

**Eastbourne Licensing
Committee
24 May 2021**



Working in partnership with **Eastbourne Homes**

Time and venue:

6.00 pm in the Court Room at Eastbourne Town Hall, Grove Road, BN21 4UG

This meeting is open to the public to attend. Whilst seating is currently limited due to social distancing guidelines, we ask that if you are planning to attend and observe the meeting, you register in advance (by midday Thursday, 20 May 2021) by emailing committees@lewes-eastbourne.gov.uk. We would request that you do not attend unless you have received an email from us confirming your seat reservation. Priority seating will be given to speakers.

Membership: Subject to approval at full Council.

Councillor Robin Maxted (Chair); Councillors Peter Diplock (Deputy-Chair) Josh Babarinde, Colin Belsey, Sammy Choudhury, Penny di Cara, Amanda Morris, Colin Murdoch, Jim Murray, Colin Swansborough, Barry Taylor and Candy Vaughan

Quorum: 3

Published: Friday, 14 May 2021

Agenda

- 1 Minutes of the meeting held on 18 January 2021 (Pages 5 - 10)
- 2 Apologies for absence/declaration of substitute members
- 3 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.
- 4 Questions by members of the public
On matters not already included on the agenda and for which prior written notice has been given (total time allowed 15 minutes).
- 5 Urgent items of business
The Chairman to notify the Committee of any items of urgent business to be added to the agenda.

6 Right to address the meeting/order of business

The Chair to report any requests received to address the Committee from a member of the public or from a Councillor in respect of an item listed below and to invite the Committee to consider taking such items at the commencement of the meeting.

One spokesperson is permitted to speak for 3 minutes and must register by 12 noon, Thursday, 20 May 2021. Email: committees@lewes-eastbourne.gov.uk

Note: Normally only one speaker is allowed to address the Committee on an item for three minutes and that one person should act as spokesperson for the group. No more than one speaker can be allowed except in exceptional circumstances with prior agreement of the Chair at the registration deadline.

7 Taxi Licensing Guidance Review (Pages 11 - 166)

Report of the Director of Service Delivery

8 Date of the next meeting

The next meeting is scheduled for 11 October 2021.

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:

Councillors wishing to address the meeting who are not members of the committee must notify the Chairman and Democratic Services in advance (and no later than immediately prior to the start of the meeting).

Democratic Services

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Working in partnership with **Eastbourne Homes**

Eastbourne Licensing Committee

Minutes of meeting held remotely on 18 January 2021 at 6.00 pm.

Present:

Councillor Pat Rodohan (Chair).

Councillors Robin Maxted (Deputy-Chair), Colin Belsey, Penny di Cara, Peter Diplock, Amanda Morris, Jim Murray, Colin Swansborough, Barry Taylor and Candy Vaughan.

Officers in attendance:

Paul Thornton (Specialist Advisor – Licensing), Ed Hele (Functional Lead – Quality Environment), Jo Dunk (Senior Specialist Advisor – Environmental Health), Danielle Ball (Specialist Advisor – Licensing), Robin Fuller (Specialist Advisor – Licensing), Michele Wilkinson (Lawyer – Housing & Regulatory), Emily Horne (Committee Officer) and Elaine Roberts (Committee Officer).

1 Introductions

The Chair introduced members of the Committee via roll call, and those officers present during the remote meeting.

2 Apologies for absence/declaration of substitute members

An apology for absence had been received from Councillor Colin Murdoch and Councillor Sammy Choudhury.

3 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.

There were none.

4 Minutes of the meeting held on 6 January 2020

The minutes of the meeting held on 6 January 2020 were submitted and approved, and the Chair was authorised to sign them as a correct record.

5 Questions by members of the public

There were none.

6 Urgent items of business

There were none.

7 Right to address the meeting/order of business

There were none.

8 Amendments to Hackney Carriage & Private Hire Licensing Guidance as a result of the Department for Transport (DfT) Statutory Guidance

The Committee considered the report which sought approval of the amended Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance as set out in section 2 of the report, and the authorisation to commence a six-week consultation with the taxi trade and members of the public.

The Specialist Advisor – Licensing (SAL), Paul Thornton, presented the report and its findings. The SAL noted that a letter had been sent to Committee Members by a member of the taxi trade asking for time for the guidance to be considered by the trade and raising individual questions of detail. He confirmed that he would respond to the points made, but also that the purpose of this report was for Members to consider the guidance before it is put out for consultation.

Several typographical amendments to the report were reported:

- Recommendation (1), page 9:- Replace the words ‘Lewes District Council’ with ‘Eastbourne Borough Council’.
- Penalty Points Scheme, page 13:- Paragraph (gg) was omitted from report.
- Appendix 7, Penalty Point Scheme, page 89:-
No.22. Failure to carry fire extinguisher: Both Driver and Vehicle Owner or Operator columns to be ticked.
No.23. Failure to carry first aid kit: Both Driver and Vehicle Owner or Operator boxes to be ticked.
No.24. Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle: Both Driver and Vehicle Owner or Operator boxes to be ticked.

The SAL highlighted that if the Committee was to authorise a six-week consultation as outlined in the report, a number of organisations would be included in the consultation as set out in para 2.4. Officers agreed that it was good practice and upheld the Council’s commitment to transparency and governance.

Members discussed and agreed on the following changes to the Guidance:

- (d) Vehicle Door Signs - Members questioned the necessity of permanently fixing the vehicle door signs and resolved to retain the recommendation for consultation (Resolved: by 9 votes for and 1 vote against).
- (v) Vaping – agreed to add the words “at any time” after the words ‘cannot vape in licensed vehicles’ to provide clarity.

- (w) Criminality Checks on Vehicle Proprietors – agreed to amend the word ‘serious’ to ‘any’ criminal activity.
- (x) Licensee Self Reporting - agreed to amend the word ‘should’ to ‘must’ be required to notify the issuing authority.
 - Appendix 7, Penalty Point Scheme, No.30. Evidence of smoking in vehicle – agreed to add the words ‘or vaping’ after the word ‘vehicle’.

Members discussed the following matters:

- Appendix 7: Penalty Points Scheme, pages 88 to 90. Details of the Misconduct. A suggestion was made for the offences to be listed in appropriate groups, e.g. seriousness of vehicle offences and behavioural offences and Officers agreed to re-group the offences in the appendix.
- Questions on whether the Council could purchase a quantity of CCTV cameras to pass the savings onto the drivers. The SAL confirmed that whilst the Council does not purchase CCTV equipment, it does advise drivers on companies that have been approved by the Council.
- Questions on lack of reference made within the report on climate change. The SAL advised that reference was made to the Council’s commitment to Environmental Considerations and EU standards for Vehicle Specifications on pages 21 and 25 of the report.
- Questions on whether many drivers had rescinded their licences. The SAL advised that the Council had not received many licences back since the start of Covid-19.
- Questions on the notice given of the review of the changes to the Hackney Carriage and Private Hire Licensing Guidance. The SAL advised that all Operators were provided with a link to the statutory guidance from the Department for Transport.
- Questions surrounding CCTV cameras in vehicles. The SAL confirmed that a small percentage of drivers chose to have CCTV installed by vetted companies and whilst optional, the installers were the data controllers. If this was made mandatory, the Council would be the data controller.
- Questions on the number of vehicles that take card payments. Officers confirmed that the majority of Private Hire vehicles already had card payment systems as this was arranged via the operator. A percentage of Hackney carriage vehicles have the ability to take card payments, although this is not as high as the private hire trade due to them arranging this and paying any fees personally.
- Questions on the definition of not smoking and vaping in a vehicle. The SAL confirmed that smoking or vaping in a vehicle with or without a passenger was not allowed at any time.

- Questions on whether the Private Hire Vehicle Operators and named directors of the company had the opportunity to sign up for a DBS certificate rather than pay the full cost. The SAL confirmed that applicants could apply online for a basic DBS certificate. The fees for a basic DBS were lower than the enhanced DBS which were required every 6 months for licenced drivers.

Councillor Taylor proposed and Councillor Belsey seconded an amendment to the recommendation to increase the consultation period from 6 weeks to 12 weeks and requested that there be a recorded vote. This was put to the vote and lost 3 votes to 7 votes. (For: Councillors Belsey; di Cara and Taylor. Against: Councillors Maxted; Diplock, Morris, Murray, Swansborough, Vaughan and Rodohan.)

Councillor Vaughan proposed and Councillor Morris seconded an amendment to increase the consultation period from 6 weeks to 8 weeks. This was put to a vote and agreed 9 votes for to 1 vote against. A request for a named vote was refused as it was requested after voting had commenced.

Councillor Belsey proposed and Councillor Taylor seconded an amendment to request that the results of the consultation (including minor changes) be reported to a subsequent meeting of the Licensing Committee rather than considered by officers and the Chair under delegated authority. This was seconded by Councillor Taylor and unanimously agreed.

Resolved:

- 1) (Unanimous) That the amended Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance be approved, as set out in the report and the amendments listed above.**
- 2) That the Functional Lead – Quality and Environment, be authorised to begin an eight-week consultation with the taxi trade and members of the public.**
- 3) That the results of the eight-week consultation (including minor changes) be reported to a future meeting of the Licensing Committee.**

9 Approval of Licensing Fees

The Committee considered the report which sought endorsement of the scale of Licensing fees proposed within Appendix 1 to apply from 1 April 2021, and for them to be recommended to Full Council for approval.

The Functional Lead - Quality Environment (FLQE) presented the report and its findings.

Councillor Murray proposed a motion to agree the officer recommendations listed in the report. This was seconded by Councillor Maxted.

Resolved (unanimous):

- 1) That the scale of Licensing fees proposed within Appendix 1 of the report to apply from 1 April 2021, be endorsed; and
- 2) That Full Council be recommended to formally ratify the scale of Licensing fees proposed within Appendix 1 of the report.

10 Date of the next meeting

Resolved:

That the next meeting of the Licensing Committee which is scheduled to commence at 6.00pm on Monday, 8 March 2021, in a virtual capacity, via Microsoft Teams, and in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations, be noted.

The meeting ended at 8.27 pm

Councillor Pat Rodohan (Chair)

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Agenda Item 7

Report to:	Licensing Committee
Date:	24th May 2021
Title:	Taxi Licensing Guidance Review
Report of:	Director of Service Delivery
Ward(s):	All
Purpose of report:	1) To report the findings of the consultation on the proposed Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance (“Guidance”). 2) To agree a final Guidance document to be adopted on a date to be agreed.
Officer recommendation(s):	1) That the Committee considers the consultation responses received. 2) That the Committee considers if changes are to be made to the Guidance taking into account the Department of Transport Statutory Taxi and Private Hire Vehicle Standards (“the Standards”) and its recommendations, and the results of the public consultation. 3) That the Committee delegates the Senior Specialist Advisor to take the necessary steps to implement any changes, produce a final Guidance and publish it on a date to be agreed with the Chair of the Licensing Committee.
Reasons for recommendations:	The consultation sought views on changes to the Guidance in line with the Standards.
Contact Officer(s):	Name: Paul Thornton Post title: Specialist Advisor - Licensing E-mail: paul.thornton@lewes-eastbourne.gov.uk Telephone number: 01323 514140

1 Introduction

- 1.1 This Committee is a follow up to the meeting of 18th January 2021 when it proposed changes to Guidance attached as Appendix 1 and authorised a public consultation. Several changes were considered to this Guidance because of the Standards attached as Appendix 2 published in July 2020.

- 1.2 One of the purposes of the Guidance is to set out the terms and conditions that will apply to those seeking licences for the Hackney Carriage or Private Hire trade, to protect the public and help ensure they receive a good service.
- 1.3 The Licensing Team has taken the opportunity, whilst taking into account the recommendations of the Standards, to reword and update several sections of its Guidance to provide clarity and consistency for all users.
- 1.4 Section 177 of the Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising Taxi and PHV licensing functions to protect children and vulnerable individuals from harm when using these services.
- 1.5 The Standards recommend measures be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting these Standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 1.6 By implication the Standards are being considered by all local authorities in England and Wales.
- 1.7 Section 2 of the Standards document (Appendix 2) sets out very clearly that, per Section 177(4) Policing and Crime Act 2017, Licensing Authorities “must have regard” to the Standards when exercising their functions. These functions include developing, implementing, and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 1.8 The Standards further states “Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.”
- 1.9 Paragraph 2.8 states that whilst Licensing Authorities must reach their own decisions both on overall policies and on individual licensing matters in light of the relevant law, the Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence.
- 1.10 The same section informs that the Department for Transport (DfT) will monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults and by extension all passengers. The Council was contacted by the DfT in February for progress on the Standards and were informed that the Council were consulting on changes to its Guidance.
- 1.11 The Guidance that went out for public consultation is attached at Appendix 1.

2 Background

- 2.1 A wide-ranging consultation took place from 1st February 2021 for a period of 8 weeks. A press release was issued, and existing licence holders were contacted to

make them aware of the proposed changes. Information and an online survey were placed on the Council's Web site.

2.2 Comments were received from businesses, existing licence holders and members of the public.

2.3 A composite document with the responses is attached at Appendix 3.

3 Changes considered during public consultation.

- 3.1
- a) Changes in Licensing – Any changes in licensing requirements for drivers will be followed by a review of the licences already issued. Part 1.
 - b) Relicensing of vehicles – age restriction. Condition reworded to clarify circumstances under which application may be made for vehicles over the age limit. Part 3 - Maximum age of Vehicles.
 - c) Vehicle Door Signs – clarifying that signs produced by the council must be permanently fixed to the doors rather than using magnetised strips. Part 3 - Livery.
 - d) Insurance Write Offs – The Authority will not license any vehicle which has previously been recorded as a write off. Part 3 - Vehicle Specification.
 - e) Intended work area – Hackney Carriages. Drivers will be asked what area they intend to work in predominantly. If the answer is outside of this District they will not be granted a licence. Those found to be flouting this may render themselves liable for disciplinary action. The change to this condition clarifies that those who transgress may be liable to disciplinary sanctions. Part 3 - Intended Use.
 - f) In-vehicle visual recording – CCTV. The Consultation sought views as to whether licensed vehicles will be required to have a Council approved CCTV system installed by October 2022 or to retain the current Guidance which does not mandate CCTV but does strongly encourage it. Part 3 - See also paragraph 4.5 below.
 - g) Wheelchair Accessible Vehicle Licences - A condition will be added to WAV licences that the vehicle must always carry the appropriate equipment to transport wheelchair passengers otherwise the vehicle licence will be suspended immediately. Part 3 - Wheelchair Accessible Vehicles.
 - h) Plate and Livery exemptions – Amends and replaces current condition clarifying how the application is made for exemption from displaying door signs and a plate. Part 3 - Executive Private Hire Vehicles.
 - i) Dual Drivers Licences – Clarifies length of time that driver's licences will be issued for. Part 4 – Licences.

- j) Stretched Limousines – The licensing of stretched limousines will be included in the Guidance. Part 3 - Stretched Limousines and Other Specialist Vehicles.
- k) Fit and Proper test – The Authority will formally adopt the Standards guidance relating to the 'Fit and Proper' test that will be used in all decision making. Part 4 - Fit and Proper Test.
- l) Disclosure Barring Service (DBS) Update Service – All drivers and Private Hire Operators will subscribe to the DBS Automatic Update Service and provide evidence of this subscription. DBS checks will be undertaken by the Licensing Team every 6 months on all drivers and 12 months for Operators. Part 4 - DBS and Part 5 - Private Hire Operators.
- m) Overseas Applicants - The Council will seek criminal records information from overseas when an applicant has previously lived outside the UK for any period of more than three continuous months since the age of 18. Part 4 – DBS.
- n) DVLA Drivers Licence checks – Clarifies drivers belonging to DVLA free online shared service that enables the Council to check their licence electronically. Part 4 - DVLA Licence Checking.
- o) Introduction of English Language Proficiency Test for all new applicants. This is a computer-based test of understanding of the English Language, supervised by an Authorised Officer. All applicants regardless of nationality will have to sit the test. Exceptions are those who have a relevant qualification in English. Part 4 - English Language Proficiency Test. See also Paragraph 4.11 below.
- p) Safeguarding Awareness Training - Introduction of Mandatory Safeguarding awareness training. The training will also address County Lines issues. If a driver fails to complete it within a fixed period, then their licence will be suspended until the safeguarding training is completed. Part 4 - Safeguarding Training. See also Paragraph 4.9 below.
- q) Mandatory Disability Awareness Training – This will be introduced. If a driver fails to complete the training within a fixed period, then the licence will be suspended until this training is completed. Part 4 - Safeguarding Training. See also Paragraph 4.9 below.
- r) Clarifies process to apply for an exemption certificates from carrying assistance dogs. Part 8.
- s) Card Payments - A condition will be added to the vehicle licence that when credit cards are accepted by a driver they cannot set a minimum card payment amount. Part 9.
- t) Vaping – The current condition banning smoking by drivers will be amended to confirm that drivers or passengers cannot vape in licensed vehicles. Appendix 3, Paragraph 26.

- u) **Criminality Checks on Vehicle Proprietors** - It is important that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. The Council will require a basic disclosure from the DBS and that a check is undertaken annually. An individual may apply directly for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Part 3 – Vehicles.
- v) **Licensee Self Reporting** - Licence holders should be required to notify the Council within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. Appendix 3, Paragraph 15 and Appendix 6, Section 6.3.
- w) **Sharing Licensing Information** - Applicants and licensees will be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. Part 4 – DBS.
- x) **Private Hire Vehicle Operators** – Will be required to maintain a register of staff that will take bookings or dispatch vehicles and to provide evidence of DBS checks for them. Part 5 - DBS Disclosures.
- y) **Private Hire Vehicle Operators** – Operators who do not already supply an enhanced DBS certificate to the Council will be required to supply an annual basic disclosure annually. This check will also apply to all named directors of the company. Part 5 - DBS Disclosures.
- z) **Operators** will be required to advise the authority when any driver is subject to complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months. Part 5 - Complaints about drivers.
- aa) **Operator records** – Amends the requirements for type of records to be kept. Appendix 4 – Records.
- bb) **Use of PCV licensed Drivers** – The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking will not be permitted as a condition of the private hire vehicle operator’s licence without the informed consent of the booker. Appendix 4, Section 5.
- cc) **Convictions Policy** – This replaces the current arrangements, with more robust and comprehensive arrangements that deal with a full range of offences and eventualities. It gives clear guidance to the Council. Appendix 6. See also Paragraph 4.14 below.
- dd) **Penalty Points scheme** – Allocates points to the driver or operator for breaches of rules, conditions. The objective is to improve levels of compliance and help improve standards. Points remain active for 12 months before being considered as spent. This scheme does not prevent the Council

taking action it's entitled to under legislation, byelaws, and regulations.
Appendix 7. See also Paragraph 4.8 below.

- ee) Common Law Police Disclosure/Referrals to the Police/DBS – The Council will maintain close links with the Police to ensure effective and efficient information sharing procedures. Any decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult will be referred to the Police and DBS. Part 4.

4 Key Findings

4.1 The online survey asked six questions from the list in Section 3 above in addition to a section for generalised comments.

4.2 The first question asked 'in what capacity the respondents were acting':

A resident	108	49.54%
A licensed driver working in Eastbourne District	104	47.71%
An operator based in Eastbourne Borough	2	0.92%
Other	4	1.83%
Total	218	

4.3 Question 2

We are considering whether to prohibit the use of magnetised fittings to secure door signs to the front driver and passenger doors. Our intention is to ensure these signs are permanently fixed to the doors. How much do you agree or disagree with this proposal?

4.4 Responses:

Strongly agree	32	14.61%
Agree	26	11.87%
Disagree	26	11.87%
Strongly disagree	115	52.51%
Don't Know	20	9.13%
Total	219	

4.5 Question 3:

Under the current guidance CCTV is not mandatory but is strongly advised by the council. We are proposing that all licensed vehicles will be required to have a council-approved CCTV system installed by October 2022. How much do you agree or disagree with this proposal?

4.6 Responses:

Strongly agree	58	26.48%
Agree	53	24.20%

Disagree	28	12.79%
Strongly disagree	70	31.96%
Don't Know	10	4.57%
Total	219	

4.7 Question 4:

We are proposing to introduce a Penalty Points scheme on driver's and operator's licence for breach of conditions. This would aim to improve levels of compliance and raise standards. Penalty Points would be cumulative and remain active for 12 months. This would not however prevent the council from taking other forms of legal action where needed. How much do you agree or disagree with this proposal?

4.8 Responses:

Strongly agree	65	29.95%
Agree	73	33.64%
Disagree	28	12.90%
Strongly disagree	39	17.97%
Don't Know	12	5.53%
Total	217	

4.9 Question 5:

We are proposing to make safeguarding and disability awareness training mandatory for all new and current drivers. The aim of this would be to raise awareness of the exploitation of children and young vulnerable adults, including where to report incidents, within the trade. How much do you agree or disagree this should be implemented for all new and current drivers?

4.10 Responses

Strongly agree	76	34.70%
Agree	89	40.64%
Disagree	26	11.87%
Strongly disagree	20	9.13%
Don't Know	8	3.65%
Total	219	

4.11 Question 6:

We are proposing to introduce an English proficiency test, designed to ensure all new applicants are able to communicate effectively with passengers. This is particularly important when transporting vulnerable people and in the case of emergencies such as when medical treatment is required. All applicants, regardless of their nationality, would be required to take an English proficiency test or provide evidence of a relevant English Language qualification, for example a GCSE or equivalent (grade 4 or higher). How much do you agree or disagree with this proposal? Do you think this should be implemented for all new applicants?

4.12 Responses:

Strongly agree	145	66.21%
Agree	47	21.46%
Disagree	13	5.94%
Strongly disagree	5	2.28%
Don't Know	9	4.11%
Total	219	

4.13 Question 7:

We are proposing to introduce a more robust and comprehensive convictions guidance. Please take a moment to read the proposed convictions guidance before answering this question. How much do you agree or disagree with this proposal?

4.14 Responses:

Strongly agree	78	35.62%
Agree	91	41.55%
Disagree	17	7.76%
Strongly disagree	11	5.02%
Don't Know	22	10.05%
Total	219	

4.15 Question 8: allowed free generalised comments about the whole document summarised as follows:

Trade is very bad more expense is not needed	12
Door Signs – can't use as family car	14
Door Signs – Damage paint work	12
CCTV – Expensive	11
CCTV - Intrusive and unnecessary	7
Conditions needed for electric vehicles and 2030	7
Carbon Neutrality	
Drivers need Annual test – standard of driving is poor	6
Too many Licensed vehicles	2
Don't change anything	2
Supportive of proposals	6
Other Comments	26

4.16 Written submissions

Nine written submissions were received during the consultation; from Five Drivers, three Operators and a local Group representing those with accessibility issues. These are attached at Appendix 4.

4.17 These submissions are summarised as follows:

- a. Driver - broadly welcomes the proposals with the exception of; CCTV – too expensive and no consultation with the trade

Door Signs – no requirement for permanent signs – non-compliance figures do not support this change

Penalty Points – Previously rejected by the Council, overall it appears excessive arbitrary and potentially punitive.

- b. Operator – Very supportive – as are his drivers of CCTV. Has some queries about the impact of points on Operators, overall supportive of proposals.
- c. Driver – Does not agree with permanent door signs
- d. Driver – Changes will cost him more to keep his vehicle on the road, CCTV should be a drivers choice, points system punishes good drivers, disagrees with permanent door signs.
- e. Driver – Cannot understand the timing of the changes (during pandemic), no need for ‘vulnerable’ persons training as its all-common sense anyway.
- f. Operator – queries about type and spec of CCTV will be required, time limit for paperwork to be submitted for renewals and why is there a need for age limits on vehicles.
- g. Operator – CCTV not to be implemented before October 2022 and for consultation with the trade about this and the penalty points system.
- h. Eastbourne Access Group
WAVs concerned about unmet demand for Wheel Chair Accessible Vehicles
Queries whether a number of current measures to deal with discriminatory behaviour towards vulnerable people have been deleted and not replaced.
Disability awareness training should not be discretionary.
- i. Driver – overall supportive but queries the penalty points system as being disproportionate.

5 Options

- 5.1 The Committee is asked to consider what, if any, changes are to be made to the Guidance taking into account the Standards and its recommendations, and the results of the public consultation.
- 5.2 The Committee will see that 3.1 paras a) to ee) outline several proposed changes to the Guidance. The Committee is asked to decide for each one as follows:
 - a. Implement the change as proposed.
 - b. Disregard the change.
 - c. Implement the change in part as appropriate.

If the Committee choose Options a) or c) they can decide a date for commencement.

- 5.3 The Committee is asked to delegate the Senior Specialist Advisor to take the necessary steps to implement any changes, produce a final Guidance for publication and implement it on a date to be agreed with the Chair of the Licensing Committee.

6 Financial Implications

Some proposals in this review involve costs to the trade as follows:

- a. Drivers are already able to sign up to the DBS update service at a cost of £13 per annum. By signing up to the update service, this would negate the need for drivers to pay for a new DBS every 3 years at an approximate cost of £71.
- b. Safeguarding and Disability Awareness training; these are in the region of £25 for each course. These costs would be charged to the driver.
- c. English Language Test: £53 one off test on application.
- d. CCTV installation estimated cost of £500. The implementation period of October 2022 does give some time for financial preparation.

7 Legal Implications

- 7.1 There is no statutory requirement for the Council to adopt any Guidance in relation to hackney carriage and private hire licences. However, the statutory Standards recommends that all licensing authorities should make publicly available a cohesive document which brings together all their procedures on hackney and private hire licensing. Such a document should include but not be limited to guidance on convictions, a “fit and proper person” test, licence conditions and vehicle standards. In any case, it is considered best practice to have such Guidance as it informs, guides decision makers and assists with consistent decision making. Any Guidance is not a fetter on decision making as each case must be judged on its own merits.
- 7.2 The Council can and should make its own decisions as to the content of the Guidance, in light of the relevant law, but Members should note that if the Council does not adhere to the Standards without sufficient justification that may be detrimental to the defence of any legal challenge.
- 7.3 The Legal Section considered this Report on 5 May 2021 (IKEN-10119-EBC-MW).

8 Equality Analysis

- 8.1 An Equality Analysis has been undertaken for these proposals. Overall a positive impact is expected for disabled people and their carers, and anyone who may be vulnerable because of their age, or mental or physical health condition.

If any consultation submissions are pertinent to equalities they will be included in the Equality Analysis and noted in the subsequent committee report.

9 Risk Management Implications

- 9.1 In accordance with the Council’s Risk Management Strategy, consideration has been given to the potential risks associated with the recommendations set out in this report. Although it remains the case that licensing authorities must reach their own decisions, both on overall Guidance and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the Council’s defence.

10 Appendices

- Appendix 1 – Proposed Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance (Consultation document)
- Appendix 2 – Department for Transport Statutory Taxi and Private Hire Vehicle Standards – July 2020
- Appendix 3 – Analysis of Public consultation (including responses from the trade)
- Appendix 4 – Written submissions

9 Background papers

None.

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Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance

Effective Date: TBATBA

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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 Eastbourne Borough 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 borough of Eastbourne 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 between and xx 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 amendments to the Guidance will require a full public consultation prior to consideration by the full Licensing Committee. Significant amendments include 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.

Any changes to the licensing requirements will be followed by a review of the licences currently issued. If requirements are changed regarding vehicle specification or licence holders will need to undertake additional training, then reasonable time will be allowed for these changes to take place. Where a more subjective change has been introduced, for example an amended policy on previous convictions, the licensing authority will consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, the licensing authorities will consider doing so.

Transitional Arrangements

The Guidance will have a phased introduction from TBA 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.

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 Eastbourne Borough Council in its licensing function
Driver	Refers to dual drivers, 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 borough controlled by the Council
He/his	shall apply to female equivalent
<u>Plate</u>	<u>means the identification plate with the Council's licence reference number fixed to the rear exterior of the vehicle.</u>
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
Vehicle	Refers to a hackney carriage or private hire or specialist vehicle, unless expressly stated or the context indicates otherwise

Part 3: Vehicles

Limitation of Numbers

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

With effect from the 1st December 2019 applications for a new licensed hackney carriage vehicle will not be considered unless the vehicle is Wheel Chair Accessible. The vehicles may be either side loading or rear loading via a ramp. This does not apply to existing licence holders of Hackney carriage vehicles who apply to change their vehicles.

(This is a reworded condition from the current policy)

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

Criminality Checks on Vehicle Proprietors

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

Specifications and Conditions

The Council has a wide discretion over the type of vehicle it can licence and the best practice 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 licensed 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.

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 other than the relevant Euro standard.

Maximum Age of Vehicles

Vehicles presented for first licensing shall not be more than five years old and vehicles presented for re-licensing shall not be more than ten years old ~~of more than ten years old will not be relicensed~~, apart from in exceptional circumstances at the discretion of an

Authorised Officer. Applications to re licence vehicles over ten years old must be made in writing to the Council citing what is considered to be an 'exceptional circumstance'. Financial matters nor the condition of the vehicle come in to this exceptions category and will not be considered in the determination.

Vehicle Testing

No vehicle may be used unless it has a current MOT pass certificate and have passed a Vehicle Suitability Test ("VST") 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 pass a VST.

All vehicles will be subject to an annual MOT and a six monthly VST. 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 until 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 Borough, 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 VST. 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.

VST's are only to be carried out by a Council designated DVSA approved garage in the Borough.

Livery

~~All Hackney Carriage vehicles must have white paintwork. Private hire vehicles shall have paintwork that is any colour other than white.~~

~~All vehicles are to display an approved door sign as supplied by the Council (in the Council's corporate colours), with the exception of executive private hire vehicles solely used for that purpose.~~

The Council believes that the requirements of this Policy ensure that hackney carriages and private hire vehicles are easily distinguishable.

1. All Hackney Carriage vehicles will be white in colour.
2. Private hire vehicles will any colour other than white.
3. Door signs are provided by the Council. All vehicles are required to display an approved door sign on the middle portion of the front driver and passenger doors as supplied by the council. This sign must be permanently fixed to the door, magnetised signs are not permitted.

4. All Hackney carriage vehicles will display a roof sign as specified within the vehicle conditions.

~~All Hackney carriage vehicles will display a roof sign as specified within the vehicle conditions.~~

Change of Ownership

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

[If the vehicle is found to be operating in contravention to the information supplied in the application form then enforcement action will be considered, which may include revocation of the licence.](#)

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 of the vehicle it must pass a VST. 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

1. The Council considers that it is important to mandate the requirement for CCTV in all licensed vehicles to protect the travelling public and drivers. The Council considers that the security of drivers and passengers is of paramount importance and CCTV can be a valuable deterrent and useful to confirm or rebut complaints made against drivers. ~~Under this Guidance CCTV will be strongly encouraged, but not mandatory, in all hackney carriages and private hire vehicles.~~
2. The Council understands that there is a need to balance its responsibilities to protect drivers and the travelling public with the individual's privacy rights.
3. CCTV equipment are to be installed and operated in all licensed Hackney Carriage and Private Hire vehicles (other than Private Hire vehicles issued with a plate exemption for executive and VIP work and those vehicles used solely for this purpose).
4. The system must be approved by the Council which will maintain a list of such CCTV systems and approved providers on a list available on its website. For those vehicles that have a CCTV system installed before the implementation of compulsory CCTV those systems may be allowed at the discretion of an Authorised Officer.
5. All CCTV media and its data must be secured, password encrypted and not accessible to anyone other than the data controller or their appointed administrator or agent.
6. The Council will become the Data Controller and will publish a Data Protection Statement.
7. The CCTV systems must be installed in vehicles by 1 October 2022.
8. The installation and operation of the CCTV systems shall comply with the requirements of the Information Commissioner's CCTV Code of Practice and the Home Office Surveillance Code of Practice. The CCTV system shall comply with any legislative requirements as regards safety, technical acceptability and operational/data integrity.
9. The CCTV system shall comply with any legislative requirement as regards safety, technical acceptability and operational/data integrity.
10. The CCTV system 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.
11. It will be the responsibility of the driver of a vehicle to report to the Council within 48 hours any breakdown of or other issues that may affect the efficient working of the CCTV system.
12. Any failure to install, maintain or operate a system is likely to lead to the vehicle licence being suspended, revoked or the licence not being renewed. Such a failure may also call into question the fitness and propriety of the driver.
13. The CCTV system must be capable of date, time and vehicle identification. It must be capable of 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.

14. The positioning of the CCTV camera and hardware 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.
15. 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.
16. 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. The signage shall include where a subject access request may be made.
17. An Authorised Officer or Police Officer may, on reasonable notice, examine any camera installation or any footage from the CCTV.
18. 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. Any material recorded on the CCTV equipment shall only be used as evidence in court proceedings or to aid the investigation of crime, to confirm or rebut complaints made against the driver or as evidence in motor insurance matters. The licence holder shall co-operate with any Police investigation where access to the CCTV footage may assist.
19. The driver of the vehicle and or Operator will not attempt to access, or tamper with the CCTV equipment or attempt to download or tamper with any of the equipment or data
20. The CCTV system must be capable of recording and storing images for a minimum of 28 days.

~~The written approval of the Council must be obtained before CCTV is installed in a vehicle. If CCTV equipment is installed the relevant conditions in Appendix 1, below, will apply.~~

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.

Vehicle engines shall meet the following Euro standards. Diesel powered vehicles shall meet the Euro 6 standard for emissions and petrol vehicles the Euro 4 standard.

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.

A comprehensive vehicle specification list shall be available on the Council's website.

Written Off Vehicles - There are a number of categories for vehicles that have been classed as being written off. These range from vehicles that cannot be repaired to vehicles which could potentially be repaired to a roadworthy condition. However, there are difficulties in establishing that any repairs have been completed to a professional standard. Therefore, the Authority will not license any vehicle that has been classed a 'write off' in any category.

~~Hackney Carriage Vehicles to be wheelchair accessible~~

~~All additional hackney carriage vehicles will only be licensed if they are wheelchair accessible. The vehicles may be either side loading or rear loading via a ramp. (Reworded condition at top of section 3)~~

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.

Wheelchair Accessible Vehicles

Wheelchair Accessible Vehicles must always have the appropriate equipment available to carry wheelchair customers and in working condition otherwise the vehicle licence will be immediately suspended.

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. [Plate and Livery exemptions may be granted for vehicles providing a discreet service to corporate and VIP clients.](#) ~~However, private hire vehicles will be issued with an exemption certificate, which allows them not to attach an external plate or door signs, 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.~~

[The application for Plate/Livery Exemption must be made in writing and a certificate of exemption must be granted before the plate may be removed from the rear of the vehicle. The plate must be carried in the vehicle at all times along with the exemption certificate. All other signs must be removed in these circumstances. The driver's identity badge must be carried in the vehicle and produced on demand.](#)

[If the plate exemption is misused then consideration will be given to the exemption for that vehicle being removed.](#)

~~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.~~

All executive vehicles undertaking any private hire work are required to display an external plate and door signs.

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 Dual Drivers licences.~~

The Council issues the following types of drivers' licences;

- Dual Drivers – holding both a hackney and private hire drivers licence

All new and renewal driver licences will be granted for 36 months from the date of issue

The only exceptions to these principles are:

- a) In cases where the licence holder is working under visa conditions attached to their passport the licence will only cover up to the expiry date on the visa.
- b) Where the Council considers it appropriate in exceptional circumstances.
- c) The financial circumstances of the applicant will not be deemed as an exceptional circumstance

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.~~

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.

Fit and Proper Test

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee.

The test used by this Authority when considering whether a licence holder is a 'Fit and Proper' Person is:

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

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. All decisions on the suitability of an applicant or licensee will be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and will take into consideration conduct that has not resulted in a criminal conviction.

Driver Tests

Applicants will be required to meet the following tests as detailed below.

1. Knowledge Test

The knowledge test includes questions on locations of places of interest, policy and law, the Highway Code, road signs, numeracy, English comprehension, equalities including disability awareness, and child exploitation.

Applicants are limited to three attempts at the test per application and the test must be passed within six months of receipt of 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 the first test is included in the application fee. Each subsequent 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 Equalities Awareness including Disability Awareness. 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.~~

New applicants are required to undertake a driving proficiency test to an equivalent standard required by the Driver Standards Agency (DSA). 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 Group 2 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 that may affect their driving capabilities.

Licensed drivers 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 by the applicant's GP, but can be from any other medical practitioner, if an Authorised Officer agrees, who has accessed the applicant's medical records for at least the last two years. On completion the form must be submitted to the Council.

In addition, drivers between the ages of 60 to 65 years of age must pass an annual eye sight test.

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.

All new applicants for a drivers licence will be the subject of a Disclosure Barring Service (DBS) Enhanced Disclosure check. The Council is an approved (DBS) body; Checks will be carried out by the Council via an approved company. Applicants will be charged the appropriate fee.

~~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.~~

All new applicants that have lived outside of the UK for any period of time over six months, as an adult, must provide a Certificate of Good Conduct from ~~the~~ **each and every country where they resided in for a period of more than three months**. If a Certificate of Good Conduct cannot be provided then written reasons as to why it cannot be provided must be supplied and those reasons will be considered by an Authorised Officer.

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 **overseas for each and every Country that they have resided in**. If a Certificate of Good Conduct cannot be provided then written reasons as to why it cannot be provided must be supplied and those reasons will be considered by an Authorised Officer.

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

An Enhanced DBS check of Criminal Convictions for current drivers will be carried out by the Council every six months. This will be carried out by way of the DBS Update Service (see below for details) or the more traditional method of obtaining a paper record. Licensed Drivers must be aware that the Council considers it imperative that all drivers subscribe to the Update Service. The Council can also request another disclosure at any time if a further check is considered necessary.

The DBS Update Service allows the applicant to pay a subscription fee direct to the Disclosure and Barring Service, in return for ongoing monitoring of the official records for information relating to the applicant. Subscribers will be able to give employers and licensing authorities permission to carry out a status check, in order to verify whether an original DBS certificate remains valid, even if it is several years later. Therefore we will allow taxi and private hire drivers to use the Update Service as an alternative to obtaining a new certificate every six months. In such cases, the original certificate that the Update Service relates to must initially be produced to the Licensing Department for verification that it is suitable.

The applicant must have subscribed within 19 days of the issue of the last certificate. If the subscription lapses, or if the driver doesn't subscribe and police records show new information since the certificate was issued, we will not be able to obtain a status check, and the applicant will need to apply for a new disclosure certificate at their own cost.

All licensed drivers will be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Should the check reveal that new information is available the DBS certificate will no longer be relied upon and a new DBS certificate will be requested.

All applicants are required to disclose if they have ever held a licence with any other Authority and additionally if they have ever had a licence refused, revoked or suspended by any other licencing authority. Where an applicant has made a false statement or a false declaration or omitted this information on their application for the grant or renewal of a licence, the licence will normally be refused. The Authority will check all new applicants against the National Revocation and Refusals Register.

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.

Common Law Police Disclosure/Referrals to the Police/DBS

In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS/Police. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. The Licensing Authority will make a referral to the DBS/Police when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the 'harm test'; or
- received a caution or conviction for a relevant offence and;

- the person they are referring is, has or might in future be working in regulated activity; If the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

What is the harm test? A person satisfies the harm test if they may harm a child or vulnerable adult or put them at risk of harm. It is something a person may do to cause harm or pose a risk of harm to a child or vulnerable adult.

National Register of Taxi Licence Refusals and Revocations.

The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3). This allows licensing authorities to share details of individuals who have had a hackney carriage or private hire licence revoked. All applications for a new licence or licence renewal will automatically be checked on NR3. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

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

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 upon renewal.

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.

All new applicants and current drivers applying for renewal of their licence will be subject of a DVLA check of the driving record. A licence will not be issued or renewed until this check is complete and the results considered. It complies with the Council's policy on convictions (See Appendix 6.)

Since the abolition of the Driving Licence paper counterpart the Licensing Department have been unable to easily check current driving endorsements that may have accrued.

Local Authorities are no longer be able to request an extended mandate for an extract of an applicant's driving history. The DVLA provides a free service to check a driver's current endorsements. This service will be used by the Council for all new and current drivers so the Licensing Authority can ensure drivers remain 'fit and proper' persons.

All new applicants and existing licensed drivers will be expected, and conditioned, to provide a shared driving licence code in order that relevant checks can be made of the DVLA online service.

Checks may also be made by the Council, requiring the applicant or licensed driver to provide a shared DVLA driving licence code at other times. This will either be where the Council believes an applicant or licence holder has been convicted of an offence not previously declared, there has been a delay in the application process and the Council wish to ensure they have updated details before determining an application or, as part of periodic compliance checks of licensed drivers.

If an applicant is unable to use the free Shared Driving Licence Service, he/she will be required to give written consent to the Council to apply to the DVLA for their driver record. The applicant must pay the reasonable administrative fees of the Council as well as those of the DVLA. Utilising this service will result in delays in the Council processing an application.

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 6.

English Language Proficiency Test

New Applicants

- a. All new applicants for a Hackney or Private Hire Drivers Licence will be required to undergo a proficiency test to demonstrate their ability to communicate effectively in the English Language.
- b. The test will be conducted in a form approved by Eastbourne District Council.
- c. An outline of the test requirements can be found at appendix (10)

Current Drivers

- e. Current drivers appearing before the Licensing Committee may be required to take the aforementioned test should the Committee consider that the driver's spoken English is inadequate. Each case will be considered on its merits.

Exemptions

- f. This test will apply to all applicants, including those who may be expected to speak English as a first language by virtue of their country of birth. However, it is proposed to exempt a candidate from any adopted English test requirement if they can demonstrate that they have previously passed a relevant English language qualification at a suitable level, such as:
 - I. a GCSE, GCE O-level or GCE A-level issued by a recognised examining body in the UK (grade 4 or higher)
 - II. an NVQ, City & Guilds, or similar vocational qualification (level 2 or higher) issued by a recognised examining body in the UK
 - III. an equivalent qualification to either of the above, issued by a recognised examining body in an English-speaking country other than the UK
 - IV. a TOEFL, IELTS or ESOL qualification at CEFR level B2 (or equivalent)

Safeguarding Training

All new applicants and current licensed drivers are required to undertake recognised Disability Awareness and Equality Act training in relation to disabled and vulnerable passengers as part of their professional development. The Training will be organised by EBC and delivered through a provider of their choice. This is to ensure that all drivers operate to a consistent standard and can provide a safe and suitable level of transport service to disabled and vulnerable passengers. Disability awareness training for all new

drivers must be undertaken within a) Six months from the date of issue of the licence or b) before the licence is issued Existing EBC licensed drivers that have not previously undergone recognised Disability awareness training must attend a session within six months from implementation of this revised policy. Failure to attend this training during the timescales outlined above will result in the licence being suspended until the training has been successfully attended.

Existing holders of driver's licences are required to notify the licensing authority in writing within 48 hours of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the licensing authority within 48 hours of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the licensing authority as to the honesty of the licence holder and will be considered as part of any subsequent renewal applications or licence review.

Conditions

The Council is permitted to apply conditions to private hire drivers licences as it may consider reasonably necessary and those are contained in Appendix 3.

The Council is not permitted to apply condition to hackney carriage drivers but instead byelaws apply as contained in Appendix 2.

Duration

The Council will licence drivers ~~for a maximum of three years from the date of the licence but also offer applicants the choice of an annual licence in exceptional circumstances in~~ accordance with the conditions outlined on page 10 above.

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 dual/restricted private hire drivers licence. All three licences, operator, 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

Before an application for an operator's licence will be considered the applicant will be subject of a Basic Disclosure from DBS or a Certificate of Good Conduct. Applicants that hold a current drivers licence with the Council will be exempt from this requirement. A reference covering the applicant's financial records and/or business history may also be considered appropriate in some instances.

Private Hire Operators, who are not also licensed drivers, are required to provide a basic DBS Disclosure certificate every

Drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff. There is a person taking bookings (be it by phone or in person), the vehicle dispatcher who decides which driver to send to a user. These are positions that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults and the Authority should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public.

Operators will be required as a condition of granting an operator licence, to keep a register of all staff that will take bookings or dispatch vehicles.

Operators will be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. Operators will have to provide their policy on employing ex-offenders in either of these roles.

~~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 from which the Operator 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's licence for an operating base that is outside the borough. 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 borough 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.

Complaints about Drivers

All Operators are required to keep a record of all complaints received. These records must be made available for inspection by the Licensing Officer on request. Operators are required to advise the authority when any driver is subject to any complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months.

Part 6: Application and Renewal 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 a 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
- VST

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
- Approved Driving Assessment
- Enhanced DBS disclosure and/or Certificate of Good Conduct (as appropriate)
- Knowledge test pass
- Medical certificate
- [English Language Proficiency Test pass](#)
- 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)
- DVLA Check Code
- [Proof of passing the training in Equalities Awareness including Disability Awareness.](#)

Operators

An application for an operator's 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 professional financial or business reference
- Basic Disclosure/Certificate of Good Conduct unless already licensed as a driver with the Council.
- A register of all staff that will take bookings or dispatch vehicles.
- Evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff.

The 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. An application will not be processed without all supporting documentation being received which satisfies 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.

Renewal of Licences

Process

- a. It is the responsibility of the licence holder as appropriate to ensure that applications are submitted to the Council for renewal in good time.
- b. The Council will send notification of an impending renewal to licence holders with 28 days' notice.
- c. All applications for renewal must be submitted to the Council with all relevant documentation and the correct fee at least 14 days before the expiry date.
- d. Late or incomplete applications may result in the licence holder being unable to work until it has been determined.
- e. A renewal application received after the expiry date is not deemed to be valid. Therefore a refusal by the Council to renew the licence, in those circumstances, may only be legally challenged by way of judicial review.

- f. There may be 'exceptional' circumstances' that allow the Council to consider applications received after the expiry date. These exceptional circumstances apply if the renewal application is received no more than three days late and the licence holder provides a good reason for the delay. These will be considered on a case by case basis. The Council will be guided by relevant case law in this matter notably *R (on the application of Exeter City Council) v Sandle*.
- g. The Council will from time to time have to deal with situations where it may not be possible to determine renewal applications on time. These may include but are not limited to national emergencies and situations beyond the control of Local Government.
- h. The Local Government (Miscellaneous Provisions) Act 1976 does not allow expired licences to be extended. It is the responsibility of the owner/driver/proprietor as appropriate to ensure that applications are submitted to the Council for renewal in good time.
In such circumstances the following procedure will apply:
 - i. In the event that the Council is unable to determine applications in the required time, it will issue a short term licence from the date of expiry until the date that a proper determination can be made.
 - j. This is dependent upon the application being made before the expiry date of the current licence.
 - k. In these cases a 'short term licence' will be marked clearly as 'Issued without prejudice' thus recognising the Council has been unable to correctly assess all relevant documentation.

Sections i – k above do not include circumstances where an applicant has failed to submit the relevant application, fee or documentation on time.

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.

Complaints against licence holders

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.

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 where 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

Formal Action

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 prescribed 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 within prescribed timescales
- 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 (FPN) (after consultation with the Council's 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 about 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.~~

Penalty Points Scheme

The Council have introduced a Penalty Points Scheme for drivers and operators. The aim of the penalty point scheme is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan.

The purpose of the scheme is to record misdemeanours and to act as a record of driver's behaviour and conduct so as to ascertain whether they are a fit and proper person.

It does not prejudice the Council's ability to take other actions. The primary objective of the penalty points scheme is to improve the levels of compliance and help improve the standards, safety and protection of the travelling public.

The scheme is explained at Appendix 7

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 DVSA approved garage in the Borough, 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 in conjunction with discussion with the councils legal team where necessary.

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 DVSA approved garage in the Borough 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

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 want to ensure that passengers in wheelchairs are better informed about the accessibility of vehicles in the Borough and are confident of receiving any assistance they require.

The Council will actively encourage the licensing of sufficient accessible vehicles and will maintain a designated list of wheelchair accessible vehicles in the Borough which can be found on the Council's website.

Before a vehicle is placed on the designated list it must be possible for the user of a 'reference wheelchair' to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. More details on reference wheelchairs can be found on the Council's website.

The Council recognises that this means that some types of wheelchair may be unable to access some of the vehicles on its list. Therefore the Council will strongly encourage the provision of information concerning the size and weight of wheelchairs that can be accommodated including whether wheelchairs that are larger than reference wheelchairs can be accommodated. The Council will also publish a separate list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat in the vehicle.

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. In practice this means that a meter should not be left running whilst the driver performs duties required by the Equality Act 2010 including loading the passenger's luggage into and out of the vehicle, or when the passenger enters or leaves the vehicle or when a wheelchair is being secured within the passenger compartment, or when a wheelchair is being loaded in or out of the vehicle, or when installing a boarding ramp.

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.

All licensed drivers are under a legal duty to carry guide, hearing and any other assistance dogs in their vehicles without any additional charge to the passenger. A licensed driver may only refuse to do so where they have a medical exemption. A medical exemption may only be granted by the licensing authority where the licensed driver has provided detailed medical evidence that shows a medical condition will be aggravated by exposure to dogs. If the medical exemption is granted, the licensed driver will be issued with an exemption

certificate and a notice of exemption. The notice must be displayed in the vehicle by fixing it in a prominent position facing outwards on the dashboard.

~~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 in the form of a letter or report from a GP, or from an independent medical assessor. The exemption certificate, which must show the photograph of the driver, must be clearly displayed in the vehicle at all times. If the exemption application is unsuccessful the driver will be informed in writing within 14 days with a clear explanation for the reasons for the decision.~~

Sections 165, 166 and 167 of the Equality Act 2010 deal with the imposition of duties on the drivers of wheelchair accessible taxis and private hire vehicles to assist passengers who use wheelchairs.

Section 165 places duties on drivers of designated wheelchair accessible taxis and private hire vehicles.

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

Drivers who wish to be exempt from a duty to assist passengers in wheelchairs must apply in writing to the Licensing Authority.

The Council will accept evidence from the driver's own GP in support of an exemption period of no more than three months.

Applications for exemptions beyond three months will only be considered when supported by evidence from the driver's Consultant and will be determined by a Senior Specialist Advisor.

Applications for extensions beyond six months will be determined by the Licensing Sub Committee.

No Exemption will last longer than twelve months.

If an application for an exemption is refused the vehicle must still be fully used as a Wheelchair Accessible Vehicle. If the driver is unable to fulfil this commitment he/she will not be permitted to use the vehicle and his driver's licence may be subject to suspension until such time as the driver is declared fit.

The measures outlined here are intended to support the driver and to ensure that the wider community is not indefinitely denied the facility of a Wheelchair Accessible Vehicle.

Part 9: Fares

Hackney Carriages

The Council will consider the fare scales as and when requested to do so by the majority of the trade who shall set out a clear proposal of any change. Before varying 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 Borough 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 Borough 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.

[Where payments for journeys by credit/debit card are accepted, it is not permissible to set a minimum card payment amount.](#)

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.

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

[Where payments for journeys by credit/debit card are accepted, it is not permissible to set a minimum card payment amount.](#)

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.

Payment

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

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.

Contact Us;

Eastbourne District Council
1 Grove Road
Eastbourne
BN21 4TW

The Council Web Site can be viewed at www.lewes-eastbourne.gov.uk

E mail: customerfirst@lewes-eastbourne.gov.uk

Telephone Main Switchboard – 01323 415100

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

1. These conditions apply to all vehicles unless expressly stated.

Maintenance of Vehicle

2. 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.
3. All relevant statutory requirements including in particular those contained in the Motor Vehicle (Construction and Use) Regulations shall be fully complied with.
4. All vehicles shall undergo an inspection by a DVSA approved garage within the District every six months.
5. All Hackney Carriage vehicles will be white in colour.
6. Private hire vehicles will any colour other than white.

Identification Plate

7. 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. **Magnetised fittings are not permitted.**
8. **Door signs are provided by the Council. All vehicles are required to display an approved door sign on the middle portion of the front driver and passenger doors as supplied by the council. This sign must be permanently fixed to the door, magnetised signs are not permitted.**
9. On written application the Council may exempt certain specialist or executive vehicles from the need to display external plates, and operator identification.
10. The private hire licence plate provided by the Council for display inside the vehicle must be fixed to the front windscreen of the vehicle in a position where it may be conveniently read by passengers travelling in the vehicle.

Signage and Advertising

11. Hackney Carriages must be fitted with a sign approved by the Council. The sign shall comprise a yellow base material with an attached blue front panel bearing the words EASTBOURNE TAXI in yellow. The rear panel of the sign shall bear the word TAXI or if the proprietor chooses the telephone number of the taxi business. The word TAXI or telephone number of the taxi business on the rear panel shall be red on a black background in Helvetic Bold font style. The letters of the word Eastbourne shall be 2.5cm high and 2cm wide. The letters of the word TAXI shall be 7cm high and 8.5cm wide. The digits of the telephone number on the rear of the sign shall be 8cm high and 5cm wide. The sign shall be illuminated and have a green light on top capable of being switched on to indicate the vehicle is for hire. The sign shall be

placed transversely on the roof of the vehicle and shall not exceed 46cm in width and 17cm in height.

12. 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.
13. 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.
14. No other signs will be permitted to be displayed anywhere on the vehicle without the written permission of an Authorised Officer.
15. Restricted first party advertising is allowed so long as the advertising material is limited to the metal surfaces on the rear doors, 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.
- ~~16. No other advertising of any description is allowed on the vehicle.~~

Miscellaneous

17. 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.
18. A suitable First Aid kit shall be provided and maintained in the vehicle at all times when in use or available for hire.
19. 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. The fire extinguisher will be visible and readily available for immediate use in an emergency.
20. The proprietor shall notify the Council in writing of any change of his address within seven days of such change taking place.
21. 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.
22. 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.

23. 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.
24. Totally blacked out windows will not be permitted however partially blacked out windows may be allowed at the discretion of an Authorised Officer. Licensed vehicles may be fitted with Dark Tinted Windows (Manufacturers standard fit). All vehicles must comply with the Road Vehicles (Construction and Use) Regulations 1986 Regulations (10) and (11)
25. Where payments for journeys by credit/debit card are accepted, it is not permissible to set a minimum card payment amount.
26. Vehicles presented for first licensing shall not be more than five years old and vehicles presented for re-licensing shall not be more than ten years old ~~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.~~ Applications to re licence vehicles over ten years old must be made in writing to the Council citing what is considered to be an 'exceptional circumstance'. Financial matters nor the condition of the vehicle come in to this exceptions category and will not be considered in the determination

CCTV

- ~~27. The Council considers that the security of drivers and passengers is of paramount importance and CCTV can be a valuable deterrent. Under this Guidance CCTV will be strongly encouraged, but not mandatory, in all hackney carriages and private hire vehicles.~~
28. CCTV systems are to be installed in all licensed Hackney Carriage and Private Hire vehicles (other than Private Hire Vehicles issued with a plate exemption for executive and VIP work and are used solely for this purpose). The system must be approved by the Authority and be capable when required of audio recording. The Authority will become the Data Controller and will publish a Data Impact Statement and guidance to drivers. The CCTV system must be installed in vehicles by 1st October 2022.
29. The installation and operation of the CCTV systems shall comply with the requirements of the Information Commissioner's 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.
30. The CCTV system shall comply with any legislative requirement as regards safety, technical acceptability and operational/data integrity.
31. The CCTV system 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 system is not working it must be reported to an Authorised Officer within 72 hours.

32. The CCTV system must be capable of date, time and vehicle identification. It must be capable of 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.
33. The positioning of the CCTV camera and hardware 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.
34. 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.
35. 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.
36. 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.
37. The CCTV system must be capable of recording and storing images for a minimum of 28 days.

Appendix 2: Hackney Carriage Byelaws

Extracts from the Byelaws and Resolutions of the Council

made with respect to hackney carriages
(taxis) in the Borough of Eastbourne (i.e.
paragraph numbers relate to the 1970
Byelaws as amended)

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

1. Every proprietor of a hackney carriage shall:
 - a. cause the number of the licence granted to him in respect of the carriage to be displayed:-
 - (i) inside the carriage in such a position as to be clearly legible by the hirer throughout the hiring; and
 - (ii) outside the carriage by securely fixing at the rear of the carriage in a position above the rear bumper and to the off-side of the centre line of the vehicle, the authorised hackney carriage plate issued to him by the Council;
 - b. 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;
 - c. not cause or permit the vehicle to ply for hire with any such plate so defaced that any figure or material particular is illegible.

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

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

- h. provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
 - i. provide at least two doors for the use of persons conveyed in such a carriage and a separate means of ingress and egress for the driver.
3. Every proprietor of a hackney carriage shall cause the carriage to be provided with a taximeter. The taximeter shall be so constructed, attached, and maintained as to comply with the following requirements, that is to say:-
- (i) the machinery of the taximeter shall be brought into action by moving a lever or other device;
 - (ii) until the machinery of the taximeter is brought into action no fare shall be recorded on the face of the taximeter;
 - (iii) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in figures clearly legible and free from ambiguity 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 distance in pursuance of the byelaw in that behalf;
 - (iv) 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;
 - (v) the taximeter shall be so placed that all letters and figures on the face thereof may be seen by any person conveyed in the carriage and for that purpose suitable means of illumination shall be provided during any period of hiring;
 - (vi) the taximeter and all 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.

4. Every driver of a hackney carriage provided with a taximeter shall:-
- a. as soon as the carriage is hired by distance and before commencing the journey, bring the machinery of the taximeter into action by moving the lever or other device with which the taximeter is fitted;
 - b. cause the dial of the taximeter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined in Section 1 of the Road Transport Lighting Act 1927, and also at any other time at the request of the hirer.

5. 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.
6. Every driver of a hackney carriage for which stands are fixed by any byelaws in that behalf shall, when plying for hire in any street and not actually hired:
 - a. proceed with reasonable speed to, and station the carriage on, one of such stands;
 - b. if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - c. on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;
 - d. from time to time when any other carriage immediately in front is driven off or moved forward, cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
7. Every proprietor or driver of a hackney carriage who shall have agreed or shall have 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 time and place.
8. If a badge has been provided by the Council and delivered to the driver of a hackney carriage, either with the licence granted to him by the Council or afterwards, he shall, when standing, plying or driving for hire, wear that badge in such a position and manner as to be plainly and distinctly visible.
9. Every 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;
 - c. afford reasonable assistance in removing it to or from the entrance of any house, station, or place at which he may take up or set down such person.

10. Every proprietor or driver of a hackney carriage who shall knowingly convey in the carriage the dead body of a person shall, immediately thereafter, notify the fact to the Council.
11. 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 current tariff. The rate of fare being calculated by distance, unless the hirer expresses at the commencement of the hiring his desire to engage by time. Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised, by which it may not be possible to record on the face of the taximeter.
12. (1) Every proprietor of a hackney carriage plying for hire for which any fares are fixed by any byelaw in that behalf shall:-
- a. cause a statement of such fares to be painted or marked on the side of the carriage, or on a plate affixed thereto, in clearly distinguishable letters and figures;
 - b. renew such letters and figures as often as is necessary to keep them clearly visible.
- (2) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

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

13. Every proprietor or driver of a hackney carriage shall, immediately after the termination of any hiring, carefully search the carriage for any property which may have been accidentally left therein.
14. Every 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:-
- (i) carry it within twenty four hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave it in the custody of the officer in charge of the office on his giving a receipt for it;
 - (ii) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to one shilling in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.

15. Every person who shall offend against any of these byelaws shall be liable, on summary conviction, to a fine not exceeding 100 pounds and, in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

1st May 1989

| Link to Hackney Carriage Byelaw is [here](#) or it can be viewed on the Council web site [at](#) www.lewes-eastbourne.gov.uk and search for byelaws.

Appendix 3: Private Hire Drivers Conditions of Licence

1. 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.
2. 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.
3. The driver shall ensure that the vehicle is presented in a clean and tidy condition for each journey.
4. The driver must carry assistance dogs when required unless they have a Certificate of Exemption from the Council.
5. 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.
6. 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.
7. 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.
8. A driver must provide reasonable assistance in loading and unloading such luggage.
9. 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.
10. A driver must provide reasonable assistance to any passenger in alighting or entering the vehicle.
11. 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.
12. 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.
13. 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.

14. 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
15. Existing holders of driver's licences are required to notify the licensing authority in writing within 48 hours of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the licensing authority within 48 hours of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the licensing authority as to the honesty of the licence holder and will be considered as part of any subsequent renewal applications or licence review.
16. 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.
17. The driver shall not between the hours of 23:30 and 07:00 sound his horn to notify the hire of his presence.
18. The driver shall not, without the consent of the hirer, convey any other person in the vehicle other than the hirer.
19. 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.
20. A driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.
21. A driver must supply on request his badge number or plate number to any person on request.
22. A driver stopped by an Authorised Officer or a Police Officer must produce their licence on demand.
23. 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.
24. 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.

25. 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.
26. The driver shall not smoke or 'vape' in the vehicle.
27. The driver must not use a mobile phone whilst driving unless it is designed for hands free operation.
28. The driver shall not convey or permit to be conveyed any greater number of persons than the number specified on the vehicles licence.
29. The driver must return forthwith all licence, badges and plate to the Council when the driver ceases to be licensed.
30. 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.
31. 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 4 : Private Hire Operator Conditions

Records

1. 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~~
 - ~~▪ Date, time and point of the pickup~~
 - ~~▪ Details of the destination~~
 - ~~▪ Name and contact details of the hirer~~
 - ~~▪ Registration number of the vehicle~~
 - ~~▪ Name of the driver allocated for the journey~~
 - the name of the person making the booking
 - contact telephone number of the person making the booking
 - the time of the request;
 - the pick-up point;
 - the destination;
 - the name of the driver;
 - the driver's licence number;
 - the vehicle registration number of the vehicle dispatched;
 - the name of any individual that responded to the booking request;
 - the name of any individual that dispatched the vehicle.

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

3. 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 VST~~
 - ~~▪ A valid road fund licence~~
 - Method of charging i.e. whether or not a meter is fitted
 - Vehicle plate number.

4. 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.

5. The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted by private hire vehicle operator without the informed consent of the person making the booking.

Display of Licence Plates

6. 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.
7. 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

8. The operator shall ensure that any staff they employ act in a civil and courteous manner at all times.
9. 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.
10. 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 or smart phone App, to the licence holder.
11. The operator must not accept a request for hire (a booking) which has been communicated to them directly by a driver 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.
12. The operator must ensure that none of his staff or agents tout for business on the street, touting in this contact means approaching any person in the street and asking if they want to book a vehicle.
13. The operator is required to undertake reasonable checks as to fitness or suitability of their employees or agents who take bookings.
14. 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.
15. The operator may only operate from an address within the Borough they are licensed. Upon the grant of a licence the Council will specify the address from which the operator may operate.
16. 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.
17. The operator must not operate more vehicles then the maximum number specified on their licence. If the number of vehicles they operate 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.

18. 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.
19. 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.
20. 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.
21. 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.
22. 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.
23. The operator shall notify the Council forthwith and in writing of any complaints, concerning a contract for hire which call into question the suitability of a driver to hold a licence. Such notification must include the action taken or proposed as a result of the complaint.
24. Before an application for an operator's licence will be considered the applicant will be subject of a Basic Disclosure from DBS or a Certificate of Good Conduct. Applicants that hold a current drivers licence with the Council will be exempt from this requirement. A reference covering the applicant's financial records and/or business history may also be considered appropriate in some instances.
25. Operators will be required as a condition of granting an operator licence, to keep a register of all staff that will take bookings or dispatch vehicles
26. Operators will be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. Operators will have to provide their policy on employing ex-offenders in either of these roles
27. All Operators are required to keep a record of all complaints received. These records must be made available for inspection by the Licensing Officer on request. Operators are required to advise the authority when any driver is subject to any complaints

regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months

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Appendix 5: 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 6: Guidance on the Relevance of Convictions etc

Convictions Guidance

1. Introduction

1.1 The purpose of this document is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.

1.2 The overriding aim of the Council is to protect the safety of the public. The Council is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest person
- The safeguarding of children, young persons and vulnerable adults

1.3 This document provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for drivers' licences
- Existing licensed drivers whose licences are being reviewed or renewed
- Licensing Officers
- Members of the licensing sub-committee ('sub-committee')
- Magistrates and Judges hearing appeals against the Council's decisions

1.4 Where Officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the licensing sub-committee. Whilst officers and the sub-committee will have regard to the guidelines contained in the guidance each case will be considered on its individual merits and, where the circumstances demand, the sub-committee may depart from the guidelines.

1.5 For renewal applications and current licence holders the guidance will not be applied retrospectively. However the guidance will be applied if any additional convictions are incurred or brought to the attention of the licensing authority that would call into question a person's suitability to hold a licence.

1.6 There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have developed. These tend to be based on a test similar to the following:

'Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get in to a vehicle with this person alone?'

If the answer to this question (or a similar test) is an unqualified 'Yes' then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a hackney carriage or private hire driver's licence.

1.7 The Council will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an applicant or licence holder, the licensing authority will take into consideration the following factors:

- Criminality
- Number of endorsed DVLA driving licence penalty points
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing / former licence holders.

In addition, the Council will also consider further information from sources such as, but not limited to, the Police (including abduction notices), Children and Adult Safeguarding Boards, Multi Agency Safeguarding Hub, Immigration Service, Social Services other licensing authorities, other departments within the Council, and other statutory agencies.

1.8 As licensed drivers often carry unaccompanied and vulnerable passengers, the licensing authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. A licensed PHV or taxi driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern, The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully. As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public.

1.9 The Council reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

1.10 In this Guidance the word "applicant" refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are the subject of periodic auditing or having their licence reviewed by the Council as part of the Guidance-implementation process. It also includes existing licence holders who are being considered by the Guidance by virtue of offending activity having recently come to light.

1.11 In this policy, the word "conviction" is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.

2. General guidance

2.1 Whilst the Sub Committee may consider that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, it would normally be expected that the applicant would be required to:

- Remain free of conviction for an appropriate period as detailed below; and
- Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).

(Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).

- 2.2 The standards and criteria set out below are those that would normally be applied to applications and licences. Each case will be considered on its own merits, and the Guidance may depart from these criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant of licence holder will not ordinarily be considered as exceptional circumstances.
- 2.3 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 2.4 Where an applicant has been convicted of a criminal offence, the Council cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].

3. Pre-requisites to making an application

- 3.1 The Council requires every application for a licence to drive a Hackney Carriage and/or Private Hire Vehicle must be accompanied by satisfactory evidence of the following matters (and that applications that are incomplete will not be deemed to have been made until such time as they are completed) –
- That the applicant has the right to live and work in the country
 - An enhanced criminal record check and evidence that they are not on a child and/or vulnerable adult barring list
 - A certificate of their current medical fitness [to Group 2 standard]
 - That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive together with a check of any current driving endorsements held by the driver
 - That the applicant has successfully completed of an advanced driving assessment (DSA Test)
 - That the applicant has provided two personal references
 - That the applicant has passed a local knowledge test
 - That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for
 - (For persons who seek to be authorised to drive a wheelchair accessible vehicle) that the applicant has the ability to safely load and secure wheelchair users in a wheelchair accessible vehicle whilst in their chair.
- 3.2 If an applicant has spent six continuous months or more overseas the Council will need evidence of a criminal record check from the country/countries covering the period before a licence application can be made.

4. Appeals

- 4.1 Any applicant refused a driver's licence on the grounds that the Council is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal (Local Government (Miscellaneous Provisions) Act 1976, s 52
- 4.2 Any applicant refused an operator licence on the grounds that the s not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.
- 4.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

5. Powers

- 5.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the Council to suspend, revoke or refuse to renew a licence if the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 5.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the Council to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.
- 5.3 In this guidance the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

6. Consideration of disclosed criminal history

- 6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the Council is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:
- How relevant the offence(s) are to the licence being applied for
 - How serious the offence(s) were
 - When the offence(s) were committed
 - The date of conviction
 - Circumstances of the individual concerned
 - Sentence imposed by the court
 - The applicant's age at the time of conviction.
 - Whether they form part of a pattern of offending
 - Any other character check considered reasonable (e.g. personal references)
 - Any other factors that might be relevant for example:
 - The previous conduct of an existing or former licence holder,
 - Whether the applicant has intentionally misled the council or lied as part of the application process,

- Information provided by other agencies/council departments
- 6.2 In this Guidance 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing - regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.
- 6.3 Existing holders of driver's licences are required to notify the Council in writing within forty-eight hours of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the Council within forty-eight hours of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.
- 6.4 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (Section 57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 6.5 Any offences or behaviour not expressly covered by this Guidance may still be taken into account.
- 6.6 The Guidance is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Guidance other licensing authorities, and information disclosed by the police.
- 6.7 Admission of guilt is required before a Police caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.
- 6.8 Applicants can discuss further what effect a caution/conviction may have on any application by contacting an Authorised Officer or advice.
- 7. Options when determining an application/licence**
- 7.1 When determining an application or reviewing an existing licence in relation to convictions or other relevant information the Council have the following options:
- grant the licence or take no further action

- grant the licence with additional conditions
- refuse, revoke, or suspend the licence
- issue a warning

7.2 If a current licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

8. Serious offences involving violence

8.1 Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.

8.2 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

8.3 A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the below offences and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault
- Violent disorder
- Resisting arrest
- Any racially-aggravated offence against a person or property
- Affray
- Any offence that may be categorised as domestic violence
- Any offence that may be categorised as stalking
- Harassment, alarm or distress, intentional harassment or fear of provocation of violence

- Or any similar offences (including attempted or conspiracy to commit) offences
- which replace the above

8.4 A licence will not normally be granted until at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

8.5 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

9. Offences involving a weapon

9.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

9.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 7 years (or at least 7 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

10. Sexual and indecency offences

10.1 As licensed drivers often carry unaccompanied and vulnerable passengers, the Council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused a licence.

10.2 An application will normally be refused where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc.
- Indecent exposure
- Soliciting (kerb crawling)
- Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver

- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

10.3 In addition to the above the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register.

11. Dishonesty

11.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

11.2 In general, a minimum period of 7 years free of conviction or at least 7 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- and any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

11.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

11.4 Applicants or existing licence holders that are found to have intentionally misled the licensing authority, or lied as part of the application or renewal process, will not be issued with a licence.

12. Drugs

12.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be

considered.

- 12.2 A licence will not normally be granted where the applicant has an isolated conviction for an offence related to the supply of drugs and has not been free of conviction for 10 years.
- 12.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.
- 12.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 12.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.
- 12.6 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

13. Driving offences involving the loss of life

- 13.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Causing death by dangerous driving
 - Causing death by careless driving whilst under the influence of drink or drugs
 - Causing death by driving: unlicensed, disqualified or uninsured drivers
 - or any similar offences

14. Drink driving/driving under the influence of drugs/using a mobile phone whilst driving

- 14.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. Normally at least 5 years after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed. If an applicant has more than one

conviction for driving or being in charge of a vehicle while under the influence of drink or drugs the application should normally be refused.

- 14.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:
- are much less aware of what's happening on the road around them
 - fail to see road signs
 - fail to maintain proper lane position and steady speed
 - are more likely to 'tailgate' the vehicle in front
 - react more slowly, take longer to brake and longer to stop
 - are more likely to enter unsafe gaps in traffic
 - feel more stressed and frustrated.
- 14.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.
- 14.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

15. Other Motoring Offences

- 15.1 There are many motoring offences which attract penalty points and fines. Some of these are not necessarily a bar from an applicant being granted a licence or an existing driver retaining a licence.
- 15.2 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 5 years.
- 15.3 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.
- 15.4 In this Guidance the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.
- 15.5 In "totting up" cases where disqualification is considered by the Court, even if the

court does not disqualify (e.g. because of exceptional circumstances) a driver, the Guidance is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply. An applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

16. Licensing Offences

- 16.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 5 years has passed since .
- 16.2 A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

17. Insurance offences

- 17.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour.
- 17.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.
- 17.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his operators' licence revoked immediately and be prevented from holding a licence for at least three years.
- 17.4 Where a specific offence is not mentioned, a suitable period will be determined by reference to offences described. The Council reserves the right to refuse a licence where there are aggravating circumstances, even where these guidelines would otherwise indicate that a licence might be granted.

18. Outstanding charges or summonses

- 18.0 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.
- 18.1 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

19. Non-conviction information

- 19.1 If an applicant has been arrested or charged, but not convicted, for a serious

offence which suggests he could be a danger to the public, consideration may be given to refusing the application or revoking an existing licence.

- 19.2 The Guidance will take into account intelligence it receives which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take following the receipt of information), the credibility of the witness / complainant and the licence holder will be taken into account.
- 19.3 In assessing the action to take, public safety will be the paramount concern. Decisions will be taken on balance of probability.

20. Once a licence has been granted

- 20.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.
- 20.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If the matter is appealed to a Magistrates or Crown Court it will take effect at the conclusion of those proceedings. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.
- 20.3 A suspension or revocation of the licence of an Operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If the matter is appealed to a Magistrates or Crown Court it will take effect at the conclusion of those proceedings

21. Licences issued by other licensing authorities

- 21.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.
- 21.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

22. Summary

- 22.1 To summarise, a criminal history in itself will not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in

most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

22.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

22.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

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 withdraw. 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~~
- ~~• 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.~~

~~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.~~

Drunkness

Separate consideration will be given to convictions for drunkness whilst in charge of a vehicle as opposed to drunkness 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 drunkness 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 drunkness 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 drunkness 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, of 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.

Eastbourne Borough Council Taxi and Private Hire Licensing, Penalty Points Scheme

Introduction

1. Hackney Carriage and Private Hire Operators, Drivers and Vehicles are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Council's Byelaws and the Guidance set by the Licensing Committee.
2. The aim of the penalty point scheme is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanours and to act as a record of driver's behaviour and conduct so as to ascertain whether they are a fit and proper person.
3. It does not prejudice the Council's ability to take other actions.

How will it work?

4. If Operators, Drivers or Proprietors of Vehicles commit an offence or breach rules, regulations or conditions of a licence, the persons involved are asked to attend the Council offices for an interview. Once investigations are completed, letters are sent out detailing the outcome and a permanent record kept on the persons' file. The outcome may result in no further action being taken, penalty points being awarded, a formal warning, referral to the Licensing Sub Committee and/or prosecution.
5. Penalty Points will remain current for 12 months from the date the penalty points are issued. The period is on a roll forward basis, so as to allow any older points to be considered as spent and, therefore, excluded from the running total recorded against any individual licensee.
6. Points issued to either the proprietor of a vehicle or a driver will be confirmed in writing, normally within 10 working days from the discovery of the contravention.
7. Where a licensee accumulates 12 penalty points in any 12 month period, the matter will be referred to the Council's Licensing Sub Committee for it to consider whether the driver is a fit and proper person.
8. The Sub Committee may then suspend or revoke a licence, or issue a warning to the Licensee, depending upon the circumstances. Periods of suspension by the Committee will be dependent on the nature of the breaches of the legislation/conditions and the compliance history of the individual.
9. Suspension periods will normally vary between 7 to 31 days.
10. Disputes regarding the issuing of penalty points by Officers will be referred to the Licensing Sub Committee. They will have discretion to award a greater number of points than displayed on the tariff, if the complaint is upheld. Drivers must appeal any points issued by Officers to the Licensing Sub Committee within 21 days.

11. The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations. If points are issued to a proprietor/driver for a matter which is also a criminal offence, e.g. bald tyres, no badge, those person(s) will not then be the subject of a prosecution by the Council.

Appendix 7 Penalty **Points Scheme**

	Details of the misconduct	Points Applicable	Driver	Vehicle Owner or Operator
1	Providing false or misleading information on licence application form / failing to provide relevant information or pay the relevant fee (including dishonoured cheques)	6	✓	✓
2	Failure to notify, in writing, the Council of a change of address within 7 calendar days	3	✓	✓
3	Refusal to accept hiring without reasonable cause	6	✓	
4	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6	✓	
5	Plying for hire by Private hire drivers or Hackney Carriage drivers plying for hire outside the district	9	✓	✓
6	Private hire vehicle parking or waiting on a taxi rank	9		✓
7	Inappropriate behaviour at a taxi rank,	1-12*	✓	
8	Leaving a taxi unattended at a rank	4	✓	
9	Using unlicensed vehicle or using a licensed vehicle without insurance or without a valid VCT	12	✓	✓
10	Failure to produce relevant documents within timescales when requested by an Authorised Officer	4	✓	✓
11	Unsatisfactory condition of vehicle, interior or exterior	4	✓	✓
12	Failure to undergo the 6 monthly VCT on time	6		✓
13	Failure to provide proof of insurance cover when requested	6	✓	
14	Failure to produce Hackney Carriage or Private Hire vehicle for re-testing when required	4		✓
15	Using a vehicle subject to a suspension order issued by an Authorised Officer or a police officer	12	✓	✓
16	Using a vehicle for which the licence has been suspended or revoked	12	✓	✓
17	Failure to report, in writing, within 72 hours, accident or damage to licensed vehicle, which would cause the vehicle to breach licence conditions	4	✓	✓
18	Carrying more passengers than stated on the vehicle licence	6	✓	
19	Failure to display external/internal licence plate in a fixed position or failure to display appropriate door signs	6	✓	✓
20	Carrying an offensive weapon in the vehicle	12	✓	✓
21	Failure to notify a transfer of Private Hire or Hackney Carriage Vehicle Licence within 14 days of transfer	4		✓

	Details of the misconduct	Points Applicable	Driver	Vehicle Owner or Operator
22	Failure to carry a fire extinguisher	4	✓	✓
23	Failure to carry first aid kit	3	✓	✓
24	Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle	3	✓	✓
25	Failure to use authorised roof light	4	✓	
26	Failure to maintain records in a suitable form of the commence and cessation of work of each driver each day	4		✓
27	Failure to produce on request records of drivers' work activity	4		✓
28	Using a non approved or non-calibrated taximeter (HC)	6	✓	✓
29	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle	12	✓	✓
30	Evidence of smoking in vehicle	3	✓	✓
31	Evidence of food or drink in Vehicle	3	✓	✓
32	Displaying any feature on private hire vehicle that may suggest that it is a Hackney Carriage	6		✓
33	Using a vehicle, the appearance of which suggests that it is a Taxi	6		✓
34	Failure to carry an assistance dog without requisite medical exemption certificate	12	✓	✓
35	Driver not holding a current DVLA licence	12	✓	✓
36	Failure to have the driver's badge clearly displayed	4	✓	
37	Failure to notify, in writing, a change in medical circumstances	6	✓	✓
38	Unsatisfactory appearance of driver	4	✓	
39	Failure to observe rank discipline (HC)	3	✓	
40	Failure to maintain proper records of private hire vehicles	3		✓
41	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced	6		✓
42	Misleading use of the words 'Taxi' or 'Cab' on advertising materials	3		✓
43	Failure to issue receipt on request.	6	✓	✓
44	Using a licensed vehicle in a dangerous condition	9	✓	✓

	Details of the misconduct	Points Applicable	Driver	Vehicle Owner or Operator
45	Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspensions of such licence	4		✓
46	Unsatisfactory behaviour or conduct of a driver.	1-12*	✓	
47	Failure to notify the Council in writing, of any motoring or criminal convictions within 21 days or conviction or cautions during period of current licence	6	✓	✓
48	Failure to behave in a civil and orderly manner, or bringing the trade into disrepute.	1-12*	✓	✓
49	Failure to provide reasonable assistance to a passenger	1-12*	✓	✓
50	Failure to display a correct up to date fare card (HC)	3	✓	✓
51	Carrying two or more separate fares without the appropriate consent	9	✓	
52	Failure to carry a legal spare wheel (or appropriate alternative) and the necessary tools to fit the spare wheel	4	✓	✓
53	Failure to attend punctually at appointed time and place without sufficient cause	4	✓	✓
54	A licensed vehicle with a bald or dangerous or defective tyre	4 per tyre	✓	✓
55	Failure to submit licence renewal application including documents and attendance at a vehicle inspection	6	✓	✓
56	Failure to display an applicable fare card AND the Councils valid fare card together	3	✓	✓
57	Waiting or stopping on a double yellow area, bus stop or private land (without the owner's permission) unless requested by a paying customer present in the vehicle	3	✓	
58	Motoring Convictions	3-12*	✓	✓
59	Driving whilst using a mobile phone	9	✓	
60	Appeal of points by way of Licensing Sub-Committee	4-12*	✓	✓

- a. *- discretionary points up to a maximum of 6 points can be issued by officers, but greater awards of points can only be issued by the Licensing Panel
- b. Officers may refer any mandatory award of points to Members where there are aggravating features to a case.
- c. Ticks indicate potential recipients of points for infringements, but are not limited to those only. Certain cases may result in drivers and/or proprietors and/or operators receiving penalty points. Points may be awarded to one or several persons depending upon the circumstances of the case, but each case will be considered on its individual merits.



Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

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

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

Terminology

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

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

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

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

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

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

3. Administering the Licensing Regime

Licensing policies

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

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

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

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

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

Duration of licences

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

Whistleblowing

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

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

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

Consultation at the local level

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

Changing licensing policy and requirements

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

4. Gathering and Sharing Information

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

The Disclosure and Barring Service

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

The Disclosure and Barring Service Update Service

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

Common Law Police Disclosure

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

Licensee self-reporting

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

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

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

Referrals to the Disclosure and Barring Service and the Police

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

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

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

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

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

Working with the Police

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

Sharing licensing information with other licensing authorities

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

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

Multi-agency Safeguarding Hub (MASH)

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

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

Complaints against licensees

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

Overseas convictions

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

5. Decision Making

Administration of the licensing framework

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

Training decision makers

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

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

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

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

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

Fit and proper test

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

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

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

Criminal convictions and rehabilitation

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

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

6. Driver Licensing

Criminality checks for drivers

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

Safeguarding awareness

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

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

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

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

‘County lines’ exploitation

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

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

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

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

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

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

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

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

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

Language proficiency

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

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

7. Vehicle Licensing

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

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

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

In-vehicle visual and audio recording – CCTV

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

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

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

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

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

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

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

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

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

Stretched Limousines

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

8. Private Hire Vehicle Operator Licensing

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

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

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

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

Booking and dispatch staff

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

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

Record keeping

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

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

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

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

Use of passenger carrying vehicles (PCV) licensed drivers

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

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

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

9. Enforcing the Licensing Regime

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

Joint authorisation of enforcement officers

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

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

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

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

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

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

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

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

Crimes resulting in death

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

Exploitation

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

Offences involving violence against the person

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

Possession of a weapon

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

Sexual offences

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

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

Dishonesty

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

Drugs

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

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

Discrimination

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

Motoring convictions

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

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

Drink driving/driving under the influence of drugs

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

Using a hand-held device whilst driving

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

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

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

Annex – CCTV Guidance

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

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

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

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

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

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

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

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

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

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

Annex - Staying Safe: Guidance for Passengers

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

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

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

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

When using a private hire vehicle, passengers should always:

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

When using a taxi, passengers should where possible:

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

Appendix 3

Consultation on changes to Eastbourne Borough Council taxi and private hire licensing guidance – consultation report

March 2021

Background

From 1st February to 26 March 2021 we consulted on proposed changes to our Taxi and Private Hire Licensing Guidance.

A statutory guidance document, issued by the Department for Transport to all Licensing Authorities in England and Wales, required us to look at our current guidance.

It recommended incorporating additional measures into our existing Taxi and Private Hire Guidance. This was with the intention of improving and updating existing measures to protect children, vulnerable adults and the wider public when using taxis and private hire vehicles.

As a result of these new standards the council has taken the opportunity to review and update the whole Guidance Document.

The Council's Taxi and Private Hire Licensing Guidance sets out the terms and conditions that apply to those seeking licences for the Hackney Carriage or Private Hire trade. This is to protect the public and help ensure they receive a good service.

How we consulted

- We carried out a public consultation from 1st February to 26 March 2021.
- We published a page on the district council website which included the background to the review and the draft guidance.
- We provided an online survey for respondents to structure their feedback and made the offer of providing paper copies of this on request.
- We also offered the consultation information in different languages and formats.
- We publicised the consultation through the local media, our social media channels, via the council's website and by email to the council's consultation mailing list.

Next steps

- This report will be published on the council website.
- The report will be taken to the Licensing Committee on 24th May 2021.

- Once a decision has been made it will be published on the council website and shared with residents, drivers, operators and other stakeholders.

Survey findings

1. Please tell us in what capacity you are responding to this consultation:			
		Response Percent	Response Total
1	A resident	49.54%	108
2	A licensed driver working in Eastbourne borough	47.71%	104
3	An operator based in Eastbourne borough	0.92%	2
4	Other (please specify):	1.83%	4
		answered	218
		skipped	3
Other (please specify): (4)			
1	Applicant frustrated at length of time to obtain drivers licence		Often use
2	Wife of private hire driver		Taxi driver
3	wife of a taxi driver		Derby
4	Licensed Driver and an operator		Taxi CCT

2. We are considering whether to prohibit the use of magnetised fittings to secure door signs to the front driver and passenger doors. Our intention is to ensure these signs are permanently fixed to the doors. How much do you agree or disagree with this proposal?			
		Response Percent	Response Total
1	Strongly agree	14.61%	32
2	Agree	11.87%	26
3	Disagree	11.87%	26
4	Strongly disagree	52.51%	115
5	Don't know	9.13%	20
		answered	219
		skipped	2

3. Under the current guidance CCTV is not mandatory but is strongly advised by the council. We are proposing that all licensed vehicles will be required to have a council-approved CCTV system installed by October 2022. How much do you agree or disagree with this proposal?

		Response Percent	Response Total
1	Strongly agree	26.48%	58
2	Agree	24.20%	53
3	Disagree	12.79%	28
4	Strongly disagree	31.96%	70
5	Don't know	4.57%	10
		answered	219
		skipped	2

4. We are proposing to introduce a Penalty Points scheme on driver's and operator's licence for breach of conditions. This would aim to improve levels of compliance and raise standards. Penalty Points would be cumulative and remain active for 12 months. This would not however prevent the council from taking other forms of legal action where needed. How much do you agree or disagree with this proposal?

		Response Percent	Response Total
1	Strongly agree	29.95%	65
2	Agree	33.64%	73
3	Disagree	12.90%	28
4	Strongly disagree	17.97%	39
5	Don't know	5.53%	12
		answered	217
		skipped	4

5. We are proposing to make safeguarding and disability awareness training mandatory for all new and current drivers. The aim of this would be to raise awareness of the exploitation of children and young vulnerable adults, including where to report incidents, within the trade. How much do you agree or disagree this should be implemented for all new and current drivers?

		Response Percent	Response Total
1	Strongly agree	34.70%	76
2	Agree	40.64%	89

5. We are proposing to make safeguarding and disability awareness training mandatory for all new and current drivers. The aim of this would be to raise awareness of the exploitation of children and young vulnerable adults, including where to report incidents, within the trade. How much do you agree or disagree this should be implemented for all new and current drivers?

		Response Percent	Response Total
3	Disagree	11.87%	26
4	Strongly disagree	9.13%	20
5	Don't know	3.65%	8
		answered	219
		skipped	2

6. We are proposing to introduce an English proficiency test, designed to ensure all new applicants are able to communicate effectively with passengers. This is particularly important when transporting vulnerable people and in the case of emergencies such as when medical treatment is required. All applicants, regardless of their nationality, would be required to take an English proficiency test or provide evidence of a relevant English Language qualification, for example a GCSE or equivalent (grade 4 or higher). How much do you agree or disagree with this proposal? Do you think this should be implemented for all new applicants?

		Response Percent	Response Total
1	Strongly agree	66.21%	145
2	Agree	21.46%	47
3	Disagree	5.94%	13
4	Strongly disagree	2.28%	5
5	Don't know	4.11%	9
		answered	219
		skipped	2

7. We are proposing to introduce a more robust and comprehensive convictions guidance. Please take a moment to read the proposed convictions guidance before answering this question. The guidance can be found here. How much do you agree or disagree with this proposal?

		Response Percent	Response Total
1	Strongly agree	35.62%	78
2	Agree	41.55%	91
3	Disagree	7.76%	17

7. We are proposing to introduce a more robust and comprehensive convictions guidance. Please take a moment to read the proposed convictions guidance before answering this question. The guidance can be found here. How much do you agree or disagree with this proposal?

		Response Percent	Response Total
4	Strongly disagree	5.02%	11
5	Don't know	10.05%	22
		answered	219
		skipped	2

8. Do you have any other comments to make about the proposed changes to the guidance?

Trade is very bad more expense is not needed at this time - 12 comments

Door Signs cant use as family car 14 comments

Door Signs – Damage paint work 12 comments

CCTV – Expensive 11

CCTV Intrusive and unnecessary 7

Conditions needed for electric vehicles and 2030 Carbon Neutrality 7

Drivers need Annual test – standard of driving is poor 6 comments

Too many Licensed vehicles 2 comments

Don't change anything 2 comments

Supportive of proposals 6

Other 26

answered 127

skipped 94

Questions about you

10. Would you like to answer or skip the following questions about you?

	Response Percent	Response Total
--	------------------	----------------

10. Would you like to answer or skip the following questions about you?

		Response Percent	Response Total
1	Answer the questions	56.34%	120
2	Skip the questions	43.66%	93
		answered	213
		skipped	8

11. What is your age?

		Response Percent	Response Total
1	Under 18	0.00%	0
2	18 - 24	2.38%	3
3	25 - 34	3.97%	5
4	35 - 44	19.84%	25
5	45 - 54	23.81%	30
6	55 - 64	26.98%	34
7	65 - 74	13.49%	17
8	75 +	7.94%	10
9	Prefer not to say	1.59%	2
		answered	126
		skipped	95

12. What is your sex?

		Response Percent	Response Total
1	Male	78.40%	98
2	Female	21.60%	27
3	Other	0.00%	0
		answered	125
		skipped	96

13. What is your ethnic group? Ethnic groups are defined by the 2011 census

APPENDIX 3

		Response Percent	Response Total
1	English/Welsh/Scottish/Northern Irish/British	79.37%	100
	English/Welsh/Scottish/Northern Irish/British	0.00%	0
2	Irish	0.79%	1
3	Gypsy or Irish Traveller	9.52%	12
4	Any Other White background	0.00%	0
5	White and Black Caribbean	0.79%	1
6	White and Black African	0.79%	1
7	White and Asian	0.79%	1
8	Any Other Mixed background	1.59%	2
9	Asian/Asian British	1.59%	2
10	Indian	0.00%	0
11	Pakistani	0.00%	0
12	Bangladeshi	0.00%	0
13	Chinese	0.00%	0
14	Any Other Asian background	0.00%	0
15	African	0.00%	0
16	Caribbean	0.00%	0
17	Any Other Black/African/Caribbean background	0.79%	1
18	Arab	0.00%	0
19	Any Other Ethnic Group (please specify):	3.97%	5
		answered	126
		skipped	95

Any Other Ethnic Group (please specify): (5)

- | | |
|---|--------------|
| 1 | Human |
| 2 | Israeli Arab |
| 3 | Kurdish |
| 4 | Covidian |
| 5 | Jewish |

14. Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months?

	Response Percent	Response Total

14. Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months?

		Response Percent	Response Total
1	Yes, limited a lot	7.20%	9
2	Yes, limited a little	14.40%	18
3	No	78.40%	98
		answered	125
		skipped	96

Written Submission 1

Email

From: Call a Cab
Sent: 01 February 2021 15:54
To:
Subject: Taxi proposals

Please see below exact copy of email that I sent to Bob/Sussex Cars. As I say I've not had a single driver convey any negative comments about the proposed CCTV. Please would you also mind letting your superiors know that we do not concur with the time of the emails from 720 Taxis. XX raises some valid points/questions but his tone is one that I wish to distance myself from.

Having now read through the entire document that we/xx been looking at, have to say that there nothing in there that's really as alarming as xx/720 portrays there to be.

My thoughts/suggestions.

- 1 - CCTV is costing circa £500.00. This includes VAT of £83.00, net cost is £416.00 (my figures all approx).
- 2 - Steve Chambers does fit Council approved CCTV for circa £460.00. We need to ascertain if the CCTV at £500.00 is the same type as Chambers supplied but the council have leveraged to earn monies etc.
- 3 - Assuming Council approves all the proposals by March that leaves 18 months till CCTV fitted. All vehicles have to have had it fitted by Oct 2022. £418 divided by 18 months is £23.00 a month or 12 months is £34.00 per month.
- 4 - CCTV has huge benefits for all the reasons stated, especially for school run drivers. I note that Exec vehicles with livery exemptions are also exempt from CCTV. My own view would be though that if a exempt driver does apply that to the CCTV and opts out he also they not permitted on school runs etc. I would imagine once ESCC know it's part of the drivers licence they will in turn make it policy that all school run vehicles are fitted with CCTV.
- 5 - I would at 746 offer the drivers a payment plan whereby we collect the monies on their behalf each month/deduct from account work etc on basis that 746 buys the CCTV at £416 (we can claim VAT back) - I will need to clarify with our accountant but I see it is a investment in our business etc and 746 is not profiteering from the purchase etc.
- 6 - With the penalty points system. Most of this is already in practice in reality.. drivers/operators currently just don't get points. One aspect that needs clarification is where the Operator is pointed. Operators should not be pointed for example if a driver fails to inform Council of change of address. The other aspects where operators get pointed, specifically with regards to drivers not renewing insurances/VST as you know the Auriga/Cordic software systems are programmed to stop them working before they are in violation.

Those are my thoughts and xx mentioned that we had to send responses/feedback by the 4th February.

That's my view. The proposals to me are going to make the drivers act/add a degree of more professionalism to their business, which can be only positive.

Wait to hear what your views are and catch up with xx either Monday afternoon or Tuesday.
Kind Regards

Call-a-Cab Ltd

Written Submission 2

Email

From: Name redacted

Sent: 08 February 2021 11:30

To:

Subject

Hi

I wish to say I do not agree that we should have permanent doors signs, when I am not working I do not wish to have door signs on my car in my social time and family time, I always display my door and council signs when I'm working.

Regards

Written Submission 3

From: Name Redacted
Sent: 16 February 2021 15:11
To:
Subject:

Dear Sir/Madam,

In response to proposed changes in licensing the Taxi and private hire trade. This is going cost me the driver considerably more to keep my car on the road licenced for no apparent reason! Bringing these measures into place for 'Balance of probability' over possible incidents that occurred in other countys is frankly unjustified. We can not be measured in the same way. Entirely new measures for us are not an answer simply because other communities in the uk are having issues! Not here, where is the evidence for these issues!? it's not broken here, so no great change is required! The only people who will suffer here are the workers again on top of an already failing trade due to the coronavirus and soon to be double dip recession possibly into depression!

In regard to proposed CCTV, When have you seen CCTV used to protect a customer!? it's always the person working who requires it in court cases, they are the person whom it protects so therefore must be the proprietors choice.

With regard to a points system. James Button in his book Taxis, licensing law and practice states that it is "difficult to understand how the punishment of a driver by means of suspension actually protects the public" Subsequently "points systems" that punish a driver for misdemeanours do not protect the public. If a driver is a significant threat to public safety then revocation is the correct course of action i.e. been convicted of an offence involving dishonesty, indecency or violence.

Permanent door signs could be in conflict with other work undertaken, much more sensible to remove when required as it stands.

The points system is a punishment tool for the majority of drivers that are in fact good at their job and service the public well, it is therefore an unfair proposal to the detriment of the worker!

Kind
Regards

Private Hire.

Written Submission 4

E Mail

From: Name redacted
Sent: 21 January 2021 10:19
To:
Subject: Proposed new rules for EBC / LDC private hire / Taxi

Dear Harry

Hope you're well..?

I am emailing you about SOME of the proposed changes in our local "Taxi / PH" rules..

My name is xx, I have been a Eastbourne BC private hire driver for 17 years, I love the job and very proud of my job.

But after reading Eastbourne Herald online I was 'somewhat annoyed by licencing'

First why on earth 'licencing team' want to discuss these changes in the year we've had is absurd and beyond belief... Most of us have struggled to make ends meet.

We've had (like most people) had toughest times ever due to the pandemic, I can understand the introduction of 'English Test' as I cant understand some drivers, I can understand CCTV but I cant afford it as I'm a owner driver, (most drivers own their cabs) I personally think if licencing want it, it should be part of condition when a 'driver changes his or hers' vehicle that you have to have cctv fitted. I'm not against CCTV as I am squeaky clean

My other bug bear is why council want us to have 'permanent door signs'..?

Now I use my car for 'Personal Use' as well (I also use public transport too) when I have finished work or going on holiday I don't want big signs stuck on my car saying I'm "private hire or Taxi" yes plate i can understand permanent fixed but not door signs. I am a member of a national taxi private hire group on social media i hear so many times drivers have their cars broken into that are permanent liveried up..

It should be down too him / her wether they want permanent DOOR SIGNAGE, as council (licensing officer) or police officer (which have power to remove permanent signage) does remove 'permanent SIGNAGE' more likely to take paint with it.

This becomes even more evident when you include the licensing of so called Executive Vehicles, which have no external markings or identification let alone any internal references to it being licensed at all.

Executive Drivers have no more a thorough check by the Disclosure and Barring service than any other licenced

driver, so according to EBC, It would be absolutely fine to call for a car to pick you up and to be taken from A to

B in a vehicle that has no licence plate, no door signs or internal identification. This goes against all that you

are trying to implement. Many of these types of vehicle work for App Based Companies and are freely and legally working both within the EBC area and elsewhere (due to the clauses on cross border licensing

regulation in law) with no identifying marks that connect them to their licensing authority. This, in itself, must go against the DoT's Standards Guidance for the safeguarding of children and the vulnerable. (Which is what

this entire exercise refers). And also Page 7 3.2 of the Statutory Taxi and Private Hire Standards Guidance.

Which states reference to all vehicles.

I also not happy about having to do 'vulnerable persons' course (at my expense) when most off its common sense, I also do a similar sort of course every 5 years to keep my Public Carriage Vehicle licence going (part off CPC)

Last agenda (not it effects me) why licencing keeps bringing up all new Hackney Carriage (Taxis) upon replacing their vehicles need to be wheelchair accessible..? The cost is huge to drivers and most people (especially more say mature folk) don't like getting in wheelchair vehicles...

Best Wishes

Written Submission 5

E Mail

From: Name Redacted
Sent: 05 February 2021 12:35
To:
Subject: CCTV and 10 year age limit

Hi Murrae

With regard to new consultation.

1) what type of CCTV is the council looking at ? Will the recording need to be 360° ? Our customers do not always have the ability to contract due to mental / physical disabilities or age. Will this have an effect on the need or could we be granted a special exemption? Will the CCTV be able to be turned off when the driver is using the vehicle privately ?

I presume the council will be the data controller so will they be the only ones able to access footage. Would an insurance company be able to ask for access, for example following an accident ?

2) regarding 10 year upper age limit. Will this be done on a case by case basis as our vehicles are starting to approach this milestone. They are doing limited mileage (25k a year on average) and are kept in good working order ! Would it not be easier to set a limit on mileage ?

3) I think I read that you expect all licenses to be applied for a minimum of 14 days prior to renewal date. I currently have my Mot's done a week to 10 days before expiry, allowing me time to sort any issues. This would no longer be possible as I would be past the 14 day cut off ? Please advise ?

Kind Regards
Director
WTS

WTS and Wheelchair Transport Specialists are trading names of Mobility Plus Transport Limited. Mobility Plus Transport Limited is registered in England and Wales. Registration Number 8937062. Registered address, 47a Prideaux Road, Eastbourne, BN21 2NB. VAT Registration Number 251952305.

Written Submission 6**Email****From:** Name Redacted**Sent:** 08 February 2021 12:23**To: Cc:****Subject:** Eastbourne Taxi consultation 2021 closes 26 March 2021

Dear Ed,

Thank you for inviting me to the Taxi forum last week which I found very interesting. The access group are very keen (as I explained at the meeting to Jo Dunk) to hear from the Trade about any common concerns in respect of ESCC phase 2/3 closures of the town centre roads and the impact upon drop off for disabled people and carers in Terminus Road, Langney Road and Bolton Road. We are very concerned about the restrictions and loss of access to the town centre for older people, people with visual/sensory and cognitive impairments such as dementia and their families/carers who rely upon wheelchair accessible vehicles, or private hire taxis to be able to alight near to the shops and the Beacon centre.

In respect of the current Taxi consultation I need to raise the following with you in addition to our further response by 26 March deadline:

1. There is a question in the consultation survey about making disability awareness training mandatory, together with safeguarding training. I can see this is reflected in the proposed revised policy. Our concern is that this disability awareness training was agreed previously and is crucial to compliance with the Equality Act 2010 and licence conditions for operators/drivers. It should not be discretionary.
2. The new proposed policy does not seek to change the current unmet need situation as only newly licensed Hackneys will need to be WAVS, no change is required for renewals or changing vehicles. As we have discussed previously this will not increase the availability of WAVS for wheelchair users who struggle to book any service at all. The attached updated WAV list still contains few contact details. As you are aware it is also vital that there is a greater choice of rear and side loading WAVS available to hire on the ranks and in advance. This continues to be a deficit locally.
3. I note from the proposed amendments in the attached draft that the sections on enforcement relating to overcharging, failure to carry a

wheelchair and failure to carry an assistance dog without an exemption are crossed out? I can see you have strengthened the sections relating to medical exemptions elsewhere in the draft which is welcomed. I also see the requirements outlined in relation to the Equality Act 2010 sections 165/166 onwards. Also the conditions of licence in respect of wheelchair users later in the document. However, could you please confirm that the enforcement will not be weakened in respect of these current policy sections in order to ensure compliance with the Equality Act 2010 as regards legal enforcement action?

4. The complaints against drivers outlined in red in the proposed revised policy should include discriminatory behaviour or harassment towards customers.
5. We welcome the provisos about medical exemptions which under the proposed revised policy will not last longer than 12 months. Also if an exemption not to carry a wheelchair is refused then the WAV must still continue to be used as a WAV and the licence might be suspended until the driver is declared fit. How will this be monitored and enforced? It is still the case that wheelchair users are told that WAVS are not available even for manual wheelchairs when they try to book in advance. Also I note the revised clause about WAVS having working order equipment to carry wheelchairs, otherwise licences will be suspended. How will this be monitored and enforced?

I have attached the national guidance you are initiating the consultation on dated July 2020 for information for colleagues copied in here. I have reviewed this and thank you for your confirmation as you quite rightly explained there are not specific updates in respect of equality.

For your information the spelling error 'read' rather than 'rear' loaders as crept back into the draft policy! Also I think where it reads 'EDC' this should be 'EBC'?

Thank you for your consideration of the above.

I look forward to hearing from you.

Kind regards, Name Redacted, co-chair, Eastbourne access group

Written Submission 7

Representation: Eastbourne Taxi and Private Hire Licensing Guidance Consultation 2021

Department of Transport (DoT) entitled “Statutory Taxi & Private Hire Vehicle Standards” July 2020.

I welcome the report by the Department of Transport (DoT) entitled “Statutory Taxi & Private Hire Vehicle Standards” July 2020 available via the link below:

<https://www.lewes-eastbourne.gov.uk/resources/assets/inline/full/0/295826.pdf>

Section 2.7 of the report states that “Having regard to these standards requires public authorities, in formulating a policy, to give considerations the weight which is **proportionate** in the circumstances”.

It is clear in section 2.9 that “The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority”

Therefore, committee must have regard to the guidance document whilst considering the **local circumstances** and sanctioning a **proportionate** response in formulating local policy as intended by Parliament and in light of **evidence-based** practice.

The DoT report rightly seeks to address the non-repetition of the heinous acts undertaken by individuals in Rotherham and the scandalous dereliction of duty of the authorities in relation to this. The BBC have provided a valuable synopsis via the link below:

<https://www.bbc.co.uk/news/uk-28942986>

Professor Jays “report said the *collective failures* of political and officer leadership were *blatant* over the first 12 years covered by the inquiry. Senior managers within social care were said to have *underplayed* the scale and seriousness of the problem. Police were said to have given CSE no priority, regarding many child victims *with contempt* and failing to act on their abuse as a crime”

Eastbourne Borough Council: Draft Taxi and Private Hire Policy

For the most part I welcome the amendments made by Eastbourne Borough Councils Licensing team in light of the DoT report.

However, I feel that the licensing team could have had dialogue with the trade prior to launching the public consultation. This should have been undertaken; as a matter of courtesy and as directed by *Local Government Association best practice*, to find commonality and highlight points of contention in order to facilitate the public

consultation. Launching a public consultation without dialogue with the primary stakeholder to receive constructive feedback is most peculiar?

This is compounded by the timing of the exercise (during a global pandemic?) which has understandably angered members of the trade who are trying to stay in business. They feel that the consultation is being forced through at a convenient time for the licensing authority and is not in the spirit of consensual democracy which we should all hold dear.

For my part, I have three points of contention:

- Permanent Door Signs
- Mandatory CCTV Installation
- Penalty Points System

Permanent Door signs

Even before Covid drivers have not exclusively utilised their commercial vehicle as a taxi/cab. Many drivers have been working for Deliveroo, Uber eats, Hermes, Amazon, DPD and a myriad of other companies.

My point, is it right for the licensing authority to be associated with these companies when the driver is not undertaking work as a licensed vehicle?

If there were a customer service issue in relation to another line of work, the licensing authority should not be involved should they want to be associated with another company. To do so could in fact breach data protection legislation.

Not all drivers have the luxury of secure overnight parking.

Permanent door signs will increase the chance of a break-in and theft when parked, especially overnight as commercial vehicles are often targeted by thieves.

Taxis and cabs are also used for social/domestic purposes.

Is it right for a driver on holiday to advertise Eastbourne's logo, for example towing a caravan, or visiting family/friends on the continent?

As some of you may recall:

Scrutiny committee, on the 10th December 2012, considered permanent door livery for taxi and private hire vehicles in Eastbourne. A steer was given to General Licensing to favour magnetic door livery. This was agreed as per the following link:

<https://democracy.lewes-eastbourne.gov.uk/Data/Eastbourne%20Borough%20Council%20General%20Licensing%20Committee/20130318/Agenda/Minutes%20-%20General%20Licensing%20-%202018%20March%202013.pdf>

On that basis I thought it prudent to make a **Freedom of Information Request** to ascertain if there is a problem in Eastbourne with vehicles not displaying livery.

Hence the following question:

Since the 10th December 2012, how many incidences per year have licenced vehicles been recorded not displaying council issued door livery whilst working?

In response I received EFOI 12990, tabulated as follows:

2013	0
2014	0
2015	0
2016	3
2017	6
2018	6
2019	4
2020	6
2021	2

Frankly the licensing team cannot justify permanent livery.

The evidence shows it is an insignificant problem.

There are over 350 licenced vehicles in Eastbourne. An average of **3 vehicles per year** over the last 9 years **does not constitute sufficient evidence to support permanent livery**. I would therefore urge committee to continue to support the current livery regime.

I would however suggest that if an individual vehicle is found to be working as a licensed vehicle without door livery then a licensing officer should issue a stop notice to prevent the car from working unless s/he is satisfied there is a reasonable excuse i.e. a theft of door sign/s that is proven to have been reported to the council.

Very small problem solved!!!

Mandatory CCTV Installation

I refer committee to a document released by the **Local Government Association (LGA)** entitled **“Developing an approach to mandatory CCTV in taxis and PHVs”** which is available via the link below:

https://www.local.gov.uk/sites/default/files/documents/5.42%20LGA%20Guidance%20developing%20an%20approach%20to%20mandatory%20CCTV%20in%20taxis%20and%20PHVs_WEB.pdf

Page 7 of the document makes it clear that:

*“It is therefore **important to work with the trade as early as possible when considering a policy on CCTV systems** and ensure that key messages around why this approach is being considered, and the potential benefits to drivers, are clearly communicated. Issues raised by the trade can then be considered and where possible addressed as plans develop”*

Unfortunately, the licensing authority has amazingly not followed the advice of the LGA?

The first that members of the trade heard about this is when the public consultation was released. This is clearly poor practice and not in the spirit of the guidance released from the LGA.

CCTV for many drivers has been prohibitively expensive, especially in light of the fact that many drivers are suffering economically.

No doubt many drivers would welcome CCTV installation for their own personal safety to deter bilking and offences against the person. Nationally more than 1 cab driver is attacked every day as per the following link:

<https://www.phtm.co.uk/news/2432/phtm-news/call-for-action-after-hundreds-of-taxi-drivers-attacked-in-last-two-years>

It would therefore be useful if the licensing authority undertook a cost benefit analysis of CCTV in cabs. A few questions to consider:

- How much does the system cost?
- What company(s) would fit the system?
- What is the technical specification?
- Does the CCTV pick up data through a COVID screen?
- How many drivers have been attacked in Eastbourne?
- How many passengers have been attacked by licensed drivers?
- How many journeys involve the transportation of children?
- Should drivers with school runs be the primary focus to ensure protection of children and what is the view of ESCC in relation to this?

I would therefore suggest that committee **direct the licensing authority to have meaningful dialogue with the trade to facilitate this activity in light of guidance from the LGA before arriving at a decision.**

Penalty Points System

As I am sure many of you will remember committee *considered the implementation of a penalty points system in 2018*, as per the link below to the minutes of the meeting:

<https://democracy.lewes-eastbourne.gov.uk/documents/g1537/Printed%20minutes%2008th-Jan->

[2018%2018.00%20Eastbourne%20Borough%20Council%20General%20Licensing%20Committee.pdf?T=1](#)

The trade was afforded the opportunity to make representation and subsequently organised a petition (much easier when there is not a global pandemic!!) available via the link below:

[KM_C308-20170803100841 \(lewes-eastbourne.gov.uk\)](#)

It was clear that the trade did not favour the penalty points system and I suspect still do not based on the observations made in the petition.

In relation to the current consultation the proposed penalty points system are tabulated in Appendix 7 of the guidance the arguments raised in 2018 still hold true.

Many of the offences contained in the report are not the licensing officer's remit as intended by parliament. Therefore, *ultra vires*. Also many of the offences have penalties enshrined in parliamentary and case law. Why not use these powers?

I have tabulated below some of the specific offences that are problematic in relation to the proposed penalty points system offered by the licensing team:

	Details of the misconduct	Issue
5	Plying for hire by Private hire drivers or Hackney Carriage drivers plying for hire outside the district	Licensing officers from neighbouring authority must enforce investigate and determine guilt.
6	Private hire vehicle parking or waiting on a taxi rank	No powers from parliament for licensing officers to deal with parking offences. Undertaken by civil enforcement in Eastbourne. Customers request to be picked up/dropped off on rank ie Sainsburys rank, Ashford Road. If there is not a plying for hire offence, there is not an issue.
7	Inappropriate behaviour at a taxi rank	No powers conferred by parliament. What is inappropriate? Very vague and arbitrary number of points 1- 12?
11	Unsatisfactory condition of vehicle, interior or exterior	Issue a stop notice.

12	Failure to undergo the 6 monthly VCT on time	Issue a stop notice
13	Failure to provide proof of insurance cover when requested	Issue a stop notice
14	Failure to produce Hackney Carriage or Private Hire vehicle for re-testing when required	Issue a stop notice
20	Carrying an offensive weapon in the vehicle	Police power to arrest if suspected of carrying an offensive weapon. Licensing team should report to police to investigate as licensing officers would be acting <i>ultra vires</i> . An offensive weapon is determined by statute and case law. Licensing Officers are not qualified to make the decision. It is a police matter.
30	Evidence of smoking in vehicle	Some passengers smell of smoke and this may linger in the car.
31	Evidence of food or drink in Vehicle	<i>Ultra vires</i> . When did it become an offence to eat or drink in your own car? As long as the car is clean, what difference does it make if there is a water bottle in the driver's cup holder?
36	Failure to have the driver's badge clearly displayed	Used as ID to pick up passengers. Where should it be displayed without it being potentially stolen by a passenger?
38	Unsatisfactory appearance of driver	<i>Ultra vires</i> . The fashion police will punish you for an ensemble of clothes that is below par, a two-day stubble or jackboots that you can't see your face in! What is unsatisfactory appearance< North Korea or Eastbourne?
44	Using a licensed vehicle in a dangerous condition	Issue a stop notice
46	Unsatisfactory behaviour or conduct of a driver.	Punishment that is arbitrary and at the

		discretion of the licensing officer? What is unsatisfactory behaviour/conduct? Looks very similar to point 7. Punished twice? The Stasi would be proud.
48	Failure to behave in a civil and orderly manner or bringing the trade into disrepute.	What is disrepute? Very broad. There are a worrying number of definitions that could confer arbitrary powers

There are so many examples, I am just frankly amazed this has been brought to the committee's attention again without following the *steer of the last meeting on the matter in 2018*:

On that basis I requested a **Freedom of Information** (FOI) request as follows:

Since the 1st October 2018, how many incidents have been logged by the licensing authority that contravene the proposed rules of the penalty points system contained in the consultation that closes on the 26th March 2021

I received the following table as EFOI 12991

2018 (from 1/10)	28
2019	136
2020	78
2021 (to 9/2)	5

I further requested a breakdown of the offences that had been alleged/committed and received a table that I have illustrated as a graph on the following page.

It clearly shows there are **only 27 issues that the licensing authority currently records.**

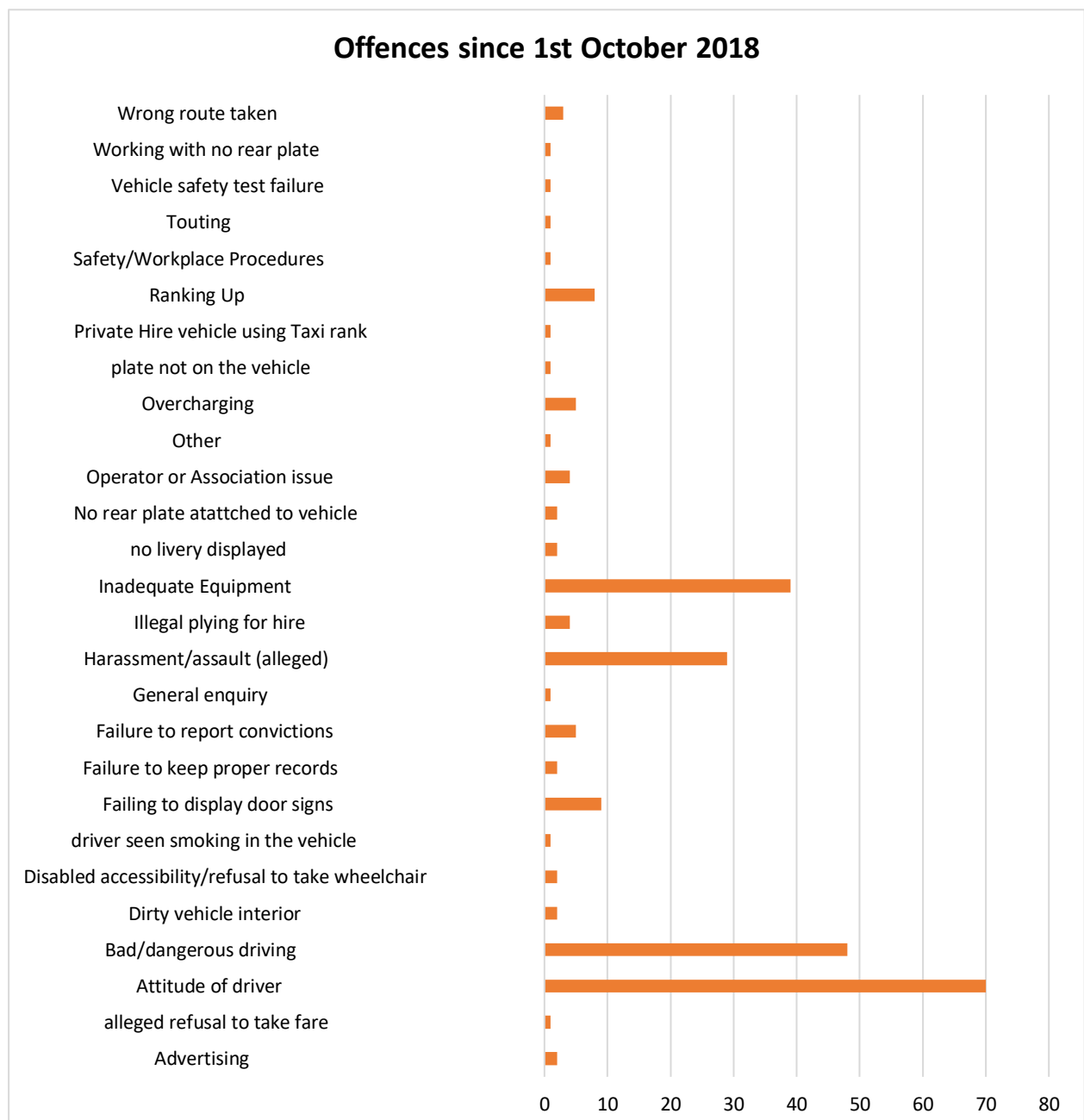
Why then would the licensing authority wish to start recording 60 "offences" if the penalty points system were to be adopted???

The local authority cannot ride roughshod over the intention of parliament and create a *cottage industry of offences*. The Licensing Authority should discharge its duty as per parliamentary intent with the plethora of powers already at its disposal to deal with the very small percentage of drivers that are problematic, as opposed to pedantically looking for non-existent issues and punishing drivers with heavy handed *arbitrary* measures.

The licensing regime has been set by parliament and subsequent case law to uphold public safety, not to arbitrarily punish drivers. No mention has been made in the consultation as to how this would be enforced. It appears excessive, arbitrary, and potentially punitive. The link below highlights the point:

<https://www.taxidefencebarristers.co.uk/2018/07/02/licence-suspensions-punishment-or-public-safety/>

With such a paucity of data supplied by the licensing team it would be *farical* to accept that a penalty points system is needed in Eastbourne. Further it insults the licensing committees considered deliberation from 2018. The original decision is correct and should stand. The data shows it is not required in Eastbourne and that much of it is *ultra vires* and creates unnecessary bureaucracy.



Conclusion

The DfT report is guidance. It is not primary statute. It is for committee to carefully consider its merits. Much of which is compelling. However, parliament intended for local councillors to mould the local taxi regime as they see fit.

Local factors and nuances should be duly considered. Without evidence-based practice the licensing function would become arbitrary and not in the spirit of locally determined consensus politics which we pride ourselves on.

We all agree public safety is paramount, but not at the expense of, evidence, reason, debate and proportionate local democracy.

Written Submission 8

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Eastbourne & County Taxis Ltd.
1a Susans Road, Eastbourne, East Sussex BN21 3HA

Dear Licensing committee and officers,

We fully endorse the proposals regarding public safety but would encourage councillors to vote – taking into consideration the current climate – that the installation of C.C.T.V is from October 2022 and not before. We would also like to request that there is further consultation with the trade to address issues and concerns with regards to details of the supplier, fitting, data monitoring etc which could be addressed via the Taxi forum.

Also, we would like you to consider further consultation on some of the detail in the proposed Penalty System.

If you have any questions relating to this, please don't hesitate in contacting us

Yours sincerely

The Directors

720 Taxis

Written Submission 9

Name Redacted

Badge Redacted

I note that the Dft guidance raises the question of safety in respect levels of abuse by members of the Taxi and Private Hire trade in Rotherham/Oxford and other areas. I believe that the purpose of the report is to both raise awareness and give a requirement for both the Licensing Authorities and Trade to examine accepted current practice and agree on changes which have a specific impact on both customer and driver safety.

DOOR SIGNS

When I consider the proposal for the trade to move to permanent council livery, I can make no reasonable argument against. I would however ask the Council to consider a reduction in the size of the door sign in line with Wealden and Lewes councils. In line with neighbouring councils and customer usage I believe that the location should be standardised and that the sign should be displayed on the upper panel of the rear door.

CCTV

With respect the introduction of CCTV I can also make no argument against in the long term, but, given the impact that Coronavirus has had on the trade would ask for a delay and further consultation with the trade to assess both the financial impact and concerns regarding installation, maintenance, gathering of data and the ongoing costs to the driver.

I believe that following full consultation the trade will accept the benefits associated with CCTV however, Eastbourne Borough Council must be transparent on their genuine reasons and justification for mandatory installation. All aspects must be considered before the scheme can be implemented and in the interim, drivers should be encouraged to invest in CCTV systems. This may require the Council to retrospectively agree to approve systems which are already installed, even if they do not meet the final approved standard.

POINTS SYSTEM

I feel that the proposed points system is disproportionate. The Council licensing officers already have the power to take action for most "Offences" listed in the proposal. Many of the proposed items listed as misconduct are for other agencies such as the Police or Parking Wardens to administer with possible action after the event by Licensed Officers. Matters such as unsatisfactory appearance, offensive weapons food and drink and several others are subjective, and given that licensed vehicles are also used as personal transport, unreasonable. I also note that several items have been repeated, albeit with different wording and in some instance's different penalties.

The FOI request submitted by – name redacted - clearly shows that most of the issues reported since 1st October 2018 are of a comparatively minor nature. I would also question if a points system is appropriate for the more serious issues shown?

CONCLUSION

I welcome most of the changes proposed in the “Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance”. The safety of both drivers and passengers is of major importance and the proposals address these concerns. The installation of CCTV in vehicles increases safety for both users and drivers but given the current financial situation and lack of detail should be delayed for further consultation with the trade.

I would however bring to your attention my proposal for the reduction in size of council door signs and their relocation to the rear door panel. The standardisation with regard location and type of signage will also make it easier and safer for members of the public to correctly identify a licenced vehicle.

Yours sincerely

Name redacted

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