

Licensing Committee

3 July 2018



Time and venue:

10.00 am in the Telscombe Room - Southover House, Lewes

Membership:

Councillors Sam Adeniji (Chair); Councillors Liz Boorman, Wayne Botting, Bill Bovington, Will Elliott, Stephen Gauntlett, Jackie Harrison-Hicks, Isabelle Linington, Andy Loraine and Tony Rowell

Quorum: 3

Published: Monday, 25 June 2018

Agenda

1 Minutes (Pages 1 - 2)

To confirm and sign the minutes of the previous meeting held on 28 November 2017 (attached herewith).

2 Apologies for absence/declaration of substitute members

3 Declarations of interest

Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.

4 Urgent items

Items not on the agenda which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances as defined in Section 100B(4)(b) of the Local Government Act 1972.

5 Taxi Licensing guidance review (Pages 3 - 90)

Report of Director of Service Delivery.

6 Amendment to the District Council's film authorisation procedures (Pages 91 - 104)

Report of Director of Service Delivery.

7 Written questions from councillors

To deal with written questions from councillors pursuant to Council Procedure Rule 12.3 (page D8 of the Constitution).

8 Date of next meeting

To note that the next meeting of the Licensing Committee will be called as necessary.

Information for the public

Accessibility: Please note that the venue for this meeting is wheelchair accessible and has an induction loop to help people who are hearing impaired. This agenda and accompanying reports are published on the Council's website in PDF format which means you can use the "read out loud" facility of Adobe Acrobat Reader.

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Public participation: Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

Information for councillors

Disclosure of interests: Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

Councillor right of address: A member of the Council may ask the Leader, a Cabinet Member or the Chair of a committee or sub-committee any question without notice upon an item of the report of the Cabinet or a committee or subcommittee when that item is being received or under consideration by the Council.

A member of the Council may ask the Chair of a committee or sub-committee a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that committee or subcommittee.

A member must give notice of the question to the Head of Democratic Services in writing or by electronic mail no later than close of business on the fourth working day before the meeting at which the question is to be asked.

Democratic Services

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Licensing Committee

Minutes of a meeting of the **Licensing Committee** held in the **Warren Room, Lewes House, High Street, Lewes** on **Tuesday, 28 November 2017** at 10.00am

Present:

Councillor S Adeniji (Chair), L Boorman, W Elliott, S Gauntlett and T Rowell

Officers Present:

E Hele, Functional Lead for Quality Environment (Specialist Services)
S Lindsey, Licensing Officer
J Norman, Committee Officer
M Wilkinson, Solicitor

Minutes

8 Minutes

The Minutes of the meeting held on 14 September 2017 were approved as a correct record and signed by the Chair.

9 Approval of Licensing Fees 2018/19

The Committee considered Report No 165/17 which sought the Committee's approval of the scale of licensing fees proposed in Appendix 1 on pages 11 to 18 of the Report.

Members' discussion included:

- Why the proposed licensing fees for 2018/2019 were the same as the proposed fees for 2017/2018.
- If the proposed licensing fees for 2018/2019 would cover the costs incurred by the Council during that financial year.

- Whether the deficit shown in the taxi financial performance table in Appendix 2 on page 19 of the Report would increase or decrease compared to 2016/2017.

Officers responded that:

- The Council was currently undergoing a transformation process for shared services with Eastbourne Borough Council, and it was not possible at the current time to know what the final cost of the service would be in 2018/2019. A further review of service costs, however, was planned to be undertaken once the transformation process was complete.
- The figures shown in the Report were provided by the Council's Finance department with consideration given to ensure that the fees were sufficient.
- That the taxi licensing service operated on a self-financing, year-by-year basis and street trading and scrap metal licensing operated similarly.. This meant that the Council had the discretion to set fees for these services on a cost recovery basis with appropriate adjustments for any over or under spend from the previous year. In the event that any one of these best estimates proved to be unrealistic, revised fees would be calculated in order to comply with the statutory requirements, and those fees would be brought back to the Committee for approval.

Resolved:

- 9.1** That the scale of licensing fees proposed in Appendix 11 to 18 of Report No 165/17 to apply from 1 April 2018 be approved; and
- 9.2** That the Committee recommend to Council that it formally ratifies, at its meeting on 19 February 2018, the licensing fees proposed in Appendix 1 to Report No 165/17 to apply from 1 April 2018.

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Reason:

To ensure that the licensing fees are approved by the Licensing Committee.

The meeting ended at 10:17am.

S Adeniji
Chair

Report to:	Licensing Committee
Date:	3rd July 2018
Title:	Taxi Licensing Guidance Review
Report of:	Director of Service Delivery
Ward(s):	All
Purpose of report:	To review the proposed taxi guidance document and agree a 3 month consultation with the trade and stakeholders.
Officer recommendation(s):	<p>(1) The Committee review the proposed Lewes District Council Hackney Carriage and Private Hire Licensing Guidance.</p> <p>(2) The Committee authorise the Senior Specialist Advisor to start an 8 week consultation with the taxi trade and the public.</p> <p>(3) Agree that the results of the consultation be reported to a subsequent meeting of the Licensing Committee, unless only minor changes are proposed as a result of the consultation responses, in which case any changes may be made by the Functional Lead- Quality Environment in consultation with the Chair of the Licensing Committee.</p>
Reasons for recommendations:	The current Lewes District Council Hackney Carriage and Private Hire Licensing Guidance has become outdated.
Contact Officer(s):	Name: Ed Hele Post title: Functional Lead – Quality Environment E-mail: ed.hele@lewes-eastbourne.gov.uk Telephone number: 01273 085014

1 Introduction

- 1.1 The current Lewes District Council Hackney Carriage and Private Hire Licensing Guidance has been in place for a number of years and it is appropriate that it is reviewed from time to time.
- 1.2 It is important that the taxi trade and relevant stakeholders are consulted on any changes to existing guidance before it is implemented.

2 Background

- 2.1 The existing Lewes District Council Hackney Carriage and Private Hire Licensing Guidance has been suitable and appropriate for a predominantly rural authority for a number of years. However the current landscape for hackney carriage and private hire licensing has changed significantly over recent years with smart phone apps changing the way vehicles can be booked, the change in the law allowing cross border sub- contracting of jobs and sexual exploitation incidents involving the taxi trade in other parts of the country.
- 2.2 It is appropriate that the current guidance is reviewed in light of these issues and brought up to date to ensure we protect the safety and welfare of the public.
- 2.3 Lewes District Council Hackney Carriage and Private Hire Licensing current Guidance is included as appendix 1.

3 Notable changes to existing guidance

- 3.1 The draft Guidance proposes to set four broad objectives. These are:-
- i. Ensure the safety and welfare of the public which is the overriding objective,
 - ii. Encourage environmental sustainability,
 - iii. Ensure an efficient and effective hackney carriage and private hire provision,
 - iv. Monitor and improve standards of service in the trade
- 3.2 Minor amendments to this Guidance may be made by the Functional Lead - Quality Environment in consultation with the Chair of the Licensing Committee. Significant changes shall still be brought before the Licensing Committee.
- 3.3 The introduction of Intended Use (Hackney Carriages only). It is believed that some drivers who have applied for a licence recently may not be predominantly working within the district. In order that the Council may retain local control over the hackney carriages it licenses, applicants will be asked as part of the application process which area they intend to entirely or predominantly operate from for the purposes of fulfilling pre-booked hiring's. It will be incumbent upon the applicant to demonstrate to the Council's satisfaction that they intend to ply for hire predominantly within the District.
- 3.4 The current guidance allow vehicles to be up to 7 years old on first application, this Guidance changes to 5 years in recognition of environmental concerns.
- 3.5 Mandatory CCTV is a change to the current Guidance. The Council as a whole has become increasingly aware of the issues surrounding child sexual exploitation and has duties for safe guarding of children and vulnerable adults. The installation of CCTV will promote public safety but also importantly protect the livelihoods of drivers against false accusations. The installation of CCTV can reduce insurance premiums and this should pay for itself through reduced insurance premiums.

- 3.6 Any person found cheating on knowledge tests will be disqualified from the test and will not be granted a licence for at least three years. This is a change as current Guidance is one year which is considered to be too lenient.
- 3.7 Drivers will, under the new Guidance be required to attend training sessions on Disability Awareness and Child Sexual Exploitation and Safeguarding. Applicants will be required to pass the training before a licence can be issued.
- 3.8 Licensed drivers will be required to have a medical assessment at least every five years from the ages of 45 to 65 and after the age of 65 to provide an annual medical assessment. The Council may also require a driver to provide more frequent checks if in the opinion of a medical practitioner that is necessary. The medical examination must be from a medical practitioner who has accessed the applicant's medical records for at least the last two years.
- 3.9 Legislative changes in relation to the Right to Work are added as Appendix 4 of the proposed Guidance
- 3.10 Guidance on the relevance of Convictions is stronger to reflect the Institute of Licensing Guidance 2018 on determining the suitability of applicants and licensees.

4 Proposed Way Forward

- 4.1 The Committee review the proposed Lewes District Council Hackney Carriage and Private Hire Licensing Guidance as proposed in Appendix 2. The Committee agrees for the Senior Specialist Advisor to start a 8 week consultation with the Trade and the public. We shall be contacting the trade directly by letter, issuing a press release and posting a consultation document on the website
- 4.2 The findings of the consultation shall be reported to a subsequent Committee, unless only minor changes are proposed as a result of the consultation responses, in which case any changes may be made by the Functional Lead- Quality Environment in consultation with the Chair of the Licensing Committee.

5 Financial appraisal

- 5.1 There are no significant costs identified within this report. There will be minor costs associated with administering the consultation.

6 Legal implications

- 6.1 There is no statutory requirement for the licensing authority to adopt any Guidance in relation to hackney carriages or private hire licences but it is considered best practice to do so as it informs and guides decision makers and assists with consistent decision making. However, the Guidance is not a fetter on decision making as each case must continue to be judged on its own merits.
- 6.2 The proposed Guidance has been drafted in close consultation with the Legal section. This Report was considered on 21 June 2018. IKEN 7467-MW.

7 Risk management implications

- 7.1 It is important that these changes are considered to ensure the safety of the public.

8 Appendices

- Appendix 1 – Current Lewes District Council Hackney Carriage and Private Hire Licensing Guidance
- Appendix 2 – Proposed Lewes District Council Hackney Carriage and Private Hire Licensing Guidance

9 Background papers

None

Taxi Licensing

Contents

page

Introduction

Enquires

General Information

1. Types of Licences
2. Duration of Licences
3. License Fees
4. Licensing Forms
5. Unauthorised Drivers and Insurance Liability
6. Knowledge Test
7. Driving Ability
8. Driving Standards Agency Test
9. Fitness
10. Good Character
11. Convictions / Cautions / Anti Social Behaviour Orders / Acceptable Behaviour Contract/Agreement
12. Suspension, Revocation or Refusal of a Drivers Licence
13. Conduct
14. Dress/Appearance
15. Badges
16. Trailers
17. Transfer of Vehicle
18. Disposal of Vehicle
19. Suspension, revocation or Refusal of a Vehicle Licence
20. Safety Equipment
21. Advertising
22. Blacked Out Windows
23. Accidents to Hackney Carriage /Private Hire Vehicles
24. Fare to be Demanded

Hackney Carriage Driver

1. Eligibility
2. Conduct
3. Scanners
4. Exceptions Policy

Hackney Carriage Vehicle

1. Taxi Meters
2. Dual Plating
3. Distinguishing Features
4. Vehicle Specification
5. Mechanical Standard
6. Dual Fuel Vehicles (Liquid Petroleum Gas)

7. Identification Plates
8. Exceptions Policy
9. Stands (Taxi Ranks)
10. Safety Equipment
11. Approved Roof Signs
12. Advertising
13. Insurance to be Exhibited
14. Operation Outside the Licensing District

Private Hire Driver

1. Eligibility
2. Conduct
3. Scanners
4. Exceptions Policy

Private Hire Vehicle

1. Meters
2. Dual Plating
3. Exemptions from Private Hire Vehicle Licensing Policy
4. Distinguishing Features
5. Vehicle Specification
6. Mechanical Standard
7. Identification Plates
8. Safety Equipment
9. Insurance to be Exhibited
10. Operation Outside the Licensing District
11. Exceptions Policy

Private Hire Operators

1. Operators Licence
2. Eligibility
3. Licence Conditions
4. Suspension or Revocation of Licences
5. Operating Outside the Licensing District
6. Hackney Carriage
7. Private Hire
8. Accidents to Hackney Carriage /Private Hire Vehicles
9. Insurance to be Exhibited
10. Offences
11. Exceptions Policy

Conditions of Licence

Hackney Carriage Drivers Licence
Hackney Carriage Vehicle Licence
Private Hire Drivers Licence
Private Hire Vehicle Licence
Private Hire Operators Licence

Policy and Guidelines Relating to the Relevance of Convictions

Lewes District Council Bye-laws

INTRODUCTION

This information is intended to provide guidance on the licensing requirements in the Lewes District under the Town and Police Clauses 1847, as amended, and the Local Government (Miscellaneous Provisions) Act 1976, and Byelaws made by the District Council in relation to Hackney Carriages.

It is NOT intended to be an exhaustive or definitive statement of the law and all drivers, operators and proprietors should familiarise themselves with the provisions of the Acts and Byelaws. Copies of both Acts are available from HM Stationary Office or local booksellers. A copy of the Byelaws is attached.

Attention is also drawn to certain provisions of the Transport Acts 1980, 1981 and 1985 and Regulations made under the Road Traffic Act.

ENQUIRES

All applications or enquires should be addressed to the Hackney Carriage Licensing Officer, PO Box 160, Newhaven, BN9 1AL, telephone number 01273 484276.

GENERAL INFORMATION

1. TYPES OF LICENCE

The type of licence required will depend upon the type of work undertaken.

- i) Hackney Carriages Drivers Licence
 Vehicle Licence
- ii) Private Hire Drivers Licence
 Vehicle Licence
- iii) Operators Licence

2. DURATION OF LICENCES

All vehicle licences are renewable annually and can only be issued for the full period of 12 months.

Drivers licences are also renewable annually but may be renewed on a three yearly basis if requested, up to the age of 62 years. Drivers licences will also only be issued for a minimum period of 12 months. All renewal applications MUST be accompanied by the DVLA Drivers Licence (paper section) for inspection, accompanied by a Medical Certificate where required.

Please note, **Expired Licences cannot be renewed after the date of expiry. Any expired licence will require a new application which means**

in the case of a Hackney Carriage or Private Hire Drivers Licence a further Criminal Records Bureau check and a full medical examination.

3. LICENCE FEES

The fees include elements for administration costs and enforcement which will be renewed annually. A separate charge will be made for the supply of vehicle identification plates. This sum will be refunded on return of the identification plate if, in the opinion of the Licensing Officer, the plate is in such a condition that it can be reused. Applicants will be advised of the fees and charges at the time of application or upon request.

4. LICENSING FORMS

Dual Drivers Licences application forms are used allowing applicants to drive either Hackney Carriage, Private Hire Vehicles or both categories of vehicle. The licence issued will clearly show the purpose for which the licence has been granted.

5. UNAUTHORISED DRIVERS AND INSURANCE LIABILITY

Drivers and Proprietors are reminded of the requirements of Part IV of the Road Traffic Act 1988 in relation to the provision of Third Party Insurance (see Section 40 of the 1847 Act and Section 48 of the 1976 Act). No person should act as a driver without the consent of the proprietor. Proprietors may be liable for insurance offences committed by the driver.

6. KNOWLEDGE TEST

All new applicants for a Hackney Carriage and or Private Hire Drivers Licence will be required to sit and pass a Knowledge Test of Lewes District Council are. Further details of the Test can be obtained from the Licensing Officer.

7. DRIVING STANDARDS AGENCY TEST

All new applicants for a Hackney Carriage/Private Hire Drivers Licence will have to pass the Driving Standards Agency Taxi Driving Test and Assessment prior to licensing.

8. DRIVING ABILITY

If at any time upon complaint or otherwise there appears to be a reason to doubt the driving of any person is not of a satisfactory standard, whether for medical or other reasons, the Council may require the licence holder to pass the Driving Standards Agency Taxi Driving Test and Assessment.

As from 1st January 2008 any licensed Hackney Carriage or Private Hire driver whose DVLA licence is endorsed with more than 6 points in a two year period will also have to pass the Driving Standards Agency Taxi Driving Test and Assessment within a period of six months from an agreed date.

9. FITNESS

A Medical Certificate and Eye Sight Test from your own registered Medical Practitioner is required, on a form supplied by the Council, at initial application and then at 45, 50, 55, 60 and 65 years of age and every year thereafter. On each renewal of a licence applicants are required to make a declaration as to their physical and mental fitness.

10. GOOD CHARACTER

Applicants are required to submit information on the Application Form concerning their previous employment and history, together with business and personal references. If there is any doubt about the suitability of a person to act as a licensed driver the application will be referred to the Director of Planning and Environmental Services for decision. If an application is refused there is a Right of Appeal to the Magistrates Court.

Similarly, if at any time there is any reason to doubt that a person is a fit and proper person to hold a drivers licence, the matter will again be referred to the Director of Planning and Environmental Services for decision. Again there is a Right of Appeal to the Magistrates Court.

11. CONVICTIONS / CAUTIONS / ANTI SOCIAL BEHAVIOUR ORDERS / ACCEPTABLE BEHAVIOUR CONTRACT/AGREEMENT

Any licensed driver shall within seven days report to the council in writing details of any conviction imposed on him or her during the period of the licence which will also include motoring offences, cautions, anti social behaviour orders (ASBOs) and acceptable behaviour contract/agreement (ABA).

12. SUSPENSION, REVOCATION OR REFUSAL OF A DRIVERS LICENCE

The Council may suspend, revoke or refuse to renew a licence on any of the following grounds:

That the Licensee has since the grant of the licence:-

- (a) been convicted of an offence involving dishonesty, indecency, violence or drink/drug related offences or
- (b) been convicted of an offence under, or has failed to comply with, the provisions of the Town Police Clauses Act 1847 or of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 or
- (c) any other reasonable cause

If a licence is suspended, revoked or refused the Council will give written notice of the grounds for that action within 14 days, and there is a Right of Appeal to the Magistrates Court.

13. CONDUCT

A high standard of conduct is expected from licensed drivers who should in all their dealings with the public be prompt, polite and helpful. Instances of improper conduct will be viewed most seriously and a record will be maintained of complaints against individual drivers. Consideration may be given to the suspension, revocation or refusal to renew a licence in the light of a drivers record.

The drivers licence must be deposited with the Proprietor of the vehicle being driven, either Hackney Carriage or Private Hire. On demand a Drivers Licence must be produced within 5 days on request by an Authorised Officer of the Council or a Police Constable (Section 53 of the 1976 Act).

Every driver must co-operate with any Authorised Officer of the Council or Police Constable and in this regard must obey all reasonable requirements and provide all assistance and information requested of them (Section 73 of the 1976 Act).

14. DRESS/APPEARANCE

Drivers are expected to be clean and tidy in their appearance and to be dressed in a manner that does not cause embarrassment to members of the public. To that end swimwear, football style tops and shorts, sleeveless vests or singlets are NOT allowed.

15. BADGES

Drivers, whilst working, are required to wear the badge provided by the Council at all times in accordance with the Byelaws or Conditions of Licence.

Badges shall be in a form prescribed by the Council. Upon suspension or revocation or expiry of the drivers licence, the driver shall return his badge to the Council on demand.

16. TRAILERS

No licensed vehicles may tow any trailer unless evidence of valid insurance to cover such use for hire or reward has been produced to the Licensing Officer. The contents of the trailer must be secured and covered in a proper manner. Any trailer used must comply with regulations in all aspects and where required the driver must hold the appropriate Towing Licence as issued by DVLA. Trailers will be authorised solely for the purpose of transporting luggage.

17. TRANSFER OF VEHICLES

If the proprietor of a vehicle transfers his interest in the vehicle to another person, he shall within 14 days give notice in writing to the Council specifying the name and address of the person to whom the vehicle has been transferred. A charge will be made for this service.

18. DISPOSAL OF VEHICLE

In the event of a vehicle being sold, other than by transfer, the Identification Plates shall be returned to the Council. Should a replacement vehicle be obtained the plates will be reissued for use in connection with the new vehicle once it is licensed.

19. SUSPENSION AND REVOCATION OF VEHICLE LICENCE

The Council may suspend, revoke or refuse to renew a vehicle licence if the vehicle is unfit or any offence has been committed by the operator or driver or for any other reasonable cause.

Notice of the grounds shall be given to the Proprietor within 14 days and a Right of Appeal exists to the Magistrates Court.

20. SAFETY EQUIPMENT

All vehicles are required by the Byelaws or Licence Conditions to carry a suitable and efficient fire extinguisher and first aid kit.

21. ADVERTISING

Advertising of Company Name, Logo's and Telephone Numbers are restricted to the front driver's and passenger's door only. No other advertising of any description is allowed anywhere else on the vehicle. Limited advertising may be permitted on the rear of the roof sign.

22. BLACKED OUT WINDOWS

Totally blacked out windows on Hackney Carriage or Private Hire Vehicles will not be permitted. However, partially darkened windows may be allowed at the discretion of the Licensing Officer.

23. ACCIDENTS TO HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES

Any accident to a hackney carriage/private hire vehicle causing damage materially affecting the safety, performance or appearance of the vehicle, or the comfort or convenience of the persons carried therein, must be reported to the Council as soon as practicable and in any case within 72 hours of the occurrence. It is the responsibility of **the driver of the vehicle at the time of the accident** to report that accident to the Hackney Carriage Licensing Office.

24. FARE TO BE DEMANDED

The driver shall not demand from any hirer of a hackney carriage vehicle an amount in excess of that fare shown on the taxi meter. The only fares that can be charged are controlled by the 'table of fares' issued by the Council. The 'table of fares' are a maximum tariff that can be charged and as such it is perfectly legal to charge a fare lower than the fare shown on the taxi meter.

Where a passenger is taken to a destination outside Lewes District Council area or where a passenger is collected from outside LDC to be returned to our area, the fare can be charged either on a metered fare or a predetermined set price. That set price must be agreed with the hirer at the time of hiring or booking.

There is no 'BOOKING FEE' within the table of fares of Lewes District Council and it is illegal to charge such fee.

Hackney carriages CANNOT charge for 'dead mileage'. The meter must be set at the point of collection within the district and cancelled at the destination.

Any additional miles undertaken to collect the passenger or to return to base after the passenger has been dropped at their destination cannot be charged.

No extra set charge on top of the metered fare can be made for the collection of any item which includes takeaway meals.

HACKNEY CARRIAGE DRIVER

Every driver of a Hackney Carriage licensed to ply for hire in the Lewes District Council area must hold a current Hackney Carriage Drivers Licence issued by the Council. It is an offence to ply for hire unless both the driver and the vehicle are licensed to do so.

Licences are issued subject to the requirements of the Byelaws which, together with the statutory provisions of the 1847 and 1976 Act, lay down the Code of Conduct and matters relating to Hackney Carriage Drivers.

1. ELIGIBILITY

The requirements for both Hackney Carriage and Private Hire Drivers licences are the same. An applicant must:

- a) Pass the Driving Standards Agency Taxi Driving Test and Assessment
- b) pass a Knowledge Test
- c) be over the age of 21
- d) hold and have held for at least 12 months a Full Drivers Licence
- e) be a fully competent driver
- f) be physically and mentally fit
- g) be a fit and proper person to drive a vehicle for public/private hire (any convictions including motoring offences, Cautions, Anti Social Behaviour Order's (ASBO) and Acceptable Behaviour Agreement/Contracts (ABA) will be taken into account). To that end all applicants will be the subject of a Criminal Records Bureau check. All existing drivers will be required to complete a CRB check every three years.

2. CONDUCT

The attention of Hackney Carriage Drivers is drawn to the Byelaws, a copy of which should be retained for use in the vehicle.

3. SCANNERS

Any driver of a hackney carriage vehicle convicted of the use of a radio scanner will be barred from holding a Hackney Carriage/Private Hire Drivers Licence with the Council for a minimum period of five years from the date of conviction.

4. EXCEPTIONS POLICY

In exceptional circumstances the Director of Planning and Environmental Services may grant an application for a licence without imposing one or more of the above standard conditions, in which case he shall record his reason(s) for doing so. In such cases the Director may, at his discretion, impose alternative and/or additional conditions as he thinks fit to ensure the health, safety and welfare of the travelling public.

HACKNEY CARRIAGE VEHICLE

'Hackney Carriage' is legally defined in the Town Police Clauses Act 1847 but, in general terms, may be described as a vehicle which;

- (i) can stand or ply for hire in a street
- (ii) has been duly licensed by the Council and which displays a Hackney Carriage Plate both internally and externally

A Hackney Carriage Vehicle Licence is required under the Town Police Clauses Act 1847, Section 37, and is subject to standard conditions. In consideration of the Transport Act 1985, Section 16, the Council do not intend at this stage to restrict the number of vehicles licensed as hackney carriages. However, all vehicles will be subject to appropriate standards of design specification and mechanical fitness as detailed below:

It is important to note that once a vehicle is licensed as a Hackney Carriage it is licensed 24 hours a day, 7 days a week and can only ever be driven at any time by a person who holds the appropriate Hackney Carriage licence.

1. TAXI METERS

All hackney carriage vehicles must be fitted with a calendar controlled taxi meter approved by the Council. Such meters will be operated in accordance with the Councils Byelaws and Licence Conditions. Fare Tariffs are fixed by the Council.

2. DUAL PLATING

No vehicle will be granted a Hackney Carriage Licence if it is already licensed in another district as a Hackney Carriage.

3. DISTINGUISHING FEATURES

It is an essential legal requirement that Hackney Carriages and Private Hire Vehicles are readily distinguishable from each other. Section 47 of the 1976 Act enables the Council to require that any Hackney Carriage be of such design or appearance, or bear such distinguishing marks as shall clearly identify it as a Hackney Carriage. Furthermore, Section 48 provides that a Private Hire Vehicle shall not be of such design and appearance as to lead any person to believe that the vehicle is a Hackney Carriage.

With these requirements in mind the licensing system will specify that Hackney Carriages are to be fitted with an approved design of roof sign as specified in the vehicle Licensing Conditions.

4. VEHICLE SPECIFICATION

The following general specifications are laid down by the Council for all licensed vehicles:

- (a) vehicles shall be fitted with a minimum of 4 side doors of a size to permit easy access
- (b) the engine capacity shall not be less than 1290cc's
- (c) the vehicle shall be so designed to permit the specified number of passengers to be carried in comfort and safety. The rear seat must be at least 48 inches wide and all seats shall have a minimum width of 16 inches per person
- (d) the vehicle shall be provided with adequate luggage space for the number of passengers for which the vehicle is licensed
- (e) vehicles may be of the saloon, estate, hatchback or mpv type all of which require the approval from the Council. Estate Vehicles must be fitted with a grill or parcel shelf sufficient to prevent luggage coming into contact with passengers using rear seats
- (f) left hand drive vehicles will NOT be licensed

5. MECHANICAL STANDARD

As a general policy vehicles presented for first licensing shall not be more than 5 years old and vehicles more than 10 years old will not be relicensed.

A valid MOT Certificate shall be presented in relation to any Hackney Carriage vehicle over 1 year old.

Under the Motor Vehicles (Tests) Regulations 1981, Hackney Carriages are required to be tested annually once they are one year old. In addition to the MOT test, for the purposes of licensing, all vehicles must pass a Vehicle Inspection Test at an MOT Testing Station within the Lewes District Council area. The condition of the Licence states that all vehicles will be required to be tested every 6 months after licensing. The examination certificate supplied should be returned, together with a print out of the exhaust systems emission, and the completed licence application form where appropriate. The charge for these examinations will be paid for by the applicant.

Periodic testing may also be required subject to licensing in accordance with Sections 50 and 68 of the 1976 Act to ensure that vehicles are maintained in a fit and proper condition. In the event of the Licensing Officer requiring a Hackney Carriage to be submitted for immediate mechanical inspection (under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 because he suspects that vehicle of being unroadworthy, the Proprietor will be required to pay the cost of that inspection and any further re-inspection in the event of the vehicle failing the inspection. However, if the vehicle passes initial inspection the Council will meet the cost. The cost of the normal twice yearly inspections will continue to be paid by the Proprietor.

6. DUAL FUEL VEHICLES (LIQUID PETROLEUM GAS)

Under current MOT Regulations, LPG systems are not covered. Therefore, where a hackney carriage vehicle is fitted with a dual fuel system (LPG) in addition to the normal garage inspections a **SEPARATE** garage inspection will be required at renewal and every six months thereafter from a garage that is approved by the LP Gas Association. This further test will cover the installation, maintenance and safety of the LPG system that has been fitted to the vehicle.

7. IDENTIFICATION PLATES

Identification Plates are required by the Byelaws to be displayed at all times. A charge will be made for each plate which may be refundable upon return (see Licence Fee).

The exterior licence plate shall at all times be fitted in a conspicuous position on the OUTSIDE to the rear of the vehicle so that it can be readily removed by the Licensing Officer or Police Constable.

Identification plates will be required by the Council to be returned within 7 days upon expiry, revocation or suspension of the licence.

8. EXCEPTIONS POLICY

In exceptional circumstances the Director of Planning and Environmental Services may grant an application for a licence without imposing one or more of the above standard conditions, in which case he shall record his reason(s) for doing so. In such cases the Director may, at his discretion, impose alternative and/or additional conditions as he thinks fit to ensure the health, safety and welfare of the travelling public.

9. STANDS (TAXI RANKS)

The location of stands have been fixed by Law.

10. SAFETY EQUIPMENT

All vehicles are required by the Byelaws or Licence Conditions to carry a suitable and efficient fire extinguisher and first aid kit.

11. APPROVED ROOF SIGNS

In accordance with the Council's policy all Hackney Carriages shall carry a distinctive roof sign, capable of illumination when not hired, which will be fitted transversely. Roof signs **CANNOT** be less than 24 inches in width. For further details contact the Licensing Officer.

12. ADVERTISING

Advertising of Company Name, Logo's and Telephone Numbers are restricted to the front driver's and passenger's door only. No other advertising of any description is allowed anywhere else on the vehicle. Limited advertising may be permitted on the rear of the roof sign.

13. INSURANCE TO BE EXHIBITED

A current Insurance Certificate or Cover Note **MUST** be displayed where it can be seen by the public in every hackney carriage.

14. OPERATION OUTSIDE THE LICENSING DISTRICT

Hackney Carriages are licensed to ply for hire within the Lewes District Council's area and **MAY NOT** ply for hire beyond the district boundary. A passenger boarding the vehicle within the licensed area may be transported into another area. Furthermore, since a hackney carriage is permitted to be

used for private hire purposes a passenger may be collected from another area on a pre-booked basis, although plying for hire is strictly prohibited.

PRIVATE HIRE DRIVER

Every driver of a Private Hire Vehicle licensed by the Council must hold a current Private Hire Drivers Licence issued by the Council.

Licences are issued subject to the Conditions of Licence and certain provisions of the Local Government (Miscellaneous Provisions) Act 1976 which lay down the Code of Conduct on matters relating to Private Hire Drivers.

1. ELIGIBILITY

The requirements for both Private Hire and Hackney Carriage Drivers licences are the same. An applicant must:

- a) Pass the Driving Standards Agency Taxi Driving Test and Assessment
- b) pass a Knowledge Test
- c) be over the age of 21
- d) hold and have held for at least 12 months a Full Drivers Licence
- e) be a fully competent driver
- f) be physically and mentally fit
- g) be a fit and proper person to drive a vehicle for public/private hire (any convictions including motoring offences Cautions, Anti Social Behaviour Order's (ASBO) and Acceptable Behaviour Agreement/Contracts (ABA) will be taken into account). To that end all applicants will be the subject of a Criminal Records Bureau check. All existing drivers will be required to complete a CRB check every three years.

2. CONDUCT

The attention of Private Hire Drivers is drawn to the Conditions of Licence, a copy of which should be retained by them for reference.

3. SCANNERS

Any driver of a private hire vehicle convicted of the use of a radio scanner will be barred from holding a Private Hire/Hackney Carriage Drivers Licence with the Council for a minimum period of five years from the date of conviction.

4. EXCEPTIONS POLICY

In exceptional circumstances the Director of Planning and Environmental Services may grant an application for a licence without imposing one or more of the above standard conditions, in which case he shall record his reason(s) for doing so. In such cases the Director may, at his discretion, impose alternative and/or additional conditions as he thinks fit to ensure the health, safety and welfare of the travelling public.

PRIVATE HIRE VEHICLES

'Private Hire' Vehicle' is defined in Local Government (Miscellaneous Provisions) Act 1976 as meaning a motor vehicle constructed or adapted to seat fewer than 9 passengers, (other than a Hackney Carriage or Public Service Vehicle), which is provided for hire with the services of a driver for the purpose of carrying passengers.

Every Private Hire Vehicle shall be licensed under the 1976 Act, Section 48, and be subject to Licence Conditions. A Private Hire Vehicle MAY NOT ply for hire from a stand or in the street.

It is important to note that once a vehicle is licensed as a Private Hire it is licensed 24 hours a day, 7 days a week and can only ever be driven at any time by a person who holds the appropriate Private Hire licence.

1. METERS

A Private Hire Vehicle MAY be fitted with a calendar controlled meter approved by the Council but it is not mandatory. However, if a meter is fitted it must be operated in accordance with the Byelaws and Licence Conditions. Private Hire tariffs are NOT fixed by the Council.

2. DUAL PLATING

No Private Hire Vehicle will be granted a licence if it is already licensed in another district.

3. EXEMPTIONS FROM PHV LICENSING REQUIREMENTS

To a vehicle while it is being used in connection with a Wedding or a Funeral, or a vehicle used, wholly or mainly, by a person carrying on the business of a Funeral Director for the purpose of Funerals.

The Council may by prior written notice exempt the need to display plates on a vehicle when the need for a driver to wear his badge is also waived.

4. DISTINGUISHING FEATURES

It is an essential legal requirement that Private Hire and Hackney Carriage Vehicles are readily distinguishable from each other. Section 47 of the 1976 Act enables the Council to require that any Hackney Carriage Vehicle be of such design or appearance, or bear such distinguishing marks as shall clearly identify it as a Hackney Carriage. Furthermore, Section 48 provides that a Private Hire Vehicle shall not be of such design and appearance as to lead any person to believe that the vehicle is a Hackney Carriage.

With these requirements in mind the licensing system will specify that Private Hire Vehicles are to be identifiable by the coloured licence plate and may be additionally marked on the front driver and passenger doors, (subject to the approval of the Council), to indicate that the vehicle is a Private Hire Vehicle.

Private Hire Vehicles are NOT allowed roof signs of any description.

5. VEHICLE SPECIFICATION

The following general specifications are laid down by the Council for all licensed vehicles:

- (a) vehicles shall be fitted with a minimum of 4 side doors of a size to permit easy access
- (b) the engine capacity shall not be less than 1290cc's
- (c) the vehicle shall be so designed to permit the specified number of passengers to be carried in comfort and safety. The rear seat must be at least 48 inches wide and all seats shall have a minimum width of 16 inches per person
- (d) the vehicle shall be provided with adequate luggage space for the number of passengers for which the vehicle is licensed
- (e) vehicles may be of the saloon, estate, hatchback or mpv type all of which require approval from the Council. Estate Vehicles must be fitted with a grill or parcel shelf sufficient to prevent luggage coming into contact with passengers using rear seats
- (f) left hand drive vehicles will NOT be licensed

6. MECHANICAL STANDARD

As a general policy vehicles presented for first licensing shall not be more than 5 years old and vehicles more than 10 years old will not be relicensed.

Under the Motor Vehicles (Tests) Regulations 1981, a valid MOT certificate shall be presented in relation to any Private Hire Vehicle over three years old. In addition to the MOT test, for the purposes of licensing, all vehicles must pass a Vehicle Inspection Test at an MOT Testing Station within the Lewes District Council area. The condition of the Licence states that all vehicles will be required to be tested every 6 months after licensing. The examination certificate supplied should be returned, together with a print out of the exhaust systems emission, and the completed licence application form where appropriate. The charge for these examinations will be paid for by the applicant.

Periodic testing may also be required subject to licensing in accordance with Sections 50 and 68 of the 1976 Act to ensure that vehicles are maintained in a fit and proper condition. In the event of the Licensing Officer requiring a Private Hire Vehicle to be submitted for immediate mechanical inspection (under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 because he suspects that vehicle of being unroadworthy, the Proprietor will be required to pay the cost of that inspection and any further re-inspection in the event of the vehicle failing the inspection. However, if the vehicle passes initial inspection the Council will meet the cost. The cost of the normal twice yearly inspections will continue to be paid by the Proprietor.

7. DUAL FUEL VEHICLES (LIQUID PETROLEUM GAS)

Under current MOT Regulations, LPG systems are not covered. Therefore, where a private hire vehicle is fitted with a dual fuel system (LPG) in addition to the normal garage inspections a **SEPARATE** garage inspection will be required at renewal and every six months thereafter from a garage that is approved by the LP Gas Association. This further test will cover the installation, maintenance and safety of the LPG system that has been fitted to the vehicle.

8. IDENTIFICATION PLATES

Identification Plates are required by Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 and Licence Condition to be displayed at all times. A charge will be made for each plate which may be refundable upon return (see Licence Fee).

The exterior licence plate shall at all times be fitted in a conspicuous position on the OUTSIDE to the rear of the vehicle so that it can be readily removed by the Licensing Officer or Police Constable.

Identification plates will be required by the Council to be returned within 7 days upon expiry, revocation or suspension of the licence.

9. SAFETY EQUIPMENT

All vehicles are required by the Byelaws or Licence Condition to carry a suitable and efficient fire extinguisher and first aid kit.

10. INSURANCE TO BE EXHIBITED

A current Insurance Certificate or Cover Note **MUST** be displayed where it can be seen by the public in every private hire vehicle.

11. OPERATION OUTSIDE THE LICENSING DISTRICT

Where a private hire vehicle and driver are licensed in another district (e.g. an adjoining Authority) that vehicle may be used for private hire within this district or vice versa if pre-booked. Both the driver and vehicle must be licensed by the same Authority. However, it is unlawful to sub-contract work to the holder of an Operators Licence outside Lewes District Council area. (Further clarification may be obtained from the Licensing Officer).

12. EXCEPTIONS POLICY

In exceptional circumstances the Director of Planning and Environmental Services may grant an application for a licence without imposing one or more of the above standard conditions, in which case he shall record his reason(s) for doing so. In such cases the Director may, at his discretion, impose alternative and/or additional conditions as he thinks fit to ensure the health, safety and welfare of the travelling public.

PRIVATE HIRE OPERATORS

1. OPERATORS LICENCE

No person shall operate any vehicle as a Private Hire Vehicle in the Lewes District Council area without having a current Operators Licence. This is in addition to the separate requirement for a vehicle and or drivers licence.

'Operate' means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle.

2. ELIGIBILITY

New applicants must reside or have business premises within Lewes District Council area and must provide information concerning their previous business activities, history of any previous Operators Licence or application, and any conviction(s) recorded against him. Satisfactory references will be required.

With the introduction of this condition, existing operators will no longer be eligible to hold an Operators Licence in the event of their moving residence or business premises to an address outside Lewes District Council area.

3. LICENCE CONDITIONS

Licences are granted subject to standard conditions. In particular operators of private hire vehicles should be aware of the requirement to keep records and maintain standards

4. SUSPENSION OR REVOCATION OF LICENCES

Section 62 of the 1976 Act provides for the suspension, revocation or refusal to renew an Operators Licence on the grounds specified in that section. A Right of Appeal exists to the Magistrates Court.

5. OPERATION OUTSIDE THE LICENSING DISTRICT

HACKNEY CARRIAGE

Hackney Carriages are licensed to ply for hire within the Lewes District Council's area and MAY NOT ply for hire beyond the district boundary. A passenger boarding the vehicle within the licensed area may be transported into another area. Furthermore, since a hackney carriage is permitted to be used for private hire purposes a passenger may be collected from another area on a pre-booked basis, although plying for hire is strictly prohibited.

PRIVATE HIRE

Where a private hire vehicle and driver are licensed in another district (e.g. an adjoining Authority) that vehicle may be used for private hire within this district or vice versa if pre-booked. Both the driver and vehicle must be licensed by the same Authority. However, it is unlawful to sub-contract work to the holder of an Operators Licence outside Lewes District Council area. (Further clarification may be obtained from the Licensing Officer)

6. ACCIDENTS TO HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES

Any accident to a hackney carriage/private hire vehicle causing damage materially affecting the safety, performance or appearance of the vehicle, or the comfort or convenience of the persons carried therein, must be reported to the Council as soon as practicable and in any case within 72 hours of the occurrence.

7. INSURANCE TO BE EXHIBITED

A current Insurance Certificate or Cover Note **MUST** be displayed where it can be seen by the public in every hackney carriage/private hire vehicle.

8. OFFENCES

Apart from the powers of the Council to suspend licences etc, failure to comply with any of the requirements of the 1847 or 1976 Acts may be dealt with as an offence punishable by fines on conviction.

9. EXCEPTIONS POLICY

In exceptional circumstances the Director of Planning and Environmental Services may grant an application for a licence without imposing one or more of the above standard conditions, in which case he shall record his reason(s) for doing so. In such cases the Director may, at his discretion, impose alternative and/or additional conditions as he thinks fit to ensure the health, safety and welfare of the travelling public.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Hackney Carriage Drivers Licences

Conditions of Licence

Licences to drive a Hackney Carriage are issued under S46 Town Police Clauses Act 1847 and are subject to Bye Laws made by the Council. These Bye Laws are printed in the "Guidance For The Proprietors And Drivers of Hackney Carriage and Private Hire Vehicles".

Drivers are referred to these Bye Laws which set out requirements for proper procedure and conduct. Breach of the Bye Laws is a criminal offence.

Drivers are also referred to the General guidance section for all Taxi Drivers which sets out general standards of good conduct.

The Council will take seriously any allegations of misconduct or Breach of the Bye laws reported to it and is empowered in appropriate circumstances to suspend or revoke a Hackney Carriage Drivers Licence under S61 of the Local Government (miscellaneous Provisions) Act 1976.

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

Hackney Carriage Vehicle Licences

Conditions of Licence

MAINTENANCE OF VEHICLE

The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements, including in particular those contained in The Motor Vehicles (Construction and Use) Regulations shall be fully complied with. All hackney carriages will undergo a mechanical inspection, by an approved garage, every six months.

ALTERATION OF VEHICLE

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

IDENTIFICATION PLACE

The plate identifying the vehicle as a Hackney Carriage is required to be exhibited on the vehicle pursuant to Section 51 Town Police Clauses Act 1847. The plate shall at all times be securely fixed on the outside to the rear of the vehicle in a conspicuous position and in such a manner as to be easily removable by an authorised officer of the Council or a Constable.

INTERIOR MARKINGS

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

ROOF SIGNS

The proprietor shall cause to be affixed and maintained an illuminated roof sign of a pattern approved by the Council.

FIRST AID KIT

There shall be provided and maintained in the vehicle at all times when it is in use or available for hire a suitable first aid kit containing appropriate first aid dressings and appliances available for immediate use in an emergency.

FIRE EXTINGUISHER

There shall be provided and maintained in the vehicle at all times when it is in use or available for hire a suitable Fire Extinguisher which must conform to British and European Standards.

SIGNS & NOTICES

The proprietor shall cause to be affixed and maintained in the vehicle in a conspicuous position in accordance with the directions of the Council any sign or notice relating to hackney carriage vehicles which the Council may from time to time require.

INSURANCE

A current insurance certificate or cover note must be displayed, where it can be seen by the passengers, in each hackney carriage.

CHANGE OF ADDRESS

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

CONVICTIONS, CAUTION, ANTI SOCIAL BEHAVIOUR ORDER, ACCEPTABLE BEHAVIOUR AGREEMENT/CONTRACT

The proprietor shall within seven days disclose to the Council in writing details of any conviction, caution, Anti Social Behaviour Order, Acceptable Behaviour Agreement/Contract imposed on him/her or, (if the proprietor is a company or a partnership, on any of the directors or partners) during the period of the licence.

DEPOSIT OF DRIVER'S LICENCE

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

ACCIDENTS

Any accident to a hackney carriage vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein, must be reported as soon as practicable and in any case within 72 hours of the occurrence.

ADVERTISING

Advertising of Company Name, Logo's and Telephone Numbers are restricted to the front driver's and passenger's door only. No other advertising of any description is allowed anywhere else on the vehicle. Limited advertising may be permitted on the rear of the roof sign.

BLACKED OUT WINDOWS

Totally blacked out windows in hackney carriages will not be permitted. However, partially darkened windows may be allowed at the discretion of the Licensing Officer.

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

Private Hire Drivers Licences

Conditions of Licence

CONDUCT OF DRIVER

The driver shall -

- (1) afford all reasonable assistance with passengers' luggage;
- (2) at all times be clean and respectable in his/her dress and person and behave in a civil and orderly manner;
- (3) take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by him/her;
- (4) not without the express consent of the hirer smoke, drink or eat in the vehicle;
- (5) not without the express consent of the hirer play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle;
- (6) at no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the vehicle which he/she is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.

PASSENGERS

- (1) the driver shall not convey or permit to be conveyed in a private hire vehicle a greater number of persons than that prescribed in the licence for the vehicle;
- (2) the driver shall not without the consent of the hirer of a vehicle convey or permit to be conveyed any other person in that vehicle;

LOST PROPERTY

- (1) the driver shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the vehicle for any property which may have been accidentally left there;
- (2) if any property accidentally left in a private hire vehicle by any person who may have been conveyed therein is found by or handed to the driver, he/she shall take it as soon as possible and in any event within

twenty four hours, if not sooner claimed by or on behalf of its owner, to a convenient police station and leave it in the custody of the officer in charge having been given a receipt for it.

WRITTEN RECEIPTS

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

ANIMALS

The driver shall not convey in a private hire vehicle any animal belonging to or in the custody of himself/herself or the proprietor or operator of the vehicle and he/she shall ensure that any animal belonging to or in the custody of any passenger is conveyed in the rear of the vehicle.

PROMPT ATTENDANCE

The driver of a private hire vehicle shall, if he/she is aware that the vehicle has been hired to be in attendance at an appointed time and place or he/she has otherwise been instructed by the operator or proprietor of the vehicle to be in attendance at an appointed time and place punctually attend at that appointed time and place, unless delayed or prevented by reasonable cause.

COPY OF CONDITIONS

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

DEPOSIT OF DRIVER'S LICENCE

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

TAXIMETER

If a private hire vehicle being driven by the driver is fitted with a taximeter, the driver shall not cause the fare recorded thereon to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare.

FARE TO BE DEMANDED

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

CHANGE OF ADDRESS

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

CONVICTIONS, CAUTION, ANTI SOCIAL BEHAVIOUR ORDER, ACCEPTABLE BEHAVIOUR AGREEMENT/CONTRACT

The proprietor shall within seven days disclose to the Council in writing details of any conviction, caution, Anti Social Behaviour Order, Acceptable Behaviour Agreement/Contract imposed on him/her or, (if the proprietor is a company or a partnership, on any of the directors or partners) during the period of the licence.

DRESS/APPEARANCE

Drivers are expected to be clean and tidy in their appearance and to be dressed in a manner that does not cause embarrassment to members of the public. To that end swimwear, football style tops and shorts, sleeveless vests or singlets are NOT allowed.

RETURN OF BADGE

The driver shall upon the expiry (without renewal), revocation or suspension of this licence forthwith return to the Council the driver's badge issued to him by the Council.

SCANNERS

Any driver of a private hire vehicle convicted of the use of a radio scanner will be barred from holding a Private Hire Drivers Licence with the Council for a minimum period of five years from date of conviction.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Private Hire Vehicle Licences

Conditions of Licence

MAINTENANCE OF VEHICLE

The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements, including in particular those contained in The Motor Vehicle (Construction and Use) Regulations shall be fully complied with. All private hire vehicles will undergo a mechanical inspection, by an approved garage, every six months.

ALTERATION OF VEHICLE

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

IDENTIFICATION PLATE

The plate identifying the vehicle as a private hire vehicle is required to be exhibited on the vehicle pursuant to Section 48(6) of the Local Government (Miscellaneous Provisions) Act 1976 and shall at all times be securely fixed on the outside to the rear of the vehicle in a conspicuous position and in such a manner as to be easily removable by an authorised officer of the Council or a Constable.

INTERIOR MARKINGS

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

ROOF SIGNS

No roof signs of any size will be permitted.

FIRST AID KIT

There shall be provided and maintained in the vehicle at all times when it is in use or available for hire a suitable first aid kit containing appropriate first aid dressings and appliances available for immediate use in an emergency.

FIRE EXTINGUISHER

There shall be provided and maintained in the vehicle at all times when it is in use or available for hire a suitable Fire Extinguisher which must conform to British and European Standards.

SIGNS, NOTICES

The proprietor shall cause to be affixed and maintained in the vehicle in a conspicuous position in accordance with the directions of the Council any sign or notice relating to private hire vehicles which the Council may from time to time require.

INSURANCE

A current insurance certificate or cover note must be displayed, where it can be seen by the passengers, in each private hire vehicle.

CHANGE OF ADDRESS

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

CONVICTIONS, CAUTION, ANTI SOCIAL BEHAVIOUR ORDER, ACCEPTABLE BEHAVIOUR AGREEMENT/CONTRACT

The proprietor shall within seven days disclose to the Council in writing details of any conviction, caution, Anti Social Behaviour Order, Acceptable Behaviour Agreement/Contract imposed on him/her or, (if the proprietor is a company or a partnership, on any of the directors or partners) during the period of the licence.

DEPOSIT OF DRIVER'S LICENCE

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

ACCIDENTS

Any incident to a private hire vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein, must be reported as soon as practicable and in any case within 72 hours of the occurrence.

ADVERTISING

Advertising of Company Name, Logo's and Telephone Numbers are restricted to the front driver's and passenger's door only. No other advertising of any description is allowed anywhere else on the vehicle.

BLACKED OUT WINDOWS

Totally blacked out windows in hackney carriages will not be permitted. However, partially darkened windows may be allowed at the discretion of the Licensing Officer.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Private Hire Operators Licences

Conditions of Licence

RECORDS

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

- a) the time and date of the booking;
- b) the name and address of the hirer;
- c) the method of booking;
- d) the time of pick-up;
- e) the point of pick-up;
- f) the destination;
- g) the time at which the driver was allocated to the booking;
- h) the registration number of the vehicle allocated for the booking;
- i) remarks (including details of any business sub contracted to another holder of a Lewes District Council Operator's Licence).

It is unlawful to sub contract to the holder of an Operator's Licence outside Lewes District Council area.

STANDARD OF SERVICE

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

- a) ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place;
- b) keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting;
- c) ensure that any waiting area provided by the operator has adequate seating facilities;

- d) ensure that any telephone facilities and radio equipment provided are maintained in good condition and that any defects are repaired promptly;
- e) ensure that any radio equipment provided by the operator is inspected at his/her expense at least once a year by a company approved by the Council and that a certificate that the equipment is in good condition is submitted to the Council within one month of the inspection.

COMPLAINTS

The operator shall immediately upon receipt notify the Council in writing of any complaints concerning a contract for hire or purported contract for hire relating to or arising from his/her business and of the action (if any) which the operator has taken or proposes to take in respect thereof.

CHANGE OF ADDRESS

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

CONVICTIONS, CAUTION, ANTI SOCIAL BEHAVIOUR ORDER, ACCEPTABLE BEHAVIOUR AGREEMENT/CONTRACT

The proprietor shall within seven days disclose to the Council in writing details of any conviction, caution, Anti Social Behaviour Order, Acceptable Behaviour Agreement/Contract imposed on him/her or, (if the proprietor is a company or a partnership, on any of the directors or partners) during the period of the licence.

Policy And Guidelines Relating To The Relevance Of Convictions

GENERAL POLICY

Each case will be decided on its own merits.

A criminal conviction is not an automatic bar to obtaining a licence. However, when considering applications from persons with previous convictions, the Council will have regard to the provisions of the Rehabilitation of Offenders Act 1974.

In all cases the Council's primary concern will be to ensure the safety and protection of the general public.

The following guidelines give a general idea of the matters that the Council will take into account when considering an applicants previous convictions.

MINOR TRAFFIC OFFENCES

Isolated convictions for minor traffic offences e.g. obstruction, waiting on a restricted street, speeding etc, should not prevent a person from proceeding with an application for a drivers licence. Any new applicant must have held a full drivers licence issued by the DVLA for a minimum period of 12 months without any period of suspension/disqualification. Holders of a hackney carriage/private hire drivers licence who are convicted during the period of the licence of a minor offence (which does not result in disqualification) should be warned as to their future conduct and advised that any future offence(s) which do lead to disqualification may render the holder liable to revocation of their hackney carriage/private hire drivers licence. Where a licensed driver is disqualified at court under the points totting up system, his DVLA drivers licence must be free of conviction for a minimum period of 12 months before a reapplication for a Hackney Carriage/Private Hire Driver Licence is considered. Re-application will then be considered on its merits.

MAJOR TRAFFIC OFFENCES

An isolated conviction for driving without due care and attention etc will merit at least a warning as to future driving and advice on the standards expected of hackney carriage/private hire drivers. Suspension and/or revocation of a hackney carriage/private hire drivers licence should be considered in the case of more serious convictions or in relation to those drivers who are convicted of more than one major traffic offence within a two year period. Applications from drivers who have had their hackney carriage/private hire drivers licence revoked for any of the above reasons should not be considered until a minimum period of three years free from conviction has elapsed. In the case of applications from persons who have not held a hackney carriage or private

hire drivers licence before and possess one or more previous convictions for a major traffic offence within the last three years, refusal should be considered.

DRUNKENNESS/DRUGS WITH A MOTOR VEHICLE

A very serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident should not necessarily de-bar an applicant provided that a minimum period of five years has elapsed since the date of the last conviction but if a licence is granted strict warning should be given as to future behaviour.

More than one conviction for a drink/drug driving offence should raise grave doubts as to the applicant's fitness to hold a hackney carriage/private hire drivers licence. At least ten years from the date of last conviction should elapse before an applicant is considered for a hackney carriage/private hire drivers licence. Any indication of an alcohol related medical problem should necessitate a full medical assessment in accordance with the 'Medical Aspects of Fitness to Drive Guide' relating to alcohol and driving for Group II drivers issued by the DVLA.

A hackney carriage or private hire driver found guilty of driving passengers for hire and reward whilst under the influence of drink or drugs should have his hackney carriage or private hire drivers licence revoked immediately and be barred from holding such a licence with the Council.

DRUNKENNESS NOT IN A MOTOR VEHICLE

An isolated conviction for drunkenness need not de-bar an applicant from obtaining a licence, however, a number of convictions for drunkenness could indicate a medical problem necessitating further examination. In some cases a warning may be sufficient.

DRUGS

An applicant with a conviction for a drug related offence should be required to show a period of at least five years free of conviction before an application is entertained or after detoxification treatment if he/she was an addict.

INDECENCY OFFENCES

As hackney carriage/private hire drivers often carry unaccompanied passengers, applicants with convictions/cautions for indecent exposure, indecent assault, importuning or any of the more serious sexual offences should be refused until they can show a substantial period (at least five years) free of such offences. More than one conviction for this type of offence

should be considered in the light of the applicant not being a fit and proper person to hold a licence with the Council.

VIOLENCE

As hackney carriage/private hire drivers maintain close contact with the public a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least five years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

DISHONESTY

Hackney carriage/private hire drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become fair game for an unscrupulous driver. For these reasons a serious view should be taken for any conviction involving dishonesty. In general a period of five years free of conviction should be required before entertaining an application.

ANTI SOCIAL BEHAVIOUR ORDERS (ASBOS) ACCEPTABLE BEHAVIOUR CONTRACT/AGREEMENT (ABA)

Where an Anti Social Behavior Order (ASBO) or Acceptable Behavior Agreement (ABA) has been made in relation to an applicant for a Hackney Carriage/Private Hire Drivers Licence, then at least three years in the case of an ASBO or two years in the case of an ABA must have elapsed since the expiry of the ASBO or ABA before that application can be considered. Each case to be considered on it's merits.

If a licensed driver receives an Anti-Social Behavior Order during the period of his/her Hackney Carriage/Private Hire License it must be reported in writing to the Council (Licensing Officer) and depending on the circumstances and seriousness of the order may render that person liable to have his/her Driver's Licence suspended/revoked.

CAUTIONS

All cautions will be taken into account before a decision is taken to grant a Hackney Carriage or Private Hire Driver's Licence. In general terms, three years must have lapsed since the date of a caution before an application is entertained.

Any Hackney Carriage or Private Hire Driver who receives a caution during the period of their licence must report the fact in writing to the Council (Licensing Officer) and depending on the circumstances and type of offence for which the caution has been given, it may render that person liable to have their Hackney Carriage or Private Hire Driver's Licence suspended or revoked.

INSURANCE OFFENCES WITH A MOTOR VEHICLE

A very serious view should be taken of convictions for driving or for being in charge of a vehicle without the necessary insurance. An isolated incident in the past will not necessarily de-bar an applicant provided that a minimum period of one year has elapsed since the date of the last conviction but if a licence is granted, strict warning should be given as to future behaviour.

More than one conviction for an offence of this nature should raise doubts as to the applicants fitness to hold a hackney carriage/private hire drivers licence. If the applicant has been convicted of more than one offence of driving or being in charge of a vehicle without insurance then at least three years should have elapsed since the date of the last conviction before the applicant can be considered.

An applicant with three or more insurance offences should be regarded as being unfit to hold a hackney carriage/private hire drivers licence.

A hackney carriage/private hire driver who is convicted of driving passengers for hire and reward without the necessary insurance should have his hackney carriage/private hire drivers licence revoked immediately. Further applications from such a driver should not be considered until a minimum period of three years has elapsed since the date of conviction.

Applicants who have been convicted of driving a hackney carriage/private hire vehicle without the necessary insurance on two or more occasions should be regarded as unfit to hold a hackney carriage/private hire drivers licence and their application should be refused.

SCANNERS

Any driver of a hackney carriage or private hire vehicle convicted of the use of a radio scanner will be barred from holding a Hackney Carriage/Private Hire Drivers Licence with the Council for a minimum period of five years from date of conviction.

OFFENCE	EXCLUSION PERIOD FOR LICENCE DRIVER / NEW APPLICANT
Minor Traffic Offences – Driving disqualification at Court Disqualification for current driver	DVLA Licence free from conviction for 12 months for new applicants Revocation – then 12 months free from conviction
Major Traffic Offences Serious conviction More than one offence in 2 yr period	Suspension / Revocation- 3 yrs Suspension / Revocation- 3 yrs
Drunkenness/Drugs with Motor Vehicle One offence More than one offence Whilst working	5 yrs 10 yrs Total Bar
Drug Offences, Offences of Violence, Dishonesty Offences	5 yrs
Motor Vehicle Insurance More than one offence More than three offences Whilst Working	3 yrs Total Bar Immediate Revocation then 3 yrs
Illegal use of Scanner	5 yrs
Cautions New Applicant Current Driver	3 yrs Licensing Committee Decision
Anti Social Behaviour Order New Applicant Current Driver	3 yrs Licensing Committee Decision
Acceptable Behaviour Agreement/Contract New Applicant Current Driver	2yrs Licensing Committee Decision

FOR FURTHER CLARIFICATION REFER TO GENERAL POLICY.

LEWES DISTRICT COUNCIL

BYE-LAWS

Bye-Laws made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875 by the Lewes District Council with respect to hackney carriages in the district of Lewes.

INTERPRETATION

Throughout these bye-laws “the Council” means the Lewes District Council and “the District” means the district of Lewes.

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

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

a proprietor or driver of a hackney carriage shall:

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.

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

The proprietor of a hackney carriage shall:

provide sufficient means by which any person in the carriage may communicate with the driver;

cause the roof or covering to be kept watertight

provide any necessary windows and a means of opening and closing not less than one window on each side;

cause the seats to be properly cushioned or covered;

cause the floor to be provided with a proper carpet, mat or other suitable covering;

cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;

provide means for securing luggage if the carriage is so constructed as to carry luggage;

provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;

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

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:-

the taximeter shall be fitted with a key, flag, or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;

such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;

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 for] distance in pursuance of the tariff fixed by the Council in that behalf.

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;

the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and

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.

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

when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;

before beginning a journey for which a fare is charged for distance [and time], bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and

cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half an hour after sunset and half an hour before sunrise and also at any other time at the request of the hirer

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

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

proceed with reasonable speed to one of the stands appointed by the Council pursuant to Section 63 of the Local Government (Miscellaneous Provisions) Act 1976;

if a stand, at any time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;

on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and

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.

A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.

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.

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.

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

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, shall wear that badge in such position and manner as to be plainly visible.

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:

convey a reasonable quantity of luggage;

afford reasonable assistance in loading and unloading;

afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

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

The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.

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

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.

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 redelivery of any property accidentally left in hackney carriages and fixing the charges to be made in respect thereof.

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

carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf its owner, to a police station in the district and leave it

in the custody of the officer in charge of the office on his giving a receipt for it; and

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 police station in the district, whichever be the greater) but not more than five pounds.

PENALTIES

Every person who shall offend against any of these bye-laws 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 therefor.

REPEALS

The bye-laws relating to hackney carriages which were made by the Lewes District Council on the 12 day of January 1995 and which were confirmed by the Secretary of State for Transport on the 6 day of April 1995 are hereby repealed.

THE COMMON SEAL of
LEWES DISTRICT COUNCIL
was hereunto affixed
the day of
in the presence of:-

District Solicitor

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Logo

Lewes District Council Hackney Carriage and Private Hire Licensing Guidance

Effective Date:

Contents

Part 1	Introduction
Part 2	Definitions
Part 3	Vehicles
Part 4	Drivers
Part 5	Private Hire Operators
Part 6	Application Procedures
Part 7	Disciplinary and Enforcement Measures
Part 8	Equalities and Accessibility
Part 9	Fares
Part 10	Licence Fees
Part 11	Appeals

Appendices

Appendix 1: Private Hire, Hackney and Specialist Vehicle Licence Conditions
Appendix 2: Guidelines of Relevant Convictions etc
Appendix 3: Private Hire Operators Licence Conditions
Appendix 4: Right to Work
Appendix 5: Private Hire Drivers Licence Conditions
Appendix 6: Hackney Carriage Byelaws

Part One: Introduction

This licensing Guidance is written pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended which place on Lewes District Council (“the Council”) the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles. In addition the Council will have due regard to all other relevant legislation and guidance in its decision making process. The Council has responsibility for the licensing of vehicles, drivers and operators within the district of Lewes and in exercising its discretion the Council will have regard to this Guidance.

The Council recognises the important role that hackney carriage and private hire vehicles play as part of an integrated transport system as they provide essential services particularly in those situations where public transport is either not available, for example in rural areas, and for those individuals with mobility difficulties.

In setting out this Guidance the Council seeks to;

- a. Ensure the safety and welfare of the public which is the overriding objective,
- b. Encourage environmental sustainability,
- c. Ensure an efficient and effective hackney carriage and private hire provision,
- d. Monitor and improve standards of service in the trade

Notwithstanding the existence of this Guidance, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to substantially depart from this Guidance, in exceptional circumstances, reasons will be given for doing so.

This Guidance will take effect *from xxx* and will be kept under review and amended as and when necessary to reflect changes in legislation, case law, statutory guidance and best practice.

Minor amendments to this Guidance required for example by virtue of legislative change or administrative procedural change may be made by the Functional Lead - Quality Environment in consultation with the Chair of the Licensing Committee.

Significant amendment to the Guidance will require a full public consultation prior to consideration by the full Licensing Committee. Significant amendment includes those that will have a significant procedural or financial impact on applicants, licence holders or the public and those which are inconsistent with the Guidance objectives.

When any revisions are made to the Guidance the Council will publish a statement of the revision on its website along with the revised Guidance.

Transitional Arrangements

The Guidance have will effect from *xxx date agreed*. With the exception of the Vehicle Licence Conditions which for new applicants for a vehicle licence will take effect from the date this Guidance becomes effective, and for existing vehicle licence holders will take effect from when they change the vehicle to which the licence applies.

In relation to the introduction of mandatory CCTV for new applicants this will take effect from the date this Guidance becomes effective and for current licence holder they must have CCTV installed within three years of the introduction of the Guidance.

Part 2: Definitions

The 1847 Act	Town Police Clauses Act 1847
The 1976 Act	The Local Government (Miscellaneous Provisions) Act 1976
Authorised Council Officer	Means an Officer of the Council authorised under the Council's Scheme of Delegation to administrate the licensing function
Best Practice Guidance	Means Best Practice Guidance on Taxi and Private Hire Vehicles Licensing issued by the Department of Transport in March 2010 as amended or as may be replaced.
Council or Licensing Authority	Means Lewes District Council in its licensing function
Driver	Refers to a hackney carriage, private hire, dual and restricted driver, unless expressly stated or the context indicates otherwise
Hackney Carriage	Means a vehicle licenced under the 1847 Act to stand or ply for hire throughout the district controlled by the Council
He/his	shall apply to female equivalent
Private Hire Operator	Means a person who in the course of business makes provision for the invitation or acceptance of bookings for private hire vehicles
Private Hire Vehicle	A motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers
Proprietor	Refers to owners of either hackney carriage or private hire vehicles, unless expressly stated or the context indicates otherwise and includes a part proprietor
Restricted Private Hire Driver	Only undertake school transport work in a private hire vehicle. The driver would be responsible for driving a child to and from their school and the licence does not permit the licence holder to undertake any other work.

Vehicle	Refers to a hackney carriage or private hire or specialist vehicle, unless expressly stated or the context indicates otherwise
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Part 3: Vehicles

Limitation of Numbers

The Council currently has no limit on the number of hackney carriages which may be licensed within the District and has no intention of introducing one unless evidence of 'no significant unmet demand' can be provided.

No powers exist for the Council to limit the number of private hire vehicles that it may licence.

Specifications and Conditions

The Council has a wide discretion over the type of vehicle it can licence and the Best Practice Guidance suggests that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible.

The Council is empowered to impose such conditions as it considers reasonably necessary in relation to vehicles licences.

Licence conditions relevant to the type of vehicle are contained in Appendix 1.

Environmental Considerations

The Council has given careful consideration to introducing tougher emissions standards for all licenced vehicles and considers its responsibility in protecting the environment to be an important objective of the Guidance.

The Council is committed to reducing emissions through raising awareness of environmental issues with the trade and other interested parties.

However, at this time the Council considers that its requirement for all vehicles to be tested every six months means that it does not require tougher emission standards for licensed vehicles.

Maximum Age of Vehicles

Vehicles presented for first licensing shall not be more than five years old and vehicles of more than ten years old will not be relicensed, apart from in exceptional circumstances at the discretion of an Authorised Officer, but it is noted that the transitional period operates to this part of the Guidance.

Vehicle Testing

No vehicle may be used unless it has a current MOT pass certificate and a certificate of compliance following a satisfactory test both of which must be dated no earlier than one calendar month prior to the licence commencement date. Vehicles that are less than one year old will be exempt from obtaining a current MOT pass certificate but will still be required to obtain a certificate of compliance pass certificate.

All vehicles will be subject an annual MOT and six monthly compliance test. Each application for a grant or renewal of a vehicle licence must be accompanied with proof of compliance.

The licence of any vehicle which fails its testing requirement will be automatically suspended unless such time as the vehicle has been re-examined and the necessary pass certificate obtained.

In addition, the Council will undertake a programme of inspections between formal testing dates. All vehicles must be available for inspection, at any location within the District, at all times, when requested by an Authorised Officer or a Police Officer. All vehicle documentation must be produced within 24 hours, or at such time as specified, when requested by an Authorised Officer or a Police Officer. In the event of any concerns in relation to vehicle safety the vehicle will be referred for a formal assessment. Where in the opinion of an Authorised Officer the testing requirements would not be met they may agree a period of time for rectification and re-inspection or they will suspend the vehicle until such time as the re-testing requirements shall be met.

Responsibility for ensuring the vehicle is tested and licensed remains with the licence holder.

Inspections are only to be carried out by at a VOSR approved garage in the District.

Livery

The Council believes that the requirements of this Policy ensure that hackney carriages and private hire vehicles are easily distinguishable and there is no current requirement for specific vehicle livery in the District.

Change of Ownership

Any change of to the proprietor named on a vehicle licence must be notified to the Council within fourteen days of any change.

When the proprietor of a vehicle licence wishes to transfer the licence to another person, company or partnership he must notify the Council, using the prescribed application form and paying the appropriate fee, before such a change takes place.

Unauthorised Use

The proprietor shall not allow the vehicle to be driven and/or used for hire by any person who does not hold an appropriate current driver licence.

Intended Use (Hackney Carriages only)

A hackney carriage vehicle licensed by one local authority can be used to fulfil pre-booked hiring's on behalf of private hire operators licensed by another local authority. In order that the Council may retain local control over the hackney carriages it licenses, applicants will be asked as part of the application process which area they intend to entirely or predominantly operate from for the purposes of fulfilling pre-booked hiring's. It will be incumbent upon the applicant to demonstrate to the Council's satisfaction that they intend to ply for hire predominantly within the District.

If the applicant indicates that they will not predominately work within the District the application will normally be refused.

This section is not intended to act as a restraint of trade since applicants may make applications to any local authority in which area they intend to ply for hire.

Accident Reporting

Any accident in a vehicle 'causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of passengers' must be reported to the Council as soon as reasonably practicably and in any case within 72 hours of the event.

Following any accident, as defined above, if it is the intention of the proprietor to continue licensed use the vehicle must be inspected by a VOSR approved garage in the District to determine its fitness. It is the responsibility of the licence holder to notify the Council that this requirement has been satisfied. The Council may suspend the use of the licenced vehicle until it is suitably repaired and conforms to the testing requirements.

A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by another vehicle provided that the damage or defect has been reported to an Authorised Officer, and the replacement vehicle meets the requirements of this Guidance and is suitable to be used for hire purposes.

CCTV

The Council accepts that security of drivers and passengers is of paramount importance and CCTV can be a valuable deterrent. Under this Guidance CCTV will be a mandatory requirement in all hackney carriages and private hire vehicles with the exception of executive private hire vehicles.

For new applicants this will apply immediately following the introduction of this Guidance and for current licence holder they must have CCTV installed within three years of the introduction of the Guidance.

The installation and operation of the CCTV systems shall comply with the requirements of the Information Commissioners CCTV Code of Practice. Following the installation of any CCTV installed into the vehicle it is incumbent upon the operator, proprietor or driver to handle relevant data in an appropriate or secure manner.

The CCTV system shall comply with any legislative requirement as regards safety, technical acceptability and operational/data integrity.

The CCTV will remain at all times the property of the proprietor of the vehicle who will be responsible for the maintenance of the system and will ensure that it is checked regularly and maintained in working order at all times. If at any time the CCTV systems is not working it must be reported to an Authorised Officer within 72 hours.

The CCTV system must be capable of date, time and vehicle identification. It must be capable to capturing images during daytime and darkness of sufficient quality to enable the identification of any person travelling in the vehicle and be of such quality that it can be used for prosecution purposes, where necessary.

The positioning of the CCTV should be such that the hard disc or data card is not accessible to any passenger travelling in the vehicle. The equipment must be securely fixed such that it cannot be tampered with or damaged by any person travelling in the vehicle.

The CCTV system shall not be used to record conversations between members of the public, since that is highly intrusive, and if any system is equipped with a sound recording facility then that functionality shall be disabled.

All vehicles with a CCTV system shall display prominent notices, visible both outside and inside the vehicle, to inform passengers that a CCTV system is in operation.

An Authorised Officer or Police Officer may, on reasonable notice, examine any camera installation or any footage from the CCTV. The Council shall be permitted to access data where they have received a complaint involving the vehicle or its driver and the complaint cannot be fully investigated without access to the recording. The licence holder shall co-operate with any Police investigation where access to the CCTV footage may assist.

The CCTV system must be capable of recording and storing images for a minimum of 28 days.

Vehicle Specification

The Council's general specifications are;

Vehicles shall be fitted with a minimum of four side doors of a size to permit easy access.

The engine shall not be less than 1290cc.

The vehicle shall be designed to permit the specified number of passengers to be carried in comfort and safety. The rear seat must be at least 48 inches wide and all seats shall have a minimum width of 16 inches per person

The vehicles shall be provided with adequate luggage space for the number of passengers for which the vehicle is licensed.

Vehicles may be of the saloon, estate, hatchback or MPV type and all vehicles must be approved by the Council. Estate vehicles must be fitted with a grill or parcel shelf sufficient to prevent luggage coming into contact with passengers using rear seats.

Left hand drive vehicles will not normally be licensed, except with the agreement of an Authorised Officer.

Stretched Limousines and other specialist vehicles

Any stretched limousine capable of carrying eight passengers or less which is offered for hire will require a licence.

For the purposes of this Guidance a stretched limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures that is capable to carrying up to but not exceeding 8 passengers.

The Individual Vehicles Approval Inspection regime introduced by the Vehicle and Operator Services Agency will apply to all limousine and speciality vehicles that do not meet the standard vehicle specification.

The Council recommends that anyone wishing to licence a limousine or specialist vehicle should contact the Council before purchasing a vehicle to ensure that advice is given about meeting the required standards.

Funeral and Wedding Vehicles

There is no requirement for a vehicle to be licensed when it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying out the business of a Funeral Director for the purposes of funerals.

A vehicle does not need to be licensed whilst it is being used in connection with a wedding. For clarification, the exemption only applies to journeys directly relating to the wedding service itself for example transporting the bride/and or groom to the wedding service, from the service to the reception and from the service/reception to home. Transport to other locations such as the airport would be considered a licensable activity.

Ambulance and other patient transport

Ambulances defined by, 'vehicles conforming to original manufacturers specifications and equipped and used for the carriage of sick, injured or disabled people with permanent rear compartment and means of carrying passengers in a recumbent position together with an attendant seat for use by accompanying medical professionals, readily identifiable as a vehicle used for the carriage of such people by being marked ambulance on both sides', will be exempt from private hire vehicle licensing.

In addition, the Council will exempt from licensing those vehicles being used by volunteer drivers (unpaid) to take patients to and from hospital.

Courtesy Vehicles

Courtesy vehicles used for example for transporting customers to and from garages, airports, hotels and night clubs without charge but with a clear business benefit should be licensed even though there may not be a separate charge for using the vehicle. For clarification, in addition the operator and the driver should also be licenced.

Executive Private Hire Vehicles

Executive or chauffeur driven vehicles will require a licence. However, private hire vehicles will be issued with an exemption certificate if the vehicle is of a high quality both in terms of brand and condition. This include but are not limited to luxury brands such as Mercedes Benz, BMW, Jaguar, Rolls Royce, Bentley and Lexus and in addition the vehicle should have no visible defects or dents either externally or internally.

Potential applicants will need to demonstrate that the vehicle will be used exclusively for executive clients and/or special occasions. Examples of these journeys would include but are not limited to corporate events, conferences, exhibitions and meetings, chauffeured services and school proms.

Dual Plating

The Council will not grant a vehicle licence for any vehicle already licensed by another licensing authority.

Part 4: Drivers

Licences

The Council issues the following types of drivers' licences;

- Hackney carriage
- Private Hire
- Dual Drivers – holding both a hackney and private hire drivers licence
- Restricted Private Hire

The statutory and practical criteria and qualifications for all drivers are broadly the same. Therefore this section applies equally to hackney carriage, private hire, dual and restricted private hire drivers unless otherwise stated.

Age and experience

The Guidance does not set a minimum age limit for new drivers. However, a licence will not be granted to anyone who has not held a full DVLA or equivalent driving licence, for a period of at least twelve months immediately prior to the application.

An applicant who meets the licensing requirement by virtue of an acceptable non UK driving licence must obtain a full UK driving licence within 12 months of the issuing of the driver licence. Where this requirement is not satisfied the driver's licence will be automatically suspending pending compliance. This requirement is to ensure appropriate regulation of any penalty points issued by the courts in relation to road traffic offences and is an integral part of the 'fit and proper person' test.

There is no maximum age limit for drivers but once the licence holder reaches the age of 65 they will be required to provide to the Council annual medical checks.

Driver tests

Applicants for hackney carriage, private hire or dual driver licences will be required to complete three main tests as part of the application process. Applicants for a restricted private hire driver's licence are not required to take the local area knowledge test.

1. Knowledge test

The knowledge test includes questions on local area knowledge. Hackney carriage drivers clearly need a good working knowledge of the District because hackney carriages can be hired immediately whilst private hire vehicles must be pre booked so there would be an opportunity to research the required route. Therefore, the Council's computer based knowledge test is comprised of two slightly different tests one for private hire drivers and another for hackney and dual drivers licences.

Both tests involve the applicant having local knowledge in addition to an understanding of the Guidance, the law, and the Highway Code.

Other parts of the test includes testing the knowledge and awareness of applicants in relation to customer service and English and numeracy.

Applicants are limited to three attempts at the test per application and the test must be passed within six months of receipt their application. If they fail the tests, their application will be rejected and they must wait for at least six months before reapplying.

Any person found cheating will be disqualified from the test and will not be granted a licence for at least three years.

Applicants are required to provide photographic identification on the day of the test, for example a passport, and if they fail to provide photographic ID their test will be cancelled.

The cost of test is not included in the application fee. Each test is paid for at the time of booking and the fee is non-refundable.

In addition, drivers will be required to attend training sessions on Disability Awareness and Child Sexual Exploitation and Safeguarding run by a body approved by the Council. Applicants who fail the training will be required to resit the training and pass before a licence can be issued. The costs of this training are payable by the applicant.

2. Driving Proficiency Test

New applicants are required to undertake a driving proficiency test and details of local companies who offer the test will be provided at the application stage.

3. Medical Examination

In order to promote the Council's public safety objective it is a requirement for an applicant to provide a medical assessment from a registered medical practitioner confirming their fitness to drive.

This requirement to produce a medical assessment applies to any applicant unless the applicant is the holder of a current passenger services vehicle or heavy goods vehicle licence and is able to provide proof of medical examination undertaken in the three months prior to the application being made.

A current licence holder must advise the Council forthwith if there is any deterioration in their health what may affect their driving capabilities.

Licensed driver are required to have a medical assessment at least every five years from the ages of 45 to 65 and after the age of 65 to provide an annual medical assessment. The Council may also require a driver to provide more frequent checks if in the opinion of a medical practitioner that is necessary.

The prescribed form is available from the Council. The medical examination will normally be carried out the applicant's GP, but can be from any other medical practitioner if an Authorised Officer agrees, who has accessed the applicants medical records for at least the last two years. On completion the form must be submitted to the Council.

The applicant/licence holder will be responsible for any fees incurred in obtaining a medical examination.

Disclosure & Barring Service (DBS) Disclosures

A DBS check on a driver is an essential safety measure in assessing whether or not an applicant is suitable to hold a licence therefore an Enhanced Disclosure provided by the DBS is required for all applicants whether in relation to new or renewal applications.

The Rehabilitation of Offenders Act 1974 (as amended) does not apply to applicants for drivers licences therefore applicants are required to disclose all convictions etc including those that would normally be regarded as spent but only relevant 'spent' convictions will be taken into account by the Council. Further details are provided in Appendix 2 Guidelines on Relevance of Convictions etc.

Before an application will be considered the applicant must provide a current, not less than three months old, Enhanced Disclosure. The only exception would be where an

applicant has registered with the DBS for the online checking service and the Council has seen the latest DBS to which the online check refers.

In the case of new applicants with less than five years residence in the UK a Certificate of Good Conduct will be required from the relevant embassy of any country where they have lived for a period of more than one year, in addition to an Enhanced Disclosure covering their time in the UK.

In the case of renewal applicants who have been out of the UK for a period of more than six months they will need to provide a Certificate of Good Conduct from the relevant embassy of that country.

All Certificates of Good Conduct must be translated into English by an accredited translator and accompanied by a declaration to that effect.

The Council is bound by the rules of confidentiality and will not disclose information obtained to any third party save as required by the law. The applicant for an Enhanced Disclosure will be sent a certificate to their home address and will need to provide the original to the Council.

The Council will also make checks with the National Anti-Fraud Network database on refusal and revocation of licences when that is available.

DVLA Licence checking

In order to ensure the Council have a driver's complete driving history the Council will check with the DVLA for all new applications and annually. The cost of these checks are borne by the applicant.

Any discrepancies between the DVLA record and the applicants driving licence will be brought to the attention of the DVLA and the Police, as appropriate.

Right to Work

In addition all applicants will be required, prior to the grant or renewal of the licence, to demonstrate their right to work in the UK and details are contained in Appendix 4.

Conditions

The Council is permitted to apply conditions to private hire licences as it may consider reasonably necessary and those are contained in Appendix 5.

The Council is not permitted to apply condition to hackney carriage drivers but instead a byelaw applies as contained in Appendix 6.

Duration

The Council will licence drivers for a maximum of three years from the date of the licence but also offers applicants the choice of an annual licence.

Part 5: Private hire operators

Any person who operates a private hire service using one or more private hire vehicles must have a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

An operator must ensure that every private hire vehicle has a current private hire vehicle licence and is driven by a person who holds a current private hire drivers licence. All three licences, operators, driver and vehicle must be issued by the same licensing authority.

Conditions

The Council has the power to impose such conditions on an operator's licence as it considers reasonable, necessary and proportionate. These are found at Appendix 3.

DBS Disclosures

Operators cannot be required to produce an Enhanced Disclosure therefore a Basic Disclosure and/or a Certificate of Good Conduct form, as relevant, is required. A reference covering the applicant's financial records and/or business history may also be considered appropriate in some instances.

Before an application for an operator's licence will be considered the applicant must provide a current (not less than three months old) Basic Disclosure and/or Certificate of Good Conduct. Applicants that hold a current drivers licence with the Council will be exempt from this requirement.

Public Liability Insurance

The Council may check that appropriate public liability insurance has been taken out for premises that are open to the public. Before an application for an operator's licence is made the applicant must either produce evidence that they have taken out appropriate public liability insurance for the premises to be licenced or signed a declaration that their premises are not open to the public.

Address for which may operate

The Council will specify on the licence the address from which the operator may accept bookings and dispatch vehicles. The operator must notify the Council in writing of any proposed change of address during the period of the licence. The operator may not change the operating address until such time as the change has been approved by the Council.

The Council will not grant an operator licence for an operating base that is outside the district. This is to ensure that proper regulation and compliance measures may be taken by the Council and is in no way intended to be a restraint of trade.

Sub-contracting of private hire bookings

A licensed operator may sub contract a booking to another licensed operator, whether in the same district or not. Both operators must be licensed within the area in which their operating base is located and should record details of the booking.

The initial booking must be taken within the area in which the operator is based and the sub contracted booking must be taken within the area in which the sub contracted operator is based.

Right to Work

All applicants will be required prior to the grant of the licence to demonstrate their right to work in the UK and details are contained in Appendix 4.

Licence Duration

The Council will ordinarily issue a successful applicant an operator's licence with a five year licence subject to the power to grant a licence for a year should this be appropriate in the circumstances or requested.

Part 6: Application Process

This section of the Guidance is intended to give an indication of the application process relating to all application types. The Council notes that there are no prescribed time scales for dealing with applications but it will endeavour to deal with all applications in a timely manner.

Vehicles

An application for vehicle licence will only be considered complete when all of the following components have been received,

- Prescribed application form fully completed
- Appropriate fee
- V5 registration document
- Current valid insurance certificate of cover note
- MOT certificate
- Certificate of compliance

Drivers

An application for a drivers licence will only be considered complete when all of the following components have been received;

- Prescribed application form fully completed
- Appropriate fee
- Current valid full driving licence
- Enhanced DBS disclosure and/or Certificate of Good Conduct (as appropriate)
- Knowledge test pass (new drivers only)
- Medical certificate (new applicants or those aged over 65 where applicable)
- Proof of right to work in the UK (new applicants and existing drivers where applicable)
- A passport sized, clear and easily identifiable photograph of the applicant
- Proof of identity. Applicants must submit one form of proof of address such as a utility bill (the proofs of address should not be more than three months old)
- Two character references

- DVLA mandate results
- Proof that passed the training in Disability Awareness and Child Sexual Exploitation and Safeguarding

Operators

An application for an operators licence will only be considered complete when all of the following components have been received

- Prescribed application form fully completed
- Appropriate fee
- Inspection of the operating premises by an Authorised Officer
- Proof of Public Liability Insurance (as appropriate)
- A financial or business reference
- Basic Disclosure/Certificate of Good Conduct unless already licensed as a driver with the Council.

Application form, appropriate fees and all supporting documentation should be submitted at least fourteen days prior to the expiry of the previous licence. Incomplete applications may be returned to the applicant for resubmission when complete. A licence will not be processed without all supporting documentation being received which satisfy the requirements of this Guidance.

If a licence has not been issued at the point when an existing licence expires the licence holder must cease operating until the new licence has been received.

Consideration of applications

Unsuccessful applicants will be informed of the Council's reasons for the refusal and their right of appeal against the decision to the Courts.

Part 7 – Disciplinary and Enforcement Measures

Enforcement

It is recognised that well directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire vehicle trade. In order to balance the protection of public safety with the need to prevent unnecessary interference in a licence holder's business, the Council will ensure that its enforcement is reasonable, proportionate, transparent and consistent. Enforcement action will not normally constitute a punitive response to minor technical contraventions but repeated minor technical contraventions will be subject to appropriate action.

Informal Action

An Authorised Officer will deal with the majority of incidents involving potential disciplinary or enforcement action. They can take informal action to secure compliance including offering advice and giving verbal or written warnings. Informal enforcement action may be appropriate were an Authorised Officer considers;

- The act or omission is not serious enough to warrant formal actions
- It can reasonably be expected that informal action will achieve future compliance
- Confidence in the driver or operator is ordinarily high
- The consequences of non-compliance will not pose a significant risk to public safety

Whilst each incident will be considered in the light of all circumstances a relevant licence holder will normally be given a written warning by an Authorised Officer including but not limited to;

- Failure to notify the Council of a change of address within proscribed timescales
- Refusal to accept hiring without reasonable cause
- Unreasonably prolongation of journey
- Leaving a hackney carriage unattended at a rank
- Failure to produce relevant documents within proscribed timescales
- Unsatisfactory condition of vehicle, externally and internally
- Failure to provide proof of insurance when requested
- Carrying more passengers than stated on the vehicle licence
- Failure to display plate or appropriate door signs
- Failure to notify a transfer of vehicle licence with proscribed timelimits
- Failure to report an accident within prescribed timescales
- Failure to carry a fire extinguisher
- Failure to carry a first aid kit
- Failure to use authorised roof light
- Smoking in the vehicle
- Failure to have driver badge clearly displayed
- Failure to observe rank discipline
- Failure to issue receipt on request
- Driving whilst using a mobile phone

If an Authorised Officer gives two or more written warnings in a twelve month period the licence holder will be referred in the first instance to the Senior Specialist Advisor.

Serious disciplinary or enforcement matters will be immediately referred to the Senior Specialist Advisor and will include, but are not limited to;

- Unlawful plying for hire
- Providing false or misleading information on the licence application form
- Overcharging
- Any relevant conviction, caution or fixed penalty notice
- Failure to carry an assistance dog without an exemption certificate
- Failure to carry passengers in wheelchairs in a designated vehicle without an exemption certificate
- Failure to notify in writing a change in medical conditions which would impact on drivers abilities to drive
- Obstruction of an Authorised Officer or Police Officer wishing to examine the vehicle.
- Using a licensed vehicle in a dangerous condition

- Driver not holding a current DVLA licence
- Using a vehicle for which the licence has been suspended or revoked

Referrals

Whilst the day to day enforcement of licensing is a function carried out by Authorised Officers serious or repeated disciplinary matters will be referred to the Senior Specialist Advisor in the first instance and at his discretion to the Licensing Sub Committee or exceptionally to the full Licensing Committee. Therefore any reference to Senior Specialist Advisor in this part also means Licensing Committees.

The Senior Specialist Advisor will consider the impact of transgressions on the fitness of an individual to hold a licence and take appropriate action.

Enforcement and disciplinary meetings/hearings

Where the Senior Specialist Advisor is considering disciplinary and/or enforcement action against a licence holder, the licence holder will be entitled to attend a meeting with them to answer allegations and/or provide any mitigating circumstances, if they wish to do so.

Prior to attending the meeting, an Authorised Officer will provide a written report containing all the information necessary to understand the allegation(s), the relevant sections of this Policy, the options available and any other relevant information. The report will be provided to the licence holder at least five working days prior to the meeting.

Following such a meeting or when the licence holder does not require such a meeting the Senior Specialist Advisor may decide to take one or more of the following actions;

- No action
- Informal advice (verbal or written warnings)
- Require the production of driving licences or other specified documentation
- Use statutory notices (section 68 stop notices, etc.)
- Suspend a licence
- Revoke a licence
- Authorise a Fixed Penalty Notice (after consultation with the Councils Legal Section)
- Authorise a Caution (after consultation with the Council's Legal Section)
- Authorise prosecution action (after consultation with the Council's Legal Section)

Other appropriate action as deemed necessary, including any combination of the above. For example where concerns are raised of a driver's standard of driving, the driver may be required to pass an appropriate driving standard assessment at the discretion of the Council. Failure to achieve a pass within a specified period of time will result in the suspension of the driver until such time as a pass is achieved. Where necessary for public safety a driver may be suspended immediately until such time as a pass is achieved.

For clarification if the Senior Specialist Advisor passes the matter on for consideration by the Licensing Sub Committee a hearing will always be held regardless of the presence of the driver, proprietor or operator.

Suspension Vehicles

Vehicles must be kept in an efficient, safe, tidy and clean condition at all times. Compliance with the vehicle specification and conditions of this Guidance is essential and will be enforced by random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the licence holder setting out the defect(s) and the required action.

Where there is a risk to public safety the further use of the vehicle will be suspended until the defects have been remedied. The suspension will not then be lifted until the vehicle has undergone a further test at a VOSR approved garage in the District, at the licence holder's expense, and the vehicle meets the requirements of this Guidance.

Drivers

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period at the discretion of the Senior Specialist Advisor.

Revocation

The Senior Specialist Advisor may revoke the licence. Ordinarily, any revocation is stayed pending the period for appeal expiring or in the case of an appeal the appeal being determined. Where necessary for public safety, the Senior Specialist Advisor may determine that a revocation takes immediate effect and is not stayed pending any appeal.

Refusal to Renew

As an alternative to revocation, the Senior Specialist Advisor may decide that the appropriate action, in a situation where the licence is shortly to expire, is to order that the licence shall not be renewed. The Senior Specialist Advisor may suspend the existing licence for the remainder of its licence period depending on the individual merits of the case.

Section 68 (Stop) Notices

An Authorised Officer or a Police Officer may serve notice in writing for a vehicle, or the taximeter affixed to such a vehicle, to be examined at a VOSR approved garage in the District at a time specified in the notice. This notice may only be served if there are concerns as to the condition of the vehicle or the accuracy of the taximeter.

In addition the vehicle licence may be suspended until such time as the Council's testing requirements have been complied with if it is deemed necessary for public safety. The suspension notice will remain in force until an Authorised Officer has issued written confirmation that the Council's testing requirements have been met.

If an Authorised Officer is not satisfied that appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue the vehicle licence will be deemed automatically revoked.

Cautions and Fixed Penalty Notices

In the interests of natural justice before a Caution or FPN is administered there must be sufficient evidence of guilt to give a realistic prospect of a conviction, the offender must admit the offence and the offender must understand the significance of the Caution or the FPN and give informed consent.

Where a person declines the offer of a Caution or a FPN, it will be necessary for the Council to consider taking alternative enforcement action. Whilst this would ordinarily mean prosecution this is not inevitable.

Prosecution

The decision to prosecute is significant as it may impact on the licence holder's future employability. Generally, the circumstances that may warrant a prosecution include, but are not limited to;

- Blatant or repeated disregard for legislation and/or this Guidance, particularly where the economic benefits for the breaches are substantial
- When there has been blatant and/or reckless disregard for the safety of passengers or other road users

Complaints against Drivers

All complaints will be fully investigated and will often involving the taking of statements from the complainant, driver and any witnesses. An Authorised Officer will consider all evidence and mitigating circumstances arising from the investigation before referring the matter to the Senior Specialist Advisor, if appropriate. The outcome of any complaint will be advised to the complainant in the form of a written response.

Part 8: Equalities and Accessibility

The Council is committed to social inclusion and ensuring a wide variety of opportunities are available particularly to those with mobility difficulties.

The Council requires all proprietors, drivers and operators to be compliant with the relevant provisions of the Equality Act 2010 and any subsequent legislation.

The Council will actively encourage the licensing of sufficient accessible vehicles and will maintain a designated list of wheelchair accessible vehicles in the District which can be found on the Council's website. The Council want to ensure that passengers in wheelchairs are better informed about the accessibility of vehicles in the District and are confident of receiving any assistance they require.

Before a vehicle is placed on the designated list it must be capable of carrying a 'reference wheelchair' and more details on reference wheelchairs can be found on the Council's website.

The Council notes the duty on operators and drivers of designated wheelchair accessible vehicles to carry a passenger while in the wheelchair and not to make any additional charge for doing so. If the passenger chooses to sit in a passenger seat the driver shall carry the wheelchair and to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort. The driver will be responsible to assisting the passenger to get in and out of the vehicle and for loading the passengers luggage and/or wheelchair into and out of the vehicle.

The Council notes that the operator or driver hired by a disabled person who is accompanied by an assistance dog or by another person who wishes to be accompanied by a disabled person with an assistance dog should accept a booking, carry the assistance dog and allow it to remain with the passenger and not make an additional charge for doing so.

Drivers who, for medical reasons are unable to accept wheelchair passengers or assistance dogs are able to apply in writing to the Council for an exemption certificate. Such a certificate will only be issued on production of appropriate medical evidence. The exemption certificate, which must show the photograph of the driver, must be displayed in the vehicle at all times.

Part 9: Fares

Hackney Carriages

The Council will consider the fare scales as and when requested to do so by the trade. Before setting the fares the Council will follow the appropriate procedures detailed in the 1976 Act.

When determining the level of fares, consideration will be given to what it is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a cost-effective service at the times it is needed.

Hackney Carriage fares, set by the Council, are a maximum and can be negotiated downwards by the hirer.

The fare for any journey that starts and ends within the District cannot exceed the metered fare based on the Council's maximum fare tariff. The meter should only be started when the passenger(s) is/are in the vehicle and the journey commences. The fare for any journey that starts or ends outside of the District can be negotiated prior to the commencement of the journey without using the meter.

The maximum fares currently prescribed by the Council are set out on the Council's website. A table of authorised fares will be provided to each hackney carriage licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.

A hackney carriage driver must, if required by the passenger, provide a written receipt for the fare paid.

Private Hire Vehicles

The fare for a journey in a private hire vehicle must be agreed with the private hire operator at the time of booking. The driver should charge no more than the fare agreed with the operator at the time of booking.

The agreement between the hirer and the operator can either be for a fixed monetary sum, or an agreement that the fare will be calculated using the meter within the vehicle. In the case of a metered fare, the starting point for engaging the meter must be agreed at the time of booking.

A private hire driver must, if requested by the passenger, provide a written receipt for the fare paid.

Part 10: Licence Fees

Fee Structure

The legislation and established case law provides that licence fees should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and

administering the control and supervision of hackney carriages and private hire vehicles. In simple terms, the Council can only set fees on a reasonable cost recovery basis and cannot make a profit from licence fees when analysed over a typical three-year cycle.

The fees currently payable for the grant and renewal of hackney carriage and private hire licences are set out on the Council's website. The fee structure is reviewed annually as part of the Council's budgetary process.

The Council will consult on the fees it intends to levy through a public notice procedure.

Payment

The Council is able to accept payment by debit or credit card, cheques, or BACS payments. Cheques must be payable to Lewes District Council.

The Council is unable to accept cash payments, save for exceptional circumstances.

Refunds and Duplicate Copies

In the case of any licence where the licence holder voluntarily surrenders their licence prior to the expiry date, the Council may make a refund in respect of the whole month/s of the unexpired portion of the licence fee.

In the case of a licence that has been suspended, revoked or otherwise ends early due to disciplinary matters, no refund will be made by the Council.

Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will be paid to cover the associated administrative costs.

Part 11: Appeals

Appeals against the decisions of an Authorised Officer or Licensing Members may be made to the Magistrates' Court.

Any decision notifications will include detailed information on how to appeal and the applicable time limits.

Appendix 1: Conditions Private Hire Vehicles, Hackney Carriage and Specialist Vehicles

These conditions apply to all vehicles unless expressly stated.

Maintenance of Vehicle

The vehicle and all its fitting and equipment shall at all times when the vehicle is in use or available to hire be kept in a safe and clean condition.

All relevant statutory requirements including in particular those contained in the Motor Vehicle (Construction and Use) Regulations shall be fully complied with.

All vehicles shall undergo an inspection by a VOSR approved garage within the District every six months.

Identification Plate

The plate identifying the vehicle shall at all times be securely fixed to the outside on the rear of the vehicle in a conspicuous position in such a manner as to be easily removed by an Authorised Officer or Police Officer. On written application the Council may exempt certain specialist or executive vehicles from the need to display external plates, and operator identification.

Signage and Advertising

Hackney Carriage must be fitted with an illuminated external roof mounted sign. The sign may either display the word 'Taxi', or the words 'For Hire'. The roof sign and lettering shall be of an appropriate size to enable it to be clearly identifiable to the public. The roof sign must be switched off when the vehicles has been hired and illuminated when available for hire.

Private Hire Vehicles must not carry a roof sign of any description or have any markings that give the impression that it is a hackney carriage. They must display Council approved signage on the vehicles stating that the vehicle is only able to undertake pre-booked journeys. Any signage or advertising on a private hire vehicle must not include the words 'taxi', 'cab', 'hackney carriage' or 'for hire' save for the word 'taxi' or 'cab' being part of the company name.

The proprietor shall cause to be affixed and maintained in the vehicle in a conspicuous position and in accordance with the directions of the Council any sign or notice which the Council may from time to time require.

No other signs will be permitted to be displayed anywhere on the vehicle without the written permission of an Authorised Officer.

Restricted first party advertising is allowed so long as the advertising material is limited to the metal surfaces on the front doors and the rear window, providing it does not cause an obstruction, the advertising material shall be non-reflective and nothing shall be advertised which may reasonably cause offence to any section of the community. The proprietor of any vehicle displaying an advertisement that does not comply with this condition will be required to remove the offending advertisement and until it has been removed the vehicle's licence will be suspended.

No other advertising of any description is allowed on the vehicle.

Miscellaneous

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

A suitable First Aid kit shall be provided and maintained in the vehicle at all times when in use or available for hire.

A suitable Fire Extinguisher which conforms to British and European standards shall be provided and maintained in the vehicle at all times when it is in use or available for hire.

A current insurance certificate or cover note must be displayed where it can clearly be seen by passengers.

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

The proprietor shall within seven days disclose to the Council in writing details of any conviction, caution, FPN, civil injunction, or Acceptable Behaviour Contract imposed on him or if the proprietor is a company or partnership on any directors, company secretary or partners.

If the proprietor permits or employs any other person to drive the vehicle then before that person commences to drive the vehicle the proprietor shall cause that driver to deliver to him their private hire drivers or hackney carriage licence.

Any accident in a vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of person carried therein must be reported as soon as practicable and in any case within 72 hours of the occurrence.

Totally blacked out windows will not be permitted however partially blacked out windows may be allowed at the discretion of an Authorised Officer.

Appendix 2: Guidance on the relevance of Convictions etc

General Principles

The over-riding consideration for the Council is the promotion of the licensing objectives detailed in this Guidance and in particular public safety. By producing clear and transparent guidelines on the relevance of convictions the Council seeks to maintain the high standard of drivers, proprietors and operators.

The guidance details the Council's stance on the relevance of convictions etc in respect of applications for the grant of new licences, the renewal of existing licences and any existing licence holder convicted etc of an offence during the period of their licence will be subject to same criteria as though they were a new applicant. Therefore in circumstances where a new applicant would have their application refused, an existing licence holder would have their licence revoked. Thus any reference to applicant also applies to existing licence holders except where the Guidance specifically makes a distinction.

Existing licence holders should be aware that if the Council receives notification from the Police that they are being investigated for an offence that would preclude the grant of a licence their licence will be revoked with immediate effect. In the event that no charges are laid against the licence holder, the licence will ordinarily be reinstated for its original duration. In the event that the licence holder is found not guilty, the licence will ordinarily be reinstated for its original duration, save for any previous or ongoing concerns relating to the licence holder's ability to meet the 'fit and proper' test.

In those situations where a new applicant has been charged with an offence but is awaiting trial the decision of an application will be deferred until the trial has been complete or the charges withdrawn. If an existing licence holder is charged the Council will decide what action to take in line with the Enforcement part of this Guidance.

If a Court has found an applicant guilty of an offence, that person cannot subsequently claim to the Council that they did not commit the offence. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.

For the purposes of this Guidance, the acceptance of a Caution or Fixed Penalty Notice will be treated in the same way as a conviction. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. Any reference to a period free from conviction etc relates to the period commencing from either where a custodial sentence has been imposed from the end of the custodial period or in any other case from the date of conviction etc.

Notwithstanding the existence of this Guidance, each application will be determined on its own merits. Where it is necessary for the Council to depart substantially from this Guidance, clear and compelling reasons will be given for doing so.

Rehabilitation of Offenders Act 1974 (as amended)

Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation, and the length of time before rehabilitation occurs, depends on the sentence imposed and not the offence committed.

Despite the above general principles, the 1974 Act does not apply to applicants for drivers licences. This is because the driving of these vehicles is listed as a "regulated occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

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

History

The Council may take into account an applicant's history as a licence holder with this, or any other Council. It is recognised that matters which have not resulted in a criminal conviction can and will be taken into account by the Council. In considering whether or not a person is 'fit and proper' the Council may consider such matters as the applicant's complaint history, their compliance with this Guidance, their co-operation with Authorised Officers requests and any other reasonable matters.

DVLA Penalty Points

Drivers should provide a professional service to the public and must be aware of the safety of passengers and other road users at all times. Any traffic offence shows a lack of responsibility whilst driving either in terms of vehicle maintenance or the level of driving standards.

New driver applicants

Convictions or cautions for traffic offences will not automatically preclude an applicant from obtaining a licence, however, the number, nature and frequency of such offences will be considered.

In cases of less than six unspent penalty points on an applicant's DVLA driving licence, an application will usually be granted. A licence granted under these circumstances is likely to be issued together with a written warning as to future driving standards required and detailing the likely effect of further offences.

In cases of six to nine unspent penalty points on an applicant's DVLA driving licence, an application will not be granted until at least three years has elapsed since the completion of any sentence imposed.

In cases of ten or more unspent penalty points on an applicant's DVLA driving licence, an application will be refused.

Existing drivers

In cases of six or more unspent penalty points on an existing driver DVLA driving licence the matter will be referred immediately to the Senior Specialist Advisor for consideration.

Major Traffic Offences

For the purposes of this section, major traffic offences include, but are not limited to:

- dangerous driving
- driving whilst disqualified
- failure to stop after an accident
- driving without valid insurance
- careless driving
- driving a vehicle with mechanical defectives (such as brakes, steering, tyres, etc.)

If the applicant has been convicted of one major traffic offence then a licence application will be refused until the applicant has completed a period of at least three years free from conviction.

If the applicant has been convicted of more than one major traffic offence then a licence application will be refused until the applicant has completed a period of at least seven years free from conviction.

Where the combination of offences are considered to be of increased risk to the public, a period longer than seven years free of conviction may be substituted by the Council dependant on the extent of the risk to the public.

If the applicant has been convicted of a combination of three or more offences of no valid insurance and/or driving whilst disqualified then the Council believes that person causes an unacceptable risk to public safety and a licence will be refused.

Where an applicant or existing licence holder fails to disclose motoring offences, even if they have been declared on previous applications or are spent, the Council will deal with this by way of the issuing a warning. However, if the Council determines that there was a premeditated intention to deceive, the matter will be considered as an offence of dishonesty and dealt with in accordance with that section of this Guidance.

‘Totting up’

Where an applicant has been disqualified from driving by the Courts under the “totting up” procedure, the Council will refuse an application until there has been a period of five years free of relevant convictions. If the applicant has demonstrated to the Court “exceptional hardship” and avoided a driving disqualification, applications will still be refused until there has been a period of five years free of relevant convictions. The Council believe that the risk to the public is sufficient to maintain this consistent stance.

Major Traffic Offences resulting in Death

The driving offences of causing death by dangerous driving, careless driving, driving under the influence of alcohol or drugs, or driving unlicensed, disqualified or uninsured, will be considered by the Council to be an unacceptable risk to public safety and an application will be refused.

Drunkenness

Separate consideration will be given to convictions for drunkenness whilst in charge of a vehicle as opposed to drunkenness whilst not in charge of a vehicle due to the differing risk to the public.

In Charge of a Motor Vehicle

The Council considers driving or being in charge of a vehicle whilst under the influence of alcohol or drugs as a serious offence causing a high element of risk to the public.

A single conviction for any alcohol-related driving offence will preclude an application from being granted for a period of seven years from the restoration of the DVLA driving licence.

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

Not in Charge of a Motor Vehicle

An isolated conviction for drunkenness not associated with driving or being in charge of a motor vehicle will not automatically preclude an application.

Where there is an isolated conviction for disorder and/or drunkenness a licence will normally be granted together with a verbal warning as to future driving standards detailing the likely effect of further offences.

More than two convictions for disorder and/or drunkenness will lead to refusal of an application until such time as a period of three years free of convictions.

Using a hand held telephone or hand held device whilst driving

Where an applicant has a conviction for using a hand held mobile phone or a hand held device whilst driving will not be granted a licence until such time as a period of five years free of conviction.

Drug Offences

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

An applicant with one conviction for any Class A drug related offence, including supplying or trafficking, will be required to show a period of ten years free of convictions.

An applicant with more than one conviction for any Class A drug related offence, including supplying or trafficking, will be considered an unacceptable risk to public safety and an application will be refused.

An applicant with a conviction for any Class B drug related offence, including supplying or trafficking, will be required to show a minimum period of five years free of convictions.

An applicant with a conviction for any Class C drug related offence, including supplying or trafficking, will be required to show a period of at least three years free of convictions.

In all these circumstances the applicant may be required by the Council to undertake drug testing at their own expense to demonstrate that they are not using controlled drugs.

In all cases, where an applicant has been medically classed as an addict, an application will be precluded until such time as a period of five years has elapsed since the completion of a recognised detoxification programme.

Sexual or Indecency Offences

For the purpose of this Policy, the following offences are considered to involve a high element of risk to the public and any application will be refused;

- rape
- indecent or sexual assault
- assault by penetration
- making, distributing or possession of child pornography
- trafficking and/or preparatory offences
- sexual offences involving children or vulnerable adults
- slavery

In addition the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or any other relevant barred list.

As drivers often carry unaccompanied and/or vulnerable people, any applicant with a conviction for any other sexual or indecency offence not listed above will be refused a licence until such time as they have been free of conviction for a period of ten years.

Violent Offences

The Council considers all violence related offences as a serious risk to the public. Offences of criminal damage and public order will be treated as violent offences for the purposes of this Policy.

An application will be refused where the applicant has been convicted of a crime which resulted on the death of another person or was intended to cause the death or serious injury of another person.

Where an applicant has a conviction for an offence of violence or connected with any offence of violence including but not limited to;

- any offence involving the possession of a firearm
- any terrorism-related offence
- racially aggravated grievous bodily harm or malicious wounding
- arson
- any offence that may be categorised as domestic violence
- violent disorder or riot

will be refused unless there has been a period of ten years free of conviction.

Where an applicant has a conviction for possession of a weapon (other than a firearm) related offence a licence will not be granted until at least seven years have elapsed since conviction.

Whilst an isolated conviction for a violent offence, other than those listed above, will not normally permanently preclude an application, the Council will have grave concern for public safety if an applicant has committed multiple violent offences. An application will normally be refused in cases where an applicant has two or more separate convictions for violent offences.

Dishonesty

Drivers are expected to be persons of trust since it is comparatively easy for dishonest drivers to defraud the public. As members of the public entrust themselves to the care of licensed drivers the Council considers offences involving dishonesty a serious risk to public safety.

An applicant that has been convicted of an offence related to dishonesty will be refused a licence until such time as they have been free of convictions for seven years.

Discrimination

Where an applicant has a conviction involving discrimination in any form a licence will not be granted until they have been free of convictions for seven years.

Hackney carriage and private hire offences

Where an applicant has a conviction for an offence concerned with hackney carriage or private hire activity for example the use of a radio scanner a licence will not be granted until they have been free of convictions for five years.

Other Offences and Special Circumstances

If the applicant has declared any other offences not specifically covered by this part of the Guidance or the specific circumstances of the application justify it the application may be referred to the Senior Specialist Advisor for determination in line with the principles of this Guidance.

Mitigation and/or Exceptional Circumstances

Where the Senior Specialist Advisor is considering whether an applicant meets the 'fit and proper' person test, the applicant will be entitled to provide them with written

mitigation. The applicant may be requested to attend a meeting with the Functional Lead or the applicant may request such a meeting. Prior to attending the meeting, the applicant will be provided with a written report containing all the information necessary for the Senior Specialist Advisor to make his determination. The report will be provided to the applicant at least five working days prior to the meeting.

Appendix 3: Private Hire Operators Conditions

Records

The operator shall keep a record of every booking of a private hire vehicle invited and accepted by him whether direct from the hirer or by undertaking the bookings at the request of another operator. The records shall be made available for inspection by an Authorised Officer or Police Officer upon request. The records entries must be made before the commencement of the journey and shall include;

- Date and time of the booking
- Time and date of the pickup point
- Details of the destination
- Name and contact details of the hirer
- Registration number of the vehicle
- Name of the driver allocated for the journey

All records shall be kept by the operator for a period of at least 12 months from the date of the journey.

The operators shall keep written records of the particulars of all vehicles operated by him which include the;

- Type, make, model, colour and engine size of the vehicle
- The date the vehicle was first licensed for private hire
- Vehicle registration number
- Number of seats for passengers
- Owner of the vehicle
- Valid certificate of insurance of the vehicle
- A valid Certificate of Compliance.
- A valid road fund licence
- Method of charging i.e. whether or not a meter is fitted
- Vehicle plate number.

The operator will securely retain a copy of the licences of all drivers (whether private hire or hackney carriage) engaged to work for them and make them available for inspection by an Authorised Officer or Police Officer upon request.

Display of Licence Plates

The operator shall ensure that the licence plates issued by the Council are affixed to such position as shall be approved by an Authorised Officer.

The operator shall ensure maintenance of such licence plates in clean and legible conditions and shall inform the Council immediately should it be lost or broken or become defaced.

Miscellaneous

The operator shall ensure that any staff they employ act in a civil and courteous manner at all times.

The operator shall ensure that a private hire vehicle which has been hired shall be in attendance at the appointed time and place unless delayed or prevented by sufficient cause.

The operator must not accept a booking by any person to hire a private hire vehicle unless the passenger or someone on his behalf previously requested the hiring by any means, for example telephone, email, text or personal call, to the licence holder.

The operator must not accept a request for hire (a booking) which has been communicated to them via a driver. For clarification, the operator must not accept a booking made by a driver on behalf of a potential customer where the person approached the driver in the street seeking to hire the vehicle.

The operator must ensure that none of his staff or agents tout for business on the street, touting in this context means approaching any person in the street and asking if they want to book a vehicle.

The operator is required to undertake reasonable checks as to fitness or suitability of their employees or agents who take bookings.

The operator shall ensure that every driver engaged has obtained a private hire drivers licence obtained by the same Licensing Authority which issued the operator's licence. If any documents expire the operator must ensure that driver does not work until the documents have been submitted to the operator.

Operators may only operate from an address within the District they are licensed. Upon the grant of a licence the Council will specify the address from which the operator may operate.

The licence must be kept in the possession of the operator and must be provided when requested by an Authorised Officer or any Police Officer. In the event of loss or damage to this licence the Council must be informed immediately so that a replacement licence can be issued. The licence must not be altered or defaced in any way.

The operator must not operate more vehicles than the maximum number specified on their licence. If the number of vehicles they operate significantly increases during the period of their licence the operator shall apply to the Council for a variation and an amended licence fee (pro rata to reflect the increase) will apply for the remainder of their licence.

The operator shall keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access whether for the purpose of booking or waiting. Any waiting area provided by the operator shall have adequate seating facilities.

The operator must not refuse a booking because the person wishing to make the booking proposes that an assistance dog is to travel with them. The operator must not make an additional charge for the carriage of a passenger's assistance dog.

The operator may only trade under this licence using one of the following, his name, the company's name, the trading name or one of the names which the licence holder included on the application form or another trading name provided that the operator notified the Council at least fourteen days prior to the intended change of name.

The operator must notify the Council in writing within seven days of the event occurring;

- Any change to the licence holders personal details including home address or if a company the registered address, contact telephone number or email address
- If the licence holder is charged with any criminal offence
- Any conviction, caution or FPN given to a person or in the case of a company any director or company secretary or any partner for any criminal offence.

The operator shall ensure that all drivers have a badge issued by the Council and that the driver wears the badge which is distinctly visible at all time whilst available for hire.

The operator shall notify the Council forthwith and in writing of any complaints, concerning a contract for hire from his business he reasonably considers the Council should be aware of. Such notification must include the action taken or proposed as a result of the complaint.

Appendix 4: Right to Work

The Council is under a legal duty to ensure that driver and operator licences are only issued to applicants who have lawful immigration status and the right to work in the UK. By law, the Council cannot issue a licence to any applicant that does not satisfy this requirement.

All applicants will need to attend the Council Offices where an Authorised Officer will check their original valid documentation evidencing their right to work in the UK. The applicant must attend in person and bring evidence of their right to work in the UK. Only certain types of documentation are acceptable.

For applicants who are British Citizens

Need to provide a British passport confirming they are a British Citizen.

If they do not have a British passport they can produce any of the other documents contained within List A.

For applicants who are not British Citizens but have no restrictions on their right to work in the UK

Need to provide any of the other documents contained within List A.

For applicants who have restrictions on their right to work in the UK

Need to produce any of the documents contained within List B. If the documentation proves a right to work expires prior to the normal licence expiry date the licence will only be granted for the period the Council have proof of a right to work.

The Council will not accept a visa that confirms their right to reside in the UK but which is attached to an expired passport. The applicant will need to apply to the Home Office to obtain acceptable proof, such as a biometric residence permit. Once a valid application

to the Home Office has been confirmed, a six month licence can be granted to allow time for the Home office to process the application.

An applicant must bring original documentation (not a photocopy) and it is the applicant's responsibility to make sure they can provide acceptable forms of documentation.

The Authorised Officer will check that the documentation is acceptable based on either List A or List B (depending on your circumstances), check that the document is an original and relates to the person providing it, and take a photocopy for Council's records.

If the documentation provided demonstrates that the applicant has a permanent right to work in the UK (from List A) they will not be required to produce documentation for future applications. In other cases, the applicant will be required to provide documentation when they next apply to renew their licence so their right to work can be verified again at that point in time.

List A

- (i) A passport showing the holder, or a person named in the passport as the child of the holder, is a British Citizen or a citizen of the UK and Colonies having the right of abode in the UK.
- (ii) A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- (iii) A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- (iv) A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- (v) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- (vi) A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- (vii) A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (viii) A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (ix) A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (x) A certificate of registration or naturalisation as a British Citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B

- (i) A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
- (ii) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
- (iii) A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
- (iv) A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (v) A Certificate of Application issued by the Home Office under regulation 17(3) or 18A(2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with Verification from the Home Office Evidence and Enquiry Unit.
- (vi) A Verification issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK because they have an in time application, appeal or administrative review and which is outstanding.

Appendix 5: Private Hire Drivers Conditions of Licence

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

The driver shall be clean and tidy in appearance at all times and dressed smartly with long or short sleeved shirt or blouse and long trousers, tailored shorts or skirts. Suitable footwear for driving must be worn.

The driver shall ensure that the vehicle is presented in a clean and tidy condition for each journey.

The driver must carry assistance dogs when required unless they have a Certificate of Exemption from the Council.

The drivers of a designated wheelchair accessible vehicle shall to carry a passenger while in the wheelchair and not to make any additional charge for doing so. If the passenger chooses to sit in a passenger seat the driver shall carry the wheelchair and to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort. The driver will be responsible to assisting the passenger to get in and out of the vehicle and for loading the passengers luggage and/or wheelchair into and out of the vehicle. The driver must ensure that any occupied wheelchair being transported in a wheelchair accessible vehicle must be safely secured using the restraint system carried in the vehicle, provided such system is compatible with the wheelchair being transported.

A driver who has agreed to be in attendance at a certain time at a specified place or whose operators has informed them must be in attendance at a certain time and place shall unless delayed or prevented by some sufficient cause must so attend.

A driver must carry in the vehicle any luggage to which the passenger requests provided that it can be properly secured with the luggage constraints.

A driver must provide reasonable assistance in loading and unloading such luggage.

A driver must provide reasonable assistance in removing any luggage to or from of an entrance of any building or place the passenger may be taken up or set down.

A driver must provide reasonable assistance to any passenger in alighting or entering the vehicle.

The driver of a vehicle equipped with a taxi meter shall set the meter into operation at the point at which the hirer commences his journey unless the hirer pre-agrees a fare.

The driver shall at all time when acting as a private hire driver wear the badge issued by the Council in such a manner to be distinctly visible. The driver shall not lend the badge to any other person or cause or permit any other person to wear it.

The driver must not allow a passenger into their vehicle unless they have first confirmed that there is a booking in place for that passenger.

Where any of the following occur the driver must notify the Council in writing so that the notification is delivered to the Council within seven days;

- Any change to the driver personal details including home address, contact telephone number or email address
- If the driver is charged with any criminal offence
- Any Cautions or FPN given for any criminal offence
- If they change from one private hire operator to another

A driver shall not at any time permit the noise from any radio or sound system in the vehicle to be a source of annoyance or nuisance to any person, whether inside or outside the vehicle. The driver must turn off their radio/stereos if requested by a passenger.

The driver shall not between the hours of 23:30 and 07:00 sound his horn to notify the hire of his presence.

The driver shall not, without the consent of the hirer, convey any other person in the vehicle other than the hirer.

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

A driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.

A driver must supply on request his badge number or plate number to any person on request.

A driver stopped by an Authorised Officer or a Police Officer must produce their licence on demand.

The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed or allow the plate to be so defaced as to make any figure or information illegible.

The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route unless otherwise instructed by the hirer.

The driver must not cause or permit the vehicle to stand on a public road so as to suggest that it is plying for hire.

The driver shall not smoke in the vehicle.

The driver must not use a mobile phone whilst driving unless it is designed for hands free operation.

The driver shall not convey or permit to be conveyed any greater number of persons than the number specified on the vehicles licence.

The driver shall at all times shall carry a copy of these conditions in the vehicle and shall make them available upon request by the hire or any other passenger.

The driver must return forthwith all licence, badges and plate to the Council when the driver ceases to be licensed.

The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their driving ability or the health or safety of themselves or any passengers.

The driver shall ensure that he complies with the law and best practice in relation to seat belts in relation to children under the age of fourteen.

Appendix 6: Byelaw

LEWES DISTRICT COUNCIL

BYELAWS

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

Interpretation

1. Throughout these byelaws "the Council" means the Lewes District Council and "the District" means the district of Lewes.

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

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

(b) A proprietor or driver of a hackney carriage shall:
 - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - (ii) not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how hackney carriages are to be furnished or provided

3. The proprietor of 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 watertight;
 - (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; and
 - (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.
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 key, flag, or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
- (b) such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for 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; and
- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

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

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

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

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

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

- (a) proceed with reasonable speed to one of the stands appointed by the Council pursuant to Section 63 of the Local Government (Miscellaneous Provisions) Act 1976;
 - (b) if a stand, at any time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and
 - (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
8. A proprietor or driver of a hackney carriage when standing or plying for hire, shall not 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. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
 12. 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.
 13. 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) afford reasonable assistance in loading and unloading; and
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

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

14. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or

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

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

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 redelivery of any property accidentally left in hackney carriages and fixing the charges to be made in respect thereof.

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 by 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 a police station in the district and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and
 - (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 police station in the district, whichever be 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 therefor.

Repeals

19. The byelaws relating to hackney carriages which were made by the Lewes District Council on the 12 day of January 1995 and which were confirmed by the Secretary of State for Transport on the 14 day of March 1995 are hereby repealed.

GIVEN under the COMMON SEAL of LEWES DISTRICT COUNCIL this Twenty-second day of February 2001 in pursuance of a Resolution of the Council passed on the Twenty-first day of February 2001

THE COMMON SEAL of
LEWES DISTRICT COUNCIL was
hereunto affixed in the presence of:-

LS
27/01

C. F. W. Bailey
Senior Solicitor

The foregoing byelaws are hereby
confirmed by the Secretary of State
and shall come into force on the
11th day of April 2001

J. M. E. Rogers 28.03.01
Signed by authority of the Secretary of State

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Report Title: Amendment to the District Council's Film Authorisation Procedures

Report To: Licensing Sub Committee **Date:** 3 July 2018

Ward(s) Affected: All Wards

Report By: Director of Service Delivery

Contact Officer(s)-

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Purpose of Report:

To consider the amended Film Authorisation Procedures to make provision for classification requirements when films are not viewed in advance.

Officers Recommendation:

That the Licensing Committee approve the amended Film Authorisation Procedures detailed in **3.2 - 3.3** of this report

That the Licensing Committee agree that minor amendments to the Film Authorisation Procedures may be agreed by the Functional Lead (Quality Environment) in conjunction with the Chair of Licensing Committee

1. Reasons for Recommendations

Lewes District Council currently have a Policy for dealing with the classification of films (attached at Appendix A)

2 Background

- 2.1** The exhibition of film is a licensable activity under the Act, with certain exceptions.

- 2.2** The vast majority of films are classified by the BBFC. Unclassified films might typically be shown at film clubs, but there is a possibility of these being shown at public cinemas such as the new Depot cinema in Lewes.
- 2.3** The Council does have formal procedures in place to comply fully with Section 20 of the Act. This section states that the admission of children to the exhibition of any film must be restricted in accordance with either:
- the BBFC classification; or
 - where the film is not classified by the BBFC, any recommendations on the restriction of the admission of children made by the Council.
- 2.4** The definition of the exhibition of a film is the exhibition of moving pictures and the definition of a child is any person under the age of 18 years.
- 2.5** In order to comply with Section 20 of the Act, the Council must ensure that it has in place procedures that will enable it to authorise the exhibition of films and where necessary place upon the licence certain restrictions on the admission of children. The Council must also be in a position to handle appeals by distributors or independent parties against any BBFC classification decision. At all times the Council must take into account the Protection of Children from Harm licensing objective.

3 Proposed amendment

- 3.1** On occasion, for various reasons, it might not be possible to view a film in advance of it's showing. In such cases, the following addition to Policy is recommended:

3.2 Classification requirements when films are not viewed in advance

An 18 certificate would be issued based only on the synopsis of the film and would be appropriate in the following cases:

- (a) A film festival
- (b) A one off screening of a film
- (c) A trailer for a film

3.3 Conditions attached to an 18 Certificate film classification where films have not been viewed in advance

The conditions listed below are attached by Lewes District Council on all waivers to the film classification requirements:

- (1) The films must not encourage or incite crime; or lead to to disorder; or stir up hatred against any section of the public in Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex; or promote sexual humiliation or degradation of or violence towards men or women.
- (2) The films must not have the effect such as to tend to deprave and corrupt persons who see them.

- (3) The films must not contain a grossly indecent performance thereby outraging the standards of public decency.
- (4) Persons under the age of 18 must not be admitted to any such film exhibitions.

4. Financial Appraisal

- 3.1** There are no financial implications arising from the recommendations in this report

5. Legal Implications

- 5.1** This report has been considered by legal on 21st June 2018 (Iken 6135-MW)

Appendices

Appendix A - Lewes District Council Film Authorisation Procedures (with amendment shown in red)

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Lewes District Council

Lewes District Council FILM AUTHORISATION PROCEDURES

Date of Approval: 14th September 2017

1. INTRODUCTION

- 1.1 The Council as the Licensing Authority is the responsible authority for authorising the public exhibition of films. Section 20 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by the British Board of Film Classification (the BBFC) or by the Licensing Authority itself. As such the admission of children to the exhibition of any film(s) must be restricted in accordance with
- EITHER the BBFC classification;
 - OR where the film is not classified by the BBFC, any recommendations made by the Licensing Authority.
- 1.2 Where a premises seeks or intends to exhibit film(s) that venue must be covered by a Premises Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act 2003.
- 1.3 The definition of children is any person under the age of 18 years.
- 1.4 Under the Licensing Act 2003, the definition of the exhibition of a film is the exhibition of moving pictures.
- 1.5 In summary, the public exhibition of all films on licensed premises must either be classified by the BBFC or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.6 The Licensing Authority when authorising film(s) shall at all times take into account the Guidance issued under Section 182 of the Licensing Act 2003 (the National Guidance).
- 1.7 The Licensing Authority may be requested to authorise a film that has already been classified by the British Board of Film Classification (BBFC) in two different circumstances:
- a) a distributor of a film may appeal against the decision of the BBFC and request that the Licensing Authority re-classifies/authorises the film for local screening (with recommendations on age restrictions); and
 - b) An independent party may request that the Licensing Authority re-classifies/authorises the film for local screening (with recommendations on age restrictions).
- 1.8 In addition, the Licensing Authority may be requested to authorise the showing of an unclassified film(s). This normally occurs in the following cases:
- A film festival covering a specific period of time
 - A one off screening of a film
 - A trailer for a film

- 1.9 Under the Licensing Act 2003, the Licensing Authority must carry out its functions with a view to promoting the licensing objectives. In terms of film exhibitions and festivals, the most relevant licensing objective is the Protection of Children from Harm.

Protection of Children from Harm

- 1.10 Paragraph 2.21 of the National Guidance states:

The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing Authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

2 PRINCIPLES IN DETERMINING APPLICATIONS

- 2.1 The BBFC classifies films in accordance with its published Guidelines, which are based on extensive research into public opinion and professional advice. The National Guidance under Section 182 of the Licensing Act 2003 (para 10.59) recommends that:

"The 2003 Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification = BBFC) or by the Licensing Authority itself"

- 2.2 The Licensing Authority considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system, and any amendments thereto, as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s). It should be noted however that the Licensing Authority is not obliged to follow these guidelines.
- 2.3 Where a licensed premises seeks to exhibit a film that has not been classified by the BBFC then it will be the responsibility of the Licensing Authority to authorise that film. As such the procedures outlined later in this document will be followed.
- 2.4 The Licensing Authority recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment.
- 2.5 Applicants must ensure that all material that is the subject of the application complies with the current interpretation of the Obscene Publications Act 1959 as amended, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

- 2.6 Any authorisations for the exhibition of film(s) issued by the Licensing Authority shall only apply when the film(s) is exhibited within the Lewes District and does not effect the authorisation or recommendations in any other Borough or District.
- 2.7 Once authorised by the Licensing Authority a film will be authorised for a particular showing or festival only subject to the recommendations imposed by the Licensing Authority (unless further application for re-classification is made). Details of the authorization, including any recommendations, shall be available from the Licensing Team.
- 2.8 The issue of any authorisation by Lewes District Council is strictly limited to the authorisation within the Lewes District and it is assumed that all relevant third party consents and licences in respect of any and all copyright, confidential information and all other intellectual property rights have been obtained.
- 2.9 The Licensing Authority will consider each authorisation on its own merit and may impose additional and more specific recommendations where it deems necessary in order to comply with the Protection of Children from Harm Licensing Objective. Specimen Recommendations for inclusion are included at Appendix 1.
- 2.10 Where the Licensing Authority authorises unclassified material to be shown the Licensing Authority will require an undertaking from the applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence. The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.
- 2.11 Where the Licensing Authority has determined to refuse authorisation of a film(s) clear and concise reasons shall be given.

3 PROCEDURE FOR AUTHORISATION REQUESTS FOR APPROVAL OF FILMS ALREADY CLASSIFIED BY THE BBFC

- 3.1 Applications for authorisation of films already classified by the BBFC shall be determined by the Licensing Sub Committee on behalf of the Licensing Authority. This Sub Committee shall consist of 3 Members of the Licensing Committee. Applications should be submitted in writing no later than 28 days before the proposed screening to the Licensing Team, Lewes District Council, Southover House, Southover Road, Lewes BN7 1AB
- 3.2 All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made for a suitable venue to view the film. This will allow the Licensing Sub Committee time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on age restrictions the Licensing Authority may impose. In any event, all requests should be submitted in writing to the Licensing Authority a minimum of 28 days before the proposed screening.

- 3.3 The Sub Committee will view the entire film and assess it against the BBFC guidelines and National Guidance. The Sub Committee shall issue a Notice of Determination of the authorisation within 5 working days from the date of viewing. The Licensing Authority will then formally advise the applicant and the licence holder of any recommendation (s) restricting the admission of children to the film(s).
- 3.4 Where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted. Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unaccompanied by an adult.
- 3.5 In these circumstances, the licence holder will be required to display in a conspicuous position, both inside and outside of the premises, a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall recommend:

"PERSONS UNDER THE AGE OF *[INSERT APPROPRIATE AGE]* CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME"

Or

"PERSONS UNDER THE AGE OF *[INSERT APPROPRIATE AGE]* CAN ONLY BE ADMITTED TO THE PROGRAMME IF ACCOMPANIED BY AN ADULT"

4 PROCEDURE FOR AUTHORISATION OF FILMS WHICH HAVE NOT BEEN CLASSIFIED BY THE BBFC OR LEWES DISTRICT COUNCIL

- 4.1 Applications for authorisation will in the first instance be considered by officers under delegated powers. Any request to authorise an unclassified film may however, be referred by the Licensing Officer or at his/her discretion to the Licensing Sub Committee for determination.
- 4.2 Applications should be submitted to the Licensing Authority in writing a minimum of 28 days before the proposed screening. If less than 28 days' notice is provided no request to review an officer decision upon the application will be considered.
- 4.3 An application for authorisation should include the following information:
- (a) the name of the film maker;
 - (b) such recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
 - (c) any existing classification issued by an existing classification body, whether within or outside the UK;
 - (d) a synopsis identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film. Where an applicant seeks an authorisation allowing exhibition of the film to persons 18 years and over only, a detailed synopsis and local authority pre-viewing will not be required.

An 18 certificate would be issued based only on the synopsis of the film and would be appropriate in the following cases:

- i) a film festival
 - ii) a one off screening of a film
 - iii) a trailer for a film
- (e) if known, a legitimate and legal internet site where the film, or a portion of the film is available to view without charge;
- (f) any proposals on age restrictions for viewing the film that the applicant intends to impose; and
- (g) details of how age restrictions will be enforced.
- 4.4 Where officers at their discretion determine it is possible to formulate recommendations to the licence holder in relation to the exhibition of the film on the basis of this information, recommendations may be made on this basis alone.
- 4.5 However, the Licensing Officer may at his/her discretion request a copy of the film(s) on DVD format, the cost to be borne by the applicant. If DVD format is not possible, the Licensing Officer may agree to arrange for a suitable venue to view the film(s).
- 4.6 The Licensing Officer whilst viewing the film(s) may have regard to BBFC Guidelines and shall issue a Notice of Determination of the application within 5 working days from the date of the viewing.
- 4.7 When considering all such requests the Licensing Officer will pay particular attention to the Protection of Children from Harm Licensing Objective.
- 4.8 Where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted. Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unaccompanied by an adult.
- 4.9 In these circumstances, the licence holder will be required to display in a conspicuous position, both inside and outside of the premises, a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall adopt the example as laid out in the National Guidance:
- "PERSONS UNDER THE AGE OF *[INSERT APPROPRIATE AGE]* CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME"
- Or
- "PERSONS UNDER THE AGE OF *[INSERT APPROPRIATE AGE]* CAN ONLY BE ADMITTED TO THE PROGRAMME IF ACCOMPANIED BY AN ADULT"
- 4.10 In order to ensure the promotion of the Protection of Children from Harm and Prevention of Crime and Disorder licensing objectives, the Licensing Authority will formally advise the licence holder and applicant of any recommendation(s) on the

restriction on the age of access for children to the film(s). This may also include any relevant notices required to be displayed by the licence holder inside and outside the premises. The licensed premises hosting the exhibition of film will be expected to comply with these recommendations.

- 4.11 Where requests are made to the Licensing Authority to exhibit a film(s) to be shown to persons 18 and over the licence holder will be required to display in a conspicuous position a notice clearly stating that the Licensing Authority has authorised the film(s) but has not viewed it. This statement should be incorporated within any promotional literature and on any relevant web site including where relevant the licence holder's web site.
- 4.12 The Licensing Authority recognises the principle that adults should be free to choose their own entertainment and will not normally override this principle - as such requests shall not normally be refused. However, in all cases the Licensing Authority will expect the applicant to follow the BBFC's Guidelines for 18 and R18 restricted films.
- 4.13 Save where less than 28 days' notice of the application is given, the applicant will have a right to request a review of the Licensing Officer's decision by the Licensing Sub Committee.

5 SECTION 20 LICENSING ACT 2003: EXHIBITION OF FILMS

- 5.1 All premises permitted to exhibit films are subject to the following mandatory conditions:

1. *Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.*

2 *Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.*

3 *where*

(a) *the film classification body is not specified in the licence, or*

(b) *the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,*

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4 *In this section*

“children” means persons aged under 18; and

“film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c. 39) (authority to determine suitability of video works for classification).

6 EXEMPTIONS FOR THE SHOWING OF FILMS

6.1 There are exemptions from the need for a licence for film entertainment, including:

- Places of public worship, village halls, church halls, and other similar buildings
- Film to demonstrate a product, advertise goods or services, provide information, education or instruction.
- Incidental film – moving pictures that are incidental to other activities that aren't classified as regulated entertainment
- Television broadcasts
- 'Not for profit' film exhibition held in community premises between 08:00 and 23:00 on any day provided the audience does not exceed 500 and the organizer (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Film forming part of an exhibit put on show for any purposes of a museum or art gallery.

Appendix 1

Specimen Recommendations in relation to films authorised for exhibition:

a. The Age Recommendation eg:

"PERSONS UNDER THE AGE OF *[INSERT APPROPRIATE AGE]* CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME"

Or

"PERSONS UNDER THE AGE OF *[INSERT APPROPRIATE AGE]* CAN ONLY BE ADMITTED TO THE PROGRAMME IF ACCOMPANIED BY AN ADULT"

- b. That the premises licence or club premises certificate holder adopt a suitable management policy and procedure to monitor and enforce the recommendations on age restrictions.
- c. That the premises licence or club premises certificate holder display in a conspicuous position a notice clearly stating that the Licensing Authority has authorised the film(s) for viewing by people aged *[INSERT APPROPRIATE AGE]* and above, but has not necessarily viewed it.
- d. That the age restriction applying to the exhibition of the film be incorporated within any promotional literature and on any relevant web site including where relevant the licence holder or exhibitor's web site.

The conditions listed below are attached by Lewes District Council on films which have not been classified by the BBFC or Lewes District Council:

- e. (1) The films must not encourage or incite crime; or lead to to disorder; or stir up hatred against any section of the public in Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex; or promote sexual humiliation or degradation of or violence towards men or women.
- f. (2) The films must not have the effect such as to tend to deprave and corrupt persons who see them.
- g. (3) The films must not contain a grossly indecent performance thereby outraging the standards of public decency.
- h. (4) Persons under the age of 18 must not be admitted to any such film exhibitions.

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