

3 February 2016

Committee	Licensing
Date	Thursday, 11 February 2016
Time of Meeting	2:30 pm
Venue	Committee Room 1

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND



**for Sara J Freckleton
Borough Solicitor**

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (staff should proceed to their usual assembly point). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

To receive apologies for absence and advise of any substitutions.



Item	Page(s)
3. DECLARATIONS OF INTEREST	
<p>Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.</p>	
4. MINUTES	1 - 14
<p>To approve the Minutes of the Licensing Committee meeting held on 26 November 2015; the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meeting held on 10 December 2015; and the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) meeting held on 22 December 2015.</p>	
5. REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICIES	15 - 109
<p>To approve the draft Hackney Carriage and Private Hire Policy for consultation.</p>	
6. SEPARATE BUSINESS	
<p>The Chairman will move the adoption of the following resolution:</p> <p>That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.</p>	
7. SEPARATE MINUTES	110 - 114
<p>To approve the separate Minutes of the meeting of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicle, Drivers and Operators) held on 10 December 2015.</p>	

DATE OF NEXT MEETING

THURSDAY, 16 JUNE 2016

COUNCILLORS CONSTITUTING COMMITTEE

Councillors: Mrs K J Berry, Mrs G F Blackwell, G J Bocking, Mrs J E Day, A J Evans, R Furolo, R E Garnham (Chair), Mrs P A Godwin, Mrs J Greening (Vice-Chair), Mrs R M Hatton, Mrs A Hollaway, A S Reece, H A E Turbyfield, M J Williams and P N Workman

Substitution Arrangements

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

Recording of Meetings

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chairman will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Thursday, 26 November 2015
commencing at 2:30 pm**

Present:

Chairman
Vice Chairman

Councillor R E Garnham
Councillor Mrs J Greening

and Councillors:

Mrs K J Berry, Mrs G F Blackwell, G J Bocking, A J Evans, R Furolo, Mrs P A Godwin, Mrs R M Hatton, Mrs A Hollaway, A S Reece, H A E Turbyfield, M J Williams and P N Workman

LIC.11 ANNOUNCEMENTS

11.1 The evacuation procedure, as noted on the Agenda, was taken as read.

LIC.12 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

12.1 Apologies for absence had been received from Councillor Mrs J E Day. There were no substitutions for the meeting.

LIC.13 DECLARATIONS OF INTEREST

13.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

13.2 There were no declarations made on this occasion.

LIC.14 MINUTES

14.1 The Minutes of the Licensing Committee meeting held on 18 June 2015 and the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 23 July 2015 and 15 October 2015, copies of which had been circulated, were approved as correct records and signed by the Chairman.

14.2 It was noted that Minute No. LIC.7.3 of the Licensing Committee Minutes from the meeting on 18 June 2015 set out that the Committee had resolved to approve the renewal of the existing taxi and private hire policies and conditions until such time as a new policy was in place, but no later than 31 March 2016, with an update to be brought to the Licensing Committee meeting on 15 October 2015. The Chairman advised that the meeting due to be held on 15 October had been postponed and, as such, Members were due to receive an update at the present meeting. He confirmed that no further update was available and work was ongoing so this matter had not been included as an Agenda item for the meeting.

LIC.15 REVISION OF STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005

- 15.1 Attention was drawn to the report of the Licensing and Systems Officer, circulated at Pages No. 7-53, which asked Members to agree that a six week consultation be undertaken on the Gambling Act 2005: Statement of Principles 2016-2019 and to recommend to Council that it be adopted with effect from 31 January 2016, subject to any relevant representations being received within the consultation period being reviewed by the Chairman and Vice-Chairman.
- 15.2 The Licensing and Systems Officer explained that Section 349 of the Gambling Act 2005 required a Licensing Authority to prepare and publish a statement of its policy every three years. One of the recommended changes was the inclusion of a Local Area Profile which provided more information about a locality and any particular concerns within that area. In addition, from April 2016, operators would be required to assess local risk when they applied for a licence or to vary an existing licence. When making their application they would need to consider the risk in terms of the three licensing objectives under the Gambling Act i.e. crime and disorder statistics in the area they were applying; the internal and external design of the premises and control measures in place; and any other factors. Currently, operators generally carried out their own risk assessment but they did not include the whole of the local area. It was noted that there would be no impact on existing licences. The draft Gambling Act 2005: Statement of Principles 2016-19 included those changes and reflected the changes in the statutory guidance published at the end of September. The whole policy had been reviewed, with non-relevant matters being removed and Plain English being used wherever possible, and was attached at Appendix 1 to the report. Whilst guidance recommended a 12 week consultation, given the timescales available before the next Licensing Committee meeting, as well as the ability of the Licensing Team to engage with stakeholders and consultees at short notice, it was recommended that the consultation be held for six weeks. Any responses received during the consultation period would be taken into account and considered by the Chairman and Vice-Chairman of the Licensing Committee before being taken to the Council for adoption.
- 15.3 A Member sought clarification as to the difference between slot machines A, B and C and was advised that very detailed guidance was published by the Gambling Commission; however, the main difference was maximum stake and price. The Member indicated that restaurants often had machines and she questioned whether they were licensed. In response, the Licensing and Systems Officer confirmed that, since the introduction of the Gambling Act 2005, only establishments which held a premises licence for the consumption of alcohol on the premises, and had applied for the entitlement, were permitted to have a gambling machine. Another Member went on to query whether there was any restriction on the number of licences in a particular area and was advised that, whilst there was no fixed number of licences which could be granted, consideration must be given to the impact on the area in terms of existing premises and the likely impact as a result of a new premises. Each application was considered on a case by case basis and whilst there were provisions for segregation zones they would not be applicable for an area such as Tewkesbury Borough.
- 15.4 A Member welcomed the introduction of the requirement for applicants to assess local risk and the Licensing and Systems Officer agreed that this would give them an opportunity to put forward control measures, rather than Officers making suggestions. Officers would have the ability to put additional measures in place if they did not feel that they were adequate. A Member questioned how long it would be before existing licence holders had to consider local risk if they did not submit a variation application. He was advised that licences were granted in perpetuity, provided that the licence holders paid their annual fees, although there was a

review mechanism in place if it was felt that any of the licensing objectives were being impacted. A Member questioned what would happen if an operator had their licence withdrawn by the Gambling Commission and was informed that the premises licence would automatically be removed. In response to a query as to how many licenced premises there were within Tewkesbury Borough, the Licensing and Systems Officer confirmed that there were five gambling shops and some clubs with gambling permits e.g. Royal British Legion, as well as public houses which had an automatic entitlement for two machines. In terms of the gambling premises licences, whilst there were five shops, there were only two operators.

15.5 Having considered the information provided, it was

RESOLVED

1. That a six week consultation be undertaken on the draft Gambling Act 2005: Statement of Principles 2016-19.
2. That it be **RECOMMENDED TO COUNCIL** that the Gambling Act 2005: Statement of Principles 2016-19 be **ADOPTED** with effect from 31 January 2016, subject to any relevant representations being received within the consultation period being reviewed by the Chairman and Vice-Chairman of the Licensing Committee.

LIC.16 SEPARATE BUSINESS

16.1 On a proposal from the Chairman, it was

RESOLVED

That, under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

LIC.17 SEPARATE MINUTES

17.1 The separate Minutes of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 23 July 2015 and 15 October 2015, copies of which had been circulated, were approved as correct records and signed by the Chairman.

The meeting closed at 2:45 pm

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) held at the Council Offices, Gloucester Road, Tewkesbury on Thursday, 10 December 2015 commencing at 2:30 pm

Present:

Chairman

Councillor R E Garnham

and Councillors:

H A E Turbyfield and M J Williams

LSB/B.12 ELECTION OF CHAIRMAN

12.1 It was proposed, seconded and

RESOLVED That Councillor R E Garnham be appointed as Chairman for the meeting.

LSB/B.13 ANNOUNCEMENTS

13.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

LSB/B.14 DECLARATIONS OF INTEREST

14.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

14.2 There were no declarations made on this occasion.

LSB/B.15 SEPARATE BUSINESS

15.1 On a proposal from the Chairman, it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

LSB/B.16 APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE

(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)

16.1 The Sub-Committee granted an application for a private hire driver's licence.

LSB/B.17 APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE

(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)

17.1 The Sub-Committee granted an application for a private hire driver's licence.

The meeting closed at 3:40 pm

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) held at the Council Offices, Gloucester Road, Tewkesbury on Tuesday, 22 December 2015 commencing at 3:00 pm

Present:

Chairman

Councillor R E Garnham

and Councillors:

Mrs G F Blackwell and R Furolo

LSB/A.1 ELECTION OF CHAIRMAN

1.1 It was proposed, seconded and

RESOLVED That Councillor R E Garnham be appointed as Chairman for the meeting.

LSB/A.2 ANNOUNCEMENTS

2.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

LSB/A.3 DECLARATIONS OF INTEREST

3.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

3.2 There were no declarations made on this occasion.

LSB/A.4 APPLICATION FOR THE GRANT OF A PREMISES LICENCE - EMPORIUM, HIGH STREET, WINCHCOMBE

4.1 The report of the Licensing and Systems Officer, circulated at Pages No. 1-54, outlined an application for a premises licence in respect of Emporium, High Street, Winchcombe. The Licensing Sub-Committee was asked to determine the application, taking such steps, if any, as it considered appropriate for the promotion of the licensing objectives.

4.2 The Chairman asked all parties present to identify themselves and explained the procedure which would be followed by the Sub-Committee. The Licensing and Systems Officer advised that the premises licence application sought permission for recorded music between the hours of 08:00 and 00:00 Sunday to Thursday and 08:00 and 02:00 on Friday and Saturday; late night refreshment between the hours of 23:00 and 00:00 Sunday to Thursday and 23:00 and 02:00 Friday and Saturday; and supply of alcohol between the hours of 10:00 and 00:00 Sunday to Thursday and 10:00 and 02:00 Friday and Saturday. The application set out that the premises would be open to the public between 08:00 and 00:00 Sunday to Thursday and 08:00 and 02:00 Friday and Saturday. The applicant had also applied for non-standard timings during National Hunt meetings at Cheltenham Racecourse with the

opening time and sale of alcohol starting at 07:30 hours. The application was attached in full at Appendix A to the report. Officers had drafted a number of conditions for inclusion on the licence if the application was granted. The conditions were considered to be consistent with the steps the applicant intended to take to promote the licensing objectives, as identified in the Operating Schedule accompanying the application. These conditions related to the installation of a CCTV system to be maintained in good working order; the protection of the premises by an alarm system to be maintained in good working order; staff being trained on general health and safety; signage being displayed asking patrons to leave quietly; the adoption of the Challenge 25, or equivalent scheme, so that any customer attempting to purchase alcohol who appeared to be under the age of 25 would be asked for an accredited photographic proof of their age, and that a sale would not be made unless that evidence was produced; and a refusal register being maintained on the premises to record details of any alcohol purchases refused by staff. No other responsible authorities had made representations about the application, however, the applicant had agreed with Gloucestershire Constabulary to modify the application on the basis of sale of alcohol being between the hours of 10:00 and 23:00 Monday to Saturday and 10:00 and 22:30 on Sundays with non-standard timings between the hours of 07:30 and 02:00 during Bank Holiday weekends; Christmas Eve, Christmas Day and Boxing Day; New Year's Eve; and Cheltenham race meetings scheduled for March and November. The applicant's agreement with the Police was attached at Appendix B to the report.

- 4.3 During the consultation, 20 representations had been received from members of the public who wished to object to the grant of the application on a number of grounds. It was noted that the report stated that 19 representations had been received, unfortunately, one representation had been omitted from the papers in error and this was circulated separately around the table. Copies of the other 19 representations were attached at Appendix D to the report. The representations mainly referred to crime and disorder and public nuisance but, in general, they addressed all licensing objectives. Some representations mentioned why there was a need for more premises in Winchcombe, however, the Council did not have a special policy area, or any cumulative impact policies, and therefore this was not a relevant consideration for the Licensing Sub-Committee when determining the application.
- 4.4 The Sub-Committee was reminded that it was obliged to determine the application with a view to promoting the licensing objectives of the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. In making its decision, regard must be had to the national guidance and the Council's own licensing policy, as well as the representations made and the evidence provided at the meeting. The Sub-Committee was advised that it could resolve to grant the application as requested; to modify the conditions and/or timings of the licensable activities, by altering, omitting or adding to them; or, to reject the whole, or part, of the application.
- 4.5 The Chairman sought confirmation from the applicant's representative as to the modifications to the application which had been agreed with the Police. The applicant's representative confirmed that the applicant had agreed that the sale of alcohol would take place between the hours of 10:00 and 23:00 Monday to Saturday and 10:00 and 22:30 on Sundays. Although the Police had agreed that non-standard timings between the hours of 07:30 and 02:00 could apply during Bank Holiday weekends; Christmas Eve, Christmas Day and Boxing Day; New Year's Eve; and Cheltenham race meetings scheduled for March and November, the applicant's representative confirmed that an extension to 02:00 was only required on New Year's Eve.

- 4.6 As there were no questions for the Licensing and Systems Officer, and no responsible authorities were present, the applicant's representative was invited to present her case to the Sub-Committee. She explained that The Emporium would be a continental style bar/café, rather than a public house, and there would be a limited food menu. The aspiration was that customers would be able to go into the coffee shop to buy a sandwich or pastry and a cup of tea or coffee but they would also be able to purchase an alcoholic drink if they wished to. In terms of the objections which had been raised, the most notable one related to the noise impact on the apartments above and adjacent to the premises and she totally understood this concern. She advised that the applicant intended to install extra sound-proofing on the wall to the adjacent flat and on the ceiling which it was hoped would address the issue of noise for the immediate neighbours. Planning Officers had confirmed that listed building consent would be required for these measures, as opposed to full planning permission. In terms of music, she confirmed that only background music would be played; this would be ambient 'lift' style music and the location and direction of the speakers would be reviewed in order to keep the sound inwards, as opposed to upwards and outwards. With regard to smoking, she recognised that people did still smoke but she felt that they tended to be in the minority. There was a plan in place for a smoking area to the front of the premises, which the Police and Planning Department had been consulted upon, and she circulated a photograph outlining where it would be. She explained that there would be a removable barrier which would be put out each day to stop people from spilling out onto the street and causing an obstruction. She confirmed that the barrier would be within the curtilage of the shop entrance. She went on to explain that there was an alleyway to the side of the building and the applicant was prepared to install a gate with a push combination lock, subject to obtaining listed building consent. It was proposed that this would be kept locked which would overcome the concern about people urinating and being sick in the alleyway; although it was not anticipated that the clientele visiting the premises would cause that type of problem. In terms of antisocial and disruptive behaviour, she clarified that all staff would be personal licence holders and would be given ongoing training. The applicant's representative confirmed that she would be managing the business and had many years of experience running public houses. Whilst she would take a zero tolerance policy in terms of nuisance behaviour, she did not think that it would be the type of establishment which would attract very young people so this was unlikely to be an issue. With regard to waste, she confirmed that the bins which were in the alleyway would not be used as a private contractor would be collecting the waste from the premises on a daily basis during normal working hours and it was anticipated that the amount of waste would be minimal i.e. one bin bag of recyclables and one bin bag of residual waste each day.
- 4.7 A Member questioned how many people would be permitted to use the smoking area at any one time and the applicant's representative indicated that she was unsure. The area was currently used for smoking by the staff of neighbouring shops and offices and she generally saw five or six people there at any one time. She advised that she would not have a problem with limiting the number of people using the smoking area, if Members considered that to be necessary. A Member queried whether there was an alternative area to the rear of the premises which could be used for smoking and was advised that the proposed area to the front was considered to be the best option. The Member asked what the total capacity of the premises itself would be and was advised that there would be seating for 29 people. In response to a Member query regarding the food which would be served in the premises, the applicant's representative explained that, whilst the full menu had not been decided, the food would be along the lines of sandwiches, salads and Mediterranean platters as opposed to heavy meals. A Member questioned where

the customer toilets would be located and the applicant's representative pointed this out on the floor plan, attached at Appendix A to the report; it was noted that they would be in the same location as the staff toilets. A Member queried whether the use of a contractor to collect the waste could be included as a condition on the premises licence and the Licensing and Systems Officer confirmed it could; Members may also wish to consider a condition restricting the timing of collections. A Member sought confirmation as to where the waste would be stored prior to collection and was advised that there would be two covered bins inside the premises. The Member went on to seek further information in respect of personal licences, which the applicant's representative had indicated all staff would be required to hold. The Licensing and Systems Officer explained that a personal licence was a qualification and the minimum requirement was for the Designated Premises Supervisor to hold a personal licence, anything above and beyond that was considered best practice. In response to a query, he went on to advise that personal licence holders had to undergo a basic Disclosure and Barring Service (DBS) check but he could not share any information on that. It was noted that only the Police were able to object to a personal licence.

- 4.8 The Chairman invited the other parties who had attended the Sub-Committee to make representations. One local resident indicated that he had lived opposite The Emporium building for 26 years with his bedroom directly facing it. Sound travelled at night and he could often hear every word being spoken by people talking quietly on the street. In terms of the smoking area, he did not feel that people would want to stand in such a small area and he raised concern that their voices would be easily heard by himself and other residents. He had particular sympathy for the residents who lived above and adjacent to the premises and felt that there was enough noise on the High Street from existing pubs, wine bars and restaurants without adding to it further. Given the limited space, he could envisage people smoking on the pavement and noise becoming a big issue. Ultimately people would do what they wanted to do and he found it hard to believe that people would be sat quietly eating cakes and drinking coffee at 11.00pm at night; in reality they would be drinking and getting increasingly louder, something which the local residents would have to put up with. Another local resident advised that he lived around the corner from the premises and he echoed the previous speaker's comments in respect of noise and disturbance. He recognised that the Sub-Committee was unable to take account of the amount of other premises in Winchcombe when determining the application but they did generate noise. He went on to raise concern that there would be an increase in traffic as a result of the premises licence being granted, particularly in terms of taxis which would have to queue outside the premises along the main thoroughfare. The Licensing and Systems Officer clarified that traffic in itself was not a licensing objective although it could be considered in terms of nuisance.
- 4.9 The next speaker indicated that he owned a flat in the Emporium building and was speaking on behalf of all of the residents who were united in their opinion. The Emporium was a Grade II listed building which contained many original windows and meant that noise was a particular concern for residents, particularly those with bedrooms overlooking the street. When he had lived at the rear of the property, he had been able to hear noise from the highway and the premises would inevitably generate considerable additional noise, exacerbated by smokers who would spill out onto the street. In terms of the alleyway and the potential installation of a locked gate, as suggested by the applicant's representative, he explained that this had been discussed in the past, however, the alleyway was a thoroughfare into a cottage and the owners of that cottage had not wanted a gate so overcoming that objection could be a problem. Any works to the building would require listed building consent and there was no guarantee that the proposed soundproofing measures would be approved. He reiterated that his main concern was that the building was inhabited by both children and the elderly who did not want this on their doorsteps. Taxis

frequently collected and dropped people off during Cheltenham Gold Cup week, generating a lot of noise, and people entering and exiting the premises, combined with the fact that people raised their voices when they had been drinking, would make the noise unbearable.

- 4.10 A local resident indicated that, although it had been suggested that the purpose of the licence was so people could have an alcoholic drink with their pastry, when the premises was open late at night, people would inevitably be consuming more alcohol and their behaviour would not necessarily be the same as had been portrayed by the applicant's representative. He reiterated that there would be significant noise, particularly from people spilling out onto the pavement, which they did currently at other establishments. He considered that the smoking area was impractical; there were still plenty of people who did smoke and needed to be accommodated. He imagined that pedestrian traffic would increase as people walked to the premises from the car park at the end of Cowl Lane generating additional noise. Cowl Lane was a very narrow lane and increased use by vehicles accessing the car park could only be problematic in his view. Another local resident reiterated the concerns regarding noise and went on to indicate that it was her understanding that, if the licence was granted, alcohol could be purchased from the premises for consumption elsewhere. In response, the applicant's representative confirmed that the application was solely for consumption of alcohol on the premises. The local resident went on to express concern about the increase in delivery vehicles which blocked the highway and added to the general congestion in Winchcombe. She indicated that she would like some assurance that, if the licence was granted, the premises would remain as a wine bar/patisserie as she would not wish to see any extension into a large formal restaurant or night club. In response, the Licensing and Systems Officer confirmed that there was no provision in the Licensing Act 2003 to specify a type of premises as licences were granted for licensable activities. Regardless of the type of operation, the premises licence holder would have to comply with the conditions of the licence.
- 4.11 A local resident explained that he owned a property opposite the premises, which was currently occupied by an existing wine bar, and he was currently in a dispute with the tenant for all of the reasons which had been raised by the local residents today. In terms of the premises licence application, he felt that smoking was a particular problem and the suggestion to control it with limited numbers would not stop smoke from going through the windows of surrounding properties or prevent sound penetration within the building. He questioned whether background music was strictly necessary as he felt that it would inevitably be turned up according to the volume of voices in the bar. The Licensing and Systems Officer confirmed that a licence was not required for background music as it was incidental to the main activity. On that basis, the resident questioned why an application had been made for recorded music and he raised concern that, if that element of the licence was granted, it would not be possible to prevent discos from being held on the premises in the future.
- 4.12 The Chairman invited all parties present to make any final comments. In summing up, the applicant's representative indicated that she had listened carefully to the comments made by the other parties. She had not intended to mislead people about the nature of the business and fully accepted that people would be more likely to drink alcohol in the evenings. In terms of smoking, the applicant was willing to do whatever she could to improve the situation, however, it was considered that the solution put forward was the best one. Similarly, in respect of noise, she could not state that this would be completely alleviated but every effort would be made to reduce it as far as possible, although she did raise concern about whether any

conditions which may be imposed to restrict the noise level would be feasible given the nature of the building. If there was an issue in terms of music, she confirmed that she would be happy to remove the request for a licence for recorded music as it had only ever been intended to play background music.

4.13 The Chairman indicated that the Sub-Committee would retire in order to make its decision.

4.14 When the meeting reconvened, the Chairman explained that, having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the four licensing objectives; the national guidance; and the Council's Statement of Licensing Policy it was

RESOLVED That the application be **GRANTED** as set out in the attached Decision Notice.

The meeting closed at 4:25 pm

DECISION NOTICE

COMMITTEE: Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005)

DATE: Tuesday, 22 December 2015

Premises:	Emporium, High Street, Winchcombe, GL54 5LJ.
Applicant:	Karen Adams.
Application for a premises licence.	
Present:	Councillors Mrs G F Blackwell, R Furolo and R E Garnham (Chairman)
Representative of Applicant:	Zainah Salam – Manager
Other Parties Addressing the Sub-Committee:	<p>Tim Benton – Owner of a property in Emporium building, High Street, Winchcombe.</p> <p>Bette Galloway – Resident of Royle Mews, Cowl Lane, Winchcombe.</p> <p>Stephen Howarth – Resident of Royle Mews, Cowl Lane, Winchcombe.</p> <p>Steve Meredith – Resident of High Street, Winchcombe.</p> <p>Keith Pritchard – Resident of High Street, Winchcombe.</p> <p>David Wilson – Resident of Royle Mews, Cowl Lane, Winchcombe.</p>

SUMMARY OF REPRESENTATIONS

1. No representation was received from responsible authorities, however, the applicant agreed with Gloucestershire Constabulary to modify the application. The applicant also agreed with Environmental Health that background music would be played no longer than 02:00 on New Year's Eve and 00:00 on all other nights.
2. 20 representations had been received from other parties, all of whom wished to object to the application. The representations mainly referred to the licensing objectives of crime and disorder and public nuisance.

Some representations referred to whether there was a need for more licensed premises in Winchcombe but this was not a relevant consideration for the Licensing Authority in determining the application.

THE APPLICATION

Relevant licensable activities and (standard) hours applied for:

Recorded Music	Sunday to Thursday	08:00 – 00:00
	Friday and Saturday	08:00 – 02:00
Late Night Refreshment	Sunday to Thursday	23:00 – 00:00
	Friday and Saturday	23:00 – 02:00
Supply of Alcohol	Sunday to Thursday	10:00 – 00:00
	Friday and Saturday	10:00 – 02:00
Hours premises are open to the public	Sunday to Thursday	08:00 – 00:00
	Friday and Saturday	08:00 – 02:00

Non-standard timings applied for:

During National Hunt Meetings at Cheltenham Race Course the opening time and sale of alcohol will start at 07:30.

AMENDMENT TO THE APPLICATION BY THE APPLICANT

Supply of Alcohol	Monday – Saturday	10:00 – 23:00
	Sunday	10:00 – 22:30

Non-standard timings applied for:

During Cheltenham Race meetings scheduled for March and November the opening time and sale of alcohol will start at 07:30.

On New Year's Eve permitted hours for sale by retail of alcohol will be extended to 02:00.

DECISION

Having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the four licensing objectives; the National Guidance; and the Council's Statement of Licensing Policy it was resolved that the application for the premises licence be **GRANTED** as follows:

Supply of Alcohol	Monday – Saturday	10:00 – 23:00
	Sunday	10:00 – 22:30

All other timings to be by way of an application for a Temporary Events Notice.

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

1. A CCTV system must be maintained in good working order.
2. The premises shall be protected by an alarm system which must be maintained in good working order.
3. Staff will be trained on general health and safety.
4. Signage must be displayed asking patrons to leave quietly.
5. The 'Challenge 25' scheme must be adopted so that any customer attempting to purchase alcohol who appears to be under the age of 25 shall be asked for an accredited photographic proof of age (e.g. passport, photo driving licence or a Pass approved card) and that a sale shall not be made unless this evidence is produced.
6. A refusals register must be maintained on the premises to record details of any alcohol purchases refused by staff.

CONDITIONS CONSISTENT WITH THOSE RECOMMENDED BY THE RESPONSIBLE AUTHORITIES AND AGREED WITH THE APPLICANT

1. CCTV must be installed and retained for a minimum of 14 days if digital, 28 days if non-digital, and must be available to Police or a Responsible Authority upon request.
2. A risk assessment must be carried out prior to any event, in particular Cheltenham Races.

ADDITIONAL CONDITIONS IMPOSED BY THE SUB-COMMITTEE

1. It is accepted in good will that the applicant will explore all avenues possible to ensure that the alleyway is not used by its clientele, however, notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and to use the area quietly.
2. Patrons are permitted to temporarily leave and then re-enter the premises, e.g. to smoke, but shall not be permitted to take drinks or glass containers with them.
3. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises, nor vibrations be transmitted through the structure of the premises which gives rise to a nuisance.
4. There will be no use of the alleyway at the side of the premises by Emporium clientele.
5. A sign must be erected reminding patrons not to use the alleyway at any time.
6. A sign will be displayed stating the designated smoking area.

REASON

The Sub-Committee placed these conditions on the licence for the purpose of promoting the licensing objectives. In all other respects, the Sub-Committee found that the licensing objectives had been satisfied and the conditions imposed on the licence would ensure that the licence would continue to meet those objectives.

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Committee
Date of Meeting:	11 February 2016
Subject:	Revision of Hackney Carriage and Private Hire Licensing Policy
Report of:	Bhavdip Nakum, Licensing and Systems Officer
Corporate Lead:	Val Garside, Environmental and Housing Services Group Manager
Lead Member:	Cllr J R Mason, Lead Member for Clean and Green Environment
Number of Appendices:	Two

Executive Summary:

This report proposes redrafting the Council's Hackney Carriage and Private Hire Licensing Policy to address the matters cited in this report followed by a six week consultation with public and relevant parties.

Recommendation:

To APPROVE the revised draft Hackney Carriage and Private Hire Licensing Policy for a six week consultation.

Reasons for Recommendation:

To ensure that the Council's policy is robust in providing a safe service to the residents and visitors of the Borough and to provide clarity to applicants, existing licence holders and members of the public.

Resource Implications:

Total cost of consultation process will be met from existing resources.

Legal Implications:

The Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 provide the authority for the Council to licence hackney carriage drivers and vehicles and private hire drivers, vehicles and operators.

Risk Management Implications:

If the Council does not fulfil its duties under the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 and does not follow the best practice suggested by the Courts and the Department for Transport when licensing drivers, vehicles and operators, it may be liable to legal challenges.

Performance Management Follow-up:

A Special Licensing Committee meeting will be held to consider consultation responses and recommend further amendments.

Environmental Implications:

None

1.0 INTRODUCTION/BACKGROUND

- 1.1** On 5 March 2015, the Licensing Committee resolved to review the Council's Hackney Carriage (Taxi) and Private Hire Licensing Policy.
- 1.2** There are currently five sets of policies, five sets of conditions and one set of bylaws governing hackney carriage and private hire licensing at Tewkesbury Borough Council.
- 1.3** There have been various amendments to the policies and conditions in the last few years but the policies and conditions have not been reviewed together. As a result of this, there is a lot of duplication across the policies and conditions which may cause some confusion for applicants, existing licence holders and officers.
- 1.4** The current policies, conditions and bylaws are attached at **Appendix A** to the report and are as follows:
1. Hackney Carriage Bylaws
 2. Hackney Carriage and Private Hire Drivers Licensing Policy
 3. Hackney Carriage Vehicle Licensing Policy
 4. Private Hire Operators Licensing Policy
 5. Private Hire Vehicle Policy
 6. Policy on Relevance of Conviction for Hackney Carriage and Private Hire Drivers
 7. Policy on Suspension, Revocation and Refusal for Hackney Carriage and Private Hire Drivers
 8. Hackney Carriage Vehicle Conditions
 9. Private Hire Vehicle Conditions
 10. Private Hire Drivers Conditions
 11. Private Hire Operator Conditions

2.0 DRAFT REVISED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

2.1 The proposed revised Hackney Carriage and Private Hire Licensing Policy is attached at Appendix B. Members are asked to give particular consideration as to whether the policy addresses the following matters:

1. Having one clear and concise policy which is evidence based, forward looking and fit for purpose.
2. Removing operational, procedural and day to day matters from the policy and where necessary, publish as supporting guidance and procedure notes to help applicants.
3. Updating the policy in accordance with the recent changes in legislation to allow sub-contracting for licensed private hire operators and revise licence periods for driver and operator licences.

3.0 OTHER OPTIONS CONSIDERED

3.1 None

4.0 CONSULTATION

4.1 Consultation is required to take place over a six week period after the draft policy is approved for consultation. It will be undertaken with all required parties, stakeholders and also with the general public. Any responses received during the consultation period will be taken into account and considered by the Committee.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Environmental Health Enforcement Policy

6.0 RELEVANT GOVERNMENT POLICIES

6.1 The Department for Transport has produced best practice guidance to local authorities to assist them in the licensing of taxi and private hire vehicles.

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 To be met from existing resources.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 An effective Taxi and Private Hire policy can help promote community safety and increase public confidence.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 Consultation will be carried out via the Council's website and local media.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 Licensing Committee Decision – 5 March 2015.

Background Papers: Private Hire Vehicle Licensing: Guidance Note
Guidance to Local Authorities and Operators on Provisions in the
Equality Act in respect of Taxis
Taxi and Private Hire Vehicle Licensing: Best Practice Guidance
Road Safety Act 2006: Private Hire Vehicles Guidance Note
Councillors' Handbook on Taxi and Private Hire Licensing

Contact Officer: Bhavdip Nakum, Licensing and Systems Officer
01684 272044 bhavdip.nakum@teWKesbury.gov.uk

Appendices: Appendix A – Current policies, conditions and bylaws
Appendix B – Draft revised Hackney Carriage and Private Hire
Licensing Policy.



TEWKESBURY BOROUGH COUNCIL

**BYELAWS WITH RESPECT TO HACKNEY CARRIAGES
IN THE BOROUGH OF TEWKESBURY**

BOROUGH OF TEWKESBURY BYELAWS

Byelaws made by the Tewkesbury Borough Council under Section 68 of the Town Police Clauses Act 1847, and Section 171 of the Public Health Act 1875.

Interpretation

1. Throughout these byelaws:- “the Council” means the Borough Council of Tewkesbury and “the district” means the Borough of Tewkesbury.

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 provided by the Council 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 a hackney carriage shall:-
 - a) provide sufficient means by which any person in the carriage may communicate with the driver;
 - b) cause the roof or covering to be kept water-tight;
 - c) provide any necessary windows and a means of opening and closing not less than one window on each side;
 - d) cause the seats to be properly cushioned or covered;
 - e) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
 - f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - g) provide means for securing luggage if the carriage is so constructed as to carry luggage;

- h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
 - i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver;
 - j) provide and maintain an electric light in the interior of such carriage for the use of any persons therein;
 - k) carry a spare wheel and tyre and suitable tools for the replacement of damaged or punctured tyres;
4. The proprietor of a hackney carriage shall cause the same to be provided with a 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 device 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 device shall be capable of being positioned so 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 the hire of the carriage by time as well as by distance in pursuance of the tariff fixed by the Council;
 - 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;
 - 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, 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 device fitted in pursuance of byelaw no. 4 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 taxi meter into action by means of the 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 face of the taximeter to be kept properly illuminated throughout any part of a hiring which is the time from half an hour after sunset to half an hour before sunrise, and 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 or seals fixed to it.
 7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
 - a) proceed with reasonable speed to one of the stands fixed by resolution of the Council;
 - b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage on the stand 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.
 - e) the proprietor or driver of a hackney carriage shall not, without sufficient cause, allow such vehicle to be left unattended on any stand fixed by resolution of the Council.
 8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not importune any person to hire such a carriage or make use of the services of any other person for the purpose of importuning any person to hire such carriage.
 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 hackney carriage shall not without reasonable cause unnecessarily prolong, in distance or in time, the journey for which the hackney carriage has been hired.
 12. The 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. Provided that the seating capacity may be exceeded by one person only where that person is a child of less than six years of age where the use of the rear seating only is concerned. The driver shall not allow there to be conveyed in the front of the hackney carriage any child below the age of 10 years.

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. Such drivers shall not lend the badge to any other person or cause or allow any other person to wear it.
14. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:-
 - a) convey a reasonable quantity of luggage;
 - b) offer reasonable assistance in loading and unloading;
 - c) offer reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.
15.
 - a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.
 - b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

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 hereof.

16. 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 been accidentally left therein.
17. 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 or handed 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 or Police

Station in the district whichever is the nearer and leave it in the custody of the officer in charge of the office on his giving a 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 or a Police station in the district whichever is the greater) but not more than five pounds.

Penalties

- 18. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the Standard Scale, and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction.

Repeal of Byelaws

The byelaws relating to hackney carriages which were made by the Council of the Borough of Tewkesbury on the 12th day of December 1986 and which were confirmed by the Secretary of State on the 1st day of March 1987 are hereby repealed.

Given under the Common Seal of The Council for the Borough of Tewkesbury this 12th day of December 1986

The COMMON SEAL of THE COUNCIL THE BOROUGH OF TEWKESBURY was hereunto affixed in the presence of the Mayor and Secretary

The foregoing byelaws are hereby confirmed by the Secretary of State and shall come into operation on the 1st day of March 1987.

Signed by authority of the Secretary of State
An Assistant Secretary in the Department of Transport on behalf of the Secretary of State for Transport

Dated 1st March 1987 Home Office, London SW1.

TEWKESBURY BOROUGH COUNCIL

HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENSING POLICY

General

Unless otherwise terminated, the licence shall remain in force for a period of one year or a period of three years in accordance with the applicant's wishes subject to the following:-

A **three year** licence shall only be granted to an applicant who provides the following with their initial or renewal application:-

- The appropriate fee for a three year licence
- A current valid driving licence, which has been held for at least 3 years and authorises him/her to drive a motor car in the UK, and showing his/her current home address
- A satisfactory Group 2 Medical certificate completed in the 3 months immediately preceding the application
- An Enhanced Criminal Record Disclosure Application form and appropriate identity documentation
- A mandate for release of information held by the DVLA to the Licensing Authority
- Evidence of successful completion of a County Council Taxi Drivers Assessment in the 3 months immediately preceding the application

Medical Criteria

A Driver must have a medical to the DVLA Group 2 standards on initial application and then at 3 year intervals on renewal of the Driver's Licence until he/she reaches 65.

From 65, he/she will have a medical examination every year.

Background Checks

Drivers must provide the following documents on initial application and then at 3 year intervals on renewal:-

- An Enhanced Criminal Record Disclosure application form and appropriate identity documentation
- A mandate for release of information on them held by the DVLA
- Evidence of completion of a County Council Driving Assessment in the 3 months immediately preceding the application

Local Knowledge Test

New applicants for hackney carriage driver licences must have passed the Council's "local knowledge test." This will test the applicant's knowledge of the geography of the Borough.

Applicants must produce photographic identification and pay the relevant fee in order to book a test. A test will then be arranged at the earliest available opportunity.

Applicants failing the test twice will not be permitted to take a further test until at least 6 months have elapsed from date of the second failure.

New Applications

An applicant must have, immediately prior to applying, for at least 3 years been the holder of a valid driving licence (not being a provisional licence) authorising him/her to drive a motor car in the UK.

An application cannot be granted unless the Licensing Authority is satisfied that the applicant is a fit and proper person to hold a Hackney Carriage or Private Hire Driver's Licence. Where there is any doubt about the fitness and propriety of the applicant, the application will be referred to the Licensing Committee or Licensing Sub-Committee.

To make an initial application for either a **one year licence** or a **three year licence** the applicant must;

- Complete and submit to the Licensing Authority the appropriate application form
- Pay the appropriate fee for either a one year or three year licence
- Provide 2 recently taken and identical passport size photographs as follows;
 - 45 millimetres by 35 millimetres in size
 - taken against a light background so that the applicant's features are distinguishable and contrast against the background
 - show full face uncovered without sunglasses and unless the applicant wears a head covering due to his/her religious beliefs, without a head covering.
- Produce for examination a current valid driving licence, which has been held for at least 3 years and authorises him/her to drive a motor car in the UK, and showing his/her current home address
- Complete and submit a mandate for release of information held by the DVLA to the Licensing Authority.
- Complete an Enhanced Criminal Record Disclosure Application form and provide appropriate identity documentation. (Please note that the applicant must visit the Licensing Authority in person when submitting their Enhanced Criminal Record Disclosure Application.)

- Provide a satisfactory Group 2 Medical certificate completed in the 3 months immediately preceding the application.
- Provide evidence of successful completion of a County Council Taxi Drivers Assessment in the 3 months immediately preceding the application

Applicants are advised not to obtain the Medical Certificate or County Council Taxi Drivers Assessment until the Licensing Authority has considered the outcome of the Enhanced Criminal Record Disclosure and DVLA mandate and advised the applicant that they are considered a fit and proper person in relation to offences.

Applicants are required to notify the Licensing Authority 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)

Additional Application Requirements for Foreign Nationals and Persons That Have Resided Outside the UK for Hackney Carriage and Private Hire Drivers Licence

The Licensing Authority must be satisfied that the applicant is a fit and proper person. In order to determine this, an applicant who is a foreign national or who has resided outside the UK over the age of 18 must do the following;

Complete an Enhanced Criminal Record Disclosure Application form as detailed in new application requirements. To complete this application the applicant must provide all addresses for the past 5 years including any addresses that are outside the UK. The Enhanced Criminal Record Disclosure will show any convictions that have been committed in the UK.

In addition to the Criminal Record Bureau the applicant must provide the Licensing Authority with a Criminal Record Check from all countries outside the UK they 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 they 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 the applicant.

Driving Licence - The Licensing Authority must be satisfied that the applicant holds an appropriate driving licence to drive in the UK for vocational purposes (driving as a job).

Eligibility to work in this country - An applicant must be eligible to work in the UK and if appropriate will need to provide evidence of this.

English Language - Where an applicant's first language is not English the applicant may need to demonstrate that they have a basic standard of English speaking and understanding.

Renewal Applications

A renewal application must be completed prior to the expiry date of the Hackney Carriage or Private Hire Driver's Licence. There is no period of grace if a renewal application is submitted after the expiry date. It is an offence to drive a Hackney

Carriage or Private Hire Vehicle without the appropriate Hackney Carriage or Private Hire Drivers Licence.

To make a renewal application and be granted a **one year licence** the applicant must;

- Complete and submit to the Licensing Authority the appropriate renewal application form.
- Pay the appropriate fee for a one year licence.
- Provide 2 recently taken and identical passport size photographs as follows, where it has been 3 years since the last time photographs were submitted;
 - 45 millimetres by 35 millimetres in size
 - taken against a light background so that the applicant's features are distinguishable and contrast against the background
 - show full face uncovered without sunglasses and unless the applicant wears a head covering due to hi/her religious beliefs, without a head covering
- Produce for examination a current valid driving licence, which has been held for at least 3 years and authorises him/her to drive a motor car in the UK, and showing his/her current home address
- Complete an enhanced Criminal Record Disclosure Application form and provide appropriate identity documentation only if this is due (see above background checks criteria).
- Provide a satisfactory Group 2 Medical certificate only if this is due (see medical criteria above)
- Provide evidence of successful completion of a County Council Taxi Drivers Assessment that is no more than 3 months old only if this is due (see above background checks criteria)
- Complete and submit a mandate for release of information held by the DVLA to the Licensing Authority only if this is due (see above background checks criteria)

To make a renewal application and be granted a **three year licence** the applicant must provide the following with their application:-

- The appropriate fee for a three year licence
- A current valid driving licence, which has been held for at least 3 years and authorises him/her to drive a motor car in the UK, and showing his/her current home address
- A satisfactory Group 2 Medical certificate that is no more than 3 months old
- An Enhanced Criminal Record Disclosure Application form and appropriate identity documentation

- A mandate for release of information held by the DVLA to the Licensing Authority
- Evidence of successful completion of a County Council Taxi Drivers Assessment in the 3 months immediately preceding the application
- Two recently taken and identical passport size photographs as follows
 - 45 millimetres by 35 millimetres in size
 - taken against a light background so that the applicant's features are distinguishable and contrast against the background
 - show full face uncovered without sunglasses and unless the applicant wears a head covering due to his/her religious beliefs, without a head covering

TEWKESBURY BOROUGH COUNCIL

HACKNEY CARRIAGE VEHICLE LICENSING POLICY

General

Unless otherwise terminated, the licence shall remain in force for a period of one year.

No vehicle will be licensed if the applicant does not intend to use the vehicle to stand or ply for hire in Tewkesbury Borough.

New Applications

To make an application, the applicant(s) must:-

- Complete and submit to the Licensing Authority the appropriate application form.
- Pay to the Licensing Authority the appropriate fee.
- Produce proof of ownership of the vehicle such as the vehicle registration document (V5) in the applicant(s) name or if this is not available a bill of sale, an invoice or a credit agreement.
- Produce an appropriate insurance certificate or cover note for public hire purposes in accordance with the requirements of current legislation.
- Provide evidence that the appropriate vehicle excise duty has been paid in relation to the vehicle concerned.
- Produce a current MOT certificate (unless the vehicle is less than 1 year old).
- Produce a current Licensing Authority Vehicle Test Certificate (This requirement may be waived at the discretion of the Licensing Officer for vehicles less than 1 year old that have low mileage).
- On appointment bring the vehicle to the Licensing Authority Offices for visual inspection by a Licensing Officer.

Renewal Applications

A renewal application must be completed prior to the expiry date of the private hire vehicle licence. There is no period of grace if a renewal is submitted after the expiry date.

To make a renewal application the applicant(s) must;

- Complete and submit to the Licensing Authority the appropriate renewal application form.
- Pay to the Licensing Authority the appropriate renewal fee.

- Produce the vehicle registration document (V5) in the applicant(s) name.
- Produce an appropriate insurance certificate or cover note for public hire purposes in accordance with the requirements of current legislation.
- Provide evidence that the appropriate vehicle excise duty has been paid in relation to the vehicle concerned.
- Produce a current MOT certificate.
- Produce a current Licensing Authority Vehicle Test Certificate.
- On appointment bring the vehicle to the Licensing Authority Offices for visual inspection by a Licensing Officer

Transfer of Ownership Application

(Ownership of a licensed hackney carriage is transferred to other person(s))

To make a transfer of ownership application the applicant must:-

- Complete and submit to the Licensing Authority the appropriate transfer application form.
- Pay to the Licensing Authority the appropriate fee.
- Produce proof of transfer of the licensed vehicle such as the vehicle registration document (V5) in the new applicant(s) name or if not available a bill of sale, an invoice or a credit agreement.
- Produce an appropriate insurance certificate or cover note for public hire purposes in accordance with the requirements of current legislation.
- Provide evidence that the appropriate vehicle excise duty has been paid in relation to the vehicle concerned.

Change of Vehicle Application

(The vehicle that is licensed is replaced with another vehicle either temporarily or permanently)

To make a change of vehicle application the applicant must;

- Complete and submit to the Licensing Authority the appropriate change of vehicle application form.
- Pay to the Licensing Authority the appropriate fee.
- Produce proof of ownership of the vehicle such as the vehicle registration document (V5) in the applicant(s) name or if not available a bill of sale, an invoice or a credit agreement.

- Produce an appropriate insurance certificate or cover note for public hire purposes in accordance with the requirements of current legislation.
- Provide evidence that the appropriate vehicle excise duty has been paid in relation to the vehicle concerned.
- Produce a current MOT certificate (unless the vehicle is less than 1 year old).
- Produce a current Licensing Authority Vehicle Test Certificate (This requirement may be waived at the discretion of the Licensing Officer for vehicles less than 1 year old that have low mileage).
- On appointment bring the vehicle to the Licensing Authority Offices for visual inspection by a Licensing Officer
- Return any plates and discs previously issued by the Licensing Authority.

Change of Registration Number Applications

(The registration number of a licensed hackney carriage is changed e.g. to a personalised number plate)

To make a change of registration number application the applicant must;

- Complete and submit to the Licensing Authority the appropriate change of registration number application form.
- Pay to the Licensing Authority the appropriate change of registration number fee.
- Produce documentation from DVLA confirming change of registration number.
- Produce an appropriate insurance certificate or cover note for public hire purposes showing new registration number in accordance with the requirements of current legislation.
- Provide evidence that the appropriate vehicle excise duty has been paid in relation to the vehicle concerned.
- Produce current MOT certificate showing new registration number.
- Return any plates and discs previously issued by the Licensing Authority.

Use of Vehicle

When an applicant wishes to licence a vehicle as a hackney carriage the Council will require information, pursuant to section 57 of the Local Government (Miscellaneous Provisions) Act 1976, as to whether the applicant intends to use the vehicle to stand or ply for hire in Tewkesbury Borough Council's area and also if the applicant intends to use the vehicle entirely or predominantly remotely from Tewkesbury Borough Council's area on a pre-booked basis.

Whilst each application will be considered on its own merits, the Council will have regard to the geographic location of an applicant's home and business address.

If the Council believes that the hackney carriage is to be used entirely or predominantly remotely from Tewkesbury Borough Council's area on a pre-booked basis, then the application for a licence will normally be refused.

Vehicle Type

The vehicle shall be of suitable size, type and design to be safe and comfortable for passengers. You should check with the Licensing Officer that the vehicle is appropriate for licensing before purchasing it.

The vehicle must be right hand drive.

No vehicle will be licensed that has side facing seats.

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

The vehicle must comply with all relevant road traffic regulations and legislation in force.

Any vehicle that has been modified since manufacture or is imported must have the appropriate Type Approval Certificate for example a Single Vehicle Approval Certificate.

Seats and Seatbelts

All passenger seats (including spaces for wheelchairs) shall be of sufficient dimensions as to allow the passenger using the seat to be carried in safety and comfort. In the case of passenger seats, these must be at least 400mm wide for each seat that is to be licensed for the carriage of passengers.

Each passenger seat in the vehicle must be provided with an appropriate and operational seatbelt.

CCTV

CCTV systems may be installed in the vehicle with the approval of the Licensing Officer. CCTV systems must be operated in accordance with current legislation including data protection legislation.

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 the Licensing Officer.

Meters

For requirements relating to meters in Taxis please see Hackney Carriage Bylaws.

Taxi meters may be tested for accuracy at the discretion of the Licensing Officer.

Roof Signs

A roof sign must be displayed on the top of the vehicle showing the word 'Taxi'. The sign shall be controlled by the meter and shall be illuminated when the vehicle is available for hire.

The design of the roof sign shall be approved by the Licensing Officer.

Signage and Advertisements

There shall be clearly displayed on one or both sides of the vehicle the name of the business, or if there is no business name, the name of the proprietor and the words "HACKNEY CARRIAGE", "CAB" or "TAXI".

Advertisements may be permitted to be displayed on the outside rear doors and the rear of the vehicle only. All artwork in respect of advertisements shall be submitted to the Licensing Officer for approval to ensure that no controversial subjects shall be advertised.

Vehicle Testing

A hackney carriage over 1 year and under 5 years old must have a Licensing Authority Vehicle Test every 12 months.

A hackney carriage over 5 years old must have a Licensing Authority Vehicle Test every 6 months.

Stretched Limousines

Stretched Limousines will not be licensed as hackney carriages.

TEWKESBURY BOROUGH COUNCIL

PRIVATE HIRE OPERATORS LICENSING POLICY

General

Unless otherwise terminated, the licence shall remain in force for a period of one year.

Background Checks

The applicant must provide a Basic Criminal Record Disclosure and provide appropriate photographic identity documentation on initial application and then at 3 year intervals on renewal.

(Where the applicant has also submitted an application for a Hackney Carriage or Private Hire Driver Licence to the Licensing Authority, 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).

Location(s) of Operator Base

The location(s) where an operator makes provision for taking a booking must be within the Licensing Authority's boundaries. These may be office addresses, business addresses or a home addresses, and must have appropriate planning permission if required.

New Applications

To make an application, the applicant(s) must;

- Complete and submit to the Licensing Authority the appropriate application form.
- Pay to the Licensing Authority the appropriate fee.
- The applicant(s) must have satisfied the Licensing Authority that they are a fit and proper person and must provide a Basic Criminal Record Disclosure and provide appropriate photographic identity documentation. (Where the applicant has also submitted an application for a Taxi or Private Hire Driver Licence to the Licensing Authority, 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 Application Requirements for Foreign Nationals and Persons That Have Resided Outside the UK

Criminal Convictions – The Licensing Authority must be satisfied that the applicant(s) is a fit and proper person. In order to determine this, the applicant must do the following;

Provide a Basic Criminal Record Disclosure as detailed in application requirements above. The Basic Criminal Record Disclosure will show any convictions that have been committed in the UK.

In addition to the Basic Criminal Record Disclosure the applicant must provide the Licensing Authority with a criminal record disclosure from all countries outside the UK they have resided from the age of 18 in 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 they 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 the applicant.

Renewal Applications

A renewal application must be completed prior to the expiry date of the private hire operator's Licence. There is no period of grace if a renewal is submitted after the expiry date.

To make a renewal application the applicant(s) must;

- Complete and submit to the Licensing Authority the appropriate renewal application form.
- Pay to the Licensing Authority the appropriate renewal fee.
- Provide a Basic Criminal Record Disclosure if this is due. (Where the applicant has also submitted a renewal application for a taxi or private hire driver licence to the Licensing Authority, 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).

TEWKESBURY BOROUGH COUNCIL

PRIVATE HIRE VEHICLE LICENSING POLICY

General

Unless otherwise terminated, the licence shall remain in force for a period of one year.

New Applications

To make an application, the applicant(s) must:-

- Complete and submit to the Licensing Authority the appropriate application form.
- Pay to the Licensing Authority the appropriate fee.
- Produce proof of ownership of the vehicle such as the vehicle registration document (V5) in the applicant(s) name or if this is not available a bill of sale, an invoice or a credit agreement.
- Produce an appropriate insurance certificate or cover note for private hire purposes in accordance with the requirements of current legislation.
- Provide evidence that the appropriate vehicle excise duty has been paid in relation to the vehicle concerned.
- Produce a current MOT certificate (unless the vehicle is less than 1 year old).
- Produce a current Licensing Authority Vehicle Test Certificate (This requirement may be waived at the discretion of the Licensing Officer for vehicles less than 1 year old that have low mileage).
- On appointment bring the vehicle to the Licensing Authority Offices for visual inspection by a Licensing Officer.

Renewal Applications

A renewal application must be completed prior to the expiry date of the private hire vehicle licence. There is no period of grace if a renewal is submitted after the expiry date.

To make a renewal application the applicant(s) must;

- Complete and submit to the Licensing Authority the appropriate renewal application form.
- Pay to the Licensing Authority the appropriate renewal fee.
- Produce the complete vehicle registration document (V5) in the applicant(s) name.

- Produce an appropriate insurance certificate or cover note for private hire purposes in accordance with the requirements of current legislation.
- Provide evidence that the appropriate vehicle excise duty has been paid in relation to the vehicle concerned.
- Produce a current MOT certificate.
- Produce a current Licensing Authority Vehicle Test Certificate.
- On appointment bring the vehicle to the Licensing Authority Offices for visual inspection by a Licensing Officer

Transfer of Ownership Application

(Ownership of a licensed private hire vehicle is transferred to other person(s))

To make a transfer of ownership application the applicant must:-

- Complete and submit to the Licensing Authority the appropriate transfer application form.
- Pay to the Licensing Authority the appropriate fee.
- Produce proof of transfer of the licensed vehicle such as the vehicle registration document (V5) in the new applicant(s) name or if not available a bill of sale, an invoice or a credit agreement.
- Produce an appropriate insurance certificate or cover note for private hire purposes in accordance with the requirements of current legislation.
- Provide evidence that the appropriate vehicle excise duty has been paid in relation to the vehicle concerned.

Change of Vehicle Application

(The vehicle that is licensed is replaced with another vehicle either temporarily or permanently)

To make a change of vehicle application the applicant must;

- Complete and submit to the Licensing Authority the appropriate change of vehicle application form.
- Pay to the Licensing Authority the appropriate fee.
- Produce proof of ownership of the vehicle such as the vehicle registration document (V5) in the applicant(s) name or if not available a bill of sale, an invoice or a credit agreement.
- Produce an appropriate insurance certificate or cover note for private hire purposes in accordance with the requirements of current legislation.

- Provide evidence that the appropriate vehicle excise duty has been paid in relation to the vehicle concerned.
- Produce a current MOT certificate (unless the vehicle is less than 1 year old).
- Produce a current Licensing Authority Vehicle Test Certificate (This requirement may be waived at the discretion of the Licensing Officer for vehicles less than 1 year old that have low mileage).
- On appointment bring the vehicle to the Licensing Authority Offices for visual inspection by a Licensing Officer
- Return any plates and discs previously issued by the Licensing Authority.

Change of Registration Number Applications

(The registration number of a licensed private hire vehicle is changed e.g. to a personalised number plate)

To make a change of registration number application the applicant must;

- Complete and submit to the Licensing Authority the appropriate change of registration number application form.
- Pay to the Licensing Authority the appropriate change of registration number fee.
- Produce documentation from DVLA confirming change of registration number.
- Produce an appropriate insurance certificate or cover note for private hire purposes showing new registration number in accordance with the requirements of current legislation.
- Provide evidence that the appropriate vehicle excise duty has been paid in relation to the vehicle concerned.
- Produce current MOT certificate showing new registration number.
- Return any plates and discs previously issued by the Licensing Authority.

Vehicle Type

The vehicle shall be of suitable size, type and design to be safe and comfortable for passengers. You should check with the Licensing Officer that the vehicle is appropriate for licensing before purchasing it.

The vehicle must be right hand drive.

No vehicle will be licensed that has side facing seats with the exception of stretched limousines (see supplementary policy below).

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

The vehicle must comply with all relevant road traffic regulations and legislation in force.

Any vehicle that has been modified since manufacture or is imported must have the appropriate Type Approval Certificate for example a Single Vehicle Approval Certificate.

Seats and Seatbelts

All passenger seats (including spaces for wheelchairs) shall be of sufficient dimensions as to allow the passenger using the seat to be carried in safety and comfort. In the case of passenger seats, these must be at least 400mm wide for each seat that is to be licensed for the carriage of passengers.

Each passenger seat in the vehicle must be provided with an appropriate and operational seatbelt.

CCTV

CCTV systems may be installed in the vehicle with the approval of the Licensing Officer. CCTV systems must be operated in accordance with current legislation including data protection legislation.

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 the Licensing Officer.

Roof Signs

The displaying of signs on or above the roof of a private hire vehicle is prohibited.

Meters

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.

Signage and Advertisements on Vehicles

There shall be clearly displayed on one or both sides of the vehicle, the name of the business, or if there is no business name, the name of the holder of the operator's licence, the telephone number of the business or operator and the words private hire. The words "CAB" or "TAXI" must not be displayed on the vehicle.

This requirement can be lifted upon on written request to the Licensing Officer for vehicles used exclusively for "executive hire" "Executive hire" means that the vehicle is used exclusively to provide transport under a written contract to companies or

persons, or by the type of clients who for security or personal safety reasons would not want the vehicle to be identifiable.

Advertisements may be permitted to be displayed on the outside rear doors of the vehicle and the rear of the vehicle only. All artwork in respect of advertisements shall be submitted to the Licensing Officer for approval to ensure that no controversial subjects shall be advertised.

Internal advertisements may be permitted subject to the above preconditions but must not be affixed to any windows

Frequency of Testing

A private hire vehicle over 1 year and under 5 years old must have a Licensing Authority vehicle test every 12 months. The age of the vehicle will be determined with reference to the vehicle registration document (V5).

A private hire vehicle over 5 years old must have a Licensing Authority vehicle test every 6 months. The age of the vehicle will be determined with reference to the vehicle registration document (V5).

Supplementary Policy on the Licensing of Stretched Limousines as Private Hire Vehicles

Stretched Limousines must meet the standard local authority private hire conditions in accordance with the specific requirements below:-

The vehicle must be right hand drive.

As a limousine is a vehicle that has been the subject of a major conversion or modification evidence must be provided to show that there is a voluntary SVA (Single vehicle approval) issued by a VOSA testing station covering such conversion or modification.

The applicant must provide written evidence that the vehicle has undergone one of the following:-

- a conversion by a Ford Qualified Vehicle Modifier (QVM Certificate) or a Cadillac Master Coachbuilder (CMC Certificate); or
- an equivalent conversion program (the onus will be on the applicant to demonstrate that if the converter is not Ford or Cadillac approved, that the standard of the conversion is at least to the QVM or CMC standard)

Side facing seats will be permitted in Stretched Limousines.

A limousine must have appropriate operational seat belts for all passengers that the vehicle is licensed to carry.

POLICY ON THE RELEVANCE OF CONVICTIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

The local licensing authority must be satisfied that all those who are licensed to drive hackney carriages and private hire vehicles are fit and proper persons. This general policy relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver's licence has received a relevant conviction, caution or fixed penalty. Due weight and consideration will also be given to any warnings or reprimands given to the applicant in relation to criminal offences.

Additionally, it will be referred to where a relevant conviction, caution or fixed penalty has been received during the period of a driver's licence and used to help inform any decision as to the licence-holder's continuing fitness to hold a licence.

These guidelines shall apply to all new applicants and any application by a current holder for a further licence (popularly known as a 'renewal'), for hackney carriage drivers and private hire drivers. Any reference to an applicant shall also mean any person currently holding a hackney carriage driver's licence or a private hire driver's licence.

GENERAL POLICY

Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.

Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.

When the CRB and DVLA checks have been returned, the application will be considered in the light of the information provided. The information received from the CRB and DVLA will be used to ascertain whether the information given on the original application form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage.

A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a Licence. This is a criminal offence and, as such, may lead, not only to consideration of the applicant as not being a "fit and proper person", but criminal proceedings.

In the event that there are no relevant convictions, cautions or fixed penalties held, the applicant will be considered to be a "fit and proper person" and the matter will be determined by the issue of the licence.

Applications where convictions, cautions or fixed penalties are held will be considered by a Licensing Officer who, having regard to this policy may refer the application to a Licensing Sub-Committee for determination. This will result in either the determination of the applicant as a "fit and proper person", indicated by the issue of a licence, or the application being refused. In these circumstances, the applicant

has the right of appeal to the Magistrates Court, such appeal to be lodged within 21 days of the decision being notified.

GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS, CAUTIONS AND FIXED PENALTIES FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES

1. General Policy

- 1.1 Each case will be decided on its own merits.
- 1.2 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 1.3 A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character. Applicants will normally be expected to provide oral or written testimony of their good character given by an independent person of standing within the community.
- 1.4 In determining whether an applicant has remained free of conviction for an appropriate period, any time the applicant has spent in custody may be taken into consideration by the Authority.
- 1.5 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.
- 1.6 If the Licensing Officer, having had regard to these guidelines, feels there is some doubt as to the fitness and propriety of any person to hold a licence, the matter will be referred to a Licensing Sub-Committee for determination.
- 1.7 The following examples afford a general guide on the action which might be taken where convictions are disclosed.

2. Offences of Dishonesty

- 2.1 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.
- 2.2 Passengers may include especially vulnerable people.
- 2.3 Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. 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.

- 2.4 The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.
- 2.5 For these reasons a serious view is taken of any convictions involving dishonesty. In general an applicant with convictions for dishonesty, which are less than 4 years old, is unlikely to be considered favourably.
- 2.6 In particular, an application will normally be refused where the applicant has a conviction for an offence or similar offences or offences which replace the below offences and the conviction is less than 4 years prior to the date of application:-
 - Theft
 - Burglary
 - Fraud
 - Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
 - Handling or receiving stolen goods
 - Forgery
 - Conspiracy to defraud
 - Obtaining money or property by deception
 - Other deception

3. Violence

- 3.1 Drivers of hackney carriage and private hire vehicle are often entrusted with the care of children and young persons.
- 3.2 It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.
- 3.3 The Council seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken where offences of violence involve children or young persons.
- 3.4 Where an offence involved loss of life a licence will normally be refused. In other cases a period of 5 to 10 years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will generally be required before an application is likely to be considered favourably.
- 3.5 In particular an application will normally be refused where the applicant has a conviction for an offence or similar offence(s), or offence(s) which replace the following:
 - Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving

- 3.6 An application will also normally be refused where the applicant has a conviction for an offence or similar offence(s) or offence(s) which replace the following and the conviction is less than 10 years prior to the date of application:
- Arson
 - Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
 - Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
 - Grievous bodily harm with intent (s.18 Offences Against the Person Act)
 - Grievous bodily harm with intent (s.20 Offences Against the Person Act)
 - Robbery
 - Possession of firearm
 - Possession of an imitation firearm
 - Riot
 - Assault Police
 - Common assault with racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
 - Violent disorder
 - Resisting arrest
- 3.7 An application will also normally be refused where the applicant has a conviction for an offence or similar offence(s) or offence(s) which replace the following and the conviction is less than 8 years prior to the date of application:
- Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)
 - Racially-aggravated s.4 Public Order Act 1986 offence (fear of provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
 - Racially-aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress (s.31(1)(b) Crime and Disorder Act 1998)
 - Racially-aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
 - Racially-aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)
 - Racially-aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
 - Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- 3.8 An application will also normally be refused where the applicant has a conviction for an offence or similar offence(s) or offence(s) which replace the following and the conviction is less than 5 years prior to the date of application:

- Common assault
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Possession of offensive weapon
- Possession of prohibited articles (as prescribed)
- Criminal damage

4. Drugs

- 4.1 An application will normally be refused where the applicant has a conviction for an offence related to either the supply of drugs or the possession of drugs with intent to supply, and where the conviction is less than 5-10 years prior to the date of application.
- 4.2 After 5 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.
- 4.3 An application will normally be refused where the applicant has more than one conviction for offences related to the possession of drugs and the convictions are less than 5 years prior to the date of the application.
- 4.4 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3 years will require careful consideration of the facts.
- 4.5 If any applicant was an addict then they will normally be required to show evidence of 5 years free from drug taking after detoxification treatment. If detoxification treatment was not undertaken the applicant will need to provide other medical evidence to demonstrate that they are no longer dependant on drugs.
- 4.6 When considering any drug related offence, the classification of the drugs involved will be a factor taken into consideration when determining applications.

5. Sexual / Indecency Offences

- 5.1 Any applicant currently on the sex offenders' register would not normally be granted a licence.
- 5.2 Drivers of hackney carriage and private hire vehicle are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons. Therefore where the commission of a sexual offence involves a child or young person an application for a licence will normally be refused.

- 5.3 As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, applicants with a conviction for rape, indecent assault, or other similar offences including those under the Sexual Offences Act 2003, will normally be refused a licence.
- 5.4 Applicants with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences including those under the Sexual Offences Act 2003, will normally be refused a licence until they can show a substantial period (usually between 5 and 10 years) free from any such conviction.
- 5.5 After 5 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

6. Drunkenness

With a motor vehicle (No Disqualification)

- 6.1 A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.
- 6.2 An application will normally be refused where the applicant has a conviction, which does not result in disqualification, for an offence within 2 years of the date of the application.
- 6.3 More than one conviction for this type of offence, within the last 5 years of the date of conviction is likely to merit refusal.

With a motor vehicle (Disqualification)

- 6.4 Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.
- 6.5 In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic. If detoxification treatment was not undertaken the applicant will need to provide other medical evidence to demonstrate that they are no longer dependant on alcohol.

Not in a motor vehicle

- 6.6 An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate.
- 6.7 More than one conviction for drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence.
- 6.8 In addition, applicants will generally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic. If detoxification treatment was not undertaken the applicant will need to provide other medical evidence to demonstrate that they are no longer dependant on alcohol.

7. Motoring Convictions

7.1 Major Traffic Offences

An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.

More than one conviction for this type of offence within the last 5 years is likely to merit refusal.

7.2 Minor Traffic Offences

Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least 6 months.

In particular, an application will normally be refused where the applicant has received 12 or more penalty points on his DVLA licence in the five years prior to the application being made (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months.

A list of offences to which this paragraph applies can be found at Annex A to this policy

7.3 Hybrid Traffic Offences

Offences of the type listed below will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

7.4 Disqualification

- 7.4.1 Where an applicant has been disqualified from driving because of a major traffic offence the application will generally be refused unless a period of 2 years free from conviction has elapsed from the restoration of the DVLA licence.
- 7.4.2 Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 12 months free from conviction must have elapsed from the restoration of the DVLA licence.
- 7.4.3 In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the Council is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply. An applicant will normally be

expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

8. Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976

8.1 One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.

8.2 In particular, an applicant will normally be refused a licence where (s)he has been convicted of an offence under the Acts at any time during the 6 months preceding the application or has more than one conviction within the last 2 years preceding the date of the application.

9. 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 justice cannot be done in the case, except by admitting or requiring evidence relating to that spent conviction.

10. Cautions and Endorsable Fixed Penalties

For the purpose of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

Due weight and consideration will also be given to warnings and reprimands given to applicants in respect of criminal offences, but these will not be treated as though they were convictions.

ANNEX A

MAJOR TRAFFIC OFFENCES

- 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 by order of court
- BA30 Attempting to drive while disqualified by order of 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 careless driving then failing to supply a specimen for analysis
- CD80 Causing death by careless, or inconsiderate, driving
- CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers
- 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 a vehicle when unfit through drugs
- IN 10 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 licence 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)

MINOR TRAFFIC OFFENCES

- MS10 Leaving a vehicle in a dangerous position
- MS20 Unlawful pillion riding
- MS30 Play street Offences
- MS70 Driving with uncorrected defective eyesight
- MS80 Refusing to submit to an eyesight test
- MS90 Failure to give information as to identity of driver, etc.
- MW10 Contravention of Special Road Regulations (excluding speed limits)
- PC10 Undefined contravention of Pedestrian Crossing Regulations
- PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
- PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle
- TS10 Failing to comply with traffic light signals
- TS20 Failing to comply with double white lines
- TS30 Failing to comply with a "Stop" sign
- TS40 Failing to comply with direction of a constable or traffic warden
- TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
- TS60 Failing to comply with school crossing patrol sign
- TS70 Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)

HYBRID TRAFFIC OFFENCES

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Using a mobile phone while driving a motor vehicle
- SP10 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

POLICY ON THE SUSPENSION, REVOCATION OR REFUSAL TO RENEW HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES

INTRODUCTION

Tewkesbury Borough Council has to be satisfied that those persons who hold licences to drive hackney carriage and/or private hire vehicles are fit and proper persons to do so.

The fitness and propriety of a person will be assessed before a licence is issued to a person, however the Council also needs to keep the fitness and propriety of licence holders under review after a licence is granted as circumstances may change and the person may no longer be deemed a fit and proper person to hold a licence.

Licence holders are required by the conditions of their licences, to notify the Council of any convictions, cautions or fixed penalties that they receive. Licence holders are also required to notify the Council of any pending court cases and if they develop any health or medical issues that may affect their fitness as a driver.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 gives Tewkesbury Borough Council the power to suspend, revoke or (on application) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds-

- **That since the grant of the licence they have been convicted of an offence involving dishonesty, indecency or violence.**
- **That since the grant of the licence they have been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976.**
- **Any other reasonable cause**

Each case will be decided on its own merits. Although an applicant may have received convictions, cautions or fixed penalties that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision. The Council may take into account anything they consider relevant to the decision being taken.

GUIDELINES RELATING TO THE SUSPENSION, REVOCATION OR REFUSAL TO RENEW HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES

1. GENERAL

- 1.1 Each case will be decided on its own merits and with reference to the Council's "Policy on the Relevance of Convictions for Hackney Carriage and Private Hire Drivers."
- 1.2 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
- 1.3 The following examples afford a general guide on the action which might be taken when considering the continuing suitability of a person to hold a licence.

2. LICENCE HOLDER CONVICTED OF AN OFFENCE INVOLVING DISHONESTY, INDECENCY OR VIOLENCE

- 2.1 Where an existing licence holder is convicted of an offence involving dishonesty, indecency or violence they will normally be referred to a Licensing Sub-Committee who will consider whether to take any steps in relation to the licence.
- 2.2 The Licensing Sub-Committee will then have regard to all the circumstances including:-
 - The seriousness of the offence (including the sentence imposed)
 - Whether the offence was committed whilst acting as a hackney carriage or private hire driver
 - Any previous convictions, cautions or fixed penalties received
 - The licence holder's previous compliance record
 - Evidence of previous good character
 - Any mitigating factors involved in the commission of the offence
- 2.3 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-
 - Issue a warning to the licence holder about their future conduct.
 - Suspend the licence
 - Revoke the licence
 - Refuse to renew the licence (if such an application is being considered)

- 3. LICENCE HOLDER CONVICTED OF AN OFFENCE UNDER OR HAS FAILED TO COMPLY WITH THE PROVISIONS OF THE TOWN POLICE CLAUSES ACT 1847 OR PART TWO OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**
- 3.1 Where an existing licence holder is convicted of an offence under, or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976, they will normally be referred to a Licensing Sub-Committee who will consider whether to take any steps in relation to the licence.
- 3.2 The Licensing Sub-Committee will then have regard to all the circumstances including:-
- The seriousness of the offence (including the sentence imposed)
 - Whether the offence was committed whilst acting as a hackney carriage or private hire driver
 - Any previous convictions, cautions or fixed penalties received
 - The licence holder's previous compliance record
 - Evidence of previous good character
 - Any mitigating factors involved in the commission of the offence
- 3.3 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-
- Issue a warning to the licence holder about their future conduct.
 - Suspend the licence
 - Revoke the licence
 - Refuse to renew the licence (if such an application is being considered)
- 4. "ANY OTHER REASONABLE CAUSE"**
- 4.1 Convictions, Cautions or Fixed Penalties for Driving Offences**
- 4.1.1 A licence holder receiving a conviction, caution or fixed penalty for a major driving offence will normally be referred to a Licensing Sub-Committee who will consider whether to take any steps in relation to the licence.
- 4.1.2 A licence holder receiving convictions, cautions or fixed penalties for minor driving offences will normally be issued with a written warning by the Licensing Officer. If however a licence holder receives 9 or more penalty points on their driving licence in a period of 12 months they will normally be referred to a Licensing Sub-Committee. The Licensing Sub-Committee will then consider whether to take any steps in relation to the licence.
- 4.1.3 A list of offences deemed to be major and minor driving offences can be found at Annex A to this policy.
- 4.1.4 The Licensing Sub-Committee will then have regard to all the circumstances including:-

- The seriousness of the offence(s) (including the sentence(s) imposed)
- Whether the offence(s) were committed whilst acting as a hackney carriage or private hire driver
- Any other previous convictions, cautions or fixed penalties received
- The licence holder's previous compliance record
- Evidence of previous good character
- Any mitigating factors involved in the commission of the offence(s)

4.1.5 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-

- Issue a warning to the licence holder about their future conduct.
- Suspend the licence
- Revoke the licence
- Refuse to renew the licence (if such an application is being considered)

4.1.6 Where the licence holder has been disqualified from driving by the Courts as a result of any convictions, cautions or fixed penalties received, the Licensing Sub-Committee will always revoke the licence held to drive hackney carriage or private hire vehicles.

4.2 Convictions, Cautions or Fixed Penalties for Other Offences

4.2.1 If a licence holder receives a conviction, caution or fixed penalty for any other offence not covered in the guidelines above they may be referred to a Licensing Sub-Committee.

4.2.2 The Licensing Sub-Committee will then have regard to all the circumstances including:-

- The seriousness of the offence (including the sentence imposed)
- Whether the offence was committed whilst acting as a hackney carriage or private hire driver
- Any other previous convictions, cautions or fixed penalties received
- The licence holder's previous compliance record
- Evidence of previous good character
- Any mitigating factors involved in the commission of the offence

4.2.3 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-

- Issue a warning to the licence holder about their future conduct.
- Suspend the licence
- Revoke the licence
- Refuse to renew the licence (if such an application is being considered)

4.3 Licence Holder Charged With, or Arrested on Suspicion of Offences

- 4.3.1 The presumption of innocence is an important doctrine in English law. It is a fundamental right that a person charged with a criminal offence shall be presumed innocent until proved guilty according to law. Therefore in normal circumstances no action will be taken against a licence holder until they are convicted or accept a caution or fixed penalty for any offence.
- 4.3.2 However all public authorities have a duty to balance the rights of individuals against the duty to protect children, vulnerable adults and the wider public, therefore we reserve the right to refer to a Licensing Sub-Committee any relevant notifications concerning a licence holder being arrested on suspicion of any offence.
- 4.3.3 The offences to which this paragraph applies will include any offences involving violence or sexual offences and any other offences where the safety of children or vulnerable adults and the wider public could be considered as being at risk.
- 4.3.4 The Licensing Sub-Committee will then have regard to all the circumstances which will include but not be restricted to:-
- The seriousness and circumstances of the alleged offence
 - The potential risk to children, vulnerable adults and the wider public
 - Whether the offence is alleged to have been committed whilst the licence holder was acting as a hackney carriage or private hire driver
 - Any previous convictions, cautions or fixed penalties received
 - The licence holder's previous compliance record
 - Evidence of previous good character
- 4.3.5 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-
- Issue a warning to the licence holder about their future conduct.
 - Suspend the licence
 - Refuse to renew the licence
 - Revoke the licence

4.4 Breaches of Licence Conditions

- 4.4.1 Hackney carriage and private hire driver licences are granted subject to certain conditions, which must be complied with.
- 4.4.2 An isolated breach of a licence condition will normally only result in the licence holder being issued with a written warning by the Licensing Officer.
- 4.4.3 Multiple, repeated or serious breaches of licence condition will result in the licence holder being referred to a Licensing Sub-Committee for consideration.
- 4.4.4 The Licensing Sub-Committee will then have regard to all the circumstances including:-

- The seriousness of the breach(s)
- Any previous convictions, cautions or fixed penalties received
- The licence holder's previous compliance record
- Evidence of previous good character
- Any mitigating factors involved in the commission of the breach(s)

4.4.5 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-

- Issue a warning to the licence holder about their future conduct.
- Suspend the licence
- Revoke the licence
- Refuse to renew the licence (if such an application is being considered)

4.5 Concern Over Medical Fitness

4.5.1 Hackney carriage and private hire drivers are required to notify the Council if they develop any health or medical issues that may affect their fitness as a driver.

4.5.2 In such circumstances the licence holder may be referred to a Licensing Sub-Committee at the discretion of the Licensing Officer where the issue is likely to affect the licence holder in the long term.

4.5.3 The Licensing Sub-Committee will then have regard to all the circumstances including:-

- The seriousness of the medical condition
- Any previous ill health suffered by the licence holder
- Any reports supplied by medical practitioners
- The likelihood and anticipated timeframe for recovery

4.5.4 The Licensing Sub-Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-

- Require the licence holder to undertake a medical examination
- Suspend the licence
- Revoke the licence
- Refuse to renew the licence (if such an application is being considered)

5. RIGHTS OF APPEAL AND IMMEDIATE SUSPENSION / REVOCATION

5.1 Under section 61(3) of the Local Government (Miscellaneous Provisions) Act 1976 any person aggrieved by a decision to suspend, revoke or refuse to renew a private hire driver's licence, may appeal to a magistrates court.

5.2 Where an appeal is lodged against a decision to suspend, revoke or refuse to renew a driver's licence, Section 77 of the Act prevents such decision taking

effect until the appeal is disposed of. Therefore a licence holder will be able to continue driving hackney carriage or private hire vehicles until 21 days after the Notice of the decision is given to them (unless an appeal is lodged, and then until the appeal is determined)

- 5.3 Section 61 has subsequently been amended by Section 52 of the Road Safety Act 2006 to enable the suspension or revocation to take place with immediate effect [section 61(2B)] if it appears that this is in the interests of public safety. The Notice of suspension/revocation must state that this is so, and give an explanation of why an immediate suspension or revocation is required. In these circumstances the driver concerned would have no right to continue driving even if they were to lodge an appeal against the decision (unless/ until an appeal is upheld).
- 5.4 In deciding whether or not a suspension or revocation should have immediate effect the Licensing Sub-Committee will have regard to all the circumstances including:-
- The seriousness of the risk to public safety
 - The fact that the licence holder may suffer financial hardship whilst waiting for their appeal to be heard.

ANNEX A

MAJOR TRAFFIC OFFENCES

- 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 by order of court
- BA30 Attempting to drive while disqualified by order of 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 careless driving then failing to supply a specimen for analysis
- CD80 Causing death by careless, or inconsiderate, driving
- CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers
- 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 a vehicle when unfit through drugs
- IN 10 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 licence 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)

MINOR TRAFFIC OFFENCES

- MS10 Leaving a vehicle in a dangerous position
- MS20 Unlawful pillion riding
- MS30 Play street Offences
- MS70 Driving with uncorrected defective eyesight
- MS80 Refusing to submit to an eyesight test
- MS90 Failure to give information as to identity of driver, etc.
- MW10 Contravention of Special Road Regulations (excluding speed limits)
- PC10 Undefined contravention of Pedestrian Crossing Regulations
- PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
- PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle
- TS10 Failing to comply with traffic light signals
- TS20 Failing to comply with double white lines
- TS30 Failing to comply with a "Stop" sign
- TS40 Failing to comply with direction of a constable or traffic warden
- TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
- TS60 Failing to comply with school crossing patrol sign
- TS70 Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)

HYBRID TRAFFIC OFFENCES

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Using a mobile phone while driving a motor vehicle
- SP10 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

TEWKESBURY BOROUGH COUNCIL

HACKNEY CARRIAGE VEHICLE LICENCE CONDITIONS

General

No changes to the specification, design or appearance shall be made to the vehicle without the prior approval of the Licensing Officer.

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

The Licence Holder shall ensure that all fittings and seating are such as to be efficient, safe, tidy and clean.

The vehicle must comply with all relevant road traffic regulations and legislation in force.

Passenger Seats

All passenger seats (including spaces for wheelchairs) shall be of sufficient dimensions as to allow the passenger using the seat to be carried in safety and comfort. In the case of passenger seats, these must be at least 400mm wide for each seat that is to be licensed for the carriage of passengers.

Side facing passenger seats are prohibited.

Fire Extinguisher and First Aid Kit

The licence holder shall ensure that a fire extinguisher and first aid kit is provided in the vehicle and is maintained in good working order and readily available for use.

CCTV

CCTV systems may be installed in the vehicle with the approval of the Licensing Officer.

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

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 have been approved by the Licensing Officer.

Hackney carriages with trailers attached are prohibited from parking on a hackney carriage stand.

Seatbelts

Each passenger seat must have an appropriate, operational seatbelt.

Meter

For requirements relating to meters in Taxis please see Hackney Carriage Bylaws.

Taxi meters may be tested for accuracy at the discretion of the Licensing Officer.

Fares

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.

Hackney Carriage Vehicle Plates

The exterior licence plate shall be displayed on the outside rear of the vehicle and shall be displayed at all times that the licence is in force. The licence plate must be clearly visible at all times.

This requirement does not apply where the plate has been removed temporarily to either allow cleaning or maintenance of the vehicle, or to avoid theft of the plate whilst the vehicle is not in use.

The licence plates shall remain the property of the Licensing Authority and in the event that the licence is suspended, revoked or expired it shall be returned to the Licensing Authority within seven days from the date of a notice served on the licence holder by the Licensing Authority.

Roof Signs

A roof sign must be displayed on the top of the vehicle showing the word 'Taxi'. The sign shall be controlled by the meter and shall be illuminated when the vehicle is available for hire.

The design of the roof sign shall be approved by the Licensing Officer.

Door Panels

There shall be clearly displayed on one or both sides of the vehicle the name of the business, or if there is no business name, the name of the proprietor and the words "HACKNEY CARRIAGE", "CAB" or "TAXI".

Advertising

Advertisements may be permitted to be displayed on the outside rear doors and the rear of the vehicle only. All artwork in respect of advertisements shall be submitted to the Licensing Officer for approval to ensure that no controversial subjects shall be advertised.

Change of address or details of Licence

A holder of a hackney carriage vehicle licence must notify the Licensing Authority in writing within seven days of any changes in the details of their hackney carriage vehicle licence including a change of address.

Vehicle Testing

A hackney carriage over 1 year and under 5 years old must have a Licensing Authority Vehicle Test every 12 months.

A hackney carriage over 5 years old must have a Licensing Authority Vehicle Test every 6 months.

Driver

The vehicle may only be driven by a driver licensed by Tewkesbury Borough Council and who has authority to drive the appropriate category of vehicle on their DVLA driving licence for the vehicle concerned.

TEWKESBURY BOROUGH COUNCIL

PRIVATE HIRE VEHICLE LICENCE CONDITIONS

General

No changes to the specification, design or appearance shall be made to the vehicle without the prior approval of the Licensing Officer.

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

The Licence Holder shall ensure that all fittings and seating are such as to be efficient, safe, tidy and clean.

The vehicle must comply with all relevant road traffic regulations and legislation in force.

Passenger Seats

All passenger seats (including spaces for wheelchairs) shall be of sufficient dimensions as to allow the passenger using the seat to be carried in safety and comfort. In the case of passenger seats, these must be at least 400mm wide for each seat that is to be licensed for the carriage of passengers.

Side facing passenger seats are prohibited.

Fire Extinguisher and First Aid Kit

The licence holder shall ensure that a fire extinguisher and first aid kit is provided in the vehicle and is maintained in good working order and readily available for use.

CCTV

CCTV systems may be installed in the vehicle with the approval of the Licensing Officer.

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

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 have been approved by the Licensing Officer.

Seatbelts

Each passenger seat must have an appropriate, operational seatbelt.

Meter

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 licence holder must advise the Council of the tariff to which a meter in a private hire vehicle is set.

Private Hire Vehicle Plates

The exterior licence plate shall be displayed on the outside rear of the vehicle and shall be displayed at all times that the licence is in force. The licence plate must be clearly visible at all times.

This requirement does not apply where the plate has been removed temporarily to either allow cleaning or maintenance of the vehicle, or to avoid theft of the plate whilst the vehicle is not in use.

The licence plates shall remain the property of the Licensing Authority and in the event that the licence is suspended, revoked or expired it shall be returned to the Licensing Authority within seven days from the date of a notice served on the licence holder by the Licensing Authority.

Roof Signs

The displaying of signs on or above the roof of a private hire vehicle is prohibited.

Door Panels

There shall be clearly displayed on one or both sides of the vehicle, the name of the business, or if there is no business name, the name of the holder of the operator's licence, the telephone number of the business or operator and the words private hire. The words "CAB" or "TAXI" must not be displayed on the vehicle.

An exemption from this condition can be provided on written request to the Licensing Officer for vehicles used exclusively for "executive hire". "Executive hire" means that the vehicle is used exclusively to provide transport under a written contract to companies or persons, or by the type of clients who for security or personal safety reasons would not want the vehicle to be identifiable.

Advertising

Advertisements may be permitted to be displayed on the outside rear doors of the vehicle and the rear of the vehicle only. All artwork in respect of advertisements shall be submitted to the Licensing Officer for approval to ensure that no controversial subjects shall be advertised.

Internal advertisements may be permitted subject to the above preconditions but must not be affixed to any windows

Change of address or details of Licence

A holder of a private hire vehicle licence must notify the Licensing Authority in writing within seven days of any changes in the details of their private hire vehicle licence including a change of private hire vehicle operator or a change of address.

Vehicle Testing

A private hire vehicle over 1 year and under 5 years old must have a Licensing Authority vehicle test every 12 months.

A private hire vehicle over 5 years old must have a Licensing Authority vehicle test every 6 months.

Driver

The vehicle may only be driven by a driver licensed by Tewkesbury Borough Council and who has authority to drive the appropriate category of vehicle on their DVLA driving licence for the vehicle concerned.

TEWKESBURY BOROUGH COUNCIL

PRIVATE HIRE DRIVER LICENCE CONDITIONS

Medical Conditions

If a Driver develops any health or medical issues that may affect his/her fitness as a driver, during the period of the Licence, he/she must notify the Licensing Authority within 7 days.

The Licensing Authority may require a Driver to produce medical evidence of continuing fitness to drive during the period of the licence

Requirement to return Driver Badge

If a Driver is no longer employed as a taxi or private hire driver, he/she must return his/her licence, badge, and any other related items to the Licensing Authority within 7 days.

Notification of Changes

If a Driver moves house or changes his/her name, or if any other details included on the application form changes, he/she must write and let the Licensing Authority know within 7 days.

If a Driver ceases to work for a private hire operator or changes to work for another private hire operator he/she must write and let the Licensing Authority know within 7 days.

Convictions, Cautions and Fixed Penalties

If a Driver gets any convictions, cautions, fixed penalties or has a court case pending, he/she must write and let the Licensing Authority know within 7 days.

Code of Conduct

A Driver whilst working as a Taxi or Private Hire Driver shall act in accordance with the following;

- Wear the Taxi or Private Hire Drivers Badge, provided by the Licensing Authority, in such a position and manner as to be plainly visible to the customer.
- Have a clean and tidy appearance.
- Behave in a polite and courteous manner.
- Take reasonable precautions to ensure the comfort and safety of passengers including when they are getting in and out of the vehicle.

- 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 you should proceed to the destination by the shortest route.
- Not eat or drink in the vehicle whilst carrying passengers.
- 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 vehicle.
- Not carry animals in the vehicle whilst working as a taxi 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. (Except for Guide, Hearing and Assistant Dogs which must be carried unless the Driver holds an exemption on medical grounds)

Passengers

The driver shall not convey or permit to be conveyed in a licensed vehicle a greater number of persons than that prescribed in the licence for the vehicle, provided that the seating capacity may be exceeded where a child can legally be held by an adult in the rear seats without the need for an individual seatbelt.

The driver shall not allow there to be conveyed in the front of a licensed vehicle any child below the age of ten years, or more than one person above that age.

The driver shall not without the consent of the hirer of the vehicle convey or permit to be conveyed any other person in the vehicle.

Lost Property

As soon as possible after a passenger has left a vehicle, a driver should check to make sure that no property has been left behind.

If a passenger does leave something in a vehicle and it is not claimed in 48 hours, the Driver should take it to a local police station and get a receipt for it from the duty officer.

Copy of Conditions

The driver shall at all times when driving a licensed vehicle carry with him a copy of these conditions and shall make it available by the hirer or any other passenger on request.

Deposit of Licence

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

TEWKESBURY BOROUGH COUNCIL

PRIVATE HIRE OPERATOR LICENCE CONDITIONS

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 Licensing Authority in writing within seven days.

Change of address or details of Licence

Any person named on the private hire operator's licence must notify the Licensing Authority in writing within seven 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.

Responsibility for Drivers and Vehicles

An operator must take all reasonable steps to 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.

Accepting Bookings

An operator must not accept a booking unless he/she has taken reasonable steps to ensure that the person making the booking knows the basis of the hire charge

Booking Records

An operator must keep a record 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.
- How the booking is made.
- The time of the pick up
- 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.

Details of all bookings must be entered into the records immediately after they have been accepted or as soon as is reasonably practicable and should be kept for six months.

Other Records

The operator must maintain driver training records and vehicle maintenance records including any relevant documentation in relation to the Lifting Operations and Lifting

Equipment Regulations 1998 (LOLER) and/or the Provision and Use of Work Equipment Regulations 1998 (PUWER).

An 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

An operator shall notify the Licensing Authority, in writing within seven days of the termination of the employment or contract of a private hire vehicle or driver.

Standard of Service

An 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.

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 operator must hold public liability insurance for those areas if relevant.

Telephones and Radios

The operator shall ensure that any telephone facilities and radio equipment provided are maintained in a sound condition and that any defects are repaired promptly.



(DRAFT)

HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

2016 - 2019

**Tewkesbury Borough Council, Council Offices
Gloucester Road, Tewkesbury, Gloucestershire, GL20 5TT**

www.tewkesbury.gov.uk/licensing

Revised with effect from

Index	Page No.
1. Overview	3
2. Hackney Carriage and Private Hire Vehicles	6
3. Hackney Carriage and Private Hire Drivers	9
4. Private Hire Operators	14
APPENDIX A: Licence conditions and specifications for hackney carriage vehicles	17
APPENDIX B: Licence conditions and specifications for private hire vehicles and operators	21
APPENDIX C: Licence conditions and code of conduct for hackney carriage and private hire drivers	26
APPENDIX D: Consideration of applications for the grant, renewal, suspension or revocation of licences	28
APPENDIX E: Relevance of convictions	29

1. Overview

1.1 Local area profile

Tewkesbury Borough Council has the responsibility to regulate hackney carriage and private hire trade under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. We are responsible for licensing hackney carriage and private hire vehicles, drivers and operators. This policy outlines how we will discharge the regulatory functions for hackney carriage and private hire licensing within the borough.

Tewkesbury Borough covers an area of 160 square miles in north Gloucestershire. The borough is situated within the Severn vale and stretches south beyond the outskirts of Cheltenham and Gloucester with borders alongside the county of Worcestershire to the north. It occupies the northern gateway into the south west region.

The borough is predominantly rural in nature with the largest towns / villages being Tewkesbury, Winchcombe, Bishop's Cleeve and Churchdown.



1.2 Purpose and Objectives

- to confirm to members** of the licensing committee the boundaries and powers of the council and the parameters within which to make decisions
- to inform applicants** of the parameters within which the council will make licensing decisions and therefore how licensed operators, drivers and vehicles can operate within the area of the council.
- to inform local residents and businesses** of the parameters within which the council will make licensing decisions and therefore how their needs will be addressed
- to support a case in a court of law** where the council has to show how it arrived at its licensing decisions.

In setting out this policy, we seek to promote the following objectives:

- the protection of public health and safety
- the maintenance of a professional and respected hackney carriage and private hire trade
- access to an efficient and effective transport service
- the protection of the environment.

The aim of the licensing process, in this context, is primarily to protect the public as well as to ensure that the public have reasonable access to these services, because of the part they play in local transport provision. It is important that the council's hackney carriage and private hire licensing powers are used to ensure that licensed vehicles in the borough are safe, comfortable, properly insured and available where and when required.

We will have regard to this policy document and the objectives set out above when exercising our discretion in carrying out their regulatory functions. Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits in accordance with the enforcement policy. Where it is necessary to depart substantially from this policy, clear and compelling reasons will be given for doing so.

The policy provides guidance for applicants, drivers and operators to assist them with the application processes and operation of their businesses. This guidance, application forms and current fees are also available on the council's website. In order to ensure that the most up to date version is used, applicants, drivers and operators should not store these forms on their own system but should download the latest version of a form when it is required.

1.3 Role of hackney carriages and private hire vehicles

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

1.4 Best practice guidance and legislation

The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales. As a result of the then Office of Fair Trading producing a report on the UK hackney carriage and private hire trade, the DfT was asked to produce best practice guidance for local licensing authorities. The latest guidance was issued in March 2010. In addition, the Equality Act 2010 has implications for both hackney carriage and private hire operators in respect of disabled access to vehicles and further guidance and directions are expected on this matter.

The DfT guidance is directed at local authorities in England and Wales with responsibility for hackney carriage and private hire licensing who will "decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes". The document recognises that licensing authorities may reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances. We have taken account of the DfT guidance and the Local Government Association's handbook for councillors on taxi and private hire licensing to shape this policy.

This policy also takes account of the legislative basis of the council's taxi licensing powers, contained in the Town Police Clauses Act 1847 and 1889, the Public Health Act 1875, the Local Government Act 1972 and the Local Government (Miscellaneous Provisions) Act 1976 as amended, which the council have adopted.

1.5 Costs and benefits of licensing policies

The DfT guidance stresses that licensing requirements which are unduly stringent are likely to unreasonably restrict the supply of hackney carriage and private hire services by increasing the cost of operation or by otherwise restricting entry to the trade. We recognise that too restrictive an approach may well work against the public interest and can have safety implications.

We will ensure that each of the various licensing requirements is properly justified by the risk it seeks to address. The financial or other cost of a particular requirement, in terms of its effect on the availability of transport to the public, should at least be matched by the benefit it will provide to the public.

The cost of administering the policy including the cost of enforcement where the law allows will be met from licensing fees. In adopting this policy, we will try to strike a balance between the financial interests of the trade, public safety and the delivery of other council plans and policies.

1.6 Safeguarding

Human Trafficking is a crime relating to the moving a vulnerable person from one place to another against their will. Child Sexual Exploitation is the sexual abuse of young people under 18 and usually involves relationships where young people receive something (food, accommodation, drugs, alcohol, affection, gifts, money) as a result of performing sexual acts. Criminals often use licensed vehicles and drivers to move these vulnerable people. Licensed drivers are the eyes and ears of their communities through the work they do and the contacts they have.

Licence holders can operate in positions of trust and it is vital that any relevant information about safeguarding issues is shared so that individuals are blocked from becoming taxi operators or holding any other kind of licence in different council areas across the county/country. Without effective information sharing, there is a real risk of unsuitable people being granted licences to operate which puts people at risk. We will share relevant information with Police and other authorities to protect children and vulnerable adults.

Licensed drivers' and operators' ability to spot the signs of human trafficking and having the knowledge of how to report their concerns can be a major help in preventing this crime. One sign on its own may not be significant, but several signs together should give cause for concern.

If the drivers and operators think that a passenger;

- a) does not know their home or work address
- b) allows others to speak for them when addressed directly
- c) lives or travels in a group, sometimes with other persons who do not speak the same language or not similar age
- d) are collected very early and/or returned late at night on a regular basis
- e) may have poor clothing for the work they are doing, and/or a lack of safety equipment
- f) they may look thin, ill or depressed
- g) has no cash of their own
- h) be known to work at a brothel and be frequently moved from one site to another.

They should contact Gloucestershire Constabulary by calling 101 (or if an emergency 999) or Crimestoppers on 0800 555 111

1.7 Enforcement

The DfT guidance is clear on the necessity of enforcement to maintain high standards of public safety. All enforcement schemes need to be proportionate and transparent. While the ultimate authority is the court, the expectation is that enforcement will be carried out by officers overseen by the Licensing Committee and their associated sub-committees.

Our enforcement system will need to deal with persistent, low level breaches up to serious, possibly, criminal behaviour. There needs to be a grade of sanctions from informal advice and warnings through to suspension and revocation of licence. It is clear that the majority of enforcement will be for relatively minor offences or breaches and will be undertaken by the officers.

1.8 Tariff

We operate a council set hackney carriage tariff. The tariff is a maximum figure that hackney carriage drivers can charge based on a range of factors including time of day or night and special occasions such as bank holidays. The tariff does not apply to private hire vehicles or pre-booked journeys where the cost is agreed in advance. Drivers may charge any amount for a journey provided it does not exceed the fare on the meter. Hackney carriage vehicles must clearly display the tariff card within the vehicle.

2. Hackney Carriage and Private Hire Vehicles

2.1 Limitation of numbers

We will not set a limit on the number of licensed hackney carriages. No powers exist to limit the number of licensed private hire vehicles.

2.2 Specifications and conditions

We have adopted minimum standards that will be applied to all licensed vehicles. These are set out in Appendix A for hackney carriages and Appendix B for private hire vehicles.

We may impose such conditions that are reasonably necessary when granting hackney carriage or private hire vehicle licences. Licensed vehicles provide a service to the public therefore; we will only license vehicles suitable for this purpose. It is important to set criteria for the external and internal condition of the vehicle, provided that these are not unreasonably onerous, to maintain high standards within the trade.

We can licence vehicles for the carriage of up to eight passengers provided that there is compliance with the specifications and conditions. We will determine 'novelty vehicles' on a case by case basis.

We will not license purpose built hackney carriage vehicles as private hire as this can confuse members of the public. We will not licence any vehicle with a 'Q' plate registration as 'Q' plates are issued for vehicles which are either not originally registered in the UK and proof of age was unavailable at registration or for vehicles that have been built using a significant proportion of used parts.

2.3 Maximum age of vehicles

The DfT guidance states that it is possible for an older vehicle to be in good condition and that the setting of an age limit beyond which the licensing authorities will not license vehicles may be arbitrary and disproportionate. We will not apply age restrictions to vehicles meeting the required standards.

2.4 Vehicle testing

The DfT guidance recognises that an annual MOT test for licensed vehicles of whatever age is appropriate. More frequent tests are not recommended, except for older vehicles.

A vehicle will require an MOT test, from any certified testing station, before a licence is granted and the MOT must be valid for at least 11 months. Officers may inspect vehicles that have not previously been licensed before a licence is granted.

Hackney carriage and private hire vehicles will be tested once each year until six years old. Brand new registered vehicles that have less than 5000 miles will not have to undertake a vehicle test. If the vehicle is over six years old when a licence is issued it will be required to undertake two MOT tests each year falling at the start of the licence and six months into the licence.

Officers may request that work identified on the MOT test is undertaken before a licence is granted, or within a certain time frame of the licence being granted. If vehicles are found to be in breach of licence conditions, officers may require the proprietor to bring all licensed vehicles, or vehicles used by the operator or company, to the council for inspection.

2.5 Signage and advertising

Members of the public can often confuse private hire vehicles with hackney carriages, without realising that private hire vehicles are not available for immediate hire or allowed to be hailed in the street. It is therefore important that the public are able to easily distinguish each type of vehicle.

For this reason private hire vehicles must not display any roof signs and hackney carriage vehicles must display roof signs as specified elsewhere in the policy.

Both hackney carriages and private hire vehicles must display a licence plate on the outside rear of the vehicle. We may use different colours and different styles for hackney carriage and private hire vehicles.

The external licence plate shall be securely fixed to the outside and rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet, or on a secure bracket. Temporary fixing such as magnets or Velcro[®] is not allowed.

2.6 Advertising on licensed vehicles

Advertising will be permitted on all licensed vehicles. Complaints about unsuitable or offensive advertisements may be referred to the officers.

2.7 Plate exemption for private hire vehicles

Private hire vehicles which are used for contract work for at least 75 per cent of the time can be exempted from displaying a plate. The operator's records for these vehicles must prove that the required amount of contract work is being carried out. We will also require evidence as to why a plate exemption is required. Where an exemption is granted, the rear licence plate must be carried in the boot of the vehicle at all times. Vehicles given this exemption will normally be executive type cars. We will determine applications for exemption on a case by case basis. The plate exemption must be applied for on an annual basis on the anniversary of the renewal of the vehicle licence. Operators and drivers should not automatically assume that when licensing a new vehicle to replace an existing plate exempted vehicle or renewing an existing plate that the plate exemption will continue.

The licence fee payable for plate exemption is subject to annual review and will be published together with other council licensing fees.

2.8 Security and CCTV

There is no mandatory requirement for CCTV system in the licensed vehicles. Operators and drivers may install such equipment but its use must be clearly indicated by signs in the vehicle including contact details for the system manager/operator. All such equipment and images must be operated in accordance with the Data Protection Act 1998. It is the responsibility of the driver/operator to ensure compliance.

2.9 Environmental considerations

It is important that emissions from hackney carriages and private hire vehicles are reduced as far as possible. In the event that central government introduces measures to control emissions or local emission controls were to be required by an air quality action plan the council may review the policy on emission standards for licensed vehicles.

2.10 Stretched limousines and novelty vehicles

The number of stretched limousines being imported, particularly from the United States, has been increasing. They are generally used for private hire work and special occasions.

We are sometimes asked to license stretched limousines as private hire vehicles. We will assess licence applications for these vehicles in accordance with the 'novelty vehicles specifications' set out in Section 2 of the Appendix B.

Where a vehicle has been imported from another country, we may require VOSA approved certification prior to licensing approval. Due to the individual nature of stretched limousines or novelty vehicles, it will inevitably give rise to issues that would not apply to conventional private hire vehicles and therefore it will be necessary to consider special conditions on any such licence. We will take into consideration the guidance issued by the DfT, 'Guidance for operators of stretched limousines'.

Stretched limousines or novelty vehicles may be granted a private hire vehicle licence provided that they are capable of carrying no more than eight passengers and meet the requirements of the Single Vehicle Approval (SVA) or Individual Vehicle Approval (IVA) certificate.

All applications to license stretched limousines or novelty vehicles as private hire vehicles will be judged on their merits. As these vehicles will not meet the usual vehicle specification, additional documentation and inspection will be needed in order to ensure safety and suitability.

2.11 Funeral and wedding vehicles

There is currently no requirement for a vehicle to be licensed where it is being used in connection with a funeral.

A vehicle does not need to be licensed to be used in connection with a wedding. However, if a licensed hackney carriage vehicle is used for a wedding the licence plate and roof sign must be displayed.

2.12 Livery

There is no requirement for licensed vehicles to be finished in a special livery or appearance. The visual distinction between hackney carriages and private hire vehicles can be achieved by the signage.

2.13 Transfers

A proprietor of a licensed hackney carriage or private hire vehicle may transfer their interest in the vehicle to another person. Under Section 49 of the Local Government (Miscellaneous Provisions) Act 1976, they must ensure that the licensing authority is notified of the new proprietor's name and address within 14 days.

Applications to transfer a licence must be made on the prescribed application form. The licence fee payable for a transfer is subject to annual review and will be published together with other council licensing fees.

2.14 Accidents

Drivers and operators must inform licensing officers when a hackney carriage or a private hire vehicle is involved in a road traffic accident. They must report within three working days of the accident occurring and bring the vehicle for inspection if requested by officers. Officers may examine the extent of the damage and determine whether or not the vehicle must be repaired to allow it to continue as a licensed vehicle.

2.15 For hackney carriage vehicles

- a) **Hackney carriage roof signs and meters:** A roof sign must be displayed on the top of the vehicle showing the word 'Taxi'. The sign shall be controlled by the meter and shall be illuminated when the vehicle is available for hire. The design of the roof sign shall be approved by the licensing officers. Taxi meters may be tested for accuracy at the discretion of licensing officers.
- b) **Use of hackney carriage vehicles:** When an applicant wishes to licence a vehicle as a hackney carriage, we will need information, pursuant to section 57 of the Local Government (Miscellaneous Provisions) Act 1976, as to whether the applicant intends to use the vehicle to stand or ply for hire in the council's area and also if the applicant intends to use the vehicle entirely or predominantly remotely from the council's area on a pre-booked basis. Whilst each application will be considered on its own merits, we will have regard to the geographic location of an applicant's home and business address. If we have a reason to believe that the hackney carriage is to be used entirely or predominantly remotely from the council's area on a pre-booked basis, then the application for a licence will normally be refused or existing licence may be suspended or revoked.

2.16 Grant and renewal of hackney carriage and private hire vehicle licences

Hackney carriage and private hire vehicle licences will be granted for a period of one year. We may issue licences for a shorter period where it may be necessary, we will issue shorter licences on case by case basis.

It is the proprietor's or operator's responsibility to ensure that vehicle tests are carried out in sufficient time and that insurance, vehicle registration documents and the annual fee are available for processing in time for the issue of a licence.

We will only accept complete applications comprising all the necessary documents and checks. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued. The vehicle will then be unlicensed and must not be used as a hackney carriage or private hire vehicle.

Applications for a hackney carriage or private hire vehicle licence must be made on the prescribed application form, including any electronic forms and in accordance with our application procedure. Relevant forms and documents are available on our website together with guidance to assist in the completion of the application.

The licence fees payable are subject to annual review and will be published together with other council licensing fees.

2.17 Change of details

The proprietor must notify licensing officers in writing of any change of address or telephone number during the period of the licence within seven days of the change taking place.

3. Hackney Carriage and Private Hire Drivers

3.1 Age and experience

We will not impose either a maximum or minimum age limit for drivers. Applicants must have held a DVLA licence for at least three years prior to applying for a licence to drive a hackney carriage or private hire vehicle.

3.2 Knowledge test and spoken English proficiency

Hackney carriage drivers need a good working knowledge of the area for which they are licensed. The law requires that members of the public are transported by the most direct and therefore cheapest route. Hackney carriages can be hired immediately, directly with the driver, at hackney carriage stands or hailed on the street. The DfT recognises that most licensing authorities require prospective hackney carriage drivers to pass a test of local topographical knowledge as a condition of gaining a licence.

In order to maintain the high standards expected of drivers, we will not issue a licence to drive a hackney carriage vehicle unless the applicant has passed a knowledge test of the area covering local geography.

Applicants are given their result as soon as possible and always within one week. If the applicant has passed the test, their application can proceed to the next stage. If they have failed the test they are given feedback and a re-sit is booked as soon as the applicant requires and there is a place available.

There is a fee to sit and re-sit the test and this is published separately together with the other council licensing fees. No applicant may sit the test more than five times in any 12 month period except in exceptional circumstances.

There has been an increase in the number of applications for hackney carriage and private hire drivers' licences from people whose first language is not English. Most communication between drivers and passengers is spoken so it is essential that all candidates have a reasonable standard of spoken English.

Licensing officers will decide spoken English proficiency and if a new applicant needs to undergo additional testing. New applicants for hackney carriage and private hire driver's licence must demonstrate a basic level of spoken English or they will be required to pass a prescribed independently administered English test prior to their application for a private hire or hackney carriage driver's licence being considered. Candidates will be responsible for all the costs associated with this additional testing.

3.3 Driving proficiency, qualifications and giving assistance

We have concluded that the standard DVLA driving test provides sufficient evidence of driving competency for the drivers of hackney carriage and private hire vehicles. There are nationally recognised vocational qualifications for the hackney carriage and private hire trades. These cover customer care, including how best to meet the needs of people with disabilities and there may be advantages in encouraging drivers to obtain one of these qualifications in the future. We encourage such training as this enhances the standing of the trade as one with recognised qualifications to demonstrate competence.

A driver who has accumulated nine or more points on their DVLA licence or who have complaints proven against them about the standard of their driving may be required to pass the Driving Standards Agency Taxi and Private Hire Drivers Assessment in order to remain licensed by the council.

3.4 Safeguarding training

The council has duty to protect those who are vulnerable. We are committed to safeguarding and promoting the welfare of children, young people and vulnerable adults and we expect the taxi and private hire trade to share this commitment.

All licensed drivers must demonstrate successful completion of a prescribed safeguarding training within six months of first being licensed or within 12 months of renewing their licence.

The fee for this training will be published separately together with the other council licensing fees.

If an applicant or existing licensed driver can show they have passed adequate similar training will be exempted from this requirement.

Drivers who fail to comply with this requirement will have their licence suspended until they demonstrate that they have met this requirement.

3.5 DVLA driving record check

Before the grant or renewal of a driver's licence, the applicant will be required to submit to a DVLA check. Applicants can share their driving records by using an electronic self-service system. There is no fee for the self-service system. However, applicants will pay a fee if they do not wish to use the self-service system. We will require a mandate for release of information under the data subject access provisions of the Data Protection Act 1984, section 21 (1) and (2), from the DVLA for every application.

This check brings to light any driving offences committed that may not appear on the licence submitted and which should have been declared on the application form.

3.6 Medical examination

The DfT recognises that it is good practice for medical checks to be made on each driver as a condition for the initial grant of a licence and for each renewal. Adopting 'Group 2' medical standards as applied by DVLA to the licensing of lorry and bus drivers and applying standards to hackney carriage and private hire drivers is considered to be best practice by DfT guidance.

A medical examination carried out by a GP at the surgery the applicant is registered at is required before the grant of a driver's licence in order to assess an applicant's fitness to drive a licensed vehicle. A DVLA Group 2 standard of medical fitness for professional drivers will be required.

A request form for a medical examination, which must be presented to a GP at the applicant's registered GP surgery, is obtainable from the licensing team. The applicant will be responsible for paying the fee for the examination to their GP surgery. On completion of the examination, a confidential report will be submitted to the council. The GP completing the medical examination will be required to certify that they have checked the applicant's personal medical records before completing the medical examination.

The DVLA Group 2 medical standard stipulates that over the age of 45 drivers will require a medical every five years. Drivers aged 65 and over, or those with relevant medical conditions, will require an annual examination. More frequent checks will be required if the medical practitioner thinks it is necessary. Holders of current PSV and/or HGV licences who can produce proof of a current medical examination, not more than one month old, will not need to undergo a further medical examination before licensing or re-licensing.

Licence holders must advise the licensing team, in writing, of any deterioration in their health that may affect their driving capabilities. If there is any doubt as to the medical fitness of the applicant, we may require the applicant to undergo a further medical examination by a medical practitioner appointed by us. In these circumstances we will pay for the medical examination. Where there remains any doubt about the fitness of any applicant, the applicant will be brought before the licensing sub-committee and they will review the medical evidence and make the final decision.

3.7 Disclosure and Barring

A criminal record check on a driver is an important safety measure. The DfT considers that such checks should be at the level of enhanced disclosure through the Disclosure and Barring Service as these disclosures include details of spent convictions and police cautions.

The Rehabilitation of Offenders Act 1974 and associated amendments sets out the period after which a conviction/caution/warning would be regarded as 'spent' and not normally require disclosure of that conviction. However, in 2002 the Rehabilitation of Offenders Act 1974 was amended so as to exclude hackney carriage and private hire drivers from the 1974 Act. This was because the driving of hackney carriages and private hire vehicles was listed as a 'Regulated Occupation' in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Applicants for such licences must therefore disclose all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders, traffic offences and fixed penalty notices, including those that would previously have been regarded as spent under the 1974 Act.

An Enhanced Disclosure and Barring Service disclosure certificate will be required before a licence to drive a hackney carriage or private hire vehicle is granted and then every three years. We will accept portability of DBSs where it is done through an approved DBS body and the workforce category is the same as the workforce category for hackney carriage and private hire drivers. We will only accept DBS certificates issued within 28 days prior to the date we receive the DBS certificate.

Where the applicant is registered with the DBS Update service, we will accept the DBS certificate regardless of how long ago it was issued and we will carry out an electronic check in accordance with the DBS procedures. If the electronic check reveals that there is a change since the last DBS certificate was issued, we will require a new DBS certificate.

We may request another disclosure at any time if a further check is considered necessary. As a further safeguard a regime of random Enhanced DBS checks on drivers may be carried out. If a driver is given notice to undertake a random DBS check by the council they must do so within 28 days of the request.

There will be a condition on the licence to advise drivers that their hackney carriage or private hire driver's licence may be suspended or revoked if any relevant information is later found on the DBS disclosure.

We are bound by rules of confidentiality, and we will not divulge any information to third parties. The applicant for a DBS disclosure is sent a disclosure report to their home address; this must then be shown to the licensing team. We will manage information arising from disclosures in accordance with the DBS's codes of practice.

Licensed drivers must report all new convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) in writing within seven working days.

Currently the DBS only has details of offences committed in England, Scotland, Wales, Northern Ireland, Jersey, Guernsey, the Isle of Man and Gibraltar, therefore if an applicant has lived in countries other than these an authenticated certificate of good conduct from the relevant embassy/ies will be required. If an applicant submits a certificate of good conduct in a language other than English, we may appoint a translator and the translation fee will be passed on to the applicant. The application will not be considered complete if this fee has not been paid. Most embassies produce the certificate in English.

3.8 Relevance of convictions and cautions

When assessing whether an applicant is a 'fit and proper person' to hold a licence, or whether an existing licence holder is still a 'fit and proper person' to continue to hold a licence, we will consider each case on its merits. It will take account of convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences) whether spent or unspent, but only in so far as they are relevant to an application for a licence. The licensing officer will assess the information provided, in accordance with the licensing policy, and decide whether the applicant is a 'fit and proper person' to hold a licence or whether the existing licence holder is still a 'fit and proper person' to continue to hold a licence. Where the applicant meets the requirements of the policy and the licensing officer concludes that the applicant is a 'fit and proper person' the licensing officer has the delegated authority to approve the application.

Where the licensing officer cannot be satisfied that either the applicant or an existing licence holder is a fit and proper person the matter may be referred to the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

When dealing with convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences), we will take into account:

- a) whether convictions are spent or unspent
- b) the nature of the offences
- c) the age of the offences
- d) whether the offences are relevant
- e) the number of offences.

Guidance about specific offences is given in Appendix E. In general terms, if the offence is recent and relevant to public safety, the council is;

- a) less likely to approve the application for a new licence, and
- b) more likely to revoke an existing licence.

Applicants can appeal to their local magistrate's court against a refusal to grant or decision to suspend or revoke the licence.

Applicants or existing licence holders may be referred to the licensing sub-committee where the applicant/existing licence holder's record includes one or more of the following:

- a) any term of imprisonment or custody
- b) any conviction for a violent or sexual offence, or dishonesty which is of a serious nature
- c) any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving
- d) nine or more points on their DVLA Driving Licence.

3.9 Proof of right to work in the UK

Employers are liable to a civil penalty of up to £20,000 per illegal worker if they knowingly employ someone who does not have the right to work in the UK.

Whilst not being the employer of hackney carriage or private hire drivers, it is necessary for licensing authorities to check on an applicant's right to work before granting a hackney carriage/private hire driver's licence. We agree that this is not only good practice but helps protect the income of those currently licensed who do have the right to work.

We will refer to the latest Government guidance when dealing with applicants and therefore all applicants will have to prove their right to work in the UK by supplying the relevant documentation as detailed in the guidance.

If an applicant is unable to provide satisfactory proof of their right to work in the UK, there will be no option other than to refuse to grant or refuse to renew the licence, or if circumstances came to light during the duration of a licence, to revoke it. To issue the licence may be regarded as condoning the offence and assisting the applicant to gain employment to which they are not entitled.

All current licensed drivers if required will be asked to prove their right to work on renewal of their licence. The right to work will normally only need to be proved once. Applicants may only be licensed until their right to work will expire.

If after referring to the relevant Government guidance, licensing officers are still unsure about an applicant's right to work in the UK, they will discuss the applicant's documentation with the Home Office. If it transpires the applicant is illegally in the UK (due to illegally entering or overstaying for example) council officers will assist the UK Border Force, Immigration Office or police in their enquiries as necessary.

3.10 Behaviour and conduct of drivers

Adopting a Code of Good Conduct for hackney carriage and private hire drivers serves to promote the council's licensing objectives.

The standards expected of licensed drivers are set out in the Code of Good Conduct that is included within the conditions attached to the driver's licence and set out at Appendix A.

Failure to comply with any aspect of the Code of Good Conduct will not necessarily result in enforcement action. However, breach of the code is an indicator which licensing officers will use to help decide upon subsequent enforcement action. This may result in enforcement action by licensing officers or if necessary, by the licensing sub-committee. Repeated breaches following education or warnings may lead to more serious consequences including if necessary, refusal to renew, suspension or revocation of licences.

3.11 Fit and proper

'Fit and proper person' is not defined in any of the legislation but is key when determining a driver application or renewal. The following statement is commonly used as a guide to clarifying the meaning. 'Would you allow your son, daughter, mother, spouse or other person you care about get into this vehicle with this person alone?'

This statement was confirmed in discussion by Silber J. in the case of Leeds City Council v Hussain (2002) which surrounds the suspension of a driver;

'... the purpose of the power of suspension is to protect the users of licensed vehicles and those who are driven by them and members of the public. Its purpose 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 people'

Officers and the licensing sub-committee will bear the above statement in mind when determining applications, renewals and when making enforcement decisions. Other factors will also be considered on a case by case basis.

3.12 Grant and renewal of licences

Licences to drive hackney carriage and private hire vehicles (driver's licence) will generally be granted for three years. We may issue licences for a shorter period where it may be necessary, we will issue shorter licences on case by case basis.

To allow sufficient time for documents to be processed, applicants should ensure to submit their complete application, including the fee, at least eight weeks before expiry of a driver's licence.

We will aim to send a reminder letter to drivers twelve weeks before the expiry of an existing licence. Drivers are reminded that we are not obliged to do this and the responsibility of ensuring licences and DBS disclosures do not expire remains with the licence holder. If a DBS disclosure has not been issued in time we may only renew a driver's licence if the applicant has returned their application form for the DBS disclosure in the time specified on the renewal letter.

We may refuse to grant licences where the application is missing any of the necessary documentation. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued, therefore the driver will be unlicensed during which time it will be illegal for them to drive a licensed hackney carriage or private hire vehicle or to use an unlicensed vehicle for the carriage of passengers for hire and reward.

Applications for a hackney carriage/private hire driver's licence must be made on the prescribed application form, including any electronic forms.

Once we have the complete application, we will consider it on its own merits taking into account the driver's previous history of behaviour to determine if they meet the 'fit and proper person' criteria.

The licence fees payable is subject to annual review and will be published together with other council licensing fees.

3.13 Change of details

Drivers must notify us in writing within seven days of any change of address or telephone number during the period of the licence.

4. Private Hire Operators

4.1 Requirements and obligations

Any person who operates a private hire service (who is not a hackney carriage proprietor allowing hackney carriages to be used for private hire) must apply for a private hire operator's licence. The objective in licensing private hire operators is the safety of the public. Best practice in respect of the controls required over private hire operators is to ensure that the costs of any licensing requirements are commensurate with benefits that they seek to achieve.

A private hire vehicle must only be dispatched to a customer by a licensed private hire operator. Such a licence permits the operator to invite or accept bookings for a private hire vehicle. Private hire operators must ensure that every private hire vehicle that they operate is licensed by the same council who issued them with the operator's licence and that it is driven by a person who holds a private hire driver's licence issued by the same council.

Applicants must apply for an operator's licence using the prescribed form, including any electronic forms and submit the correct fee. All new private hire operators must undergo a Basic Disclosure (if the operator is also a licensed driver with the council the requirement for the DBS disclosure is waived as the driver will have been subject to an Enhanced Disclosure). We will then decide whether the applicant is a fit and

proper person to hold such a licence. The applicant must prove that they are entitled to work within the UK. For details of the requirement and guidance please see paragraph 3.9

If an applicant is unable to provide satisfactory proof of their right to work in the UK, there will be no option other than to refuse to grant or refuse to renew the licence, or if circumstances came to light during the duration of a licence, to revoke it. To issue the licence may be regarded as condoning the offence.

4.2 Criminal record checks

Private hire operators are not exempt from the Rehabilitation of Offenders Act 1974. We will require a Basic Disclosure and Certificate of Good Conduct (if required) before a licence is granted and then every five years. Where the private hire operator is trading as a limited company we may also require the directors and company secretary to undertake a Basic Disclosure check.

We will consider each application on its own merits once the application form and supporting documents are complete.

4.3 Conditions

Private hire operators' licences are issued with conditions set out in Appendix B. We may impose additional where necessary.

4.4 Record keeping

Section 56(2) and (3) of the Local Government (Miscellaneous Provisions) Act 1976 requires operators to record specific information. The information shall be kept in a suitable book or on a computer or any other similar device. If using a book the pages must be numbered consecutively and the operator shall enter or cause to be entered before commencement of each journey, the following particulars of every booking accepted:

- a) the time and date of the booking
- b) the name of the hirer
- c) the fare quoted
- d) how the booking was made, e.g. telephone or email and the time
- e) the time of the proposed pick up
- f) the point of pick up and drop off
- g) the registration or plate number of the vehicle allocated for the booking and the name of the driver.

Operators are legally required to keep records in respect of all bookings, vehicles and drivers, for a period of one year as set out in the private hire operator's conditions.

Operators who maintain computerised records will be required to give access to these records to licensing officers upon request in order that the licensing officers can carry out their enforcement duties.

Operators will also be required to provide adequate instruction to licensing officers in order to enable them to interrogate the computerised records to gather the information they require to carry out their enforcement duties.

4.5 Insurance

Operators are required to provide evidence that public liability insurance to the value of £5 million has been taken out for premises that are open to the public (e.g. waiting rooms).

4.6 Address from which an operator may operate

The address used on the operator's application form must be the one where the invitation and acceptance of bookings take place. This will be the premises where the records referred to above are kept and at which they may be inspected by licensing officers. This will also be the address at which the vehicle(s) will normally be kept and be available for inspection.

It will be the responsibility of the operator to ensure that necessary planning consent exists for the operational address to be used for that purpose.

We cannot grant a private hire operator's licence for an operator with an operating base that is outside the council's areas.

4.7 Sub-contracting

A private hire operator may sub-contract a booking to another licensed private hire operator in accordance with relevant legislation. A record of who the booking was sub-contracted to and when must be made in accordance with the licence conditions.

4.8 Grant and renewal of licences

Private hire operator's licences will be granted for a five year period. We may issue licences for a shorter period where it may be necessary. We will issue shorter licences on case by case basis.

Whilst we will aim to send a reminder letter to the current operator before their existing licence expires, operators are reminded that we are not obliged to do this and the responsibility for ensuring licences do not expire remains with the licence holder.

If a disclosure has not been issued in time, we will only renew an operator's licence if the applicant has returned their application form in the time specified on the renewal letter. However, we may place a condition on the licence that private hire operator's licence may be suspended or revoked if any relevant information is later found on the disclosure.

We may refuse to grant licences where the application is missing any of the necessary paperwork. Incomplete or missing documentation may result in the application being returned to the applicant. If an application is received late, the licence may expire before a new one can be issued, resulting in it being illegal to operate as no operator's licence would be in force.

Applications for operator's licences must be made on the prescribed application form, including any electronic forms. The licence fees payable are subject to annual review and will be published together with other council licensing fees.

4.9 Change of details

The operator must notify the council in writing within seven days of any change of address, (whether this is a home address or the operating address) or change of telephone number or any other details during the period of the licence.

APPENDIX A: Licence conditions and specifications for hackney carriage vehicles

Hackney carriage vehicle conditions

1. A hackney carriage proprietor is an owner or part owner of a vehicle, or where a vehicle is subject to a leasing contract, hire agreement or hire purchase, a proprietor is the person in possession of the vehicle under the agreement. In both cases the proprietor requires a hackney carriage proprietor's licence from the council, before they are legally entitled to use the vehicle for plying for hire.
2. Licences can be obtained by making an application to the council. Each applicant must submit an application in respect of every vehicle for which a licence is required. The following details specify the standard minimum requirements for vehicles licensed for public hire or reward by the council. They have been set down for the purposes of indicating to any prospective licence holder what will be acceptable, under delegated powers, to licensing officers and this should be borne in mind before a vehicle is purchased. Any vehicle presented for licensing which does not comply may only be accepted after consideration of the merits of the application by the licensing sub-committee. The applicant will, in these circumstances, be required to submit a persuasive and substantial case for departing from the normal policy.

Specification

3. The vehicle must meet the following specification:
 - a) the vehicle must be capable of carrying not fewer than four passengers and no more than eight.
 - b) each passenger seat shall be fitted with a seat belt. No seats may be side facing.
 - c) the seat provided for each passenger will have a minimum width of 16 inches (40.6 cm) measured across its narrowest part.
 - d) each passenger shall have direct access to a door without the need to remove or completely fold flat any other seating in order that passengers may access their seat easily and escape without delay in case of emergency. The council will consider vehicles that have seats that 'tilt' forward by a single operation. If this type of seat is fitted the driver must inform the passengers of the operation of the seats before a journey commences.
 - e) the vehicle will be right hand drive.
 - f) the vehicle will have four road wheels.
 - g) the vehicle will have an engine with a capacity of at least 990cc. including vehicles badged by the manufacturer as '1.0' models. Electric vehicles fitted with 'range extender' technology may be exempt from this restriction.
 - h) the vehicle in addition to the driver's door, will have three doors each of which must be fitted with an efficient handle, lock and window operation to allow access and egress for passengers.
 - i) the vehicle must have a boot or luggage compartment which provides sufficient space to carry a reasonable amount of luggage for the total capacity of the vehicle.
 - j) estate cars must have a guard/cover fitted to prevent luggage entering the passenger compartment.
 - k) no alteration to the manufacturer's specification for the vehicle, including a change of or additional fuel type, shall be carried out except with the prior written approval of the council.
 - l) the front windscreen, front and rear windows must have a visible light transmission (VLT) of not less than 75 per cent so that the passengers can be seen from the outside of the vehicle. Only vehicle manufacture tints are permitted on the vehicle.

Equipment

4. The vehicle must carry the following equipment:
 - a) an in-date suitable and efficient fire extinguisher (1.0 kg dry powder or larger foam fire extinguisher) to meet BS EN 3 1996 (BS 5423), maintained at all times. It shall be securely fixed in the vehicle and be readily visible and available for immediate use in an emergency.

Each driver of a vehicle must familiarise themselves with the use of the fire extinguisher contained in the vehicle.

- b) a spare wheel suitable for immediate use and properly maintained; if the spare wheel is of the temporary space saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary and vehicles that have modern technology may be exempt from this condition at the discretion of the council.
- c) a jack and tools for changing the wheels
- d) a spare auto lamp kit applicable to the vehicle and the taxi sign
- e) a warning triangle
- f) a torch
- g) an in-date first aid kit.

Condition of vehicle

- 5. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council and in particular the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills, tears and the seats must function in accordance with the original manufacturer's specification. The vehicle will comply with all relevant statutory requirements applicable to the class of vehicle to which it belongs including, but without prejudice to the Motor Vehicle (Construction and Use) Regulations.

Insurance and other documentation

- 6. The proprietor shall not use the vehicle, nor permit it to be used, as a hackney carriage vehicle if it does not have a policy of insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, covering the use of the vehicle to carry passengers for hire or reward/ public hire. The proprietor must produce when requested a valid certificate of insurance. On renewal of the insurance a copy of the new certificate must be provided to the council. The council will only accept insurance from UK insurance bodies that are registered with the Motor Insurance Bureau.
- 7. The proprietor must produce when requested the vehicle registration document, evidence that the vehicle has a valid MoT certificate and evidence that the vehicle has a valid vehicle excise licence.

Licence plates

- 8. The external licence plate supplied by the council shall be securely fixed to the outside rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet or on a secure bracket. The penalty for failing to display a licence plate is a fine not exceeding Level 3 on the Standard Scale. The licence plate remains the property of the council at all times. If required to do so at any time the licence holder must return the plate to the council within seven days.

Roof sign and advertisement requirements

- 9. There is no exception to the roof sign unless the vehicle is a London style cab or other similar vehicle which has a built in taxi roof sign.
- 10. Advertisements are permitted on the interior of purpose built hackney carriages on the underside of the tip up seats and across the bulkhead above the dividing glass partition only. The permitted sizes are as follows:
 - a) bulkhead 60cm x 8cm
 - b) tip up seat 33cm x 30.5cm.
- 11. No advertisement may be placed on the dividing glass partition other than notices approved by the council.
- 12. Advertisements are not permitted on the interior of non-purpose built hackney carriage vehicles, without prior written permission from the council.

13. Advertisements are permitted on the exterior of hackney carriages.
14. Proprietors may display a full livery and/or vehicle 'body-wrap'.
15. Operators are also permitted to display the following on the vehicle:
 - a) a sign indicating membership of the AA, RAC or other similar motoring organisation
 - b) a first aid kit sticker
 - c) any other material supplied by government or a government organisation or corporation with the permission of the council.

Audio, video or surveillance systems

16. No audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.

Smoking

17. No smoking is permitted in the vehicle by either the driver or passengers. The vehicle must comply with The Smoke-free (Exemptions and Vehicles) Regulations 2007 (S.I. 2007/765).

Meters/fare card

18. All hackney carriage vehicles shall be fitted with a taximeter compliant with the Measuring Instruments (Taximeters) Regulations 2006 (S.I. 2006/2304). The taximeter shall be maintained in a sound working condition at all times. The taximeter shall be set for the current maximum tariff agreed by the council (or can be set at a lower tariff) and shall be sealed by the approved testing stations to prevent unauthorised adjustment of that meter. Hackney carriage proprietors and drivers shall ensure the 'For Hire' sign or other illuminated sign is extinguished when the fare commences and the taximeter is brought into operation.
19. The taximeter must:
 - a) be of the clock calendar type and change according to the wording of the council's agreed current maximum fare tariff or a lower tariff set by the operator
 - b) not be altered or tampered with except with the approval of the council and must be retested by one of the council's approved testing stations if it is altered. All openings shall be sealed with a 'tamper evident' seal supplied by the council.
 - c) show the fare recorded on the taxi meter in plainly legible figures and the word 'FARE' shall be clearly displayed so as to apply to such figures
 - d) be kept securely fixed in such a position so that the fare recorded is visible to all passengers within the vehicle at all times and the figures shall be illuminated for this purpose whenever necessary.
20. A fare card must be fixed in such a position so that the fare to be charged is visible to all passengers within the vehicle at all times, and the figures shall be illuminated for this purpose. The fare card shall clearly display the vehicles licence number.

Wheelchair access

21. If the vehicle is designed or adapted to carry a wheelchair, the proprietor of the vehicle must ensure that the driver has received sufficient training to load and convey wheelchair bound passengers.
22. Any equipment fitted to the vehicle for the purpose of 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.

Trailers

23. Trailers may only be used with the prior written approval of the council. The trailer can only be used in connection with pre booked bookings and cannot be used for plying for hire on a rank or the street.
- a) the trailer must at all times comply with all requirements of Road Traffic legislation in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078)
 - b) the vehicle insurance must include cover for towing a trailer
 - c) a suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

Lost property

24. The proprietor or driver of a hackney carriage must hand in any found lost property to the nearest police station within 48 hours.

Convictions/ change in particulars of proprietor

25. The proprietor shall give notice in writing to the council within seven days of any conviction, warnings, reprimands, cautions, community service orders, restraining orders, and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.

APPENDIX B: Licence conditions and specifications for private hire vehicles and operators

SECTION 1

General

1. A private hire vehicle proprietor is an owner or part-owner of a vehicle, or where a vehicle is subject to a hire agreement or hire purchase, the person in possession of the vehicle under the agreement. A private hire vehicle proprietor must obtain a private hire vehicle licence from the council within whose area he or she wishes to trade for each vehicle used for private hire. The vehicle can only be operated under an operator's licence issued by the council.
2. Licences can be obtained by making an application to the council. Each applicant must submit an application in respect of every vehicle for which a licence is required. The following details specify the standard minimum requirements for vehicles licensed for private hire or reward by the council. They have been set down for the purposes of indicating to any prospective licence holder what will be acceptable, under delegated powers, by officers and this should be borne in mind before a vehicle is purchased. Any vehicle presented for licensing which does not comply may only be accepted after consideration of the merits of the application by a panel. The applicant will, in these circumstances, be required to submit a persuasive and substantial case for departing from the normal policy.

Specification

3. The vehicle must meet the following specification:
 - a) The vehicle must be capable of carrying not fewer than four passengers and no more than eight
 - b) Each passenger seat shall be fitted with a seat belt. No seats may be side facing.
 - c) The seat provided for each passenger will have a minimum width of 16 inches (40.6 cm) measured across its narrowest part
 - d) Each passenger shall have direct access to a door without the need to remove or completely fold flat any other seating in order that passengers may access their seat easily and escape without delay in case of emergency. The council will consider vehicles that have seats that tilt forward by a single operation. The driver must explain to the passengers the operation of the seats before a journey commences.
 - e) will be right hand drive
 - f) will have four road wheels
 - g) the vehicle will have an engine with a capacity of at least 990cc including vehicles badged by the manufacturer as '1.0' models. Electric vehicles fitted with 'range extender' technology may be exempt from this restriction.
 - h) will in addition to the driver's door, have three doors each of which must be fitted with an efficient handle, lock and window operation to allow access and egress for passengers
 - i) the vehicle must have a boot or luggage compartment which provides sufficient space to carry a reasonable amount of luggage for the total capacity of the vehicle.
 - j) estate cars must have a guard/cover fitted to prevent luggage entering the passenger compartment
 - k) no alteration to the manufactures specification for the vehicle, including a change of or additional fuel type, shall be carried out except with the prior written approval of the council
 - l) the front windscreen, front and rear windows must have a visible light transmission (VLT) of not less than 75 per cent so that the passengers can be seen from the outside of the vehicle. Only vehicle manufacture tints are permitted on the vehicle
 - m) a private hire vehicle must not be of such design or appearance as to lead any person to believe it is a hackney carriage.

Equipment

4. The vehicle must carry the following equipment:

- a) An in-date suitable and efficient fire extinguisher (1.0 kg dry powder or larger foam fire extinguisher) to meet BS EN 3 1996 (BS 5423), maintained at all times when the vehicle is licensed shall be securely fixed in the vehicle and be readily visible and available for immediate use in an emergency. Each driver of a vehicle must familiarise themselves with the use of the fire extinguisher contained in the vehicle
- b) A spare wheel suitable for immediate use and properly maintained; if the spare wheel is of the temporary space saver type, it may only be used to complete the particular journey or hiring the vehicle is engaged on when the wheel change is necessary and vehicles that have modern technology may be exempt from this condition at the discretion of the council
- c) a jack and tools for changing the wheels
- d) a spare auto bulb kit applicable to the vehicle
- e) a warning triangle
- f) a torch
- g) an in-date first aid kit.

Condition of the vehicle

- 5. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council and in particular the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills, tears and the seats must function in accordance with the original manufacturer's specification. The vehicle will comply with all relevant statutory requirements applicable to the class of vehicle to which it belongs including, but without prejudice to the generality of the Motor Vehicle (Construction and Use) Regulations which currently apply.

Insurance and other documentation

- 6. The proprietor shall not use the vehicle, nor permit it to be used, as a private hire vehicle if it does not have a policy of insurance, or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, covering the use of the vehicle to carry passengers for private hire. The proprietor must produce when requested a valid certificate of insurance. On renewal of the insurance a copy of the new certificate must be provided to the council. The council will only accept insurance from UK insurance bodies that are registered with the Motor Insurance Bureau.
- 7. The proprietor must produce when requested the vehicle registration document, evidence that the vehicle has a valid MOT certificate and evidence that the vehicle has a valid vehicle excise licence.

Licence plates

- 8. The external licence plate supplied by the council shall be securely fixed to the outside and rear of the vehicle either by direct fixing, e.g. screw, bolt or rivet, or on a secure bracket. The licence plate remains the property of the council at all times. If required to do so at any time the licence holder must return the plate to the council within seven days. The penalty for failing to comply with this request is a fine not exceeding Level 3 on the Standard Scale. An exemption for private hire vehicles from displaying the plate may be given at the discretion of the licensing officer in accordance with the policy on plate exemption.

Private hire signs and advertising

- 9. Private hire vehicles may display advertising provided it does not use the words 'Taxi' or 'Cab' that may indicate the vehicle is a hackney carriage. Private hire vehicles may also display:
 - a) a sign indicating membership of the AA, RAC or other similar motoring organisation
 - b) a sign which requires passengers not to smoke
 - c) a first aid kit sticker
 - d) any other material supplied by government or a government organisation or corporation with the permission of the council.

Audio/video or surveillance systems

10. No audio/video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.

Smoking

11. No smoking is permitted in the vehicle by either the driver or its passengers. The vehicle must comply with The Smoke-free (Exemptions and Vehicles) Regulations 2007 (S.I. 2007/765).

Wheelchair access

12. If the vehicle is designed or adapted to carry a wheelchair, the proprietor of the vehicle must ensure that the driver has received sufficient training to load and convey wheelchair bound passengers.

13. Any equipment fitted to the vehicle for the purpose of 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.

Trailers

14. Trailers may only be used with the prior written approval of the council and subject to the following requirements:

- a) trailers can only be used in connection with private hire bookings
- b) the trailer must at all times comply with all requirements of Road Traffic legislation in particular those laid down in the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078).
- c) the vehicle insurance must include cover for towing a trailer
- d) a suitable lid or other approved means of enclosure shall be fitted to secure and cover the contents of the trailer whenever in use.

Plate exemption

15. Vehicles which are used for contract work for at least 75 per cent of the time may be exempted from displaying a plate. The operator's records for these vehicles must prove that the required amount of contract work is being carried out and the council will require evidence as to why plate exemption is required. Such vehicles must display front and rear windscreen badges, which will be provided by the council. These badges will show the details of the vehicle as they appear on the plate. The licence plate will be provided and must be carried in the boot of the vehicle at all times. Vehicles given this exemption will normally be executive type cars. The council will determine applications for exemption on a case by case basis. The plate exemption must be applied for on an annual basis on the anniversary of the renewal of the vehicle licence. Operators/drivers should not automatically assume that when licensing a new vehicle to replace an existing plate exempted vehicle or renewing an existing plate that the plate exemption will continue.

Lost property

16. The proprietor or driver of a private hire vehicle must hand in any found lost property to the nearest police station within 48 hours.

Convictions/change in particulars of proprietor

17. The proprietor shall give notice in writing to the council within seven working days of any convictions, warnings, reprimands, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.

SECTION 2

Novelty vehicles

1. For the purpose of this policy, a novelty vehicle shall mean a vehicle that is used for a particular occasion or occasions of a restricted nature, e.g. transport to parties or an 'executive vehicle' and is not a conventional vehicle used for standard private hire work. Examples of vehicles that may fall within the 'special event' category are stretch limousines, classic cars, executive vehicles or a vehicle that has fewer than four seats.
2. This element of the policy does not apply in relation to vehicles used solely in connection with weddings and funerals, as these are exempt from private hire licensing.
3. The general licence conditions for private hire vehicles will not normally allow for novelty vehicles to be licensed for a number of reasons including the style and design of the vehicle.
4. Any novelty vehicle that has not been type approved, which does not meet the requirements of the Construction and Use Regulations or which otherwise would not meet the standard private hire vehicle conditions, the proprietor may apply to be licensed by seeking variation or exemption from some of the standard conditions.
5. Each vehicle will be considered and assessed on merit taking account of:
 - a) the overall condition of the vehicle
 - b) the number of passengers for which it is required to be licensed
 - c) the specific criteria for which exemption is sought.
6. The primary consideration will always be the safety and comfort of the travelling public.
7. This policy sets out the general considerations the council will take into account when considering an application for the licensing of a novelty vehicle.

Specification for novelty vehicles

8. Vehicles may be right or left hand drive provided that left hand drive vehicles have vehicle type approval from the Vehicle Certification Agency, Department for Transport, of which the council requires proof.
 - a) the vehicle must not have fewer than four road wheels
 - b) the number of doors must be sufficient to allow safe access and egress for the number of passengers for which approval is sought
 - c) the vehicle must comply with Construction and Use Regulations.
9. Vehicles must carry:
 - a) a fire extinguisher of a minimum of 1Kg power type and BS EN3 compliant, serviced in accordance with BS 5306, and a service record kept for inspection by an authorised officer of the council. The extinguisher must be securely affixed in the vehicle and ready for immediate use.
 - b) a first aid kit.
 - c) a spare wheel suitable for immediate use.
 - d) a jack and tools for changing the wheels.
 - e) the screen sticker, if supplied by the council, must be displayed in the lower nearside corner of the rear windscreen.
 - f) spare light bulbs.
 - g) no audio, video or recording systems shall be installed or operated in the vehicle without prior written notification being supplied to the council.
10. Any vehicle that has been constructed or adapted to seat more than eight passengers cannot be licensed as a private hire vehicle.

11. The interior and exterior of the vehicle shall be maintained in a clean and proper manner to the satisfaction of the council. In particular, the exterior of the vehicle shall be free of large dents, rust or un-repaired accident damage and shall at all times have uniform paintwork equivalent to that applied by the manufacturer. The interior shall be free of stains, spills and tears and the seats must function in accordance with the original manufacturer's specification.
12. No age limit will be set for novelty vehicles but they are required to be tested as per private hire vehicles.
13. The individual nature of a novelty vehicle will inevitably give rise to issues that would not apply to conventional private hire vehicles and therefore it will be necessary to consider whether special conditions should be included on any licence.

SECTION 3

Licence conditions for private hire operators

1. The holder of a private hire operator's licence shall comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.
2. The records required to be kept by the operator under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable book or on a computer or any other recordable device. If using a book the pages must be numbered consecutively and the operator shall enter or cause to be entered before commencement of each journey, the following particulars of every booking accepted:
 - a) the time and date of the booking
 - b) the name of the hirer
 - c) the fare quoted
 - d) how the booking was made, e.g. telephone or electronic and the time of booking
 - e) the time of the proposed pick up
 - f) the point of pick up and drop off
 - g) the registration or plate number of the vehicle allocated for the booking and the name of the driver.
3. If the operator uses a computerised booking system the council will require access to the system so that the council is able to establish that records are entered sequentially and that it is able to establish the date and time at which the record was created.
4. The operator shall also keep records of the particulars of all private hire vehicles, which shall include details of the owner, registration numbers and drivers of such vehicles, together with any radio call signals used. All records kept by the operator shall be kept for a period of not less than 12 months following the date of the last entry and shall be made available, upon request to an authorised officer of the council, police officer or any other relevant enforcement agency.
5. Operators will also be required to provide adequate instruction to officers in order to enable them to interrogate the computerised records to gather the information they require to carry out their enforcement duties.

APPENDIX C: Licence conditions and code of conduct for hackney carriage and private hire drivers

1. All drivers are required to be familiar with all parts of the council's policy and comply with the requirements of the policy and the conditions that form a part of their licence.
2. Any hackney carriage/private hire driver's badge that is supplied by the council will cease to be valid on the expiry of the licence or upon suspension, surrender or revocation of the licence. Any badge supplied remains the property of the council and must be returned to the council if suspended, revoked or expired. If demanded the licence holder must return their licence and badge to the council. The penalty for failing to comply with this request is a fine not exceeding Level 1 on the Standard Scale.
3. Whilst in control of a hackney carriage or private hire vehicle, the driver shall, if required to do so by any person, give his or her name and badge number and also the name and address of the owner/proprietor and the identification marks of the vehicle.
4. The driver shall give notice in writing to the council within seven working days of any convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) or change of their registered particulars, e.g. address or change of name.
5. If a driver is given notice to undertake a random DBS check by the council they must do so within 28 days of the request.
6. The driver 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. Drivers must ensure their appearance is smart and professional when working.
7. Any driver of a hackney carriage/ private hire vehicle acting in a disorderly, abusive, aggressive, or violent manner towards any member of the public, other driver or officer of the council may be deemed not to be a 'fit and proper person' to hold a licence.
8. Vehicle proprietors and drivers shall ensure that licensed vehicles do not cause an obstruction or nuisance to local residents when parked or collecting passengers.
9. To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:-
 - a) not sound the vehicle's horn unless in case of emergency
 - b) keep the volume of audio and communications equipment to a reasonable level
 - c) switch off the engine if required to wait
 - d) take all reasonable additional action as is necessary to avoid disturbance to residents in the neighbourhood.
10. Every driver shall at all times when in charge of a licensed vehicle wear their driver's badge supplied by the council and the badge should be clearly visible.
11. Under Equalities Act 2010 Section 168 (Assistance Dogs), drivers will be required to carry an assistance dog accompanying a disabled person without any additional charge unless the driver has a medical exemption certificate that allows him/her not to carry dogs for medical reasons.
12. A driver shall give notice in writing to the council within seven working days of any change in medical condition. If required by the council a new medical may be required to determine if the driver is a 'fit and proper person'.
13. At hackney carriage ranks drivers shall;
 - a) queue in an orderly manner and proceed along the rank in order and promptly

- b) if approached by a potential customer, direct them to the hackney carriage at the front of the rank unless the passengers specifically ask for a particular driver or company
- c) assist in improving air quality by switching off vehicle engines when parked, unless there are reasonable safety or comfort grounds for not doing so, for example keeping warm in very low temperatures.
- d) remain in or within 10 metres of the vehicle.
- e) not park on the rank when not working.

14. Every driver of a licensed vehicle when requested by any person hiring or seeking to hire the vehicle shall:

- a) convey a reasonable quantity of luggage
- b) afford reasonable assistance in loading and unloading
- c) be polite, helpful and fair to passengers, particularly those whose mobility may be restricted.

Legislation

15. The holder of every hackney carriage and private hire vehicle and drivers licence shall comply with the provisions relating to hackney carriage and private hire drivers and vehicles contained in the following legislation:

- a) Town Police Clauses Act 1847
- b) Part II Local Government (Miscellaneous Provisions) Act 1976
- c) Road Traffic Act 1988 Part 11 (a) Construction and Use of Vehicles and Equipment
- d) Section 168 Equalities Act 2010 (Assistance Dogs).

16. Notwithstanding the relevant legislation, the council's conditions, the council's hackney carriage and private hire driver, vehicle and operator policy and the council's byelaws, drivers, proprietors and operators should be aware of the following criminal offences:

- a) failure to give assistance to wheelchair users or failure to carry them safely
- b) charging an additional fee/fare for carrying a passenger needing assistance or for carrying an assistance dog
- c) refusal to carry an assistance dog without a medical exemption
- d) driving whilst using a hand held mobile telephone or device
- e) smoking in a hackney carriage or private hire vehicle
- f) driving whilst under the influence of alcohol, illegal or prescription drugs. Any amount of alcohol or illegal drug can affect a driver's capability to drive safely.
- g) exceeding the safe permitted number of working hours
- h) claiming benefits for which there is no entitlement
- i) and should always be aware of and obey traffic regulations and The Highway Code. This list is not exhaustive and the relevant enforcement agency (Police, local authority etc.) may take action as it sees fit. This may include prosecution.

APPENDIX D: Consideration of applications for the grant, renewal, suspension or revocation of licences

1. Upon receipt of a completed application form, the licensing officer will consider the application on its individual merits taking into account the person's previous history of behaviour to determine whether they meet the 'fit and proper person' criteria. Where the consideration is a review of an existing licence holder this will be to determine whether that person continues to meet the 'fit and proper person' criteria. Where the application is incomplete, it will not be considered until the missing details or documents are supplied and may be returned along with any fee provided.
2. Where having considered the application or review against the criteria of the council's policy the licensing officer considers that the person meets the criteria of a fit and proper person, the licensing officer has delegated powers to approve the application.
3. Successful applicants will be issued with a licence. Those who are granted a driver's licence will be issued with a badge, which will remain the property of the council and must be surrendered if the driver's licence is suspended or revoked. If a licence is suspended the driver must within seven days of that suspension return the badge to the council. If that suspension is subsequently lifted the badge will be returned to the driver within two working days.
4. Where having taken into account the applicant's history of behaviour including convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) the licensing officer is not satisfied that the person meets the criteria of a 'fit and proper person' and should therefore not be granted a licence, the officer will make a recommendation to the licensing sub-committee.
6. The proceedings and terms of reference of the licensing sub-committee are set out on the council's website.

Suspension or revocation

7. Under Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 a district council may suspend, revoke or refuse to renew a Hackney Carriage / Private Hire driver's licence. This may be for the following reasons;
 - a) since the grant of the licence they have been convicted of an offence involving dishonesty, indecency or violence, or
 - b) any other reasonable cause.
9. Under this section the driver has 21 days to appeal against the decision to their local Magistrates Court and during the appeal period the licence holder can continue to drive Hackney Carriage / Private Hire vehicles.
10. Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 enables a decision to suspend or revoke a Hackney Carriage / Private Hire drivers licence to take immediate effect should the council believe it to be necessary in the interests of public safety. This means the driver cannot continue to drive Hackney Carriage / Private Hire vehicles during the appeal period.
11. The Licensing Committee delegated authority to the Deputy Chief Executive to immediately suspend or revoke a Hackney Carriage or Private Hire driver's licence where it is considered necessary in the interest of public safety.
12. A 'fast track' procedure will be adopted to re-licence those drivers who have had their licence revoked but have subsequently been found to be fit and proper. In these cases, the driver will supply the council with a new application form but there will be no subsequent application fee. All pre-check enquiries (DBS, medical, references etc.) would stand and the dates they were previously due to expire would be valid, as would the licence itself.

APPENDIX E: Relevance of convictions

1. All applicants for a hackney carriage/private hire driver's licence must complete an enhanced Disclosure and Barring Service (DBS) check prior to the granting of a licence.
2. On completing the council's licence application form all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) and pending court cases or licensing hearings must be declared. Failure to disclose convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) which are subsequently notified by the Disclosure and Barring Service or any pending court cases or licensing hearings will be considered to be an act of dishonesty and may result in the application being refused or the licence revoked. Applicants should note that any reference in this appendix to conviction also includes all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences).
3. All past convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) will be considered in accordance with 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, criminal behaviour orders, 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, criminal behaviour orders, 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 the policy.
4. The overriding consideration is the safety of the public. The council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.
5. A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.
6. Some discretion may be applied if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

The Rehabilitation of Offenders Act 1974

7. Rehabilitation of Offenders Act 1974 guidelines as amended by the Legal Aid, Sentencing and Punishment Act 2012 will be used by the council, but for repeat offenders or offences that are not stipulated under the Rehabilitation of Offenders Act 1974 the following guidelines will be used to determine if an applicant is a fit and proper person to hold a licence.

Minor traffic offences

8. Convictions for minor traffic offences should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence. However, the number, type and frequency of such offences will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least six months. An application will

normally be refused where an applicant has nine or more penalty points on his/her DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last six months. An existing licence holder may be suspended where the person has nine or more penalty points on his/her DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last six months. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

These offences are;

MS10 Leaving a vehicle in a dangerous position
MS20 Unlawful pillion riding
MS30 Play street Offences
MS40 Driving with uncorrected defective eyesight or refusing to submit to a test
MS70 Driving with uncorrected defective eyesight
MS80 Refusing to submit to an eyesight test
MS90 Failure to give information as to identity of driver etc.

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10 Undefined contravention of Pedestrian Crossing Regulations
PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle

TS10 Failing to comply with traffic light signals
TS20 Failing to comply with double white lines
TS30 Failing to comply with a 'Stop' sign
TS40 Failing to comply with direction of a constable or traffic warden
TS50 Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines)
TS60 Failing to comply with school crossing patrol sign
TS70 Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring
Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting
Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting
Offences as coded above, but with 0 changed to 6 (e.g. PC16 becomes PC16)

This list is not exhaustive and codes may be changed or added during the duration of this policy. If an applicant or current licence holder has been disqualified or given points that are not listed here, they will still be taken into account.

Major traffic offences

9. Isolated convictions, without disqualification, for a major traffic offence should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence but will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire drivers. More than one conviction for this type of offence within the last two years would require the application or an existing licence holder to be referred to the licensing sub-committee for a decision. No further application would normally be considered until a period of three years free from convictions has elapsed. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

These offences are;

- 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 by order of court
- BA30 Attempting to drive while disqualified by order of 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 careless driving then failing to supply a specimen for analysis
- CD80 Causing death by careless or inconsiderate driving
- CD90 Causing death by driving: unlicensed, disqualified or uninsured drivers

- DD40 Dangerous driving
- DD60 Manslaughter or culpable homicide while driving a vehicle
- DD80 Causing death by dangerous driving
- DD90 Furious 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 a vehicle when unfit through drugs

- IN 10 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 licence 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. LC20 becomes LC22)

- Causing or permitting
Offences as coded above, but with 0 changed to 4 (e.g. LC20 becomes LC24)

- Inciting
Offences as coded above, but with 0 changed to 6 (e.g. DD40 becomes DD46)

This list is not exhaustive and codes may be changed or added during the duration of this policy. If an applicant or current licence holder has been disqualified or given points that are not listed here, they will still be taken into account.

Hybrid traffic offences

10. Offences of this type will be treated as major traffic offences if the court awarded four or more penalty points or as minor traffic offences if the court awarded three or less penalty points and will then be dealt with in accordance with minor or major traffic offences as necessary.

These offences are;

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Breach of requirements as to control of the vehicle, mobile telephones etc.

- SP10 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway
- SP60 Undefined speed limit offence

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

This list is not exhaustive and codes may be changed or added during the duration of this policy. If an applicant or current licence holder has been disqualified or given points that are not listed here, they will still be taken into account.

Use of handheld mobile telephones whilst driving

11. Isolated convictions for use of a handheld mobile telephone or device should not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence. However, the number, type and frequency of such offences will be taken into account and if there are more than two offences of this nature the applicant will normally be expected to show a period free of conviction of at least six months. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.

Offences under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976

12. One of the main purposes of the licensing regime is to ensure the protection of the public. For this reason a serious view is taken of all convictions, warnings, reprimands, criminal behaviour orders, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) when deciding whether an applicant or an existing licence holder is to be treated as a 'fit and proper person' to hold or continue to hold a licence.

13. An applicant may be refused a licence where he or she has been convicted of an offence under the Acts at any time during the six months preceding the application, or has more than one conviction within the two years preceding the date of the application. If an existing proprietor, operator or driver is convicted of an offence under the legislation it could lead to all relevant licences being revoked for a minimum of five years; those who committed two or more offences would not normally be considered for a minimum of ten years but in most cases would be refused a licence for life. For new applicants who have submitted applications but are suspected of breaching the above named Acts, their application will be kept on hold pending a full investigation by the licensing officer. Those drivers who have had a licence revoked by any other local authority will not normally be considered for a minimum of five years after that revocation.
14. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Driving under the influence of alcohol offences

15. Convictions of driving or being in charge of a vehicle while under the influence of drink will be viewed seriously. An isolated spent conviction under the guidelines of The Rehabilitation of Offenders Act 1974 may not prevent an applicant from gaining a licence or an existing licence holder from keeping their licence, but a warning will be given as to future behaviour. If an applicant has been convicted of drink driving whilst in charge of a vehicle, the applicant may be refused a licence until five years after restoration of the DVLA driving licence. Where an application has been refused or an existing licence holder suspended because of this provision they may be required to pass the DSA Taxi and Private Hire Assessment before the licence is granted or the suspended licence reinstated.
16. An unspent conviction for this type of offence will result in the refusal of the application or the revocation of an existing licence. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Public disorder offences involving alcohol

17. An isolated conviction for an alcohol related offence need not prevent an applicant from gaining a licence or an existing licence holder keeping their licence. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Drugs

18. An applicant with a conviction for a drug related offence will be required to show a period of a least five years free of convictions before an application is granted. An existing licence holder who is convicted of a drug related offence will be referred to the licensing sub-committee who could order that all relevant licences are revoked. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing

licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Indecency offences

19. Applicants with convictions for soliciting will be refused a licence until five years free of such offences. An existing licence holder who is convicted of soliciting will be referred to the licensing sub-committee who could order that all relevant licences are revoked. Applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, will be refused until a minimum of ten years free of such offences has passed. An existing licence holder who is convicted of any of these offences will be referred to the licensing sub-committee who could order that all relevant licences are revoked. More than one conviction for this kind of offence will mean that no licence will be granted. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Violence

20. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for any of the offences set out below will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences below:

- a) murder
- b) manslaughter
- c) manslaughter or culpable homicide while driving
- d) arson
- e) malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
- f) actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
- g) grievous bodily harm with intent (s.18 Offences Against the Person Act)
- h) grievous bodily harm (s.20 Offences Against the Person Act)
- i) robbery
- j) racially aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- k) racially aggravated s.4 Public Order Act 1986 offence (fear or provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- l) racially aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress) (s.31 (1)(b) Crime and Disorder Act 1998)
- m) racially aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
- n) racially aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32 (1) (b) Crime and Disorder Act 1998).

21. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

22. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for any of the offences set out below will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences below:
- a) common assault
 - b) common assault which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
 - c) assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
 - d) assaulting a police officer
 - e) affray
 - f) racially aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
 - g) riot
 - h) obstruction
 - i) possession of an offensive weapon
 - j) possession of a firearm
 - k) criminal damage
 - l) violent disorder
 - m) resisting arrest.
23. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Theft and fraud

24. Drivers of hackney carriage and private hire vehicles are expected to be honest.
25. As hackney carriage and private hire drivers maintain close contact with the public any existing licence holder with a conviction for an offence of theft or fraud will have his licence revoked. Any applicant for a licence will be refused where they have an unspent conviction for any of the offences listed below:
- a) theft
 - b) burglary
 - c) fraud
 - d) perjury
 - e) benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
 - f) handling or receiving stolen goods
 - g) forgery
 - h) conspiracy to defraud
 - i) obtaining money or property by deception
 - j) other deception
 - k) any other similar offence of dishonesty
26. If the licensing officer having considered the applicant's or existing licence holder's previous history of behaviour or taken any other relevant matter into account considers that, based on all this information, the applicant is not 'fit and proper' or that an existing licence holder no longer is a 'fit and proper person', the licensing officer will submit a report for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Driver's behaviour

27. Any hackney carriage/private hire driver acting in a disorderly, abusive or violent manner towards any member of the public, other driver, police officer or any council official (including officials from other councils) will be deemed not to be a 'fit and proper person' to hold a licence and will be referred for consideration by the licensing sub-committee. Where it is necessary to immediately suspend or revoke in the interest of public safety, the licensing officer will recommend the Deputy Chief Executive to immediately suspend or revoke an existing licence under their delegated authority.

Information

28. The date of the court conviction is to be taken as the start date of the rehabilitation period, unless a sentence of imprisonment or corrective training exceeding 48 months was imposed, in which case the offence is never rehabilitated.

29. A decision to refuse, revoke or suspend the licence can be appealed under the Public Health Act 1936 to the local Magistrates' Court within 21 days of the date on which the council's decision was served.

Summary of rehabilitation periods applicable to certain sentences

(Rehabilitation of Offenders Act 1974 as amended by the Legal Aid, Sentencing and Punishment Act 2012)

Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).	Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).
Custodial sentence* of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months (2 5 years) and up to and including 48 months (4 years)	7 Years	3.5 years
Custodial sentence of over 6 months and up to and including 30 months (2 5 years)	4 Years	2 years
Custodial sentence of 6 months or less	2 Years	18 months
Community order or youth rehabilitation order**	1 Year	6 months

- a) Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.
- b) In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.
- c) Those given a jail sentence of more than 30 months for sexual offending are placed on the sex offenders register indefinitely. Those imprisoned for between six and 30 months remain on the register for 10 years, or five years if they are under 18. Those sentenced to six months or less are placed on the register for seven years, or three-and-a-half years if under 18. Those cautioned for a sexual offence are put on the register for two years, or one year if under 18.

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

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

Agenda Item 7

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