence to use outside space to extend the trading area available for consumption of food and drink during the pandemic.
- 1.2. These powers were in place until 30th September 2021.
- 1.3. The Pavement Licensing regime has now been extended until 30<sup>th</sup> September 2022 under the Business and Planning Act 2020 (Pavement Licence) (Coronavirus) (Amendment) Regulations 2021.
- 1.4. West Oxfordshire District Council has issued a total of 20 licences across the District.

## **2. MAIN POINTS**

### **Draft Policy Document**

- 2.1. There have been no major changes to the draft policy at Annex A. The only changes made are:
  - Updated dates to reflect the extension of the Act
  - Information for existing licence holders and how to reapply
  - Amendment to condition 5 of the Standard Conditions for clarification

### **Fee**

- 2.2. In 2020/21, the Council determined to waive the application fee to support the hospitality sector. Now that hospitality is reopen, it is proposed that the maximum fee permitted under the Act is charged. This is £100.
- 2.3. Licensing fees should be charged on a cost recovery basis. Although a cost recovery exercise has not been carried out, the cost of processing a licence would be more than £100.

### **Existing licence holders**

- 2.4. As there is no renewal application permitted under the Act, it is intended to make the application process as easy as possible for those licence holders who wish to apply for a ‘like-for-like’ licence. If no issues have been reported during the time that the licence has been in force, the licence will be granted irrespective of objections. The reason for this is that the regime specifies a review process where issues arise. The licence holder will need to submit a copy of the public liability insurance to demonstrate that they still hold insurance.
- 2.5. A complete application will be required if licence holders wish to change the layout or number of tables/chairs on the existing licence.
- 2.6. A fee will be charged in each case.

## **Consultation**

- 2.7. The working group which was established in 2020 was consulted on the draft policy. The working group consists of:
- Councillor Michele Mead, Leader
  - Councillor Norman MacRae, Cabinet Member for Environment and Chair of the Licensing Committee
  - Phil Martin, Group Manager
  - Keith Butler, Monitoring Officer
  - William Barton, Business Development Officer
  - Michelle Bignell, Service Leader
  - Oliver Murray, WODC Planning Team

## **3. FINANCIAL IMPLICATIONS**

- 3.1. If the Miscellaneous Licensing Sub-Committee determines not to charge a fee, then this work will need to be subsidised by the Council.

## **4. LEGAL IMPLICATIONS**

- 4.1. The Licensing Committee holds the delegated powers for the amendment of the Policy and fee which has been delegated to the Miscellaneous Licensing Sub-Committee.

## **5. CLIMATE CHANGE IMPLICATIONS**

None.

## **6. ALTERNATIVE OPTIONS**

- 6.1. None

## **7. BACKGROUND PAPERS**

- 7.1. MHCLG Guidance on Pavement Licences July 2021
- 7.2. Business and Planning Act 2020 (Pavement Licence) (Coronavirus) (Amendment) Regulations 2021

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# West Oxfordshire District Council Pavement Licensing Policy

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Revised September 2021

## **1. Introduction**

The Business and Planning Act 2020 (“the Act”) was passed to promote economic recovery and growth in response to the economic impacts of the global Covid-19 pandemic. The Act included urgent provisions designed to make it easier for premises in England serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

Sections 1 to 10 of the Act create a temporary regime for the issuing of “pavement licences” by appropriate local authorities. West Oxfordshire District Council (“the Council”) is the appropriate local authority for issuing pavement licences in the administrative area covered by the Council.

The process introduced a streamlined and cheaper route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. The aim of the legislation is to support businesses to operate safely while social distancing measures remain in place and to provide much needed income over the summer months and protect as many hospitality jobs as possible.

The temporary licensing regime was in place until 30 September 2021. The provisions were then extended to 30 September 2022 when they are due to expire in accordance with section 10 of the Act.

## **2. Scope**

### **2.1. Definition of pavement licence**

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

### **2.2. Eligible Businesses**

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

### **2.3. Eligible Locations**

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicular access is restricted or prohibited. Highways maintained by Network Rail or over Crown land are exempt (so a licence cannot be granted).

### **2.4. Type of furniture permitted**

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which in principle means it is not a permanent fixed structure, and is able to be moved easily, and stored away at the end of the evening.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

## **2.5. Planning Permission**

If a pavement licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid and remains in force.

## **2.6. Existing tables/chairs**

The new pavement licence regime runs alongside the provisions in Part 7A of the Highways Act 1980, which remain in place.

Any existing permissions issued under Part 7A of the Highways Act 1980 remain valid.

## **3. Application and Determination of Pavement Licences**

### **3.1. Submission of the Application**

An application for a Pavement Licence must be made to the Council on the appropriate form, and accompanied by:

- A plan showing the location of the premises marked by a red line, so the application site can be clearly identified
- A plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items of furniture to be placed on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- Photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied.

The applicant must also have public liability insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million before the licence can be utilised.

If a Traffic Regulation Order is required, the applicant must ensure that this permission is in place prior to applying for a Pavement Licence.

An application will not be considered complete (valid) until the application form and all required documents have all been received. The public consultation period will not commence until the day after a complete application has been made.

All expired licences will be treated as new applications. The applicant must readvertise the application for a period of 7 days. If the application is for the same layout only a copy of the public liability insurance will be required. If there is a change to the original layout, all documents will be required (e.g. plan, photographs of furniture etc.). A fee will be due in both cases.

### **3.2. Fees**

### **3.3. The fee for applying for a licence under the new process is set locally, but capped at £100. The Council has determined that the fee for applications will be £100.**

#### **Consultation**

Applications are consulted upon for 7 days, starting with the day on which a valid application was received by the Council.

The Council will publish details of the application on its website at <https://publicaccess.westoxon.gov.uk/online-applications/>

The Council is required by law to consult with the Highway Authority. In addition, to ensure that there are no unacceptable detrimental effects arising from the application proposals the Council will consult with:

- West Oxfordshire District Council Planning teams
- West Oxfordshire District Council Food, Health and Safety team
- West Oxfordshire District Council Operations (Environmental Health) team
- Thames Valley Police
- Ward Members
- Town/Parish Councils

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

### **3.4. Site Notice**

An applicant for a pavement licence must, on the day the application is made, fix a Notice of the application to the premises so that it is readily visible to, and can be read easily by, members of the public who are not on the premises. The Notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of the Site Notice requirement having been complied with must be supplied to the Council.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and the name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the consultation (7 days starting the day after the application is submitted to the Council).

A template Site Notice is shown as [Appendix I](#).

### **3.5. Site Assessment**

The following matters will be used by the Council and consultees in considering the suitability of the proposal:

- public health and safety – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter? and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
  - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;



- whether there are other permanent street furniture or structures in place on the footway that already reduce access;
- the impact on any neighbouring premises
- the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), and
- other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the Council, and so take any issues around noise, and nuisance into consideration as part of the proposal. Discussions with neighbours should consider any plans neighbouring businesses have also to place tables and chairs on the highway and plans for customers to queue outside.

### 3.6. Determination

Once the application is submitted the Council has 14 days from the day after the application is made (excluding public holidays) to consult upon and determine the application. This consists of 7 days for public consultation, and then 7 days to consider and determine the application after the consultation.

If the Council determines the application before the end of the determination period it can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

If the Council does not determine the application within the 14 day period, the application will be deemed to have been granted.

If an applicant is re-applying for a pavement licence and objections are received against a 'like-for-like' application, if there were no concerns raised during the period of time that the previous licence was in place the application is likely to be granted. The reason for this is that there is a revocation process if required.

The following are authorised to grant or refuse applications, and to revoke a Licence which has been granted:

Decision	Authorised decision maker
Granting an application where no objections have been received during the consultation period	Business Manager, Environmental and Regulatory Services or Licensing Service Leader
Granting or refusing an application where objections have been received during the consultation period	Business Manager, Environmental and Regulatory Services or Licensing Service Leader, following consultation with the Chairman of the Miscellaneous Licensing Sub-Committee
Revoking a Licence	Business Manager, Environmental and Regulatory Services or Licensing Service Leader, following consultation with the Chairman of the Miscellaneous Licensing Sub-Committee

### 3.7. Calculation of Days

In deciding the public consultation period or the determination period, as referenced above, no account will be taken of a bank holiday, nor of Christmas Day or Good Friday. In all other instances the period shall be calendar days.

### **3.8. Approval of Applications**

The Council may approve applications meeting the criteria contained within these guidelines.

On approving the application, the Council will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Licences are shown at [Appendix 2](#). Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement Licences between 08:00 and 22:00.

Applications outside these hours will be assessed in terms of the criteria detailed above regardless of whether objections have been made or not. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

### **3.9. Licence Duration**

If the Council determines an application before the end of the determination period (which is 7 days, beginning with the first day after the public consultation period, excluding public holidays) the Council can specify the duration of the licence, subject to a minimum duration of three months.

The expectation from the Government is that Councils will grant licences for 12 months or more unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space. As such, the Council will normally grant applications until 30 September 2022.

If a licence is 'deemed' granted because the Council does not make a decision on an application before the end of the determination period, then the licence will be valid for a year.

A licence granted or deemed to be granted will not be valid beyond 30 September 2022.

### **3.10. Refusal of Applications**

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by conditions then the application may be refused.

There is no statutory appeal process against a decision to refuse an application.

A business may apply again after refusal but will have to make a new application and address the concerns raised in the original application.

## **4. Conditions**

The Council's standard conditions can be found at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis, and the Council will confirm the reasons why any additional conditions have been imposed.

The Act contains two national conditions that all granted and deemed granted licences must adhere to if the Council fails to publish their own conditions, or the published conditions fail to make provision for observing the national conditions. The two conditions are:

- a no-obstruction condition
- a smoke free seating condition

The Council's published conditions make provision for these conditions, but for the sake of transparency, the national conditions are detailed in Appendix 3 to this document.

The Act also allows for the Secretary of State to produce, via Regulations, conditions for pavement licences, and to stipulate whether these conditions have effect as well as, or instead of, the conditions placed on a licence by the Council. If such conditions are created, this guidance will be amended to reflect them, and all licence holders will be notified of any changes this may create.

Where a Council sets a local condition that covers the same matter as set out in national conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

## 5. Enforcement

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. It remains the case that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police.

Obtaining a licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Social distancing controls, and applicants must ensure all such permissions, etc. are in place prior to applying.

If a condition imposed on a licence either by the Council or via a National Condition is breached the Council will be able to issue a Notice requiring the breach to be remedied and the Council can take action to cover any costs.

The Council may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a Remediation Notice has been issued) or
2. Where:
  - There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;
  - the highway is being obstructed (other than by anything permitted by the licence);
  - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;
  - it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
  - the applicant did not comply with the requirement to affix the Notice to notify the public for the relevant period.
3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

## **6. Review Procedures**

This Policy covers the Temporary Permission for Pavement Licences under the Business and Planning Act which is scheduled to expire on 30 September 2021<sup>2</sup>

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement Licences generally, relevant social distancing measures or as a result of local considerations within the West Oxfordshire District.

## BUSINESS AND PLANNING ACT 2020

### NOTICE OF APPLICATION FOR GRANT OF A PAVEMENT LICENCE

I / We .....(1)

Do hereby give notice that on ..... (2)

I / we have applied to West Oxfordshire District Council for a pavement licence  
at:

.....

..... (3)

Known as..... (4)

The application is for:

.....

..... (5)

Any person wishing to make representations to this application may do  
so by writing to [ers@westoxon.gov.uk](mailto:ers@westoxon.gov.uk) by:

..... (6)

The application and information submitted with it can be viewed at:

[www.westoxon.gov.uk](http://www.westoxon.gov.uk)

Signed .....

Date ..... (7)

### **Guidance notes on completing this notice of application.**

Complete the notice by putting the following information in the numbered spaces:

- (1) Name of the applicant
- (2) Date the application is made (submitted)
- (3) Postal address of the premises
- (4) Name the premises is known by
- (5) Brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink]).
- (6) Last date for representations being the date 7 days after the date the application is submitted to the local authority (excluding public holidays)
- (7) The date the notice was placed (must be the same date as (2) above)

On the same day that the application is made, a completed copy of this notice must be fixed to the premises so that it is readily visible to, and can be read easily by, members of the public who are not on the premises, and secure that the notice remains in place until the end of the public consultation period.

**Failure to comply this requirement may lead to the revocation of any licence granted or deemed granted.**

## Standard Pavement Licence Conditions

Please note that these conditions are not an exhaustive list. Each application will be considered on its own merits and individual, specific conditions may be attached where deemed appropriate.

Where a licence is deemed granted, the applicant is deemed to be a 'licence holder' and is required to comply with all of the below conditions. In such circumstances, references to 'licensed area' should be understood to mean the area proposed for licensing within the application.

1. The licence holder must ensure that no activity undertaken by them by the placing of furniture on the highway will:
  - (a) prevent traffic, other than vehicular traffic, from:
    - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
    - (ii) passing along the relevant highway, or
    - (iii) having normal access to premises adjoining the relevant highway,
  - (b) prevent any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
  - (c) prevent statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
  - (d) prevent the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
2. The licence holder must ensure clear routes of access are maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in the Department for Transport's [Inclusive Mobility](#) document.
3. Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence holder must make reasonable provision for seating where smoking is not permitted.
4. Permission to operate a pavement café does not imply an exclusive right to the area of public highway. The licence holder must be aware that West Oxfordshire District Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc or any other reasonable cause. This may mean that the pavement café will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.

5. Tables and chairs must not be placed in position outside of the permitted times of the pavement licence. All tables and chairs and other furniture must be stored securely inside a premises away from the highway outside of these times.
6. The licence holder must ensure that furniture is positioned in such a way so as to ensure compliance with the relevant Government guidance on social distancing that is in place at any particular time and that staff can service the space in a manner that does not compromise their health and safety.
7. Unless another more restrictive condition has been attached to the licence in response to particular concerns raised during the public consultation period, the licence holder must not place any furniture on the highway in pursuance of this licence before 08:00hrs on any day and must remove all furniture placed on the highway in pursuance of this licence when the premises closes or by 22:00hrs on any day, whichever is the earliest.
8. The licence holder must at all times hold a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million.
9. The area of the highway covered by the licence must be kept clean and tidy at all times. This will include washing down the area, and removing any refuse and litter on the highway in the vicinity of the removable furniture.
10. The licence holder shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio, or television receiving sets in the area of the highway covered by the licence.
11. The licence holder is not to make or cause to be made any claim against the West Oxfordshire District or Oxfordshire County Council in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.
12. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions (see Appendix 3).
13. The licensee should ensure that the area operates in a safe and orderly manner, thereby ensuring that any safety risk or nuisance to customers, other users of the public highway or any adjacent land or premises, is minimised.
14. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
15. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval. Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs etc, will be recovered in full from the licence holder by West Oxfordshire District Council or the Highway Authority.
16. The premises must ensure that if alcohol is sold from the business that all necessary permissions under the Licensing Act 2003 are in place.
17. The licence must be displayed on the premises with a plan of the agreed layout of the pavement café.
18. West Oxfordshire District Council reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.
19. The licence holder must ensure that the area covered by the licence is monitored regularly by staff to ensure that the conditions above are being adhered to.



## National Conditions

[All section references are to the Business and Planning Act 2020]

### No-obstruction condition

#### Section 5(5)

A “no-obstruction condition” is a condition that anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6):

#### Section 3(6)

The effects referred to in subsection (5) are-

- a) preventing traffic, other than vehicular traffic, from—
  - i. entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
  - ii. passing along the relevant highway, or
  - iii. having normal access to premises adjoining the relevant highway,
- b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
- c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
- d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

### Smoke-free seating condition:

#### Section 5(6)

A “smoke-free seating condition” is a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.

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